



# ONEIDA COUNTY BOARD OF LEGISLATORS

ONEIDA COUNTY OFFICE BUILDING ♦ 800 PARK AVENUE ♦ UTICA, N.Y. 13501-2977

Gerald J. Fiorini  
Chairman  
(315) 798-5900

Mikale Billard  
Clerk  
(315) 798-5404

George Joseph  
Majority Leader

Philip M. Sacco  
Minority Leader

## COMMUNICATIONS WITH DOCUMENTATION July 12, 2017

(Correspondence relating to upcoming legislation, appointments, petitions, etc.)

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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 17-238

### PUBLIC WORKS

June 28, 2017

### WAYS & MEANS

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

Anthony J. Picente, Jr.  
County Executive  
Date 7/11/17

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

Dear County Executive Picente,

On April 12, 2017, the Oneida County Board of Acquisition and Contract accepted a proposal from Lochner Engineering in the amount of \$77,680.00 to provide construction inspection services for the following project:

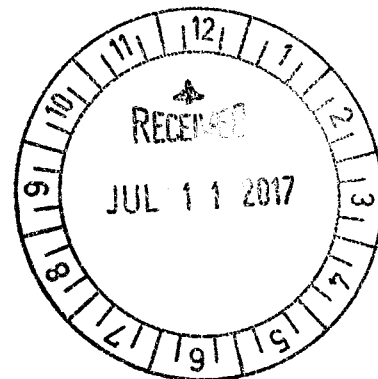
- Replace BIN 3311180, Houck Road over Sconondoa Creek, Town of Vernon. The existing 54 ft. span steel multi-girder bridge with wooden deck will be replaced in its entirety. Construction Inspection duration is estimated at 16 weeks.

Please consider the enclosed contract for the above mentioned services. If acceptable, please forward to the Oneida County Board of Legislators for approval.

Sincerely,

Dennis S. Davis  
Commissioner

cc: Mark E. Laramie, P.E., Deputy Commissioner



## ONEIDA COUNTY BOARD OF LEGISLATORS

**Name of Proposing Organization:** Lochner Engineering, P.C.  
181 Genesee Street  
Utica, NY 13501

**Title of Activity or Service:** Professional Consulting Services  
**Proposed Dates of Operation:** Start on Execution – 12/31/2018  
**Client Population/Number to be Served:** N/A

**Summary Statements**

**1) Narrative Description of Proposed Services:**

Provide Construction Inspection Services the following project:

Replacement of BIN 3311180, Houck Road over Sconondoa Creek, Town of Vernon. The existing 54 ft. span steel multigirder bridge with wooden deck will be replaced in its entirety. Construction Inspection duration is estimate at 16 weeks.

**2) Program/Service Objectives and Outcomes:** N/A

**3) Program Design and Staffing:** N/A

**Total Funding Requested:** \$77,680.00                      **Account #: H-498**  
**Oneida County Dept. Funding Recommendation:** \$77,680.00  
**Proposed Funding Sources (Federal \$/ State \$/County \$):** \$77,680.00 (County)

**Cost Per Client Served:** N/A  
**Past Performance Data:** N/A  
**O.C. Department Staff Comments:** None



## **AGREEMENT**

THIS AGREEMENT, made this day of April 12, 2017, 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, NY, hereinafter called "COUNTY", and Lochner Engineering, P.C., a domestic professional corporation, organized and existing under the laws of the State of New York with an office located at 181 Genesee Street, Utica, NY 13501, hereinafter called "CONSULTANT", collectively, the "Parties."

### WITNESSETH:

WHEREAS, County requires construction inspection services associated with bridge and highway reconstruction projects;

WHEREAS, Consultant has submitted a proposal to provide such services, more fully defined herein;

WHEREAS, The Oneida County Board of Legislators has authorized this Agreement; and

NOW, THEREFORE, it is mutually agreed by County and Consultant that for the consideration hereinafter set forth, Consultant shall provide said services to County.

### **1. TERM**

**2.** The term of this Agreement shall commence upon a written Notice to Proceed and shall terminate no later than December 31, 2018.

### **3. NOTICE TO PROCEED**

**3.1.** This Agreement shall become effective upon execution of the final signature. The Consultant shall commence work upon receipt of the County's Notice to Proceed, which shall be in the form of a letter signed by the County's Project Manager. The County's Notice to Proceed will authorize the Services described herein. No Services shall commence until the Notice to Proceed is issued.

### **4. COMPENSATION**

**4.1.** The County agrees to pay the Consultant a lump sum fee of Seventy-Seven Thousand, Six Hundred Eighty dollars and Zero cents (**\$77,680.00**) for Construction Inspection Services.

**4.2.** 2.2. Payment shall be made monthly, on a basis of work completed, and billed in accordance with the hourly rates established in **Exhibit C** attached hereto.

**4.3.** The Consultant shall submit a detailed, itemized, expense summary with all payment requests.

**4.4.** There shall be no separate payments for reimbursable expenses. Reimbursement for

miscellaneous expenses is included in lump sum fixed fee(s) and/or hourly rates.

4.5. In case of changes affecting project scope resulting from new findings, unanticipated conditions, or other conflicts or discrepancies, the Consultant shall promptly notify the County of the identified changes, and advise the County of the recommended solution. Services shall not be performed on such changes without prior written authorization of the 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.

4.6. The County reserves the right to withhold payment under this Agreement due to the Consultant's failure to properly perform its obligations under this Agreement. The County may withhold payment for reasons including, but not limited to, (1) defective services, (2) third party claims, (3) failure of the Consultant to pay its sub-consultants, (4) damage to the County, or (5) failure to carry out the services in accordance with the Contract Documents. The County may correct any conditions which do not meet requirements of this Agreement and deduct the cost from the amounts due under this Agreement.

4.7. If the County becomes party to any litigation resulting from this project that is not the fault of the Consultant and that requires the Consultant's services, the additional fee to be paid shall be one that is mutually agreed upon between the County and the Consultant.

4.8. It is understood and agreed that the County shall not be responsible for any costs incurred by the Consultant prior to the effective date or following the termination date of this Agreement.

## **5. EXECUTORY OR NON-APPROPRIATION CLAUSE**

5.1. The obligations of the Parties are conditioned upon the continued availability of Oneida County and federal funds for the purposes set forth in this Agreement. Should funds become unavailable, or should appropriate Oneida County and/or federal officials fail to approve sufficient funds for completion of the Services set forth in this Agreement, the County shall have the option to immediately terminate this Agreement upon providing written notice to the Consultant by certified mail. In such an event, the County shall be under no further obligation to the Consultant 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.

## **6. SCOPE OF SERVICES**

**6.1.** The Consultant agrees to furnish services set forth in **Exhibit A** attached hereto and incorporated herein.

**6.2.** The Consultant shall furnish all 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.

## **7. PERFORMANCE OF SERVICES**

**7.1.** The Consultant affirms that it does not have any financial interest or conflict of interest that would prevent the Consultant from providing unbiased, impartial service to the County under this Agreement.

**7.2.** The Consultant's work product shall be completed and submitted in accordance with industry standards. Completion dates, if specified herein, may only be modified by mutual written agreement between the County and the Consultant. The Consultant agrees to diligently perform the Services to be provided under this Agreement.

**7.3.** It is understood and agreed that the Consultant has the professional skills necessary to perform the work agreed to be performed under this Agreement, and that the County relies upon the professional skills of the Consultant to do and perform the Consultant's duties.

**7.4.** The Consultant agrees to maintain in confidence and not disclose to any person or entity, without the County's prior written consent, any confidential information, knowledge or data relating to the products, processes, or operations of the County. The covenants contained in this paragraph shall survive the termination of this Agreement for whatever cause.

**7.5.** The Consultant represents that it has the experience, licenses, qualifications, staff and expertise to perform said Services in a professional and competent manner.

**7.6.** The Consultant has examined and carefully studied the Contract Documents, with attachments, and fully comprehends the requirements and intent of the Contract Documents;

**7.7.** The Consultant shall use the Consultant's best efforts to perform the Services such that the results are satisfactory to the County. The 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.

7.8. The Consultant is solely responsible for paying all of the Consultant's 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;

7.9. The Consultant may, at the Consultant's own expense, employ or engage the services of sub-consultants and/or partners as the Consultant deems necessary to perform the Services. Employees, sub-consultants and/or partners are not and shall not be employees of the County, and the County shall have no obligation to provide employees, sub-consultants and/or partners with any salary or benefits. The Consultant shall be solely responsible and shall remain liable for the performance of the Services by the employees, sub-consultants and/or partners in a manner satisfactory to the County, in compliance with any and all applicable federal, state or local laws and regulations;

7.10. The Consultant acknowledges and agrees that the Consultant and its employees, sub-consultants and/or partners 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;

7.11. The Consultant understands that prompt and ready completion of the Services is required by the County. The Consultant shall immediately notify the County in writing of any difficulty in complying with any of the requirements of this Agreement.

7.12. The originals of all computations, drawings, designs, graphics, studies, reports, manuals, photographs, videotapes, data, computer files, and other documents prepared or caused to be prepared by the Consultant or its sub-consultants in connection with these services shall be delivered to and shall become the exclusive property of the County. The County is licensed to utilize these documents for any County applications on other projects or extensions of this project, at its own risk. The Consultant and its sub-consultants may retain and use copies of such documents, with written approval of the County.

## **8. NON-ASSIGNMENT**

8.1. In compliance with New York General Municipal Law Section 109, the Consultant agrees not to assign, transfer, convey, sublet or otherwise dispose of the Agreement or of his right, title or interest therein, or his power to execute this Agreement, to any other person or corporation without the previous consent, in writing, by the County.

## **9. SUBCONTRACTS**

9.1. A sub-consultant is defined herein as a person who has an agreement with the Consultant to perform any of the Services.

9.2. The Consultant agrees to furnish to the County, prior to the execution of this Agreement, a list of names of any and all sub-consultants to whom the Consultant proposes to award any portion of the Services. The County shall be provided a copy of any and all agreement(s) between the Consultant and any sub-consultants regarding the award of any portion of the Services within ten (10) days of their final execution.

9.3. Agreements between the Consultant and the sub-consultant shall be written in accordance with the terms of this Agreement and shall include the conditions of this Agreement including all Exhibits and Contract Documents, insofar as applicable.

#### **10. CHANGE IN SERVICES**

10.1. In case of changes affecting the Scope of Services resulting from new findings, unanticipated conditions, or other conflicts or discrepancies, the Consultant shall promptly notify the County of the identified changes and advise the County of the recommended solution. Services shall not be performed on such changes without prior written authorization through a Change Order as provided by the County, a form for which is attached hereto as **Exhibit B**.

#### **11. PROJECT MANAGERS**

11.1. The County designates the County Deputy Commissioner of Public Works, Division of Engineering, as its Project Manager, who shall be responsible for administering and interpreting the terms and conditions of this Agreement, for matters relating to the Consultant's performance under this Agreement, and for liaison and coordination between the County and the Consultant. In the event the County wishes to make a change in the County's representative, the County will notify the Consultant of the change in writing.

11.2. The Consultant designates ALLEN J. COINEN, P.E. 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 the Consultant's designated personnel or sub-consultant shall be subject to approval by the County Project Manager.

#### **12. NOTICES**

12.1. Any notice which the County may desire or is required at any time to give or serve upon the Consultant may be delivered personally, or be sent by United States mail, postage

prepaid, addressed to the Consultant's Project Manager's attention, or at such other address as shall have been last furnished in writing by the Consultant to the County.

12.2. Any notice which the Consultant may desire or is required at any time to give or serve upon the County may be delivered personally at 6000 Airport Road, Oriskany, NY, or be sent by United States mail, postage prepaid, addressed to the Oneida County Deputy Commissioner of Public Works, Division of Engineering, 6000 Airport Road, Oriskany, NY 13424, or at such other address as shall have been last furnished in writing by the County to the Consultant.

12.3. Both parties agree that such personal delivery or mailing in any such manner designated in this section shall constitute a good, sufficient and lawful notice and service thereof in all such cases.

### **13. INDEPENDENT CONTRACTOR STATUS**

13.1. It is expressly agreed that the relationship of the Consultant to the County shall be that of an independent contractor. In accordance with the status of the Consultant as an independent contractor, none of the Consultant's employees, agents, servants and sub-consultants shall be considered as employees of the County for any purpose including, but not limited to, claims for unemployment insurance, worker's compensation, retirement, or health benefits. The Consultant, in accordance with its status as an independent contractor, covenants and agrees that all of the Consultant's employees, agents, servants and sub-consultants will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, officers or employees of the County by reason hereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to officers or employees of the County.

13.2. The Consultant 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 Consultant and the County agree that the Consultant is free to undertake other work arrangements during the term of this Agreement, and may continue to make his or her services available to the public.

13.3. The Consultant's employees, agents, servants and subcontractors 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.

13.4. The Consultant acknowledges and agrees that neither the Consultant, nor its employees, agents, servants, sub-consultants and/or partners shall be eligible for any County employee benefits, including retirement membership credits.

13.5. The Consultant shall be solely responsible for applicable taxes for all compensation paid to the Consultant or its employees, sub-consultants and/or partners under this Agreement, and for compliance with all applicable labor and employment requirements with respect to the Consultant's self-employment, sole proprietorship or other form of business organization, and with respect to the employees, sub-consultants and/or partners, including payroll deductions, worker's 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, worker's compensation, disability insurance or social security insurance (FICA). The Consultant shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Agreement.

13.6. The Consultant 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.

13.7. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Consultant's Independent Contractor status, it is agreed that both the County and the Consultant 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.

13.8. The Consultant 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.

#### **14. INDEMNIFICATION**

14.1. The obligations of the Consultant under this section shall survive any expiration or termination of this Agreement, and shall not be limited by any enumeration herein of required insurance coverage.

14.2. The Consultant agrees that it shall defend, indemnify and hold harmless the County from and against all liability, damages, expenses, costs, (including, without limitation, attorneys' fees and expenses) 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 Services of the Consultant and its sub-consultants, agents, 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 Consultant or failure on the part of the Consultant to comply with any of the covenants, terms or conditions of this Agreement. The obligations of the Consultant under this Article shall survive any expiration or termination of this Agreement, and shall not be limited by any enumeration herein of required insurance coverage.

14.3. The Consultant shall be solely responsible for all physical injuries or death to its agents, servants, volunteers, employees, sub-consultants or to any other persons, or damage to any property sustained during its operations and work under this Agreement, resulting from any act of omission or commission or error in judgment of any of its officers, trustees, servants or independent sub-consultants, and shall hold harmless and indemnify the County from liability upon any and all claims for injuries to persons or damages to property on account of any neglect, fault or default of the Consultant, its officers, trustees, agents, servants, volunteers or sub-consultants. The Consultant shall be solely responsible for the safety and protection of all of its employees, volunteers, sub-consultants or other agents whether due to the negligence, fault or default of the Consultant or not.

## 15. INSURANCE REQUIREMENTS

15.1. As part of its obligation to indemnify, defend and hold harmless the County, its officers, agents, employees, as set forth above, the Consultant agrees to obtain and maintain in full force and effect, for the term of this Agreement, insurance coverage as described below.

15.2. The 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 New York State. The insurance carrier shall have at least an A- (excellent) rating by A.M. Best.

15.3. The Consultant shall not commence Services until such insurance has been approved by the County. The certificates shall be on forms approved by the County. Acceptance of the certificates shall not relieve the Consultant of any of the insurance requirements, nor decrease the liability of the Consultant. The County reserves the right to require the Consultant to provide insurance policies for review by the County. The Consultant grants the County a limited power of attorney to communicate with the Consultant's insurance provider and/or agent for the express purpose of confirming the coverages required



hereunder.

15.4. Certificates of Insurance: Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of the Consultant's Commercial General Liability Policy, Auto Liability Policy, and Excess/Umbrella Policy. These certificates and the insurance policies required below 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 the County.

15.5. Commercial General Liability Insurance (CGL): The Consultant agrees that it will, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of insurance which will insure against liability for property damage and/or injury/death with regard to any property or persons. The liability and property damage coverage of such insurance shall not be less than One Million Dollars (\$1,000,000) per occurrence and such insurance shall not be less than Three Million Dollars (\$3,000,000) annual aggregate, unless, the Excess/Umbrella insurance policy procured by the Consultant pursuant to paragraph 15.7 below is in an amount equaling or exceeding Four Million Dollars (\$4,000,000.00) for an annual aggregate. The Consultant agrees to have the County added to said insurance policy and /or policies as a named additional insured, on a primary, non-contributory basis, as their interest may appear. 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.

15.5.1. Coverage for the additional insureds shall include completed operations.

15.5.2. The CGL coverage shall include a General Aggregate Limit and such General Aggregate Limit shall apply separately to each Project, if applicable.

15.5.3. 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, XCU (explosion, collapse and underground coverage) and personal and advertising injury.

15.5.4. There shall be no exclusions to contractual liability for Employee Injuries (i.e. Labor Law Exclusions).

15.5.5. The Consultant shall maintain CGL coverage for itself and the additional insureds for the duration of the Project and maintain Completed Operations coverage for itself

and each additional insured for at least 3 years after completion of the Services.

15.6. Auto Liability Insurance: The Consultant agrees that it will, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of Business Auto Liability Insurance in an amount equal to or greater than One Million Dollars (\$1,000,000) for the term of this Agreement. Business Auto Coverage must include coverage for liability arising out of all owned, leased, hired and non-owned automobiles. The Consultant agrees to have the County added to said insurance policy/policies as a named additional insured, on a primary, non-contributory basis, as their interests may appear.

15.7. Excess/Umbrella Liability Insurance: The Consultant agrees that it will, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of Umbrella/Excess Liability Insurance in an amount not less than One Million Dollars (\$1,000,000) per occurrence and such insurance shall not be less than Three Million Dollars (\$3,000,000) annual aggregate. The Consultant agrees to have the County added to said insurance policy/policies as a named additional insured, on a primary, non-contributory basis, as their interests may appear. Umbrella coverage for such additional insured(s) 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 other than the CGL, Auto Liability, and Employers Liability maintained by the County.

15.8. Professional and Pollution Liability Insurance: The Consultant shall maintain a Professional and Pollution liability policy and will provide the County with proof of coverage in the amount of One Million Dollars (\$1,000,000) per claim and Three Million Dollars (\$3,000,000) annual aggregate.

15.9. Workers Compensation and Employers Liability Insurance: The Consultant agrees that it will, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of insurance, written by one or more insurance carriers licensed to do business in the State of New York, and having offices within the State of New York, which will insure against all claims under New York State Workers' Compensation Law.

15.10. Consultant shall require any sub-consultants to procure and maintain insurance coverage of the same type and in the same amounts with the same endorsements required of the Consultant in the above Insurance Requirements paragraphs

## 16. WAIVER OF SUBROGATION

16.1. The Consultant waives all rights against the County and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by Commercial Umbrella Liability, Business Auto Liability or Workers Compensation and Employers Liability Insurance maintained per requirements stated above.

**17. REQUIRED PROVISIONS OF LAW**

17.1. 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.

17.2. 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.

17.3. The 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. The 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.

**18. BREACH**

18.1. A breach of this Agreement shall include, but not be limited to, the following:

18.1.1. 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 the Consultant shall fail to deliver any required insurance certificate or bond.

18.1.2. If any representation or warranty made by the Consultant in this Agreement shall be incorrect or fallacious in any respect.

18.1.3. If the Consultant shall file a voluntary 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 federal bankruptcy act, or shall seek or acquiesce in the appointment of any trustee, receiver or liquidator for the Consultant.

18.1.4. If the Consultant assigns its rights and duties under this Agreement without written consent of the County.

18.1.5. The County shall periodically review Consultant's performance. If it is found the Consultant is not meeting Agreement conditions, the Consultant will be formally notified. If the condition is not corrected, then this will be cause for Agreement termination.

18.1.6. If default shall be made by the Consultant in keeping, observing or performing any of the terms or covenants contained in this Agreement, including any attachments or amendments.

18.2. If the Consultant breaches the Agreement, the County may declare the Consultant in default and pursue all remedies provided herein and available at law. Without limiting the available remedies, the County may proceed to perform the work required under the Agreement and charge the expense thereby incurred against the monies to which the Consultant would have been entitled under the Agreement, or may contract with a third party for the performance of the work and charge the cost and expense thereof in a like manner. In the event of a default in the performance of the work, the Consultant agrees to reimburse the County for all costs, expenses and damages incurred by the County in completing the work in accordance with this Agreement.

18.3. 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.

## 19. TERMINATION

19.1. This Agreement may be terminated by the County immediately for cause or upon ten (10) days written notice.

19.2. If this Agreement is terminated, the 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 the Consultant's delivery to the County of any and all documents, photographs, computer software, videotapes, and other materials provided to the Consultant, or prepared by the Consultant for the County in connection with this Agreement. Payment by the County for the services satisfactorily performed to the effective date of termination shall be the sole and exclusive remedy to

which the Consultant is entitled in the event of termination of the Agreement and the Consultant shall be entitled to no other compensation or damages and expressly waives the same.

19.3. This Agreement may be terminated by the Consultant upon ten (10) days written notice to the County only in the event of substantial failure by the County to fulfill its obligations under this Agreement through no fault of the Consultant.

**20. DOCUMENT PRINTING/OWNERSHIP OF ORIGINAL DRAWINGS AND MANUSCRIPTS**

20.1. Original and computer generated disks, drawings and specification manuscripts are to remain the property of the County whether or not the project is completed. The Consultant may retain copies for reference. These documents shall not be used by the Consultant for other projects without prior written approval of the County. The County's use of this data for purposes other than originally intended without written verification or adoption by the Consultant shall be at the County's sole risk.

**21. STANDARD ADDENDUM**

21.1. Consultant shall comply with County's Standard Addendum attached hereto as **Exhibit E**.

**22. NON-WAIVER**

22.1. 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, unless explicitly stated otherwise.

**23. CHOICE OF LAW/FORUM**

23.1. 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.

23.2. 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.

**24. CONFLICTS**

24.1. The terms of this Agreement shall control over any conflicting terms in any referenced documents and/or exhibits.

## **25. SUCCESSORS AND ASSIGNS**

25.1. 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.

## **26. SEVERABILITY**

26.1. 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 the Agreement shall be reformed to replace the stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision. Further, the Parties agree that all other provisions shall remain valid and enforceable.

## **27. ENTIRE AGREEMENT**

27.1. This Agreement contains the binding Agreement between the Parties and supersedes all other agreements and representations, written or oral, on the subject matter of this Agreement.

27.2. Oral statements and understandings are not valid or binding, and neither this Agreement nor any other shall be changed or modified except by a writing signed by all Parties.

27.3. Multiple copies of this Agreement may be executed by the Parties and the Parties agree that the Agreement on file at the County is the version of the Agreement that shall take precedence should any differences exist among counterparts of the Agreement.

## **28. INCORPORATION BY REFERENCE**

28.1. The following exhibits, attached hereto, are deemed incorporated into this Agreement;

28.1.1. Exhibit A, Project Description & Scope of Work

28.1.2. Exhibit B, Change Order

28.1.3. Exhibit C, Hourly Rate Schedule

28.1.4. Exhibit D, Certification of Consultant

28.1.5. Exhibit E, Standard Addendum

28.2. All exhibits to which reference is made are deemed incorporated in this Agreement, whether or not actually attached.

## **29. AUTHORITY TO ACT/SIGN**

29.1. The Consultant hereby represents and certifies that it has the power and authority to

execute and deliver this Agreement and to carry out its obligations hereunder. The execution and delivery by the Consultant of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by the Consultant; no other action on the part of the Consultant or any other person or entity, whether pursuant to its Articles of Incorporation, Articles of Operation, Operating Contract or Bylaws, as the case may be, or by law or otherwise, are necessary to authorize the Agreement or to enter into this Agreement, or to consummate the transactions contemplated herein.

**30. ADVICE OF COUNSEL**

**30.1.** 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.

**31. SERVICE OF PROCESS.**

**31.1.** Consultant 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 on the entity and address listed with the New York State Department of State for service of process as of the date of filing of such action shall be deemed good and sufficient service. In the event that at the time an action is filed Licensee does not maintain an entity and address listed with the New York State Department of State for service of process, then service on the entity and address listed as of the date of negotiation of this agreement, namely CT CORPORATION SYSTEM, 111 EIGHTH AVENUE, 13TH FLOOR, NEW YORK, NEW YORK 10011, shall be deemed good and sufficient service.

**31.2.** The service provisions of this paragraph are in addition to the assurances and agreements of notice and service contained in paragraph 12, above.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the respective Parties herein have hereunto set their hands and seals  
the day and year first above written.

**COUNTY OF ONEIDA**

By:

\_\_\_\_\_  
Anthony J. Picente, Jr.  
Oneida County Executive

DATE:

**LOCHNER ENGINEERING**

By:

*Allen J. Cowen*  
\_\_\_\_\_  
Allen J. Cowen, P.E.  
Vice President

Date:

*7-6-17*  
\_\_\_\_\_

Approved:

By:

\_\_\_\_\_  
Assistant County Attorney

Date:

\_\_\_\_\_



## **Exhibit A – Project Description & Scope of Work**

### **1. PROJECT DESCRIPTION**

- 1.1. Estimated Construction Timeframe is Summer 2017 – Spring 2018
- 1.2. Replacement of BIN 3311180, Houck Road over Sconondoa Creek, Town of Vernon. The existing 54 ft span steel multi-girder bridge with wooden deck will be replaced in its entirety. Construction Inspection duration is estimated at 16 weeks.

### **2. SCOPE OF SERVICES**

- 2.1. The Chief Inspector shall possess NICET Level III or Level IV Certification in Transportation / Highway Construction. In lieu of NICET Certification, proof of equivalent training and/or experience may be considered.
- 2.2. The Chief Inspector, shall have at least 5 years of civil or highway construction inspection experience and knowledge of construction materials and methods. He/She must have the ability to (a) maintain field and office records, (b) to perform complex quantity and engineering computations, (c) read and interpret plans and specifications, and (d) effectively deal with people.
- 2.3. The Chief Inspector must have a thorough knowledge and understanding of the New York State Department of Transportation Standard Specifications Construction and Materials Manual and the New York State Department of Transportation Manual for Uniform Record Keeping (MURK).
- 2.4. The general scope of services for all Oneida County construction projects shall be as outlined below. Individual projects may require deviation from these basic services. Oneida County will discuss project-specific requirements with the inspector prior to construction.
- 2.5. In accordance with this contract, the inspector will:
  - 2.5.1. Keep a daily diary and digital photo log of all events pertinent to the progression of the project.
  - 2.5.2. Verify that materials utilized are as specified in the contract documents.
  - 2.5.3. Assure the project is built to the lines, grades and in accordance with the approved plans and specifications.
  - 2.5.4. Document quantities of work performed in a manner sufficient to recommend payment for work completed.
  - 2.5.5. Review and make recommendation of Consultant's requests for payment.
  - 2.5.6. Keep County Liaison informed of progression of work.
- 2.6. Following bid opening and award of a project, Oneida County will forward bid results, plans and specifications to the inspector.
- 2.7. The Consultant's Project Manager or Chief Inspector will arrange for and conduct a preconstruction meeting. The Project Manager will compile and distribute meeting minutes to all attendees. The Consultant will provide a project schedule, intended start date and a schedule of values to all attendees.
- 2.8. The project designer will review and approve all shop drawings. Upon approval, copies will be made available to the inspector.
- 2.9. The inspector will keep a project specific daily diary. The diary will describe the progress of work, size of work force, equipment being used, weather conditions, and any specific problems encountered. Diaries will be forwarded to the County weekly, regardless of quantity of work performed. Digital photos will document progression of work and upon project completion, photos will be assembled on CD-ROM and a copy will be provided to the County.

- 2.10. The Consultant will be responsible for notifying the materials testing firm of their intended work schedule and services required. All applicable concrete pours will be tested in accordance with accepted practices and procedures. Minor placement of backfill items may be exempt from testing based on visual inspection and acceptance. The inspector will observe testing procedures, review test results and recommend acceptance or rejection of materials tested.
- 2.11. The inspector will take measurements, obtain a copy of delivery tickets, and record all pertinent information necessary to verify and recommend the contractor's payment requests.
- 2.12. The inspector will monitor construction activities and inform the County of the project's progression. The inspector will make recommendations to the County for any minor changes requested by the Consultant. The inspector will confer with the project designer regarding any proposed structural modifications. Any proposed changes must have prior approval of the County before being implemented.
- 2.13. The inspector will maintain a set of record drawings during construction. Upon project completion, the inspector will forward marked-up drawings to the County. The County will forward the marked-up drawings to the project designer to generate record plans.
- 2.14. The inspector will develop a punch list upon substantial completion of the project. The inspector will coordinate a meeting between the Consultant and the County to review the punch list.
- 2.15. The inspector will review Consultant requests for payment and forward recommendation to the County for processing. All requests for payment will be processed within two weeks after receipt, provided all information supplied is accurate and thorough.
- 2.16. The inspector will invoice the County monthly for services rendered, based upon 2017 billing rates submitted. Personnel billing rates shall be submitted for the 2017 calendar year and shall be marked "Exhibit C". In the event that projects continue into 2018, the Consultant has the option to perform work under the 2017 billing rate or submit revised billing rates for consideration.

**Exhibit B**

Contract No. \_\_\_\_\_

Change Order No. \_\_\_\_\_

Effective Date \_\_\_\_\_

**CHANGE ORDER**

This Change Order modifies the Consulting Services Agreement entered into this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, between Oneida County ("CLIENT") and Lochner Engineering, P.C. ("CONSULTANT"), this Change Order modifies the Agreement as follows:

**1. Change in Services:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**2. Change in time of Performance (attach schedule if appropriate):**

\_\_\_\_\_

**3. Change in CONSULTANT's Compensation:**

\_\_\_\_\_

All other terms and conditions remain unchanged.

**CLIENT**

**CONSULTANT**

Signature

Signature

Anthony J. Picente, Jr.  
Oneida County Executive

Name (Printed or Typed)

Name (Printed or Typed)

Date

Date

Approved

\_\_\_\_\_  
Oneida County Attorney



### Exhibit C – Hourly Rate Schedule

For the purpose of equal evaluation of proposals submitted, the Consultant shall submit prices for each project based on the estimate of hours and personnel to be utilized according to these guidelines. Final Consultant compensation will be based on actual number of hours committed to each individual project.

- a. Resident Engineer / Chief Inspector
- b. Project Manager

Construction documents will be prepared and all projects bid within one package. Projects may be awarded to a single or multiple Contractors.

1. BIN 3311180, Houck Road over Sconondoa Creek, Town of Vernon

Estimated Project Duration: 16 weeks

a. 640 hours @	<u>          \$82.00</u>	/hour=	<u>          \$52,480.00</u>	(straight time)
a. 160 hours @	<u>          \$57.50</u>	/hour=	<u>          \$9,200.00</u>	(over time)
b. 160 hours @	<u>          \$100.00</u>	/hour=	<u>          \$16,000.00</u>	
		Total	<u>          \$77,680.00</u>	



**Exhibit D**

**CERTIFICATION OF CONSULTANT**

I hereby certify that I am the duly authorized representative of the firm of Lochner Engineering, P.C., a company organized under the laws of the State of New York, having their principal office for the transaction of business at 181 Genesee Street, Utica, NY 13501, and that neither I nor the above firm I here represent has:

(a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this Contract, or

(b) agreed, as an express or implied condition for obtaining this Contract, to employ or retain the services of any firm or person other than those named herein in connection with carrying out the Contract, or

(c) paid or agreed to pay to any firm, organization, or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Contract; except as here expressly stated (if any):

---

I acknowledge that this contract shall be rendered null and void if subsequent to the date of this contract it is determined that a violation of such acts or regulations has occurred, and

I further acknowledge that this certificate is to be furnished to all agencies named in this contract and is subject to applicable state and federal laws, both criminal and civil.

Company: Lochner Engineering, P.C.

By: Allen J. Cowen

Name: Allen J. Cowen, P.E.

Title: Vice President

Date: 7-6-17

Attest: Patricia A. Conley





Exhibit E

STANDARD ONEIDA COUNTY CONTRACT ADDENDUM

**THIS ADDENDUM**, entered into on this \_\_\_ day of \_\_\_\_\_, 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 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 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).

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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 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.



# ONEIDA COUNTY DEPARTMENT OF PUBLIC WORKS

ANTHONY J. PICENTE JR.  
COUNTY EXECUTIVE

DENNIS S. DAVIS  
COMMISSIONER



DIVISIONS:  
BUILDINGS & GROUNDS  
ENGINEERING  
HIGHWAYS, BRIDGES & STRUCTURES  
REFORESTATION

5999 Judd Road, Oriskany, New York 13424  
Phone: (315) 793-6213 Fax: (315) 768-6299

June 23, 2017

FN 20 1-7-248

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

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

Anthony J. Picente, Jr.  
County Executive

**PUBLIC WORKS**

**WAYS & MEANS**

Date 7/5/17

Dear County Executive Picente,

On April 12, 2017 the Oneida County Board of Acquisition & Contract accepted a proposal from Bonacci Architects, PLLC in the amount of \$110,100.00 for professional consulting services associated with 2017 facility improvement projects. A complete scope of work is provided in Appendix A of the enclosed agreement.

Please consider the enclosed contract at your earliest convenience. If acceptable, please forward to the Oneida County Board of Legislators for approval.

Thank you for your support.

Sincerely,

Dennis S. Davis  
Commissioner

cc: Mark E. Laramie, PE, Deputy Commissioner



Oneida Co. Department: Public Works

Competing Proposal   
Only Respondent   
Sole Source RFP   
Other

## ONEIDA COUNTY BOARD OF LEGISLATORS

**Name & Address of Vendor:** Bonacci Architects, PLLC  
110 Fulton Street  
Utica, NY 13501

**Title of Activity or Service:** Professional Consulting Services

**Proposed Dates of Operation:** 4/12/2017 - 12/31/2018

**Client Population/Number to be Served:** N/A

### Summary Statements

#### 1) Narrative Description of Proposed Services:

On April 12, 2017 the Oneida County Board of Acquisition & Contract accepted a proposal from Bonacci Architects in the amount of \$110,100.00 for professional consulting services associated with 2017 facility improvement projects. A complete scope of work is provided in Appendix A of the enclosed agreement.

2) Program/Service Objectives and Outcomes: N/A

3) Program Design and Staffing: N/A

Total Funding Requested: \$110,100.00 Account #: H-473

Oneida County Dept. Funding Recommendation: \$110,100.00

Proposed Funding Sources (Federal \$/ State \$/County \$): \$110,100.00 (County)

Cost Per Client Served: N/A

Past Performance Data: N/A

O.C. Department Staff Comments: None



**AIA**<sup>®</sup>

# Document B101<sup>™</sup> – 2007

## Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the Twelfth day of April in the year Two Thousand Seventeen  
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:  
(Name, legal status, address and other information)

Oneida County  
800 Park Ave.  
Utica, NY 13501  
Telephone Number: (315) 793-6236  
Fax Number: (315) 768-6299

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

and the Architect:  
(Name, legal status, address and other information)

Bonacci Architects, PLLC  
110 Fulton Street  
Utica, NY 13501  
Telephone Number: 315.797.8666  
Fax Number: 315.735.3605

for the following Project:  
(Name, location and detailed description)

2017 Facility Improvements  
Contract No. H1747399

The Owner and Architect (collectively referred to as the "Parties") agree as follows.

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, QIB

§ 2.2 The Architect shall perform its ~~services~~ Services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its ~~services~~ Services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 ~~Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.~~ Indemnification: The obligations of the Architect under this section shall survive any expiration or termination of this Agreement, and shall not be limited by any enumeration herein of required insurance coverage:

§2.4.1 To the fullest extent permitted by applicable law, the Architect shall indemnify, save, hold harmless, and defend, the Owner and its respective officers, directors, members, agents, employees, 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, 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 Owner caused by any act, omission, intentional misconduct or negligence of the Architect, its subconsultants, officers, volunteers, agents, employees arising out of or in connection with the Work of the Architect, its subconsultants, officers, volunteers agents, employees except to the extent such Damages are caused by the sole negligence, unlawful act or omission, or intentional misconduct of the Owner or its respective officers, directors, members, agents, employees, and other representatives .

§2.4.2 The Architect shall be solely responsible for all physical injuries or death to its agents, servants, volunteers, employees, sub consultants or to any other persons or damage to any property sustained during its operations and Work under this Agreement resulting from any omission or act of commission or error in judgment of any of its officers, trustees, servants, independent sub consultants, and shall hold harmless and indemnify the Owner from liability upon any and all claims for injuries to persons or damages to property on account of any neglect, fault or default of the Architect, its officers, trustees, agents, servants, volunteers or sub consultants. The Architect shall be solely responsible for the safety and protection of all of its employees, volunteers, sub consultants or other agents whether due to the negligence, fault or default of the Architect or not.

§ 2.5 Insurance Requirements: The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost:

(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)

1. General Liability §2.5.1 As part of its obligation to indemnify, defend and hold harmless the Owner, its officers, agents, employees, as set forth above, the Architect agrees to obtain and maintain in full force and effect, for the term of this Agreement, insurance coverage as described below.

§ 2.5.2 The Architect 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 shall have at least an A- (excellent) rating by A.M. Best.

§2.5.2 The Architect shall not commence work until such insurance has been approved by the Owner. The certificates shall be on forms approved by the Owner. Acceptance of the certificates shall not relieve the Architect of any of the insurance requirements, nor decrease the liability of the Architect. Owner reserves the right to require the

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provided to, the additional insured other than the CGL, Auto Liability, and Employers Liability maintained by the Owner.

4 Professional Liability §2.5.8 Professional Liability Insurance: The Architect agrees that it shall, during the term of this Agreement maintain a professional liability policy and will provide the Owner with proof of coverage in the amount of One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) annual aggregate.

§2.5.9 Workers' Compensation and Employers Liability Insurance: The Architect agrees that it shall, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of insurance, written by one or more insurance carriers licensed to do business in the State of New York, and having offices within the State of New York, which will insure against all claims under New York State Workers' Compensation Law.

§2.5.10 The Architect shall require any subconsultants to procure and maintain insurance coverage of the same type and in the same amounts with the same endorsements required of the Architect in the above Insurance Requirements paragraphs.

§2.5.11 Payment(s) to the Architect may be suspended in the event the Architect and his sub-Consultants, if any, fails to provide the required insurance documentation in a timely manner.

§2.5.12 Waiver of Subrogation: The Architect waives all rights against the Owner and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by Commercial Umbrella Liability, Business Auto Liability or Workers Compensation and Employers Liability Insurance maintained per requirements stated above.

### ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

§ 3.1.5 The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

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### § 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

### § 3.5 BIDDING OR NEGOTIATION PHASE SERVICES

#### § 3.5.1 GENERAL

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

#### § 3.5.2 COMPETITIVE BIDDING

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by

- .1 procuring the reproduction of Bidding Documents for distribution to prospective bidders;
- .2 distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and
- .5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

#### § 3.5.3 NEGOTIATED PROPOSALS

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by

- .1 procuring the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors; and

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§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2007, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

### § 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

### § 3.6.4 SUBMITTALS

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

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§ 4.1.10	Value Analysis (B204™-2007)	Not Provided	
§ 4.1.11	Detailed cost estimating	Architect	Appendix A
§ 4.1.12	On-site project representation	Architect	Appendix A
§ 4.1.12	On-site Project Representation (B207™-2008)		
§ 4.1.13	Conformed construction documents	Not Provided	
§ 4.1.14	As-Designed Record drawings	Architect	Appendix A
§ 4.1.15	As-Constructed Record drawings	Architect	Appendix A
§ 4.1.16	Post occupancy evaluation	Not Provided	
§ 4.1.17	Facility Support Services (B210™-2007)	Not Provided	
§ 4.1.18	Tenant-related services	Not Provided	
§ 4.1.19	Coordination of Owner's consultants	Not Provided	
§ 4.1.20	Telecommunications/data design	Not Provided	
§ 4.1.21	Security Evaluation and Planning (B206™-2007)	Not Provided	
§ 4.1.22	Commissioning (B211™-2007)	Not Provided	
§ 4.1.23	Extensive environmentally responsible design	Not Provided	
§ 4.1.24	LEED® Certification (B214™-2012) (B214™-2007)	Not Provided	
§ 4.1.25	Fast-track design services	Not Provided	
§ 4.1.26	Historic Preservation (B205™-2007)	Not Provided	
§ 4.1.27	Furniture, Furnishings, and Equipment Design (B253™-2007)	Not Provided	
4.1.28	Asbestos Abatement Design, Variance, and Project Monitoring.	Architect	Appendix A

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

#### Appendix A – Initial Information

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3-1.3 and an appropriate adjustment in the Architect's schedule.

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;

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§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsol conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 5.7 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

~~§ 5.8 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.~~

§ 5.8 The Architect agrees to immediately report any concerns or questions regarding hazardous substances and/or suspected handling or disturbance of hazardous substances to the Oneida County Commissioner of Public Works.

§ 5.9 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.10 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

§ 5.11 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.12 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

## ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, attached Appendix A, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized,

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User Notes:

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Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

#### **ARTICLE 8 — CLAIMS AND DISPUTES**

#### **ARTICLE 7- COPYRIGHTS AND LICENSES**

§ 7.1 Original and generated computer diskettes, drawings and specification manuscripts are to remain the property of the Owner whether or not the project is completed. The Architect may retain copies for reference. These documents shall not be used by the Architect for other projects without prior written approval of the Owner. The Owner's use of this data for purposes other than originally intended without written verification or adaptation by Architect shall be at the Owner's sole risk.

#### **ARTICLE 8- CLAIMS AND DISPUTES**

##### **§ 8.1 GENERAL**

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

##### **§ 8.2 MEDIATION**

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event,

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~~§ 8.3.4.3~~ The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

#### ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. ~~In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.~~

§ 9.2 If the Owner suspends the Project, provided such suspension is not the fault of the Architect, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to ~~termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7-termination.~~

~~§ 9.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.~~

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in ~~Article 7 and~~ Section 11.9.

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, ~~except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3-located.~~ 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. This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

~~§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction.~~

§10.2 If the Owner becomes party to any litigation resulting from this Project/Agreement that is not the fault of the Architect and that requires the Architect's services, the additional fee to be paid shall be one that is mutually agreed upon between the Owner and the Architect.

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§ 10.9 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.10 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 10.11 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information. The Architect shall comply with the provisions of New York State Public Officers Law with regard to the designation of information as "confidential" or "business proprietary".

#### **§10.12 Independent Contractor Status**

§10.12.1 It is expressly agreed that the relationship of the Architect to the Owner shall be that of an Independent Contractor. The Architect shall not be considered an employee of the Owner for any purpose including, but not limited to, claims for unemployment insurance, worker's compensation, retirement, or health benefits. The Architect, in accordance with his status as an independent contractor, covenants and agrees that he will conduct himself in accordance with such status, that he will neither hold himself out as, nor claim to be, an officer or employee of the Owner by reason thereof and that he 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 Owner.

§10.12.2 The Architect warrants and represents that he or 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. The Architect and the Owner agree that the Architect is free to undertake other work arrangements during the term of this Agreement, and may continue to make his or her services available to the public.

§10.12.3 The Architect 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.

§10.12.4 The Architect acknowledges and agrees that neither the Architect, nor its employees, subcontractors and/or partners shall be eligible for any Owner employee benefits, including retirement membership credits.

§10.12.5 The Architect shall be solely responsible for applicable taxes for all compensation paid to the Architect or its employees, subcontractors and/or partners under this Agreement, and for compliance with all applicable labor and employment requirements with respect to the Architect's self-employment, sole proprietorship or other form of business organization, and with respect to the employees, subcontractors and/or partners, including payroll deductions, worker's compensation insurance, and provision of health insurance where required. The Owner shall not be responsible for withholding from the payments provided for Work rendered for State or Federal income tax, unemployment insurance, worker's compensation, disability insurance or social security insurance (FICA). The Architect shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Agreement.

§10.12.6 The Architect will indemnify and hold the Owner harmless from all loss or liability incurred by the Owner as a result of the Owner not making such payments or withholdings.

§10.12.7 If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Architect's Independent Contractor status, it is agreed that both the Owner and the Architect shall

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Drawings

Total Basic Compensation one hundred percent ( 100 %)

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Appendix C

Employee or Category Rate

§ 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- 1 Transportation and authorized out-of-town travel and subsistence;
- 2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- 3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- 4 Printing, reproductions, plots, standard form documents;
- 5 Postage, handling and delivery;
- 6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- 7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- 8 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- 9 All taxes levied on professional services and on reimbursable expenses;
- 10 Site office expenses; and
- 11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Zero percent ( 0.00 %) of the expenses incurred.

§ 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

Zero (\$0.00)

§ 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1 An initial payment of ~~(\$ )~~ shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice. Payment shall be made in accordance with Appendix A and Appendix C.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid Forty-five (

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*(Printed name and title)*

*(Printed name and title)*

Approved  
Oneida County Attorney

By  
Alison Stanulevich, Esq.  
Assistant County Attorney

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**APPENDIX A**  
**Initial Information**

1. The provisions of this Appendix A are incorporated into the Agreement by Article 12 of the Agreement. This Appendix A takes precedence over any conflicting provision of this Agreement (AIA B101-2007) and shall survive termination of the Agreement for any cause.

2. The following paragraphs from Article 4 of the Agreement, Additional Services, shall be included as part of the Architect's basic services; 4.1.11, 4.1.12, 4.1.14, 4.1.15 and 4.1.28.

3. The services to be provided by this Architect shall comply with the accepted practice of the appropriate profession. The execution of this Project shall be performed in accordance with applicable Oneida County ("Owner") policies and design criteria.

4. Architect shall have on staff, or as a sub-Architect, a Professional Engineer or Registered Architect recognized by the New York State Education Department.

**5. PROJECT DESCRIPTION**

5.1. The intent of this Project is to complete various facility improvements at various County facilities.

**6. SCOPE OF WORK**

6.1. 121 Second Street, Oriskany (Cornell Cooperative Extension)

6.1.1. Parking lot repair and paving, including full depth repair as required, crack repair/filling, milling, and bituminous concrete overlay.

6.2. 200 Elizabeth St, Utica (Oneida County Courthouse)

6.2.1. Exterior mechanical equipment enclosure repair. Replace existing masonry façade, repair/replace/repoint masonry cap stones.

6.2.2. Elevator tower. Repair EFIS.

6.2.3. Limestone cladding repair. Re-point all limestone cladding joints.

6.2.4. Replace roofing system on single story entrance vestibule.

6.2.5. Eliminate water infiltration into pedestrian tunnel connecting County Office Building and Utica Courthouse. Excavation, exterior repairs, and sidewalk replacement are anticipated.

6.2.6. Replace three mag-locks with electric strikes and replace one crash bar/exit device with a new crash bar configured with an alarm and delayed exit function. All devices integrated with Genetec access control system.

6.3. 321 Main Street, Utica (Union Station)

**APPENDIX A**  
**Initial Information**

- 6.3.1. Repair concrete ceiling/structural deck in boiler room. Significant structural repair required.
- 6.3.2. Repair parking lot located north of the Railway Express Agency Building. Repair drainage structures and repave areas adjacent to drainage structures. Re-stripe parking lot. Repair or replace ornamental benches and provide heavy duty picnic tables.
- 6.4. 5999 Judd Road, Oriskany (DPW George E. Carle Complex)
- 6.4.1. Paint walls/ceiling and clean/seal concrete floor in vehicle maintenance shop.
- 6.4.2. Replace employee lockers.
- 6.5. 800 Park Avenue, Utica (Oneida County Office Building)
- 6.5.1. Re-caulk exterior precast concrete panel joints.
- 6.5.2. Eliminate water infiltration into B1, B2, and boiler room levels on East elevation.
- 6.5.3. Repair concrete ceiling/deck in boiler room. Structural repair required.
- 6.5.4. Replace Park Avenue and Charlotte Street entrance doors, curtain walls, and entrance vestibules in public lobby on 1<sup>st</sup> floor. Repair/replace floor drains and floor grates as required.
- 6.6. 300 W. Dominick St., Rome
- 6.6.1. Replace flat roofing system.
- 6.7. Identify, quantify, and abate asbestos containing materials impacted by this project.
- 6.7.1. Perform asbestos containing material survey. Provide material sampling, analysis, and reporting as required.
- 6.7.2. Prepare plans and specifications for abatement of asbestos containing materials. Abatement design shall be performed by a NYSDOL certified project designer under the direct supervision of a Licensed Professional Engineer or Architect.
- 6.7.3. Prepare, submit application to NYSDOL, and secure approval for required asbestos abatement variances.
- 6.7.4. Provide Project monitoring/air sampling associated with abatement of ACM. All work shall be performed by a NYSDOL certified project monitor.
- 6.8. Bidding Schedule
- 6.8.1. It is desirable to complete the following work items in 2017.
- 6.8.1.1. Items 6.1.1, 6.2.4, 6.2.5, 6.3.2, 6.5.1, and 6.5.2

**APPENDIX A**  
**Initial Information**

6.8.2. The following work items must be completed in 2018

6.8.2.1. Item 6.5.4 and 6.6.1.

6.8.3. All other work items can be completed in either 2017 or 2018.

**7. SCOPE OF SERVICES**

7.1. The Architect shall be required to provide Services necessary for the performance and completion of work noted in this Appendix A herein, including Project Description, Scope of Work and Scope of Services. Services shall be provided in accordance with AIA Document B101-2007 with modifications. Services shall include, but not be limited to, the following:

7.1.1. The asbestos abatement designer may be required to attend a pre-construction meeting with building occupants to discuss expected impacts of the Project.

7.1.2. The asbestos abatement designer shall be actively involved in the construction phase of asbestos abatement. Asbestos abatement designer shall attend all bi-weekly project meetings, attend special meetings, and review all other trades' change orders as they may relate to abatement of ACM.

7.1.3. Asbestos abatement design and project monitoring shall be provided by a single consultant or sub-consultant. Asbestos abatement designer and project monitor shall be in contact throughout the construction phase of asbestos abatement and shall collaboratively ensure that ACM are abated as specified.

7.1.4. Prepare plans and specifications for facility renovations. This shall include HVAC, plumbing, electrical, fire alarm/protection, security system, communications, data, and signage upgrades.

7.1.5. There shall be multiple bid phases with up to three (3) separate bid packages.

7.1.6. Prepare all permit applications and secure all permits.

7.1.7. Coordinate activities with and secure approvals from interested local and state agencies.

7.1.8. Secure current New York State prevailing wage rates and distribute subsequent revisions to interested contractors and the Owner.

7.1.9. Attend project meetings weekly throughout Project startup and then biweekly or as requested by the Owner.

**APPENDIX A**  
**Initial Information**

7.1.10. Prepare As-Built record drawings. Submit one digital copy of all drawings on CD-ROM in AutoCAD format, version 2011.

7.1.11. Create a complete Project file (including as-builts, submittals and general correspondence) to be provided to the Owner upon completion of all work.

7.1.12. Provide all services to prepare complete and accurate plans and specifications.

7.1.13. Owner shall pay all permit fees based on the construction Phase of the Project.

7.1.14. Architect shall supply additional services as requested by the Owner and agreed to by Architect. Where Architect provides additional services authorized by the Owner's designated representative, those services shall be reimbursed according to the Hourly Rate Schedule attached hereto, as **APPENDIX C**.

7.1.15. Additional services shall not be performed unless requested and approved in writing by the Owner. Approval shall be in the form of an Agreement amendment. Payment shall not be made for additional services performed without prior authorization.

7.1.16. Architect shall notify Owner immediately of potential fee increases.

7.1.17. Progress payments for additional services performed shall be based on the percentage of work completed and/or on completion of major tasks.

**8. BASIS OF COMPENSATION**

8.1. Payments shall be based on work phases defined in AIA Document B101-2007, modified by County, as follows.

8.1.1. Pay Item 1. Consultant shall be paid a lump sum fixed fee for Schematic Design, Design Development, Asbestos Containing Material Survey, Construction Documents, Bidding, and As-Constructed Record Drawing phases. All expenses for Asbestos Containing Material Survey, Sampling, Testing, and Reporting are to be included. Payments shall be based on percentage of work completed.

8.1.2. Pay Item 2. Consultant shall be paid a Not-To-Exceed fee for Asbestos Abatement Design services. Payments shall be based on percentage of work completed. Unused fee shall be credited back to County.

8.1.3. Pay Item 3. Consultant shall be paid a Not-To-Exceed fee for Asbestos Abatement Project Monitoring. Payments shall be based on Time and Materials and established

**APPENDIX A**  
**Initial Information**

hourly rates, unit prices, and work completed. Unused fee shall be credited back to County.

8.1.4. Pay Item 4. Consultant shall be paid a Not-To-Exceed fee of \$20,000.00 for Construction Phase Services. Payments shall be based on established hourly rates and work completed. Unused fee shall be credited back to County.

8.1.4.1. Payments for Construction Phase Services associated with site visits shall be for on-site time only. There will be no payment or reimbursement for travel time.

8.2. Separate payment(s) will not be made for reimbursable expenses. The cost of all reimbursable expenses shall be included in lump sum fees, not-to-exceed fees, established hourly rates, or unit prices.

**9. MISCELANEOUS**

**9.1. REQUIRED PROVISIONS OF LAW**

9.1.1. 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.

9.1.2. 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. In particular the Architect shall fully comply with:

9.1.3. The Architect 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. The Architect shall not establish or permit any such practice(s) of discrimination with reference to this Agreement or any part thereof. Architects determined to be in violation of this section shall be deemed to be in breach of this Agreement.

9.1.4. Architect agrees to comply with all applicable provisions of the Labor Laws of New York State and the United States of America.

**APPENDIX A**  
**Initial Information**

**10. SUBCONTRACTS**

10.1. A subcontractor is a person who has an agreement with the Architect to perform any of the Work.

10.2. The Architect agrees to furnish to the County, prior to the execution of the Agreement, a list of names of subcontractors to whom the Architect proposes to award any portion of the Work. The County shall be provided a copy of any and all agreement(s) between the Architect and any subcontractors regarding the award of any portion of the Work within ten (10) days of their final execution.

10.3. Agreements between the Architect and the subcontractor shall be in accordance with the terms of this Agreement and shall include the conditions of this Agreement including all exhibits and Construction/Contract Documents, insofar as applicable.







**ADDITIONAL REMARKS SCHEDULE**

AGENCY Brown & Brown - Empire State		NAMED INSURED Bonacci Architects, PLLC 5710 Commons Park Drive East Syracuse NY 13057	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

**ADDITIONAL REMARKS**

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,  
 FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

General Liability:  
 Additional Insured – Form: Blanket Additional Insured (Architects, Engineers and Surveyors) - CG D3 81 09 07  
 Additional Insured – Form: Architects, Engineers and Surveyors XTEND Endorsement – New York - CG F4 38 09 07  
 Waiver of Transfer of Rights – Form: Architects, Engineers and Surveyors XTEND Endorsement – New York - CG F4 38 09 07  
 Per Project Aggregate - Form: Architects, Engineers and Surveyors XTEND Endorsement – New York - CG F4 38 09 07  
 Primary and Noncontributory – Form: Other Insurance – Additional Insureds - CG D0 37 04 05

Umbrella Liability:  
 Umbrella Follows Form over the General Liability UM 04 45 05 06  
 Waiver of Our Right to Recover From Others - UM 04 88 07 08

Project: Emergency Services Facility Study - 120 Base Road, Oriskany, NY 13424

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS**

This endorsement modifies insurance provided under the following:

**COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE**

The following is added to Paragraph 11., **OUR RIGHT TO RECOVER FROM OTHERS.**, of SECTION IV – **CONDITIONS.**:

If the insured has agreed in a contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

- a. "Bodily injury" or "property damage" caused by an "occurrence" that takes place; or
- b. "Personal injury" or "advertising injury" caused by an "offense" that is committed; subsequent to the execution of the contract or agreement.



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **AMENDMENT OF WHO IS AN INSURED**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE**

Paragraph **2.f.** of SECTION II – WHO IS AN INSURED is deleted and replaced by the following:

f. Any other person or organization insured under any policy of the "underlying insurance" listed in the SCHEDULE OF UNDERLYING INSURANCE of the DECLARATIONS of this insurance. This insurance is subject to all the provisions and limitations upon coverage under such policy of "un-

derlying insurance", and, the limits of insurance afforded to such person or organization will be:

- (i) The difference between the "underlying insurance" limits and the minimum limits of insurance which you agreed to provide; or.
- (ii) The limits of insurance of this policy whichever is less.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS**

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY (UMBRELLA) INSURANCE

The following is added to Paragraph 11., **OUR RIGHT TO RECOVER FROM OTHERS.**, of SECTION IV – **CONDITIONS.**:

If the insured has agreed in a contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

- a. "Bodily injury" or "property damage" caused by an "occurrence" that takes place; or
- b. "Personal injury" or "advertising injury" caused by an "offense" that is committed; subsequent to the execution of the contract or agreement.



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **OTHER INSURANCE – ADDITIONAL INSURED**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### **PROVISIONS**

COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV), Paragraph 4. (**Other Insurance**), is amended as follows:

1. The following is added to Paragraph a. **Primary Insurance**:

However, if you specifically agree in a written contract or written agreement that the insurance provided to an additional insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with that other insurance, provided that:

- a. The "bodily injury" or "property damage" for which coverage is sought occurs; and

- b. The "personal injury" or "advertising injury" for which coverage is sought arises out of an offense committed

subsequent to the signing and execution of that contract or agreement by you.

2. The first Subparagraph (2) of Paragraph b. **Excess Insurance** regarding any other primary insurance available to you is deleted.

3. The following is added to Paragraph b. **Excess Insurance**, as an additional subparagraph under Subparagraph (1):

That is available to the insured when the insured is added as an additional insured under any other policy, including any umbrella or excess policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# BLANKET ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)

This endorsement modifies insurance provided under the following:  
COMMERCIAL GENERAL LIABILITY COVERAGE PART

**A. The following is added to WHO IS AN INSURED (Section II):**

Any person or organization that you agree in a "contract or agreement requiring insurance" to include as an additional insured on this Coverage Part, but only with respect to liability for "bodily injury", "property damage" or "personal injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- a. In the performance of your ongoing operations;
- b. In connection with premises owned by or rented to you; or
- c. In connection with "your work" and included within the "products-completed operations hazard".

Such person or organization does not qualify as an additional insured for "bodily injury", "property damage" or "personal injury" for which that person or organization has assumed liability in a contract or agreement.

The insurance provided to such additional insured is limited as follows:

- d. This insurance does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.
- e. This insurance does not apply to the rendering of or failure to render any "professional services".
- f. The limits of insurance afforded to the additional insured shall be the limits which you agreed in that "contract or agreement requiring insurance" to provide for that additional insured, or the limits shown in the Declarations for this Coverage Part, whichever are less. This endorsement does not increase the limits of insurance stated in the **LIMITS OF**

**INSURANCE (Section III) for this Coverage Part.**

**B. The following is added to Paragraph a. of 4. Other Insurance in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):**

However, if you specifically agree in a "contract or agreement requiring insurance" that the insurance provided to an additional insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with the other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal injury" for which coverage is sought arises out of an offense committed;

after you have entered into that "contract or agreement requiring insurance". But this insurance still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the insured when the insured is an additional insured under any other insurance.

**C. The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):**

We waive any rights of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage" or "personal injury" arising out of "your work" performed by you, or on your behalf, under a "contract or agreement requiring insurance" with that person or organization. We waive these rights only where you have agreed to do so as part of the "contract or agreement requiring insurance" with such person or organization entered into by you before, and in effect when, the "bodily



## COMMERCIAL GENERAL LIABILITY

injury" or "property damage" occurs, or the "personal injury" offense is committed.

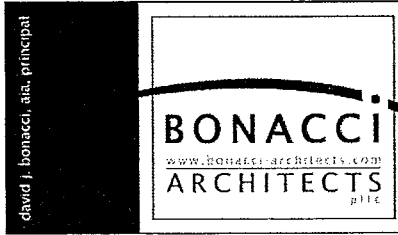
**D. The following definition is added to DEFINITIONS (Section V):**

"Contract or agreement requiring insurance" means that part of any contract or agreement under which you are required to include a person or organization as an additional insured on this Cov-

erage Part, provided that the "bodily injury" and "property damage" occurs, and the "personal injury" is caused by an offense committed:

- a. After you have entered into that contract or agreement;
- b. While that part of the contract or agreement is in effect; and
- c. Before the end of the policy period.





## RATE SCHEDULE - 2017

---

### HOURLY RATES FOR PROFESSIONAL SERVICES:

Principal	\$175.00
Senior Architect	\$140.00
Architects	\$95-125.00
Technical	\$85-95.00
Technical Word Processing	\$75.00
Consultants	@ 1.10 times rates billed to Bonacci Architects

### SCHEDULE FOR TRANSPORTATION AND LIVING EXPENSES OUTSIDE ONEIDA, HERKIMER, MADISON, CORTLAND AND ONONDAGA COUNTIES:

#### Automobile Travel:

To be reimbursed at a rate of \$.535 per mile for vehicles owned by the Architect, its employees and consultants.

#### All Other Transportation and Living Expenses:

To be reimbursed at 1.10 times the actual amounts expended.

### ANNUAL ADJUSTMENTS:

Professional service and travel rates shall be equitably adjusted upward annually on January 1 of each following year.

---

formerly FULIGNI\*FRAGOLA/ARCHITECTS pllc

5710 commons park drive, east syracuse, new york 13057 • V 315-437-2636 • F 315-463-8038  
110 fulton street, utica, new york 13501 • V 315-797-8666 • F 315-735-3605  
e-mail: studio@bonacci-architects.com


**Klepper, Hahn & Hyatt**

STRUCTURAL ENGINEERING · LANDSCAPE ARCHITECTURE · BUILDING ENVELOPE SYSTEMS

**SCHEDULE OF BILLING RATES**

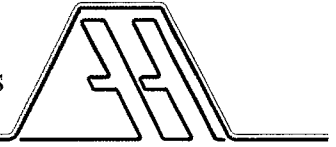
Through 31 December 2017

<u>STAFF</u>	<u>RATE</u>	
Principal 3	\$165.00	per hour
Principal 2	\$150.00	per hour
Principal 1	\$135.00	per hour
Professional Litigation Services	\$210.00	per hour
Building Envelope Specialist 2	\$ 85.00	per hour
Building Envelope Specialist 1	\$ 75.00	per hour
Engineer 4	\$145.00	per hour
Engineer 3	\$135.00	per hour
Engineer 2	\$120.00	per hour
Engineer 1	\$110.00	per hour
Engineering Designer 2	\$110.00	per hour
Engineering Designer 1	\$ 85.00	per hour
Engineering Assistant 4	\$ 85.00	per hour
Engineering Assistant 3	\$ 70.00	per hour
Engineering Assistant 2	\$ 60.00	per hour
Engineering Assistant 1	\$ 50.00	per hour
Landscape Architect 2	\$ 95.00	per hour
Landscape Architect 1	\$ 85.00	per hour
Site Designer 2	\$ 75.00	per hour
Site Designer 1	\$ 65.00	per hour
BIM Designer 1	\$ 75.00	per hour
CAD Operator 2	\$ 70.00	per hour
CAD Operator 1	\$ 60.00	per hour

**REIMBURSABLES**

Mileage	IRS Standard Business Rate
Outside Services	Cost plus 10%
Others	Per Proposal

Almy & Associates  
Consulting Engineers



ALMY & ASSOCIATES  
CONSULTING ENGINEERS  
238 GENESEE STREET  
UTICA, NEW YORK 13502  
Phone: (315) 735-6464  
Fax: (315) 735-7309

## 2017 RATE SCHEDULE

Principal/Professional Engineer	\$150.00/hour
Engineering Technician/Designer	\$75.00/hour



**SACK & ASSOCIATES**  
CONSULTING ENGINEERS, PLLC

**STANDARD RATE SCHEDULE B-2017  
FOR PROFESSIONAL SERVICES**

Principal .....	\$196.00
Associate .....	\$170.00
Engineer 6 .....	\$164.00
Engineer 5 .....	\$160.00
Designer 6 .....	\$158.00
Engineer 4 .....	\$133.00
Designer 5 .....	\$130.00
Engineer 3 .....	\$112.00
Designer 4 .....	\$110.00
Engineer 2 .....	\$93.00
Designer 3 .....	\$91.00
Engineer 1 .....	\$81.00
Designer 2 .....	\$79.00
Drafter .....	\$63.00

Administrative Staff

Administrative Support 3 .....	\$91.00
Administrative Support 2 .....	\$84.00
Administrative Support 1 .....	\$65.00

**REIMBURSABLE EXPENSES**

The following items are not included in the fee for professional services and will be invoiced at their corresponding cost with adjustment as stated in the proposal/agreement:

Contracted Reproduction Services..... At cost

*The hourly rates quoted above are subject to increase from time to time and such increase will be reflected in the bills sent to the clients. If a client does not wish to be charged at the new hourly rates, the client shall notify the Firm in writing of the termination of this engineer/client relationship and agrees to pay the Firm for services rendered up to the date the written notice is received by the Firm. If the Firm continues to perform services to a client past the date of the increase, the new hourly rates will be in effect and the client shall pay said rates for all services rendered thereafter.*

1/2017



Unit Prices:

Sample Analysis

(Used only if the number of analyses is less than or more than those included in lump sum pricing)

Friable PLM, per sample	\$ 15
NOB PLM, per sample	\$ 30
NOB TEM, per sample	\$ 50
Air Sample by PCM	\$ 11
Additional meetings/site visits	\$275 each
Additional Days of Monitoring	\$545/day
Variance from 12 NYCRR 56	\$500 each, plus state fee of \$350, total \$850
Telephone conference calls	No charge

Appendix D

STANDARD ONEIDA COUNTY CONTRACT ADDENDUM

**THIS ADDENDUM**, entered into on this \_\_\_ day of \_\_\_\_\_, 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.**

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;

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;



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

**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,

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 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 10, 2017

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

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

FN 20

**PUBLIC WORKS**

Anthony J. Picente, Jr.  
County Executive

**WAYS & MEANS**

Re: Granting of Easement  
National Grid and Verizon  
Oneida County Water Pollution Control Plant Upgrades

Dear County Executive Picente:

Part of the ongoing upgrades at the Oneida County Water Pollution Control Plant project involves constructing a new headworks facility. This facility will handle the sanitary flows that will be coming to the plant.

In order to construct the new headworks facility, some existing National Grid power poles have to be relocated. Verizon has some of their infrastructure attached to these poles as well. Consequently, both National Grid and Verizon require an easement for County property that the new poles will occupy. A copy of the proposed easement is attached to this letter.

I am available to meet with you at your convenience to discuss this request and explain it in more detail. I respectfully request that this item be considered by the Board of Legislators at their **August 9<sup>th</sup>** meeting. Thank you for your consideration in this matter.

Sincerely,

**THE ONEIDA COUNTY DEPARTMENT OF  
WATER QUALITY AND WATER POLLUTION CONTROL**

Steven P. Devan, P.E.  
Commissioner

Cc: Peter M. Rayhill, Esq. – Oneida County Attorney  
Karl E. Schrantz, P.E. – O'Brien and Gere Engineering  
John Waters, WQ&WPC

Attachments: Proposed Easement  
Contract Summary Sheet

Competing Proposal \_\_\_\_\_  
Only Respondent \_\_\_\_\_  
Sole Source RFP \_\_\_\_\_  
Other  X

**ONEIDA COUNTY BOARD OF LEGISLATORS  
CONTRACT SUMMARY**

**Name & Address of Vendor:** Niagara Mohawk Power Corp Verizon New York, Inc  
300 Erie Blvd W 140 West St  
Syracuse, NY 13202 New York, NY 10007

**Title of Activity or Service:** Easement

**Proposed Dates of Operation:** Upon execution then forever

**Client Population/Number to be Served:** 110,000 people

**Summary Statements**

1) Narrative Description of Proposed Services: Granting an easement to National Grid and Verizon is required so that existing power poles can be moved to accommodate the construction of new headworks facilities at the Oneida County Water Pollution Control Plant.

2) Program/Service Objectives and Outcomes: Construct the new headworks facilities at the Oneida County Water Pollution Control Plant.

3) Program Design and Staffing: Department staff will oversee this easement.

**Total Funding Requested:** N/A **Account #:** N/A

**Oneida County Dept. Funding Recommendation:** N/A

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

**Cost Per Client Served:** N/A

**Past Performance Data:** N/A

**O.C. Department Staff Comments:** This easement must be obtained as soon as possible as the bids for the headworks facilities construction and upgrades have been received and construction will begin in the near future.

April 27, 2017

Oneida County Sewer District  
Attn: John Waters  
P.O. Box 442  
51 Leland Ave.  
Utica, NY 13503-0442

RE: 51 Leland Ave.  
Tax Map ID# 319.011-1-2.1

WR# 22039304

Dear Mr. Waters:

Enclosed is an easement that must be executed previous to scheduling construction. Enclosed you will find the related easement document requiring execution along with a sketch (Exhibit A) showing the work to be done.

Please sign the easement in the presence of a Notary Public (in black ink if possible), assure that the Notary completes the acknowledgement in the appropriate place along with date, signature and stamp. Also, please return the originals to me in the envelope provided.

Please contact me at (315) 798-1934 if you have any questions regarding the enclosed documents.

Sincerely,



Bitsy Maye-Rattler  
Right-of-Way Representative

Enclosure

## GRANT OF EASEMENT

County of Oneida of 800 Park Avenue, Utica, New York 13501 (hereinafter referred to as "Grantor"), for consideration of One Dollar (\$1.00), and other valuable considerations paid, the receipt and sufficiency of which are hereby acknowledged under seal, hereby grants to NIAGARA MOHAWK POWER CORPORATION, a New York corporation, having an address at 300 Erie Boulevard West, Syracuse, New York 13202 and Verizon New York, Incorporated having an address of 140 West Street, New York, New York 10007-2141 (hereinafter collectively referred to as "Grantees"), for Grantees and their lessees, licensees, successors, and assigns, the perpetual right and easement as described in Section 1 below (the "Easement") in, under, through, over, across, and upon the Grantor's land, as described in Section 2 below (the "Grantor's Land").

**Section 1 – Description of the Easement.** The "Easement" granted by the Grantor to the Grantees consists of a perpetual easement and right-of-way, with the right, privilege, and authority to:

a. Construct, reconstruct, relocate, extend, repair, maintain, operate, inspect, patrol, and, at their pleasure, remove any poles or lines of poles, supporting structures, cables, crossarms, overhead and underground wires, guys, guy stubs, insulators, transformers, braces, fittings, foundations, anchors, lateral service lines, communications facilities, and other fixtures and appurtenances (collectively, the "Facilities"), which the Grantees shall require now and from time to time, for the transmission and distribution of high and low voltage electric current and for the transmission of intelligence and communication purposes, by any means, whether now existing or hereafter devised, for public or private use, in, upon, over, under, and across that portion of the Grantor's Land described in Section 3 below (the "Easement Area"), and the highways abutting or running through the Grantor's Land, and to renew, replace, add to, and otherwise change the Facilities and each and every part thereof and the location thereof within the Easement Area, and utilize the Facilities within the Easement Area for the purpose of providing service to the Grantor and others;

b. From time to time, without further payment therefore, clear and keep cleared, that portion of Grantor's Land described in Section 3 below (the "Trimming Easement Area") of any and all trees, limbs, branches, roots or vegetation and trim and remove danger trees adjacent to the Easement Area that, in the opinion of the Grantee may jeopardize the integrity of the Grantee's electric distribution facilities; Grantee shall follow accepted arboricultural standards which may require Grantor to make pruning cuts closer to the tree stems, outside the 10-foot easement area;

c. Excavate or change the grade of the Grantor's Land as is reasonable, necessary, and proper for any and all purposes described in this Section 1; provided, however, that the Grantees will, upon completion of their work, backfill and restore any excavated areas to reasonably the same condition as existed prior to such excavation; and

d. Pass and repass along the Easement Area to and from the adjoining lands and pass and repass over, across, and upon the Grantor's Land to and from the Easement Area, and construct, reconstruct, relocate, use, and maintain such footbridges, causeways, and ways of access, if any, thereon, as is reasonable and necessary in order to exercise to the fullest extent the Easement.

**Section 2 – Description of Grantor's Land.** The "Grantor's Land" is described in a certain Deed recorded in the Oneida County Clerk's Office on 10/31/1967 in Liber 1866 of Deeds at Page 983 and consists of land described as being part of Tax Parcel No. 319.011-1-2.1 of the City of Utica, County of Oneida, New York, commonly known as 51 Leland Avenue.

**Section 3 – Location of the Easement Area.** The "Easement Area" shall consist of a portion of the Grantor's Land 20 feet in width throughout its extent, the centerline of the Easement Area being the centerline of the Facilities. The general location of the Easement Area is shown on the sketch entitled 17-16-22039304, which sketch is attached hereto as Exhibit A and recorded herewith, copies of which are in the possession of the Grantor and the Grantees. The final and definitive location(s) of the Easement Area shall become established by and upon the final installation and erection of the Facilities by the Grantees in substantial compliance with Exhibit A hereto. The "Trimming Easement Area" shall be a strip of land measured ten (10) feet from the outermost electric conductor on each side of the line.

**Section 4 – Facilities Ownership.** It is agreed that the Facilities shall remain the property of the Grantees, their successors and assigns.

**Section 5 – General Provisions.** The Grantor, for itself, its heirs, legal representatives, successors, and assigns, hereby covenants and agrees with the Grantees that no act will be permitted within the Easement Area which is inconsistent with the Easement hereby granted; no buildings or structures, or replacements thereof or additions thereto, swimming pools, or obstructions will be erected or constructed above or below grade within the Easement Area; no trees shall be grown, cultivated, or harvested, and no excavating, mining, or blasting shall be undertaken within the Easement Area without the prior written consent of the Grantees; the Easement shall not be modified nor the Easement Area relocated by the Grantor without the

Grantees' prior written consent; the present grade or ground level of the Easement Area will not be changed by excavation or filling; the Grantees shall quietly enjoy the Grantor's Land; and the Grantor will forever warrant title to the Grantor's Land.

The Grantees, their successors and assigns, are hereby expressly given and granted the right to assign this Easement, or any part thereof, or interest therein, and the same shall be divisible between or among two or more owners, as to any right or rights created hereunder, so that each assignee or owner shall have the full right, privilege, and authority herein granted, to be owned and enjoyed either in common or severally. This Grant of Easement shall at all times be deemed to be and shall be a continuing covenant running with the Grantor's Land and shall inure to and be binding upon the successors, heirs, legal representatives, and assigns of the parties named in this Grant of Easement.

IN WITNESS WHEREOF, \_\_\_\_\_ has hereunto set \_\_\_\_\_ hand(s) and seal(s) this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**Oneida County Sewer District**

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

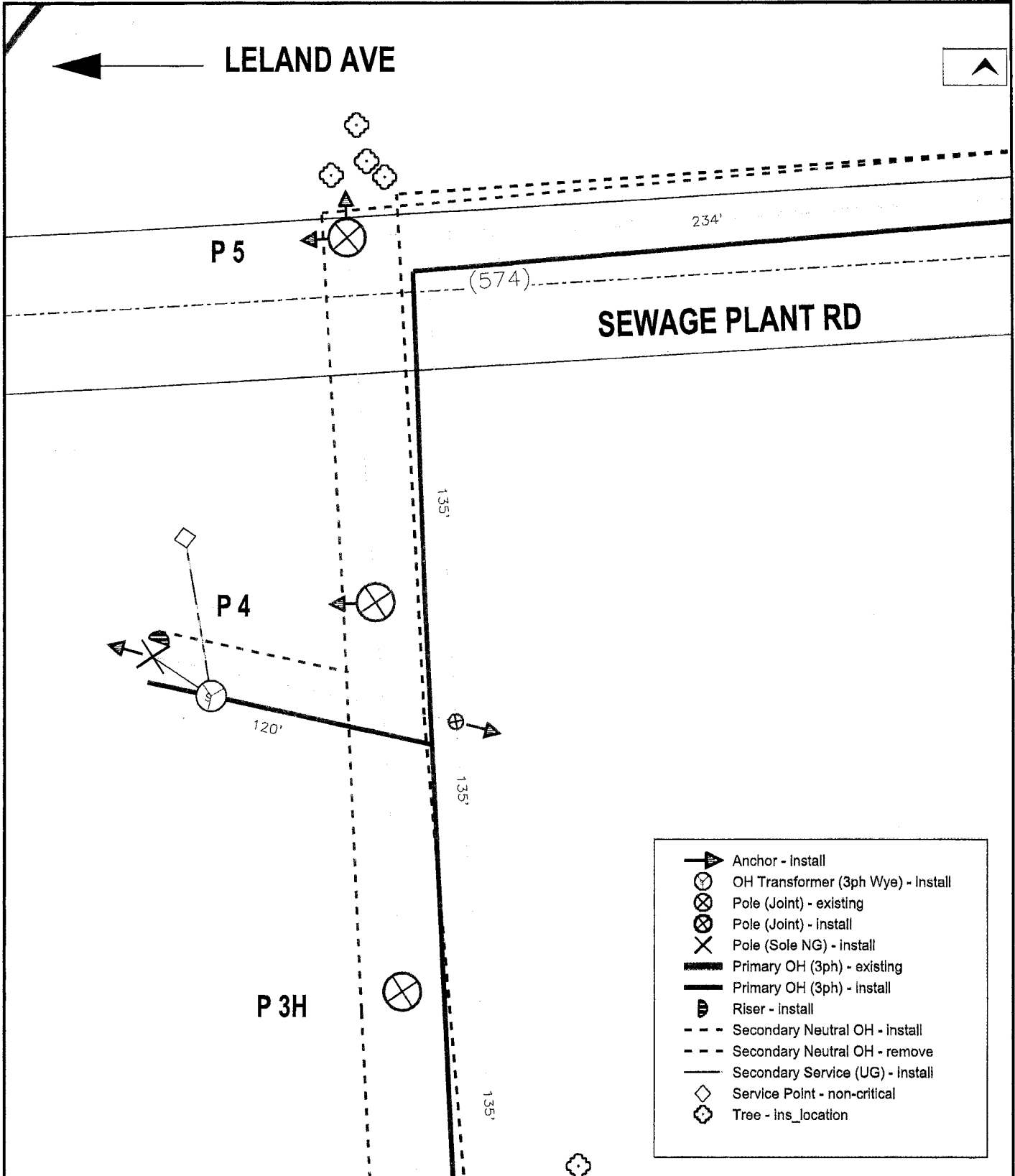
Its: \_\_\_\_\_  
Title

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss:

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2017, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

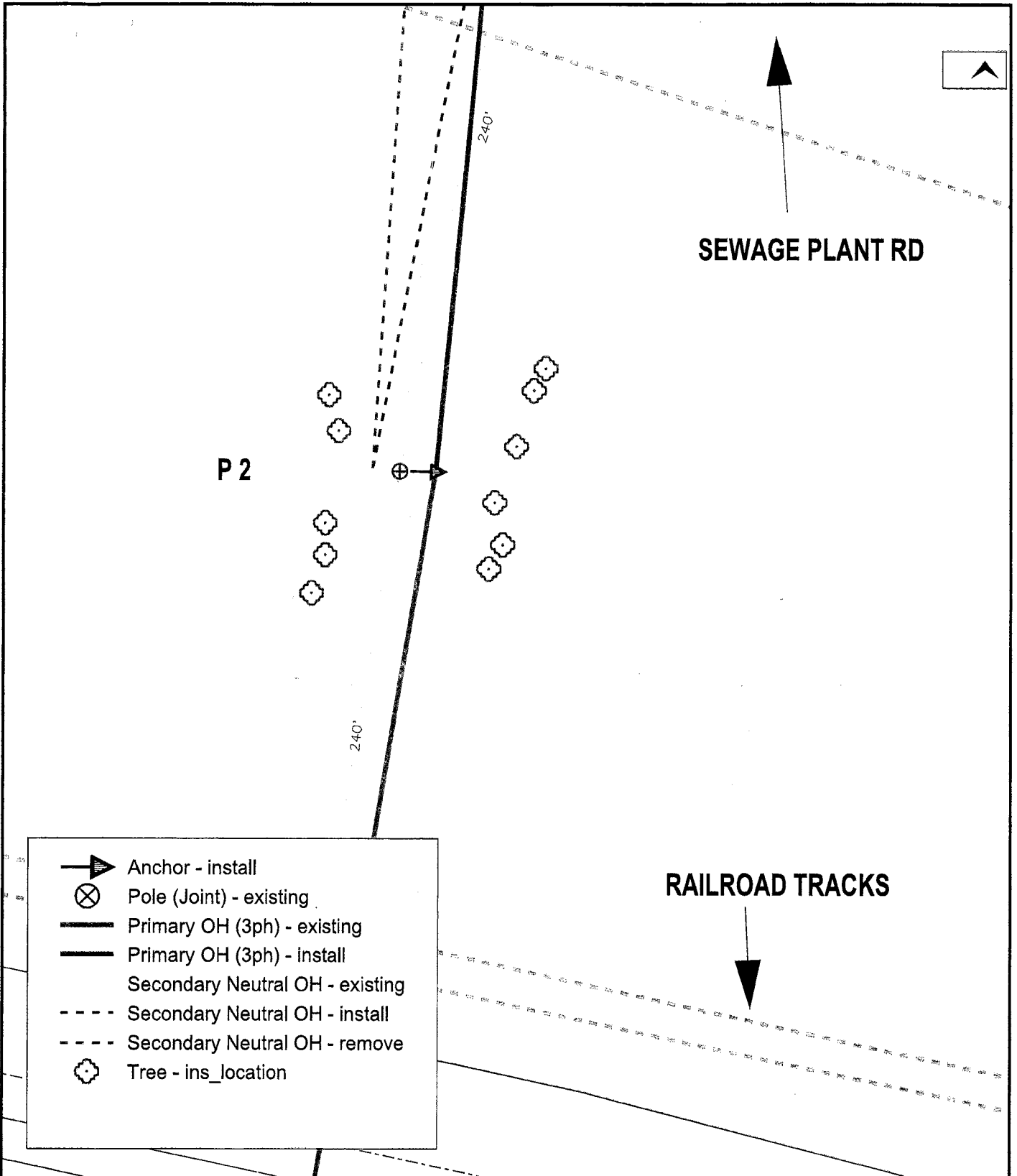
\_\_\_\_\_  
Notary Public





- Anchor - Install
- OH Transformer (3ph Wye) - Install
- Pole (Joint) - existing
- Pole (Joint) - install
- Pole (Sole NG) - install
- Primary OH (3ph) - existing
- Primary OH (3ph) - install
- Riser - install
- Secondary Neutral OH - install
- Secondary Neutral OH - remove
- Secondary Service (UG) - install
- Service Point - non-critical
- Tree - ins\_location

<b>EASEMENT #:</b>	<b>EASEMENT SKETCH - EXHIBIT A</b>	<b>NOT TO SCALE</b>
DESIGNER: Cox-Jr, Theodore R. DATE: <b>08/16/2016</b> WORK ORDER #: 17-16-22099304	DEVELOPMENT NAME and LOCATION ONEIDA COUNTY WWTP SEWAGE PLANT RD, UTICA	nationalgrid  SHEET 1 OF 2



- Anchor - install
- Pole (Joint) - existing
- Primary OH (3ph) - existing
- Primary OH (3ph) - install
- Secondary Neutral OH - existing
- Secondary Neutral OH - install
- Secondary Neutral OH - remove
- Tree - ins\_location

<b>EASEMENT #:</b>	<b>EASEMENT SKETCH - EXHIBIT A</b>	<b>NOT TO SCALE</b>
DESIGNER: Cox-Jr, Theodore R. DATE: 08/16/2016 WORK ORDER #: 17-16-22039304	DEVELOPMENT NAME and LOCATION ONEIDA COUNTY WWTP SEWAGE PLANT RD, UTICA	nationalgrid SHEET 2 OF 2



**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 10, 2017

FN 20 17-242

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

**PUBLIC WORKS**

**WAYS & MEANS**

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

Re: Facility Encroachment Agreement  
CSX Transportation, Inc.  
Sauquoit Creek Force Main  
NYS Reality & Terminal Property

Anthony J. Picente, Jr.  
County Executive  
Date 7/10/17

Dear County Executive Picente:

The Oneida County Department of Law in conjunction with this Department and its consultants are in the process of obtaining permission from property owners to run the new Sauquoit Creek Force Main through their property. These permissions will be in the form of easements, permits or license agreements. Another facility encroachment agreement between CSX Transportation, Inc. and Oneida County is now ready for execution.

This agreement is necessary so that the force main can be installed through a parcel known as NYS Reality & Terminal. The fees associated with this agreement are an application review fee of \$9,700, which has already been paid, a railroad protective liability fee of \$1,800 and a one-time license fee of \$5,100.

I am available to meet with you at your convenience to discuss this request and explain it in more detail. I respectfully request that this item be considered the Board of Legislators at their earliest possible convenience .

Thank you for your consideration in this matter.

Sincerely,

**THE ONEIDA COUNTY DEPARTMENT OF  
WATER QUALITY AND WATER POLLUTION CONTROL**

Steven P. Devan, P.E.  
Commissioner

Cc: Peter M. Rayhill, Esq. – Oneida County Attorney  
Karl E. Schrantz, P.E. – O'Brien and Gere Engineering  
Chris Somerlot, P.E. – Brown and Caldwell  
John Waters, WQ&WPC

Attachments: Proposed Encroachment Agreement  
Contract Summary Sheet

Competing Proposal	_____
Only Respondent	_____
Sole Source RFP	_____
Other	<u>  X  </u>

**ONEIDA COUNTY BOARD OF LEGISLATORS  
CONTRACT SUMMARY**

**Name & Address of Vendor:** CSX Transportation, Inc.  
500 Water St  
Jacksonville, FL 32202

**Title of Activity or Service:** Facility Encroachment Agreement

**Proposed Dates of Operation:** Upon execution then forever

**Client Population/Number to be Served:** 110,000 people

**Summary Statements**

**1) Narrative Description of Proposed Services:** This is a facility encroachment agreement for property owned by CSX Transportation, Inc. It will allow the County to install a 48" force main pipe in CSX property known as the NYS Reality & Terminal Property.

**2) Program/Service Objectives and Outcomes:** Construct the force main through CSX Transportation, Inc. property known as the NYS Reality & Terminal Property.

**3) Program Design and Staffing:** Department staff will oversee this facility encroachment agreement.

**Total Funding Requested:** \$16,600                      **Account #:** G8110.495

**Oneida County Dept. Funding Recommendation:** \$16,600

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

**Cost Per Client Served:** \$0.15

**Past Performance Data:** As similar agreement is being processed with CSX Transportation, Inc. to allow the force main to go under the tracks near the Sauquoit Creek Pumping Station.

**O.C. Department Staff Comments:** This facility encroachment agreement must be obtained so that the new force main can be installed in CSX Transportation, Inc. property known as the NYS Reality & Terminal Property.

## FACILITY ENCROACHMENT AGREEMENT

THIS AGREEMENT, Made and effective as of May 25, 2017, by and between CSX TRANSPORTATION, INC., a Virginia corporation, whose mailing address is 500 Water Street, Jacksonville, Florida 32202, hereinafter called "Licensor," and ONEIDA COUNTY, a municipal corporation, political subdivision or state agency, under the laws of the State of New York, whose mailing address is 800 Park Avenue, Attention: Legal Department, Utica, New York 13501, hereinafter called "Licensee," WITNESSETH:

WHEREAS, Licensee desires to construct (unless previously constructed and designated as existing herein), use and maintain the below described facility(ies), hereinafter called "Facilities," over, under or across property owned or controlled by Licensor, at the below described location(s):

1. One (1) forty-eight inch (48") diameter sub-grade pipeline parallel, solely for the conveyance of raw/treated sewage, located at or near Utica, Oneida County, New York, Albany Division, Mohawk Subdivision, beginning at Milepost QC-239.10, Latitude N43:06:40.00, Longitude W75:15:09.00, and ending at Milepost QC-239.24, Latitude N43:06:42.00, Longitude W75:15:19.00;

hereinafter, called the "Encroachment," as shown on print(s) labeled Exhibit "A," attached hereto and made a part hereof;

NOW, THEREFORE, in consideration of the mutual covenants, conditions, terms and agreements herein contained, the parties hereto agree and covenant as follows:

### 1. LICENSE:

1.1 Subject to Article 17, Licensor, insofar as it has the legal right, power and authority to do so, and its present title permits, and subject to:

(A) Licensor's present and future right to occupy, possess and use its property within the area of the Encroachment for any and all purposes;

(B) All encumbrances, conditions, covenants, easements, and limitations applicable to Licensor's title to or rights in the subject property; and

(C) Compliance by Licensee with the terms and conditions herein contained;

does hereby license and permit Licensee to construct, maintain, repair, renew, operate, use, alter or change the Facilities at the Encroachment above for the term herein stated, and to remove same upon termination.

1.2 The term Facilities, as used herein, shall include only those structures and ancillary facilities devoted exclusively to the transmission usage above within the Encroachment, and as shown on attached Exhibit A.

1.3 No additional structures or other facilities shall be placed, allowed, or maintained by Licensee in, upon or on the Encroachment except upon prior separate written consent of Licensor.

## **2. ENCROACHMENT FEE; TERM:**

2.1 Licensee shall pay Licensor a one-time nonrefundable Encroachment Fee of FIVE THOUSAND ONE HUNDRED AND 00/100 U.S. DOLLARS (\$5,100.00) upon execution of this Agreement. Licensee agrees that the Encroachment Fee applies only to the original Licensee under this Agreement. In the event of a successor (by merger, consolidation, reorganization and/or assignment) or if the original Licensee changes its name, then Licensee shall be subject to payment of Licensor's current administrative and document preparation fees for the cost incurred by Licensor in preparing and maintaining this Agreement on a current basis.

2.2 However, Licensee assumes sole responsibility for, and shall pay directly (or reimburse Licensor), any additional annual taxes and/or periodic assessments levied against Licensor or Licensor's property solely on account of said Facilities or Encroachment.

2.3 This Agreement shall terminate as herein provided, but shall also terminate upon: (a) Licensee's cessation of use of the Facilities or Encroachment for the purpose(s) above; (b) removal of the Facilities; (c) subsequent mutual consent; and/or (d) failure of Licensee to complete installation within five (5) years from the effective date of this Agreement.

2.4 In further consideration for the license or right hereby granted, Licensee hereby agrees that Licensor shall not be charged or assessed, directly or indirectly, with any part of the cost of the installation of said Facilities and appurtenances, and/or maintenance thereof, or for any public works project of which said Facilities is a part.

## **3. CONSTRUCTION, MAINTENANCE AND REPAIRS:**

3.1 Licensee shall construct, maintain, relocate, repair, renew, alter, and/or remove the Facilities, in a prudent, workmanlike manner, using quality materials and complying with any applicable standard(s) or regulation(s) of Licensor (CSXT Specifications), or Licensee's particular industry, National Electrical Safety Code, or any governmental or regulatory body having jurisdiction over the Encroachment.

3.2 Location and construction of Facilities shall be made strictly in accordance with design(s) and specifications furnished to and approved by Licensor and of material(s) and size(s) appropriate for the purpose(s) above recited.

3.3 All of Licensee's work, and exercise of rights hereunder, shall be undertaken at time(s) satisfactory to Licensor, and so as to eliminate or minimize any impact on or interference with the safe use and operation of Licensor's property and appurtenances thereto.

3.4 In the installation, maintenance, repair and/or removal of said Facilities, Licensee shall not use explosives of any type or perform or cause any blasting without the separate express written consent of Licensor. As a condition to such consent, a representative will be assigned by Licensor to monitor blasting, and Licensee shall reimburse Licensor for the entire cost and/or expense of furnishing said monitor.

3.5 Any repairs or maintenance to the Facilities, whether resulting from acts of Licensee, or natural or weather events, which are necessary to protect or facilitate Licensor's use of its property, shall be made by Licensee promptly, but in no event later than thirty (30) days after Licensee has notice as to the need for such repairs or maintenance.

3.6 Licensor, in order to protect or safeguard its property, rail operations, equipment and/or employees from damage or injury, may request immediate repair or renewal of the Facilities, and if the same is not performed, may make or contract to make such repairs or renewals, at the sole risk, cost and expense of Licensee.

3.7 Neither the failure of Licensor to object to any work done, material used, or method of construction or maintenance of said Encroachment, nor any approval given or supervision exercised by Licensor, shall be construed as an admission of liability or responsibility by Licensor, or as a waiver by Licensor of any of the obligations, liability and/or responsibility of Licensee under this Agreement.

3.8 All work on the Encroachment shall be conducted in accordance with Licensor's safety rules and regulations.

3.9 Licensee hereby agrees to reimburse Licensor any loss, cost or expense (including losses resulting from train delays and/or inability to meet train schedules) arising from any failure of Licensee to make repairs or conduct maintenance as required by Section 3.5 above or from improper or incomplete repairs or maintenance to the Facilities or Encroachment.

3.10 In the event it becomes necessary for the Licensee to deviate from the approved Exhibit, Licensee shall seek prior approval from CSXT, or when applicable, an official field representative of CSXT permitted to approve changes, authorizing the necessary field changes and Licensee shall provide CSXT with complete As-Built Drawings of the completed work. As-Built Drawings shall be submitted to Licensor in either electronic or hard copy form upon the substantial completion of the project and upon Licensor's request.

#### **4. PERMITS, LICENSES:**

4.1 Before any work hereunder is performed, or before use of the Encroachment for the contracted purpose, Licensee, at its sole cost and expense, shall obtain all necessary permit(s) (including but not limited to zoning, building, construction, health, safety or

environmental matters), letter(s) or certificate(s) of approval. Licensee expressly agrees and warrants that it shall conform and limit its activities to the terms of such permit(s), approval(s) and authorization(s), and shall comply with all applicable ordinances, rules, regulations, requirements and laws of any governmental authority (State, Federal or Local) having jurisdiction over Licensee's activities, including the location, contact, excavation and protection regulations of the Occupational Safety and Health Act (OSHA) (29 CFR 1926.651(b)), et al., and State "One Call" - "Call Before You Dig" requirements.

4.2 Licensee assumes sole responsibility for failure to obtain such permit(s) or approval(s), for any violations thereof, or for costs or expenses of compliance or remedy.

## **5. MARKING AND SUPPORT:**

5.1 With respect to any subsurface installation or maintenance upon Licensor's property, Licensee, at its sole cost and expense, shall:

- (A) support track(s) and roadbed in a manner satisfactory to Licensor;
- (B) backfill with satisfactory material and thoroughly tamp all trenches to prevent settling of surface of land and roadbed of Licensor; and
- (C) either remove any surplus earth or material from Licensor's property or cause said surplus earth or material to be placed and distributed at location(s) and in such manner Licensor may approve.

5.2 After construction or maintenance of the Facilities, Licensee shall:

- (A) Restore any track(s), roadbed and other disturbed property; and
- (B) Erect, maintain and periodically verify the accuracy of aboveground markers, in a form approved by Licensor, indicating the location, depth and ownership of any underground Facilities or related facilities.

5.3 Licensee shall be solely responsible for any subsidence or failure of lateral or subjacent support in the Encroachment area for a period of three (3) years after completion of installation.

## **6. TRACK CHANGES:**

6.1 In the event that rail operations and/or track maintenance result in changes in grade or alignment of, additions to, or relocation of track(s) or other facilities, or in the event future use of Licensor's rail corridor or property necessitate any change of location, height or depth in the Facilities or Encroachment, Licensee, at its sole cost and expense and within thirty (30) days after notice in writing from Licensor, shall make changes in the Facilities or Encroachment to accommodate such track(s) or operations.



6.2 If Licensor determines that any portion of Licensee's Facilities or System should be changed, altered or relocated after initial construction, Licensor shall promptly give written notice thereof to Licensee. Within sixty (60) days of receipt of such notice, Licensee shall protect or move such Facilities or System, at Licensee's sole cost and expense, and in a manner satisfactory to Railroad.

6.3 In the event of any relocation of Licensee's System or Facilities under this Article, Licensor shall not be required to purchase for Licensee any replacement land or right-of-way or to pay Licensee the cost to secure same if there is not available Rail Corridor. However, Licensor agrees to allow Licensee to relocate to any other available adjacent or nearby Rail Corridor or other land owned by Licensor at Licensee's sole cost; provided, however, that Licensor shall not be entitled to any additional payment for such replacement Licensor land or Rail Corridor.

6.4 If Licensee fails to do so, Licensor may make or contract to make such changes at Licensee's cost.

## **7. FACILITY CHANGES:**

7.1 Licensee shall periodically monitor and verify the depth or height of the Facilities or Encroachment in relation to the existing tracks and facilities, and shall relocate the Facilities or change the Encroachment, at Licensee's expense, should such relocation or change be necessary to comply with the minimum clearance requirements of Licensor.

7.2 If Licensee undertakes to revise, renew, relocate or change in any manner whatsoever all or any part of the Facilities (including any change in voltage or gauge of wire or any change in circumference, diameter or radius of pipe or change in materials transmitted in and through said pipe), or is required by any public agency or court order to do so, plans therefor shall be submitted to Licensor for approval before such change. After approval, the terms and conditions of this Agreement shall apply thereto.

## **8. INTERFERENCE WITH RAIL FACILITIES:**

8.1 Although the Facilities/Encroachment herein permitted may not presently interfere with Licensor's railroad or facilities, in the event that the operation, existence or maintenance of said Facilities, in the sole judgment of Licensor, causes: (a) interference (including, but not limited to, physical or interference from an electromagnetic induction, or interference from stray or other currents) with Licensor's power lines, communication, signal or other wires, train control system, or electrical or electronic apparatus; or (b) interference in any manner, with the operation, maintenance or use of the rail corridor, track(s), structures, pole line(s), devices, other property, or any appurtenances thereto; then and in either event, Licensee, upon receipt of written notice from Licensor of any such interference, and at Licensee's sole risk, cost and expense, shall promptly make such changes in its Facilities or installation, as may be required in the reasonable judgment of the Licensor to eliminate all such interference. Upon Licensee's failure to remedy or change, Licensor may do so or contract to do so at Licensee's sole cost.

8.2 Without assuming any duty hereunder to inspect the Facilities, Licensor hereby reserves the right to inspect same and to require Licensee to undertake repairs, maintenance or adjustments to the Facilities, which Licensee hereby agrees to make promptly, at Licensee's sole cost and expense.

**9. RISK, LIABILITY, INDEMNITY:**

With respect to the relative risk and liabilities of the parties, it is hereby agreed that:

9.1 To the fullest extent permitted by State law (constitutional or statutory, as amended), Licensee hereby agrees to, defend, indemnify, and hold Licensor harmless from and against any and all liability, loss, claim, suit, damage, charge or expense which Licensor may suffer, sustain, incur or in any way be subjected to, on account of death of or injury to any person whomsoever (including officers, agents, employees or invitees of Licensor), and for damage to or loss of or destruction of any property whatsoever, arising out of, resulting from, or in any way connected with the construction, repair, maintenance, replacement, presence, existence, operations, use or removal of the Facilities or any structure in connection therewith, or restoration of premises of Licensor to good order or condition after removal, EXCEPT when proven to have been caused solely by the willful misconduct or gross negligence of Licensor. HOWEVER, to the fullest extent permitted by State law, during any period of actual construction, repair, maintenance, replacement or removal of the Facilities, wherein agents, equipment or personnel of Licensee are on the railroad rail corridor, Licensee's liability hereunder shall be absolute, irrespective of any joint, sole or contributory fault or negligence of Licensor.

9.2 Use of Licensor's rail corridor involves certain risks of loss or damage as a result of the rail operations. Notwithstanding Section 9.1, Licensee expressly assumes all risk of loss and damage to Licensee's Property or the Facilities in, on, over or under the Encroachment, including loss of or any interference with use or service thereof, regardless of cause, including electrical field creation, fire or derailment resulting from rail operations. For this Section, the term "Licensee's Property" shall include property of third parties situated or placed upon Licensor's rail corridor by Licensee or by such third parties at request of or for benefit of Licensee.

9.3 To the fullest extent permitted by State law, as above, Licensee assumes all responsibility for, and agrees to defend, indemnify and hold Licensor harmless from: (a) all claims, costs and expenses, including reasonable attorneys' fees, as a consequence of any sudden or nonsudden pollution of air, water, land and/or ground water on or off the Encroachment area, arising from or in connection with the use of this Encroachment or resulting from leaking, bursting, spilling, or any escape of the material transmitted in or through the Facilities; (b) any claim or liability arising under federal or state law dealing with either such sudden or nonsudden pollution of air, water, land and/or ground water arising therefrom or the remedy thereof; and (c) any subsidence or failure of lateral or subjacent support of the tracks arising from such Facilities leakage.

9.4 Notwithstanding Section 9.1, Licensee also expressly assumes all risk of loss which in any way may result from Licensee's failure to maintain either required clearances for any overhead Facilities or the required depth and encasement for any underground Facilities, whether or not such loss(es) result(s) in whole or part from Licensor's contributory negligence or joint fault.

9.5 Obligations of Licensee hereunder to release, indemnify and hold Licensor harmless shall also extend to companies and other legal entities that control, are controlled by, subsidiaries of, or are affiliated with Licensor, as well as any railroad that operates over the rail corridor on which the Encroachment is located, and the officers, employees and agents of each.

9.6 If a claim is made or action is brought against Licensor, and/or its operating lessee, for which Licensee may be responsible hereunder, in whole or in part, Licensee shall be notified to assume the handling or defense of such claim or action; but Licensor may participate in such handling or defense.

9.7 Notwithstanding anything contained in this Agreement, the limitation of liability contained in the state statutes, as amended from time to time, shall not limit Licensor's ability to collect under the insurance policies required to be maintained under this Agreement.

## 10. INSURANCE:

10.1 Prior to commencement of surveys, installation or occupation of premises pursuant to this Agreement, Licensee shall procure and shall maintain during the continuance of this Agreement, at its sole cost and expense, a policy of

- (i) Statutory Worker's Compensation and Employers Liability Insurance with available limits of not less than ONE MILLION AND 00/100 U.S. DOLLARS (\$1,000,000.00), which must contain a waiver of subrogation against CSXT and its Affiliates;
- (ii) Commercial General Liability coverage (inclusive of contractual liability) with available limits of not less than FIVE MILLION AND 00/100 U.S. DOLLARS (\$5,000,000.00), naming Licensor, and/or its designee, as additional insured and in combined single limits for bodily injury and property damage and covering the contractual liabilities assumed under this Agreement. The evidence of insurance coverage shall be endorsed to provide for thirty (30) days' notice to Licensor, or its designee, prior to cancellation or modification of any policy. Mail CGL certificate, along with agreement, to CSX Transportation, Inc., Speed Code J180, 500 Water Street, Jacksonville, FL 32202. On each successive year, send certificate to [RenewalCOI@csx.com](mailto:RenewalCOI@csx.com).
- (iii) Business automobile liability insurance with available limits of not less than ONE MILLION AND 00/100 U.S. DOLLARS (\$1,000,000.00) combined single limit for bodily injury and/or property damage per occurrence;
- (iv) Such other insurance as Licensor may reasonably require.

10.2 If Licensee's existing CGL policy(ies) do(es) not automatically cover Licensee's contractual liability during periods of survey, installation, maintenance and continued occupation, a specific endorsement adding such coverage shall be purchased by Licensee. If said CGL policy is written on a "claims made" basis instead of a "per occurrence" basis, Licensee shall arrange for adequate time for reporting losses. Failure to do so shall be at Licensee's sole risk.

10.3 Licensor, or its designee, may at any time request evidence of insurance purchased by Licensee to comply with this Agreement. Failure of Licensee to comply with Licensor's request shall be considered a default by Licensee.

10.4 Securing such insurance shall not limit Licensee's liability under this Agreement, but shall be security therefor.

10.5 (A) In the event Licensee finds it necessary to perform construction or demolition operations within fifty feet (50') of any operated railroad track(s) or affecting any railroad bridge, trestle, tunnel, track(s), roadbed, overpass or underpass, Licensee shall: (a) notify Licensor; and (b) require its contractor(s) performing such operations to procure and maintain during the period of construction or demolition operations, at no cost to Licensor, Railroad Protective Liability (RPL) Insurance, naming Licensor, and/or its designee, as Named Insured, written on the current ISO/RIMA Form (ISO Form No. CG 00 35 01 96) with limits of FIVE MILLION AND 00/100 U.S. DOLLARS (\$5,000,000.00) per occurrence for bodily injury and property damage, with at least TEN MILLION AND 00/100 U.S. DOLLARS (\$10,000,000.00) aggregate limit per annual policy period, with Pollution Exclusion Amendment (ISO CG 28 31 11 85) if an older ISO Form CG 00 35 is used. The original of such RPL policy shall be sent to and approved by Licensor prior to commencement of such construction or demolition. Licensor reserves the right to demand higher limits.

(B) At Licensor's option, in lieu of purchasing RPL insurance from an insurance company (but not CGL insurance), Licensee may pay Licensor, at Licensor's current rate at time of request, the cost of adding this Encroachment, or additional construction and/or demolition activities, to Licensor's Railroad Protective Liability (RPL) Policy for the period of actual construction. This coverage is offered at Licensor's discretion and may not be available under all circumstances.

10.6 Notwithstanding the provisions of Sections 10.1 and 10.2, Licensee, pursuant to State Statute(s), may self-insure or self-assume, in any amount(s), any contracted liability arising under this Agreement, under a funded program of self-insurance, which fund will respond to liability of Licensee imposed by and in accordance with the procedures established by law.

## **11. GRADE CROSSINGS; PROTECTION SERVICES:**

11.1 Nothing herein contained shall be construed to permit Licensee or Licensee's contractor to move any vehicles or equipment over the track(s), except at public road crossing(s), without separate prior written approval of Licensor.

11.2 If Licensor deems it advisable, during any construction, maintenance, repair, renewal, alteration, change or removal of said Facilities, to place watchmen, flagmen, or field construction managers for protection of operations of Licensor or others on Licensor's rail corridor at the Encroachment, and to keep persons, equipment or materials away from the track(s), Licensor shall have the right to do so at the expense of Licensee, but Licensor shall not be liable for failure to do so.

**12. LICENSOR'S COSTS:**

12.1 Any additional or alternative costs or expenses incurred by Licensor to accommodate Licensee's continued use of Licensor's property as a result of track changes or wire changes shall also be paid by Licensee.

12.2 Licensor's expense for wages ("force account" charges) and materials for any work performed at the expense of Licensee pursuant hereto shall be paid by Licensee within thirty (30) days after receipt of Licensor's bill therefor. Licensor may, at its discretion, request an advance deposit for estimated Licensor costs and expenses.

12.3 Such expense shall include, but not be limited to, cost of railroad labor and supervision under "force account" rules, plus current applicable overhead percentages, the actual cost of materials, and insurance, freight and handling charges on all material used. Equipment rentals shall be in accordance with Licensor's applicable fixed rate. Licensor may, at its discretion, require advance deposits for estimated costs of such expenses and costs.

**13. DEFAULT, BREACH, WAIVER:**

13.1 The proper and complete performance of each covenant of this Agreement shall be deemed of the essence thereof, and in the event Licensee fails or refuses to fully and completely perform any of said covenants or remedy any breach within thirty (30) days after receiving written notice from Licensor to do so (or within forty-eight (48) hours in the event of notice of a railroad emergency), Licensor shall have the option of immediately revoking this Agreement and the privileges and powers hereby conferred, regardless of encroachment fee(s) having been paid in advance for any annual or other period. Upon such revocation, Licensee shall make removal in accordance with Article 14.

13.2 No waiver by Licensor of its rights as to any breach of covenant or condition herein contained shall be construed as a permanent waiver of such covenant or condition, or any subsequent breach thereof, unless such covenant or condition is permanently waived in writing by Licensor.

13.3 Neither the failure of Licensor to object to any work done, material used, or method of construction or maintenance of said Encroachment, nor any approval given or supervision exercised by Licensor, shall be construed as an admission of liability or responsibility by Licensor, or as a waiver by Licensor of any of the obligations, liability and/or responsibility of Licensee under this Agreement.

**14. TERMINATION, REMOVAL:**

14.1 All rights which Licensee may have hereunder shall cease upon the date of (a) termination, (b) revocation, or (c) subsequent agreement, or (d) Licensee's removal of the Facility from the Encroachment. However, neither termination nor revocation of this Agreement shall affect any claims and liabilities which have arisen or accrued hereunder, and which at the time of termination or revocation have not been satisfied; neither party, however, waiving any third party defenses or actions.

14.2 Within thirty (30) days after revocation or termination, Licensee, at its sole risk and expense, shall (a) remove the Facilities from the rail corridor of Licensor, unless the parties hereto agree otherwise, (b) restore the rail corridor of Licensor in a manner satisfactory to Licensor, and (c) reimburse Licensor any loss, cost or expense of Licensor resulting from such removal.

**15. NOTICE:**

15.1 Licensee shall give Licensor at least thirty (30) days written notice before doing any work on Licensor's rail corridor, except that in cases of emergency shorter notice may be given. Licensee shall provide proper notification as follows:

a. For non-emergencies, Licensee shall submit online via the CSX Property Portal from Licensor's web site, via web link:  
[https://propertyportal.csx.com/pub\\_ps\\_res/ps\\_res/jsf/public/index.faces](https://propertyportal.csx.com/pub_ps_res/ps_res/jsf/public/index.faces)

b. For emergencies, Licensee shall complete all of the steps outlined in Section 15.1 a. above, and shall also include detailed information of the emergency. Licensee shall also call and report details of the emergency to Licensor's Rail Operations Emergency Telephone Number: 1-800-232-0144. In the event Licensor needs to contact Licensee concerning an emergency involving Licensee's Facility(ies), the emergency phone number for Licensee is: 315-798-5656.

15.2 All other notices and communications concerning this Agreement shall be addressed to Licensee at the address above, and to Licensor at the address shown on Page 1, c/o CSXT Contract Management, J180; or at such other address as either party may designate in writing to the other.

15.3 Unless otherwise expressly stated herein, all such notices shall be in writing and sent via Certified or Registered Mail, Return Receipt Requested, or by courier, and shall be considered delivered upon: (a) actual receipt, or (b) date of refusal of such delivery.

**16. ASSIGNMENT:**

16.1 The rights herein conferred are the privileges of Licensee only, and Licensee shall obtain Licensor's prior written consent to any assignment of Licensee's interest herein; said consent shall not be unreasonably withheld.

16.2 Subject to Sections 2 and 16.1, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors or assigns.

16.3 Licensee shall give Licensor written notice of any legal succession (by merger, consolidation, reorganization, etc.) or other change of legal existence or status of Licensee, with a copy of all documents attesting to such change or legal succession, within thirty (30) days thereof.

16.4 Licensor expressly reserves the right to assign this Agreement, in whole or in part, to any grantee, lessee, or vendee of Licensor's underlying property interests in the Encroachment, upon written notice thereof to Licensee.

16.5 In the event of any unauthorized sale, transfer, assignment, sublicense or encumbrance of this Agreement, or any of the rights and privileges hereunder, Licensor, at its option, may revoke this Agreement by giving Licensee or any such assignee written notice of such revocation; and Licensee shall reimburse Licensor for any loss, cost or expense Licensor may incur as a result of Licensee's failure to obtain said consent.

**17. TITLE:**

17.1 Licensee understands that Licensor occupies, uses and possesses lands, rights-of-way and rail corridors under all forms and qualities of ownership rights or facts, from full fee simple absolute to bare occupation. Accordingly, nothing in this Agreement shall act as or be deemed to act as any warranty, guaranty or representation of the quality of Licensor's title for any particular Encroachment or segment of Rail Corridor occupied, used or enjoyed in any manner by Licensee under any rights created in this Agreement. It is expressly understood that Licensor does not warrant title to any Rail Corridor and Licensee will accept the grants and privileges contained herein, subject to all lawful outstanding existing liens, mortgages and superior rights in and to the Rail Corridor, and all leases, licenses and easements or other interests previously granted to others therein.

17.2 The term "license," as used herein, shall mean with regard to any portion of the Rail Corridor which is owned by Licensor in fee simple absolute, or where the applicable law of the State where the Encroachment is located otherwise permits Licensor to make such grants to Licensee, a "permission to use" the Rail Corridor, with dominion and control over such portion of the Rail Corridor remaining with Licensor, and no interest in or exclusive right to possess being otherwise granted to Licensee. With regard to any other portion of Rail Corridor occupied, used or controlled by Licensor under any other facts or rights, Licensor merely waives its exclusive right to occupy the Rail Corridor and grants no other rights whatsoever under this Agreement, such waiver continuing only so long as Licensor continues its own occupation, use or control. Licensor does not warrant or guarantee that the license granted hereunder provides Licensee with all of the rights necessary to occupy any portion of the Rail Corridor. Licensee further acknowledges that it does not have the right to occupy any portion of the Rail Corridor held by Licensor in less than fee simple absolute without also receiving the consent of the owner(s) of the fee simple absolute estate. Further, Licensee shall not obtain, exercise or claim any interest in the Rail Corridor that would impair Licensor's existing rights therein.

17.3 Licensee agrees it shall not have nor shall it make, and hereby completely and absolutely waives its right to, any claim against Licensor for damages on account of any deficiencies in title to the Rail Corridor in the event of failure or insufficiency of Licensor's title to any portion thereof arising from Licensee's use or occupancy thereof.

17.4 Licensee agrees to fully and completely indemnify and defend all claims or litigation for slander of title, overburden of easement, or similar claims arising out of or based upon the Facilities placement, or the presence of the Facilities in, on or along any Encroachment(s), including claims for punitive or special damages.

17.5 Licensee shall not at any time own or claim any right, title or interest in or to Licensor's property occupied by the Encroachments, nor shall the exercise of this Agreement for any length of time give rise to any right, title or interest in Licensee to said property other than the license herein created.

17.6 Nothing in this Agreement shall be deemed to give, and Licensor hereby expressly waives, any claim of ownership in and to any part of the Facilities.

17.7 Licensee shall not create or permit any mortgage, pledge, security, interest, lien or encumbrances, including without limitation, tax liens and liens or encumbrances with respect to work performed or equipment furnished in connection with the construction, installation, repair, maintenance or operation of the Facilities in or on any portion of the Encroachment (collectively, "Liens or Encumbrances"), to be established or remain against the Encroachment or any portion thereof or any other Licensor property.

17.8 In the event that any property of Licensor becomes subject to such Liens or Encumbrances, Licensee agrees to pay, discharge or remove the same promptly upon Licensee's receipt of notice that such Liens or Encumbrances have been filed or docketed against the Encroachment or any other property of Licensor; however, Licensee reserves the right to challenge, at its sole expense, the validity and/or enforceability of any such Liens or Encumbrances.

## **18. GENERAL PROVISIONS:**

18.1 This Agreement, and the attached specifications, contains the entire understanding between the parties hereto.

18.2 Neither this Agreement, any provision hereof, nor any agreement or provision included herein by reference, shall operate or be construed as being for the benefit of any third person.

18.3 Except as otherwise provided herein, or in any Rider attached hereto, neither the form of this Agreement, nor any language herein, shall be interpreted or construed in favor of or against either party hereto as the sole drafter thereof.



18.4 This Agreement is executed under current interpretation of applicable Federal, State, County, Municipal or other local statute, ordinance or law(s). However, each separate division (paragraph, clause, item, term, condition, covenant or agreement) herein shall have independent and severable status for the determination of legality, so that if any separate division is determined to be void or unenforceable for any reason, such determination shall have no effect upon the validity or enforceability of each other separate division, or any combination thereof.

18.5 This Agreement shall be construed and governed by the laws of the state in which the Facilities and Encroachment are located.

18.6 If any amount due pursuant to the terms of this Agreement is not paid by the due date, it will be subject to Licensor's standard late charge and will also accrue interest at eighteen percent (18%) per annum, unless limited by local law, and then at the highest rate so permitted.

18.7 Licensee agrees to reimburse Licensor for all reasonable costs (including attorney's fees) incurred by Licensor for collecting any amount due under the Agreement.

18.8 The provisions of this License are considered confidential and may not be disclosed to a third party without the consent of the other party(s), except: (a) as required by statute, regulation or court order, (b) to a parent, affiliate or subsidiary company, (c) to an auditing firm or legal counsel that are agreeable to the confidentiality provisions, or (d) to Lessees of Licensor's land and/or track who are affected by the terms and conditions of this Agreement and will maintain the confidentiality of this Agreement.

18.9 Licensor shall refund to Licensee any overpayments collected, plus any taxes paid in advance; PROVIDED, however, such refund shall not be made when the cumulative total involved is less than One Hundred Dollars (\$100.00).

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate (each of which shall constitute an original) as of the effective date of this Agreement.

**Witness for Licensor:**

**CSX TRANSPORTATION, INC.  
By: CSX Real Property, Inc., signing as  
agent on behalf of CSX Transportation, Inc.**

\_\_\_\_\_

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

Print/Type Name: \_\_\_\_\_

Print/Type Title: \_\_\_\_\_

**Witness for Licensee:**

**ONEIDA COUNTY**

\_\_\_\_\_

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

Who, by the execution hereof, affirms that he/she has the authority to do so and to bind the Licensee to the terms and conditions of this Agreement.

Print/Type Name: \_\_\_\_\_

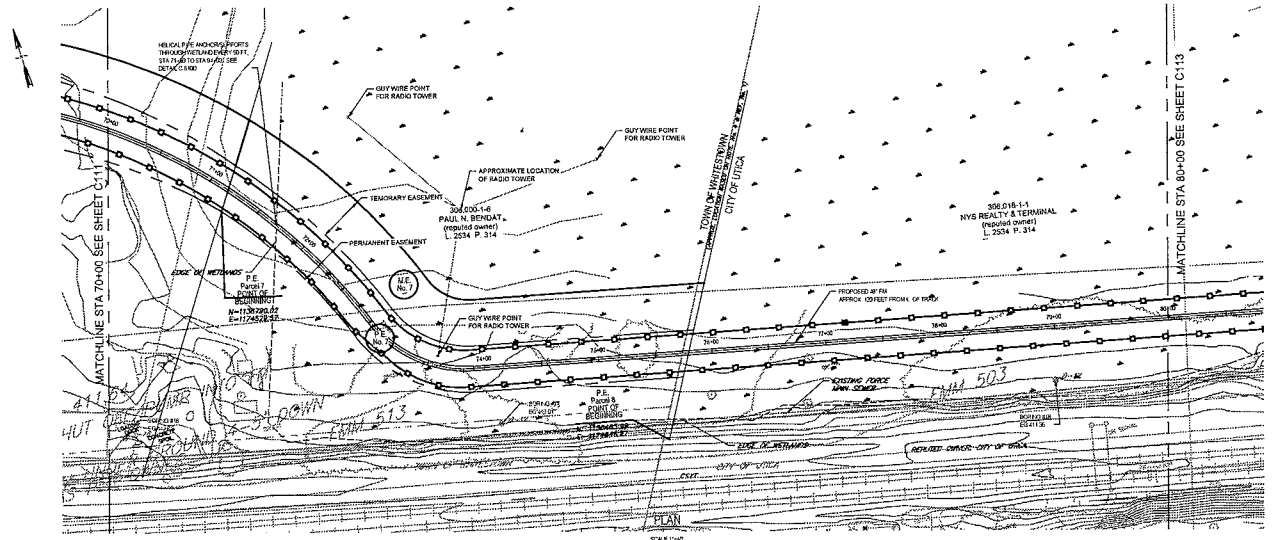
Print/Type Title: \_\_\_\_\_

Tax ID No.: \_\_\_\_\_

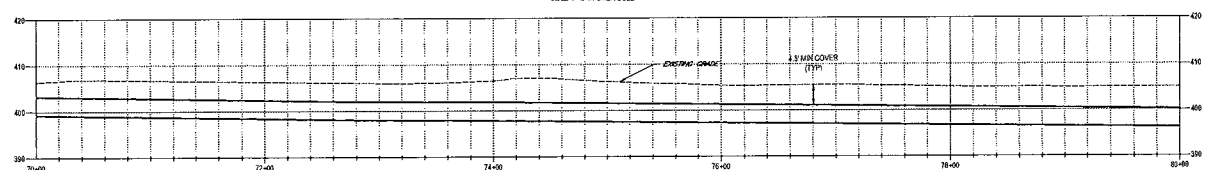
Authority under Ordinance or

Resolution No. \_\_\_\_\_,

Dated \_\_\_\_\_.



SCALE 1"=40' HORIZONTAL SEE



PROFILE SCALE 1"=42' V. 1"=10'

**LEGEND:**

	EXISTING FORCE MAIN		PROPOSED PERMANENT EASEMENT
	PROPOSED FORCE MAIN		TEMPORARY CONSTRUCTION EASEMENT
	PLUG VALVE (NORMALLY OPEN)		EXISTING EASEMENT
	COMBINED AIR RELEASE VALVE (CARV)		PROPERTY LINE, PHANTOM LINE OR MATCH LINE
			SILT FENCE

SCALE AS NOTED

THIS DRAWING WAS PREPARED BY THE SCALE INDICATED IN THE TITLE BLOCK. ANY CHANGES TO THE SCALE INDICATED IN THE TITLE BLOCK WILL BE INDICATED BY A REVISION. THE GRAPHIC SCALE BAR IN THE TITLE BLOCK REPRESENTS THE ACTUAL SCALE OF THE DRAWING.

DATE	DESCRIPTION

In charge of	RSW
Designed by	CCS
Drawn by	CCV
Checked by	RSW



ONEIDA COUNTY SEWER DISTRICT - ONEIDA COUNTY, NEW YORK  
SAUQUOIT CREEK FORCE MAIN UPGRADES

**SAUQUOIT CREEK PUMP STATION  
FORCE MAIN PLAN AND PROFILE 8**

CIVIL

DRAWING PREPARED BY BROWN AND CALDWELL

Project Number	C4-6070-08-02
Date	MARCH 2017
Sheet Number	C-112

PRELIMINARY  
NOT FOR  
CONSTRUCTION



**ONEIDA COUNTY**  
**WORKERS' COMPENSATION DEPARTMENT**

ONEIDA COUNTY OFFICE BUILDING, 800 PARK AVENUE, UTICA, NY 13501

PHONE: (315) 798-5688 FAX: (315) 798-5924

Michael L. Lally

Email: mlally@ocgov.net

Workers' Compensation  
Committee  
Norman Leach, Chairman

Oneida County  
Board of Legislators  
Gerald J. Fiorini, Chairman

July 10, 2017

FN 20 17-243

Gerald J. Fiorini, Chairman  
Oneida County Board of Legislators  
800 Park Avenue  
Utica, New York 13501

**WORKERS' COMPENSATION**

**WAYS & MEANS**

Dear Chairman Fiorini:

Attached is the proposed 2018 Workers' Compensation Budget. I respectfully request that this proposed budget be referred to the Workers' Compensation and Ways and Means Committees for their consideration.

Sincerely yours,

*Norm Leach* (MLL)

Norm Leach, Chairman  
Workers' Compensation Committee

NL:ml  
Att.

**INTRODUCTORY  
NO.**

**F.N. 2018-**

## **ONEIDA COUNTY BOARD OF LEGISLATORS**

### **RESOLUTION NO.**

**INTRODUCED BY:** *Messrs, Leach, Callandra*  
**2ND BY:**

**RE:** PROPOSED WORKERS' COMPENSATION BUDGET FOR 2018

**WHEREAS,** The Oneida County Workers' Compensation Committee has filed a budget estimate for the operation of the Oneida County Self- Insurance Plan as hereinafter set forth for the year 2018, and

**WHEREAS,** It is desirable to authorize the County Comptroller and the Commissioner of Finance to establish in their accounts a budget estimate for the operation of the Oneida County Self-Insurance Plan, now, therefore, be it hereby

**RESOLVED,** That the following budget estimate for 2018 is hereby ordered to be placed upon the books of the County Comptroller and the Commissioner of Finance, and that the County Comptroller be, and hereby is, authorized to make payments from the respective accounts as hereinafter set forth upon inspection and examination by the Workers' Compensation Committee.

BUDGET APPROPRIATIONS

**PROGRAM ADMINISTRATION AND SUPPORT**

S1710.109	Salaries & Fringes	\$	79,026
S1710.195	Other Fees & Services (See attachment)	\$	616,924
S1710.416	Telephone	\$	405
S1710.418	Meter Postage	\$	325
S1710.455	Travel	\$	1,550
S1710.491	Other Materials & Supplies	\$	80
S1710.495	Other Expenses	\$	250
S1990.9	Contingent Account	\$	<u>30,000</u>
	<b>Total Administrative Expense</b>	\$	<b>728,560</b>

S1720.410	Indemnity & Medical	\$	4,624,325
S1720.412	Insurance & Bonding	\$	400
S1720.495	WCB Assessments	\$	<u>415,000</u>
	<b>Total Claims Expense</b>	\$	<b>5,039,725</b>

**TOTAL ADMINISTRATIVE & CLAIMS EXPENSES** **\$ 5,768,285**

ESTIMATED REVENUES

S2222	Participant Assessments	\$	4,978,713
S2401	Interest Earnings	\$	19,500
S2701	Refund of Prior Years - Expenditures	\$	20,000
S2705	Revenues	\$	<u>750,072</u>

**TOTAL ESTIMATED REVENUES** **\$ 5,768,285**

RESOLVED, That the Oneida County Board of Legislators hereby approves and accepts the aforementioned Workers' Compensation Budget for 2018.

APPROVED: Workers' Compensation Committee  
 Ways & Means Committee

DATED:

Adopted by the following vote:

AYES \_\_\_\_\_ NAYS \_\_\_\_\_ ABSENT \_\_\_\_\_

## 2018 Budget - "Other Fees and Services" Breakdown

### "Other Fees & Services" - Account S1710.195

Estimated cost for Excess Insurance Premium 2017-2018	\$ 419,557
Cost for 3 <sup>rd</sup> Party Administration 2018	\$ 160,366
Department of Finance annual service charge for 2018	\$ 8,001
Estimated cost for an actuarial analysis in 2018	\$ 5,000
Department of Audit & Control accounting fee for 2018	\$ 12,000
Miscellaneous expert attorney fees and other contract fees	<u>\$ 12,000</u>
<b>Total proposed "Other Fees and Services"</b>	<b><u>\$ 616,924</u></b>



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

FN 20 17-244

June 15, 2017

Reviewed and Approved for submittal to the  
Oneida County Board of Legislators by  
**GOVERNMENT OPERATIONS**  
**WAYS & MEANS**  
*[Signature]*  
Anthony J. Picente, Jr.  
County Executive  
Date 6-19-17

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

Dear Mr. Picente:

Pursuant with Title 3 of Article 5 of the Real Property Tax Law, the enclosed petitions are submitted with the recommendations as cited.

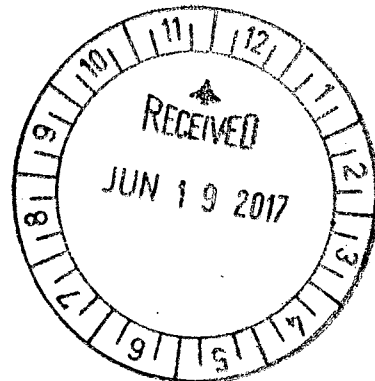
Please forward said petitions to the Oneida County Board of Legislators for their consideration.

<u>NUMBER</u>		<u>AMOUNT</u>
23	REFUNDS	\$11,374.60
13	CORRECTIONS	\$33,423.34

Sincerely,

Anthony Carvelli  
Commissioner of Finance

AC:kp  
Enclosure



		ERROREOUS ASSESSMENTS								AMOUNT		AMOUNT TO "0"	
MUNICIPALITY	YEAR	NAME	TAX MAP NUMBERS	TAX UNPAID	AMOUNT CANCEL	TAX PAID	AMOUNT REFUND	CORRECT	AMOUNT	CORRECT	AMOUNT TO "0"		
Camden	2017	Olson, Shaun	3001 128.017-3-45 RK			\$ 871.66	\$ 551.16	\$ 320.50	\$	\$	\$		
Camden	2017	Closs, Rudolph W.	3089 106.000-1-2 JQ			\$ 1,093.06	\$ 216.99	\$ 876.07	\$	\$	\$		
Camden	2017	Todi, Nancy M. & Thomas III	3089 127.000-1-66.2 TJ			\$ 717.33	\$ 98.93	\$ 618.40	\$	\$	\$		
Floyd	2017	Robbins, Daniel S. & Rebecca J.	3600 208.000-1-12 IP			\$ 1,475.07	\$ 897.84	\$ 577.23	\$	\$	\$		
Floyd	2016	Robbins, Daniel S. & Rebecca J.	3600 208.000-1-12 IP			\$ 1,437.08	\$ 795.70	\$ 641.38	\$	\$	\$		
Floyd	2015	Robbins, Daniel S. & Rebecca J.	3600 208.000-1-12 IP			\$ 1,462.90	\$ 817.70	\$ 645.20	\$	\$	\$		
Lee	2016	Carrier, Kimberly	4200 188.001-3-62.40 SR			\$ 1,612.14	\$ 170.92	\$ 1,441.22	\$	\$	\$		
Marshall	2015	Pryputniewicz, David	4689 384.000-1-4.4 RV			\$ 5,211.08	\$ 2,142.65	\$ 3,068.43	\$	\$	\$		
Remsen	2015	Wilmot, Lauren	5289 123.000-1-40 LB			\$ 1,198.36	\$ 566.80	\$ 631.56	\$	\$	\$		
Remsen	2016	Wilmot, Lauren	5289 123.000-1-40 LB			\$ 1,182.55	\$ 556.26	\$ 626.29	\$	\$	\$		
Utica	2017	DeMartino, John D.	1600 330.016-1-31 KQ			\$ 675.86	\$ 270.35	\$ 405.51	\$	\$	\$		
Verona	2016	Waller, Owen	6200 286.003-2-12.2 NU			\$ 2,019.86	\$ 591.12	\$ 1,428.74	\$	\$	\$		
Vienna	2017	Page, Timothy & Sarah	6489 200.000-1-57.3 SL			\$ 1,564.21	\$ 282.21	\$ 1,282.00	\$	\$	\$		
Vienna	2016	Page, Timothy & Sarah	6489 200.000-1-57.3 SL			\$ 1,540.80	\$ 282.58	\$ 1,258.22	\$	\$	\$		
Vienna	2015	Page, Timothy & Sarah	6489 200.000-1-57.3 SL			\$ 1,570.11	\$ 282.21	\$ 1,287.90	\$	\$	\$		
Vienna	2016	Lisa Sevey for Everett L. Lago, Sr.	6489 218.000-1-7 PN			\$ 1,436.12	\$ 282.58	\$ 1,153.54	\$	\$	\$		
Vienna	2015	Lisa Sevey for Everett L. Lago, Sr.	6489 218.000-1-7 PN			\$ 1,463.91	\$ 282.21	\$ 1,181.70	\$	\$	\$		
Vienna	2014	Lisa Sevey for Everett L. Lago, Sr.	6489 218.000-1-7 PN			\$ 1,303.93	\$ 327.87	\$ 976.06	\$	\$	\$		
Vienna	2017	Simmons, Mary	6489 218.001-1-9 RL			\$ 1,127.14	\$ 282.21	\$ 844.93	\$	\$	\$		
Vienna	2016	Simmons, Mary	6489 218.001-1-9 RL			\$ 1,090.07	\$ 282.58	\$ 807.49	\$	\$	\$		
Vienna	2015	Simmons, Mary	6489 218.001-1-9 RL			\$ 1,106.52	\$ 282.21	\$ 824.31	\$	\$	\$		
Vienna	2016	Wisinski, Jeffrey M.	6489 234.008-1-69 YB			\$ 1,078.30	\$ 423.28	\$ 655.02	\$	\$	\$		
Vienna	2017	Buschatzke, Richard & Mildred	6489 236.006-1-20 OM			\$ 983.21	\$ 688.24	\$ 294.97	\$	\$	\$		
Annsville	2016	State of New York	2000 168.000-2-39.2 RY	\$ 189.41	\$ 189.41			\$ -	\$	\$	\$		
Lee	2017	Martin, John J., Jr. & Suzanne	4200 171.003-6-76 TC	\$ 2,746.70	\$ 920.07			\$ 1,826.63	\$	\$	\$		
Lee	2017	Haley, James D.	4200 187.000-2-15 MT	\$ 1,712.11	\$ 813.20			\$ 898.91	\$	\$	\$		
Lee	2017	Carrier, Kimberly	4200 188.001-3-62.40 SR	\$ 1,741.97	\$ 312.94			\$ 1,429.03	\$	\$	\$		
Marcy	2017	People of the State of New York	4400 277.000-1-50.1 MJ	\$ 503.21	\$ 503.21			\$ -	\$	\$	\$		
Marshall	2014	Pryputniewicz, David	4689 384.000-1-4.4 RV	\$ 7,053.07	\$ 2,981.72			\$ 4,071.35	\$	\$	\$		
New Hartford	2017	Corey, Carlton R., III	4889 349.000-4-48.2 YM	\$ 6,942.12	\$ 1,787.09			\$ 5,155.03	\$	\$	\$		
Utica	2017	Moskal, Czeslawa	1600 318.021-1-39 QT	\$ 501.06	\$ 270.65			\$ 230.41	\$	\$	\$		
Utica	2017	Lilac Group, EOA Utica, Inc.	1600 318.050-1-13 LU	\$ 17,000.40	\$ 6,760.12			\$ 10,240.28	\$	\$	\$		
Vienna	2017	Weismantle, Harold	6489 216.000-2-20.3 OGG	\$ 520.55	\$ 90.29			\$ 430.26	\$	\$	\$		
Whitestown	2017	Cook, Suzanne	7005 305.020-3-37 PQ	\$ 1,690.30	\$ 1,040.63			\$ 649.67	\$	\$	\$		
Whitestown	2017	Baran, Robert	7089 317.009-3-71 UU	\$ 2,145.79	\$ 1,239.33			\$ 906.46	\$	\$	\$		
Whitestown	2017	Utica First Insurance	7089 290.000-2-16 PH	\$ 17,945.66	\$ 16,514.68			\$ 1,430.98	\$	\$	\$		
				\$ 33,423.34	\$ 33,423.34		\$ 11,374.60						

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

June 16, 2017

FN 20 17-245

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

WAYS & MEANS

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

Anthony J. Picente, Jr.  
County Executive

Date 7/7/17

Dear County Executive Picente:

Pursuant to section 106 of the General Municipal Law, contractors are afforded the ability to withdraw, at their option, amounts held back by a municipality from the payments to a contractor - ("retainage")<sup>1</sup> pursuant to the terms of the contract – but only upon deposit of certain securities<sup>2</sup> having a market value equal to or in excess of the amounts withdrawn.<sup>3</sup>

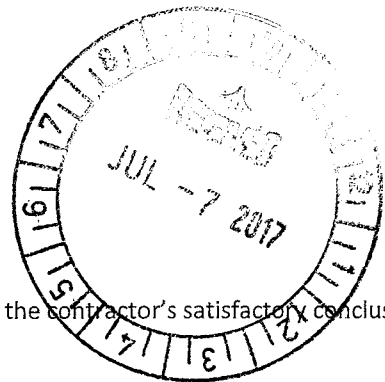
Since securities are handled in book entry form today, it is necessary for us to designate a bank or trust company under agreement to act as Custodial Agent for this purpose. The Agent agrees to perform services in relation to the accounting, safekeeping and processing of securities retained for contracts upon which retained percentages have been released or are to be released pursuant to the provisions of GML 106. Enclosed herein please find an Agency Services Agreement with Manufactures and Traders Trust Company for that purpose.

If this meets with your approval, please forward this request to the Board of Legislators. If you should have any questions or concerns, or should require additional information, please contact us at your earliest convenience.

Sincerely,

Anthony Carvelli  
Commissioner of Finance

Joseph J. Timpano  
Comptroller



<sup>1</sup> Contract retainage, is the portion of a payment that is withheld until the contractor's satisfactory conclusion of the contract.

<sup>2</sup> Bonds or notes of the United States of America, or obligations, the payment of which is guaranteed by the United States of America, or Bonds or notes of the state of New York, or Bonds of any political subdivision in the state of New York.

<sup>3</sup> Municipal bonds held in lieu of cash retainage.

Oneida Co. Department: FINANCE

Competing Proposal \_\_\_\_\_  
Only Respondent \_\_\_\_\_  
Sole Source RFP \_\_\_\_\_  
Other   X  

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name & Address of Vendor:**      **Manufacturers and Traders Trust Company**  
One M&T Plaza  
Buffalo, NY 14203

**Title of Activity or Service:**    Agreement to act as Custodial Agent

**Proposed Dates of Operation:**    Begins on Execution, for one year

**Client Population/Number to be Served:**

**Summary Statements**

**1) Narrative Description of Proposed Services:** Designate a bank or trust company under agreement to act as Custodial Agent for this purpose.

**2) Program/Service Objectives and Outcomes:** The Agent agrees to perform services in relation to the accounting, safekeeping and processing of securities retained for contracts upon which retained percentages have been released or are to be released pursuant to the provisions of GML 106.

**3) Program Design and Staffing:** N/A

**Total Funding Requested:** N/A                      **Account #** N/A

\$1,500.00 annual fee for account must be paid by the contractor utilizing the account.

**Oneida County Dept. Funding Recommendation:** N/A

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

**Cost Per Client Served:** N/A

**Past Performance Data:** N/A

**O.C. Department Staff Comments:** N/A

**Agent Services Agreement**

THIS AGENT SERVICES AGREEMENT, entered into as of \_\_\_\_\_, by and between the County of Oneida acting by and through Anthony Carvelli, whose office is located at 800 Park Avenue, Utica N.Y. 13501, Commissioner of Finance (hereinafter referred to as the "Municipality"), and Manufacturers and Traders Trust Company, a New York banking corporation with its principal office at One M&T Plaza, Buffalo, New York 14203 (hereinafter referred to as "Agent").

WITNESSETH

WHEREAS, New York General Municipal Law Section 106, as amended from time to time ("GML 106"), authorizes contractors to withdraw the whole or any portion of amounts retained on municipal contracts upon depositing with the fiscal officer of the Municipality eligible securities having a market value at least equal to the amount to be withdrawn; and

WHEREAS, the Municipality is required from time to time to collect all interest and income on obligations so deposited and pay the same, when and as collected, to the contractors who deposited the obligations; and

WHEREAS, GML 106 authorizes the Municipality to contract with a bank or trust company to administer a custodial relationship and provide the above services; and

WHEREAS, the Municipality desires to enter into an agreement with Agent to provide the services required by GML 106 and Agent can provide services in accordance with GML 106 and as described herein;

NOW THEREFORE, in consideration of the terms and provisions of this Agreement, it is hereby agreed by the Municipality and the Agent as follows:

ARTICLE 1. The Municipality agrees to and hereby does retain the Agent and the Agent hereby agrees to perform services in relation to the accounting, safekeeping and processing of securities retained for contracts upon which retained percentages have been released or are to be released pursuant to the provisions of GML 106. The Municipality represents and warrants that any treatment of a Contractor Account (as hereinafter defined) by the Municipality pursuant to directions given to the Agent will be in accordance with the provisions of the GML 106.

ARTICLE 2.

A. Upon receipt of a contractor's request to substitute securities for cash retainage being held, the Municipality will refer such request to the Agent. The Agent will then forward to the contractor a Contractor Retainage Agreement substantially in the form attached hereto as Exhibit A. Upon receipt from the Contractor of the executed Contractor Retainage Agreement, together with copies of certified authorizing resolutions of either the Board of Directors of the Contractor if Contractor is a corporation, the partnership principals if Contractor is a partnership, or the

principal if Contractor is a sole proprietorship, authorizing such arrangement and naming a representative to transact such business, the Agent shall establish an individual account for the Contractor (the "Contractor Account").

B. The Agent will maintain a document file with respect to each Contractor Account that will contain all agreements, correspondence and other documents relating to the Contractor Account, as well as copies of all periodic activity reports relating to that account. All account data that has been established relative to each Contractor Account will be retained for a period of five (5) years after the closing of the account. Recordkeeping procedures for each Contractor Account will comply with all applicable state banking regulations and any other reasonable regulations promulgated by the Municipality of which the Agent has received notice.

C. Upon receipt by the Agent of securities for deposit into a Contractor Account, the Agent will give the contractor a written acknowledgement of receipt of the securities and will review the securities to determine whether such securities are of the type approved by GML 106. The Agent will initially price the current market valuation of the securities submitted, and this information will be forwarded in writing to the Municipality. The securities will be examined by the Agent for authenticity, inventoried, examined for mutilation of coupons or of the securities themselves, and the market value of the securities will be re-verified by the Agent prior to the securities being filed with the Agent for safekeeping. If the securities pledged are in registered form, the contractor will deliver to the Agent all documentation required to re-register the securities into the name of the Agent or one of the Agent's nominees. Until such re-registration has taken place, no exchange of securities for cash will occur. Any securities or coupons which are not acceptable as a result of mutilation will be returned to the contractor. While the securities are held in the Contractor Account, the securities will be held under the control of the Agent.

D. Upon notification by the Municipality in writing that a full or partial release of retained securities has been authorized, the Agent will notify both the Municipality and the contractor of the transaction and the date the release is to take place. If the securities are in registered form, the contractor will be responsible for notifying the Agent how the securities are to be re-registered. The securities will be re-registered by the Agent prior to their release to the contractor.

E. At least ten (10) days prior to maturity of the securities, the Agent will notify the contractor of its intent to redeem matured securities. Redemption proceeds will be credited to the principal cash balance of the Contractor's Account. If after thirty (30) days the proceeds remain on deposit the principal cash account, the Agent will notify the contractor that the cash is on deposit in a non-interest bearing account and of the proper procedures for substitution of new securities. The Agent will be required to make such follow-up notification only once. Upon notification from the contractor that it would like to substitute securities, either as a result of securities having been redeemed or as a substitution for securities presently held, the new securities received by the Agent will be examined for authenticity and mutilation and then valued to determine whether the substituted securities have a market value at least equal to the market value of the securities (or cash) being released. The contractor will be given a written receipt by the Agent for any securities delivered to the Agent. Mutilated securities will be returned to the contractor or his designee. The Agent will provide a report on a quarterly basis which will list

all securities held in the Contractor Accounts and provide the market value of all securities held in those accounts.

#### E. ACCOUNT PROCESSING

(1) All Contractor Accounts established for the purpose of this Agreement will be maintained individually. The ongoing processing of Contractor Accounts will include all recordkeeping functions, correspondence with the Municipality, the contractors and other parties, and the periodic rendering of statements that may be required on accounts. The Agent's service charges will be billed to the contractors on a quarterly basis. The Agent shall clip and present for payment all coupons and shall pay the proceeds of same directly to the Contractor no later than ten (10) business days after the close of the month, except to the extent that the Municipality notifies the Agent that any sums for a particular Contractor Account shall be remitted to the Municipality pursuant to the terms of its contact with a contractor. The Agent will remit to the contractor any interest income earned within 10 days of the end of any month in which interest is earned.

(2) The Agent will provide to each contractor (with a copy to the Municipality) a monthly cash statement for its account.

(3) The Agent shall also provide to each contractor (with a copy to the Municipality), a statement of all assets respectively held by them on behalf of the Municipality for the account of the contractors at the end of each calendar year. In addition, upon reasonable notice from the Municipality, the Agent will provide sufficient space and facilities to enable auditors to inventory all securities held by the Agent. Such inventory will take place during normal banking hours within thirty (30) days following the end of each calendar year, or at such other times as may be mutually agreed upon.

(4) The Agent will not disburse any cash or securities without the express written consent of the Municipality. Any substitutions of securities requested by a contractor shall be made only upon the Municipality's consent following verification that the new eligible securities have a market value, not to exceed par, at least equal to the market value of the securities or cash then held by the Agent.

(5) On a monthly basis, the Agent shall prepare and deliver to the Municipality an asset statement which shall identify and show the current market values of securities on hand for all Contractor Accounts held pursuant to this Agreement. In the event the market value of securities falls below the retainage they represent, the Municipality will advise the contractor that unless the contractor deposits additional acceptable securities within ten (10) days, it will withhold monies from payments due to the Contractor sufficient to cover any difference between the market value of the securities and the retainage.

ARTICLE 3. The term of this Agreement shall be for a period of one year, which term shall commence upon the execution and delivery of a fully signed copy of this agreement. This agreement shall be deemed automatically renewed from year to year unless the Municipality or Agent shall, in writing, by certified mail (return receipt requested), notify the

other party, at least ninety (90) days prior to the annual expiration date of the agreement, of its intention not to renew.

ARTICLE 4. For services rendered by the Agent in connection with Contractor Accounts, the Agent shall be entitled to the fees set forth in Schedule B to the Contractor Retainage Agreements to be entered into between the Agent and contractors from time to time. Any change in fees must be first request by the Agent and approved by the Municipality in writing. All fees shall be paid by contractors directly to the Agent and the Municipality shall have no responsibility for the collection or payment of such fees.

ARTICLE 5 - The Agent agrees not to assign, transfer, convey, sublet or otherwise dispose of this contract or of its right title or interest therein, or its power to exercise such contract or assign all or any portion of the monies that may be due or become due under the terms hereof to any other person, company or corporation without the previous consent in writing of the Municipality, except that it may assign all of its right, title and interest in this contract without such prior written consent to any subsidiary or affiliate, or to any successor in interest of all of the assets or stock of then Agent as a result of a merger, sale of assets, corporate reorganization or other similar transaction.

ARTICLE 6. Procedures under this agreement may be changed from time to time by the direction of and upon the mutual agreement of the parties hereto.

ARTICLE 7. The failure by either the Agent or the Municipality to insist in any one or more instances upon strict performance of the provisions of this Agreement or to exercise any provision herein contained, shall not be construed as a waiver or relinquishment for the future of such provision or option, but the same shall remain and continue in full force and effect. Any obligation on the part of either party to make any payments or perform any duties subsequent to the termination of this Agreement if such payments have not been made or such duties have not been performed by the date of termination, shall survive the termination of this Agreement.

ARTICLE 8. This Agreement cancels and supersedes all previous understandings and agreements between the parties with respect to the subject matter of this Agreement. This Agreement shall be deemed to be a New York contract and shall be construed in accordance with and governed by the statutes and common law of the State of New York.

ARTICLE 9. The Municipality and the Agent shall each execute and deliver upon request such instruments and assurances as either party deems necessary for the confirmation or protection of this Agreement.

ARTICLE 10. If any term or provision of this Agreement or the application thereof to any person or circumstances shall be held invalid or unenforceable, the remainder of the Agreement or the application of such term and provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and every other term and provision of this agreement shall be valid and be enforced the fullest extent permitted by law.



ARTICLE 11. Any communication, notice, claim for payment, report or other submission necessary or required to be made by the Agent to the Municipality or its designated representative, shall be deemed to have been duly made upon receipt by the Municipality or its designated representative at the following address or at another address that may be specified in writing by the Municipality or its designated representative:

County of Oneida  
Attn: Anthony Carvelli  
Commissioner of Finance  
800 Park Avenue  
Utica, NY 13501

Communications or notices to the Agent shall be deemed delivered when received by the Agent at the address designated in this Agreement, or such other address as the Agent shall furnish to the Municipality by written notice:

Manufacturers and Traders Trust Company  
One M&T Plaza, 7<sup>th</sup> Floor  
Buffalo, New York 14203  
Attention: Joan Stapley, Corporate Trust Department

ARTICLE 12. The Municipality shall indemnify and hold the Agent and each of its officers, directors, employees and affiliates harmless from and against any and all claims, suits, liabilities, costs, damages and expenses (including reasonable attorneys' fees and expenses) suffered or incurred by the Agent arising out of or relating to any action taken by the Agent in response to a direction given to it by the Municipality with respect to any Securities or cash held by the Agent. The Agent shall be protected and shall incur no liability in acting or proceeding in good faith upon any request, demand or other document which it believes to be genuine and furnished by the Municipality.

ARTICLE 13. It is understood that this Agreement represents the entire agreement of the parties hereto, that all previous understanding are merged herein, and that no modifications hereof shall be valid unless written evidence thereof shall be executed by both parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement, on the day and year first above written.

County of Oneida  
Municipality



By: \_\_\_\_\_  
Name: Anthony Carvelli  
Title: Commissioner of Finance

Manufacturers and Traders Trust Company

By: \_\_\_\_\_  
Name: Joan Stapley  
Title: Assistant Vice President

IN WITNESS WHEREOF, the parties hereto have executed this agreement, on the day and year first above written.

County of Oneida  
Municipality

Manufacturers and Traders Trust Company

By: \_\_\_\_\_  
Name: Anthony Carvelli  
Title: Commissioner of Finance

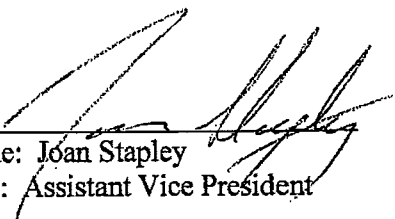
By:  \_\_\_\_\_  
Name: Joan Stapley  
Title: Assistant Vice President

Exhibit A  
Contractor Retainage Agreement

Dated \_\_\_\_\_ 2017

Re: County of Oneida (the "Municipality")  
Contractor's Retained Percentages  
Contract No. C-2A: GENERAL--PROJ #C6-6040-08-06

1. The undersigned contractor (the "Contractor") has been advised that pursuant to Section 106 of the New York General Municipal Law ("GML 106"), the Municipality has entered into an agreement with Manufacturers and Traders Trust Company (the "Agent") whereby the Agent is to provide the services that the Municipality is required to provide pursuant to GML 106. In compliance with GML 106 and in order to withdraw sums retained from payments made to the Contractor under the terms of the above referenced contract, the Contractor hereby deposits with the Agent the securities listed on Schedule A attached hereto, as Schedule A may be amended from time to time (the "Securities");

2. Subject to the supervision of, and in accordance with procedures established by the Municipality, the Agent shall render the following services:

- A. Accept and hold the Securities or cash equivalents on behalf of the Municipality for the account of the Contractor separate and apart from other securities or cash equivalents.
- B. Immediately upon receipt of the Securities or cash equivalents, determine their fair market value, not exceeding par, using whatever method the Agent and the Municipality deem reasonable.
- C. Collect interest and income from the securities or cash equivalents and remit such income proceeds to the Contractor pursuant to the following instructions:

C.O. Falter Construction Corp.  
Attn: Gretchen Perrone  
403 West Bear Street  
Syracuse NY 13204

Remittances will be made monthly no later than ten (10) business days after the close of the month.

- D. Mail to the Contractor and the Municipality on a quarterly basis an account statement showing account transactions for the proceeding quarter.
- E. At the end of each calendar year, mail to the Contractor and to the Municipality a statement of all assets held in the Account.
- F. Present maturing Securities for redemption, crediting the principal cash account of the Contractor with the proceeds. A Notice of Intention to Redeem shall be mailed to the Contractor at least ten (10) days prior to the redemption date. If no action is taken by the Contractor as a result of this notice after 30 days, the Agent will send a second, notice advising that funds are being held in a non-interest bearing account.

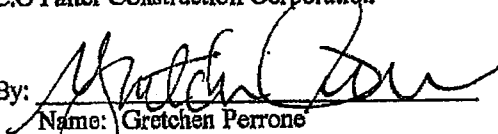
- G. Accept and pay for new Securities as replacements for matured Securities, upon receipt of written instructions from the Contractor, so long as the payment by the Agent does not exceed the market value of the matured Securities and the replacement Securities have been approved by the Municipality.
3. In the event that the Agent is employed as the Contractor's Agent for the purchase of municipal securities, it is understood that such investments may not be accompanied by a prospectus and may have been owned or underwritten by the Agent that may or may not realize a profit on this sale.
4. In the event securities to be pledged are in registered form in the name of the Contractor, the Contractor must furnish to the Agent all documentation necessary to enable the securities to be re-registered in the name of the Agent or its nominee. Only after the Securities have been registered in the name of the Agent or its nominee will such securities be deemed acceptable under the terms of this Custody Agreement.
5. In the event that the market value of the Securities or cash equivalents falls below the retainage they represent, the Contractor shall deposit additional acceptable securities within ten (10) days of being notified of such shortfall and, until such deposit is made, the Agent may withhold monies from payments due to the Contractor sufficient to cover any difference between the market value of the securities or cash equivalents then held and the retainage.
6. The Contractor understands that the Agent cannot disburse any monies, other than the interest income referred to in paragraph 2 above, or return any Securities to the Contractor without the prior written consent of the Municipality.
7. The Agent's fees for providing these services will be paid by the Contractor. The fee schedule is attached as Schedule B hereto, and may be changed only after approval of the Municipality. Advance notification of any changes will be given to the Contractor, whereupon this Custody Agreement will be deemed to have been automatically amended. The Contractor agrees that in the event that it fails to pay the Agent's fees when due, the Agent may deduct fees owing to the Agent from any money owing to the Contractor or from any securities held for the account of the Contractor, prior to the return of any Securities to the Contractor.
8. The Contractor agrees to furnish to the Agent a statement, which shall accompany each security (or group thereof), certifying that the interest earned on such securities is either taxable or tax exempt for federal and state purposes.
9. The Contractor agrees to indemnify and hold harmless the Agent from any loss, cost, claim expense, liability or damage, including reasonable attorneys' fees, arising from the Contractor's (i) failure to comply with the terms of this Custody Agreement, (ii) failure to furnish securities with a market value equal to or in excess of the retainage under the Contract, or (iii) furnishing of defective, counterfeit or otherwise unacceptable securities.
10. The Agent is hereby instructed to mail all checks, advices, bills, statements and other communications concerning the Account to:

C.O. Falter Construction Corp.  
Attn: Gretchen Perrone  
403 West Bear Street  
Syracuse NY 13204

11. The Contractor agrees that the Agent shall not be obligated to comply with any demand or request by the Contractor to return any cash or Securities to the Contractor, and further agrees (i) that the Agent shall incur no liability in acting or proceeding in good faith upon any request, demand or other document which it believes to be genuine and furnished by the Municipality with respect to any cash or Securities, and (ii) that the Agent shall have duty to make any investigation or inquiry with respect to such request, demand or other document.

Contractor

C.O Falter Construction Corporation

By:   
Name: Gretchen Perrone  
Title: Treasurer

Receipt of Custody Agreement Acknowledged

Manufacturers and Traders Trust Company

By: \_\_\_\_\_  
Name: Joan Stapley  
Title: Assistant Vice President

which it believes to be genuine and furnished by the Municipality with respect to any cash or Securities, and (ii) that the Agent shall have duty to make any investigation or inquiry with respect to such request, demand or other document.

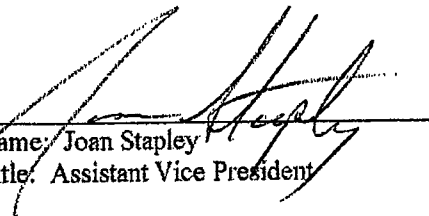
Contractor

\_\_\_\_\_

By: \_\_\_\_\_  
Name:  
Title:

Receipt of Custody Agreement Acknowledged

Manufacturers and Traders Trust Company

By:   
Name: Joan Stapley  
Title: Assistant Vice President

**Schedule A**

**Securities**



**Schedule B**

**Fee Schedule**

The fees to be charged for each Contractor Account are as follows:

Annual Fee: \$1,000.00 (paid in advance)

**CERTIFICATE OF AUTHORITY**  
for  
**County of Oneida** (“Client”)

I, Mikale Billard, the duly appointed representative of Client (in the capacity indicated below) authorized to certify the approved actions of Client, a  corporation  general partnership  limited partnership  limited liability company  sole proprietorship  Municipality organized or operating under the laws of the  State of New York or the  District of Columbia, hereby certify that a meeting of Client’s Board of Directors or other governing body (the “Board”) duly called and held, or by unanimous written consent or other method provided by applicable law or governing document, the following resolutions were duly adopted and remain in full force and effect:

RESOLVED, that County of Oneida (“Client”) hereby authorizes Commissioner of Finance (title) and the Comptroller (title) (the “Authorized Individuals”), or any one of them, in the name and on behalf of the Client, to complete, execute and deliver to the Trust and Investment Division of M&T Bank agreements in a form acceptable to such Authorized Individual for the provision of custody, escrow, trust, funds transfer, investment management and investment advisory services, including any amendments and agreements or other documents related thereto, as such Authorized Individual deems necessary or appropriate from time to time; and it is further

RESOLVED, that Client hereby ratifies and confirms all actions taken by it prior to the date hereof in connection with such agreements executed and delivered to M&T Bank; and it is further

RESOLVED, that the Authorized Individuals are, and each of them is, hereby authorized to designate from time to time the accounts subject to such agreements, and designate from time to time the individuals who may execute or effect transactions under and give notices, certifications and instructions with respect to such agreements, such individuals designated as “Authorized Representatives;” and it is further

RESOLVED, that M&T Bank be and hereby is authorized to rely on the actual or purported signatures of any of Client’s Authorized Individuals and Authorized Representatives; provided, however, a direction to distribute assets from the Account shall require the signatures of two of the aforementioned Authorized Individuals or Authorized Representatives. Until M&T Bank has actually received and had a reasonable time to act on written notice from Client revoking such authority; M&T Bank shall be entitled to rely on the authority granted herein; and it is further

**RESOLVED, that Client shall defend, indemnify and hold M&T Bank harmless from and against all liabilities, costs, and expenses (including, but not limited to, attorneys’ fees and disbursements) incurred by M&T Bank in connection with the honoring of any signature, instruction or action of any Authorized Individual or Authorized Representative, or the refusal to honor any signature, instruction or action of any person who is not an Authorized Individual or Authorized Representative of Client; and it is further**

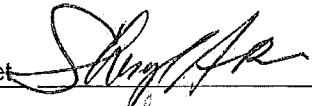
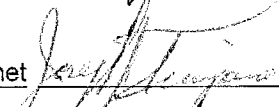

RESOLVED, that these resolutions supercede all prior resolutions on the subject to which they pertain, and shall remain in full force and effect and binding upon Client until M&T Bank has actually received and had a reasonable time to act on any subsequent Certificate of Authority; provided, that these resolutions are limited in application to services provided by the Trust and Investment Division of M&T Bank and do not supercede or affect in any way the continuing validity of other resolutions provided to M&T Bank in regard to accounts that are serviced or services that are provided by any other division or department of M&T Bank, including but not limited to accounts and services provided by Commercial Deposit Services and Treasury Management Services.

IN WITNESS WHEREOF, I have executed this Certificate of Authority this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Signature:  
Mikale Billard  
\_\_\_\_\_  
Name:  
Clerk of the Board  
\_\_\_\_\_  
Title:

**CERTIFICATE OF INCUMBENCY**

I hereby certify that I am the Clerk of the Board of County of Oneida ("Client"), and that in that capacity, I am authorized to execute and deliver this Certificate of Incumbency in the name and on behalf of Client. I further certify that each of the following individuals is the duly elected, qualified and acting incumbent of the office set forth opposite his or her name, and the specimen signature below is the genuine signature of such person:

<u>Name</u>	<u>Phone</u>	<u>Title</u>	<u>E-mail Address</u>	<u>Signature</u>
Sheryl Brown	315-798-5417	Deputy Comptroller	sbrown@ocgov.net	
Joseph J. Timpano	315-798-5780	Comptroller	jtimpano@ocgov.net	
Anthony Carvelli	315-798-5750	Commissioner of Finance	acarvelli@ocgov.net	

IN WITNESS WHEREOF, I have executed this Certificate of Incumbency this \_\_\_\_ day of \_\_\_\_, \_\_\_\_.

Signature: \_\_\_\_\_  
 Mikale Billard  
 Name: \_\_\_\_\_  
 Clerk of the Board  
 Title: \_\_\_\_\_



**CUSTOMER IDENTIFICATION PROGRAM (CIP)**  
**New and Existing Clients**  
 Government (U.S. and Non-U.S.)

GOVERNMENT INFORMATION			
1.1) Full Legal Name: County of Oneida			
1.2a) Tax/Government Identification Number: 15-6000460		1.2b) Country issuing Tax/Government Identification Number: United States of America	
1.3) Primary Address (enter the physical address; please no P.O. boxes; if foreign address, enter entire address in this field): 800 Park Avenue			
City: Utica	State: NY	Zip Code: 13501	Country: USA
1.4) Mailing Address (if different from above; if foreign address, enter entire address in this field):			
City:	State:	Zip Code:	Country:
1.5) Primary Contact Name: Anthony Carvelli		1.6) Primary Contact Phone: 315-798-5750	
1.7) Primary Contact Email Address: acarvelli@ocgov.net			
1.8) Country of Headquarters: USA		1.9) In what countries do you derive revenue? (Countries of Primary Business Operation) USA	
1.10) Website address: www.ocgov.net			
1.11) Do you already have a relationship/account with M&T Bank or Wilmington Trust? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
1.12) Do you have any close associates who now hold, or who have held, any non-US political office, whether elected or appointed, or who are otherwise politically influential? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

**VERIFICATION**

For non-US governmental bodies, please provide a copy of the legislation authorizing your formation. If you are organized as a non-US government-owned business entity, please also provide your business formation documents (such as company registration or articles of incorporation). For each supervisor/director/manager, please provide:

- i. Full legal name;
- ii. Role/position/title with respect to the client;
- iii. Citizenship/nationality (for individuals) or country of formation (for entities);
- iv. Mailing address (please no P.O. boxes);
- v. Date of Birth (for individuals), and
- vi. Country of primary residence (for individuals) or headquarters or principal place of business (for entities).

Client Name: County of Oneida

Signature: \_\_\_\_\_

Print Name: Anthony Carvelli

Title: Commissioner of Finance

Date: June 16, 2017

*Important Information about Opening a New Account: To help the U.S. government fight the funding of terrorism and money laundering activities, Federal law requires us to obtain, verify, and record information that identifies each person that opens an account.*

*What this means for you: When you open an account, we will ask for your name or business name, an address, date of birth and identification number, such as a Social Security Number or Employer Identification Number that Federal Law requires us to obtain. We may ask to see your driver's license or other identifying documents that will allow us to identify you. We appreciate your cooperation.*

## Request for Taxpayer Identification Number and Certification

**Give Form to the  
requester. Do not  
send to the IRS.**

**1** Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.  
**County of Oneida**

**2** Business name/disregarded entity name, if different from above

**3** Check appropriate box for federal tax classification; check only one of the following seven boxes:  
 Individual/sole proprietor or single-member LLC  
 Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ \_\_\_\_\_  
 Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.  
 Other (see instructions) ▶ **Municipal subdivision of the state of New York**

**4** Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  
 Exempt payee code (if any) **3**  
 Exemption from FATCA reporting code (if any) \_\_\_\_\_  
*(Applies to accounts maintained outside the U.S.)*

**5** Address (number, street, and apt. or suite no.)  
**800 Park Avenue**

**6** City, state, and ZIP code  
**Utica, N.Y. 13501**

**7** List account number(s) here (optional)

Requester's name and address (optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Social security number**

			-		-			
--	--	--	---	--	---	--	--	--

or

**Employer identification number**

1	5	-	6	0	0	0	4	6	0
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**Note.** If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

**Part II Certification**

Under penalties of perjury, I certify that:

- 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
- 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
- I am a U.S. citizen or other U.S. person (defined below); and
- 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. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

**Sign Here**      Signature of U.S. person ▶       Date ▶ **6-16-2017**

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/fw9](http://www.irs.gov/fw9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.*

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

Office of the Sheriff

County of Oneida

Undersheriff Robert Swenszkowski  
Chief Deputy Jonathan G. Owens



Chief Deputy Gregory Pflieger  
Chief Deputy Joseph A. Lisi

*Sheriff Robert M. Maciol*

June 26, 2017

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

FN 20 17-246 Reviewed and Approved for submittal to the  
Oneida County Board of Legislators by  
**PUBLIC SAFETY**  
*Anthony J. Picente, Jr.*  
Anthony J. Picente, Jr.  
County Executive  
**WAYS & MEANS** Date 7/5/17

Dear County Executive Picente:

The Sheriff's Office was recently awarded a Grant from the New York State Division of Criminal Justice Services in the amount of \$2,400 under the GIVE project. I am requesting approval of this grant contract.

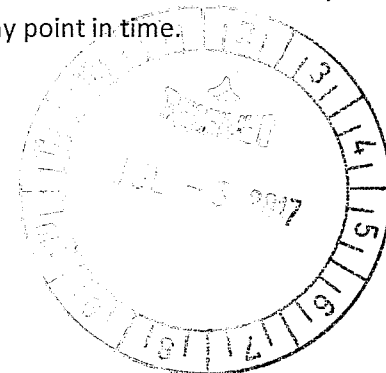
The grant is set to begin July 1, 2017, and end on June 30, 2018. **There are no county dollars in this contract.** The goal of this grant is to assign deputies on an overtime basis to conduct narcotics operations (involving gun possession), robbery (involving gun monitoring), warrant executions on top offenders, gang monitoring and surveillance, and multi-agency collaborations to reduce shootings and homicides. The Deputies will be assigned to the Gun Violence Strike Team (headed by UPD) and will be utilized in addition to the established multi-agency Emergency Response Team (ERT). The Sheriff's Office will schedule approximately 4 hours per month throughout the year, based upon the average overtime cost of fifty dollars (\$50.00) per hour.

**This Agreement requires Board approval at the Board's next meeting date.**

If you find the enclosed grant contract acceptable, I am requesting your approval by way of signature both on paper and by e-signature in the GMS portal. 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



**Administrative Office**  
6065 Judd Road Oriskany, NY 13424  
Voice (315) 736-8364  
Fax (315) 765-2205

**Law Enforcement Division**  
6065 Judd Road Oriskany, NY 13424  
Voice (315) 736-0141  
Fax (315) 736-7946

**Correction Division**  
6075 Judd Road Oriskany, NY 13424  
Voice (315) 768-7804  
Fax (315) 765-2327

**Civil Division**  
200 Elizabeth Street Utica, NY 13501  
Voice (315) 798-5862  
Fax (315) 798-6495

Oneida Co. Department: Sheriff's Office

Competing Proposal \_\_\_\_\_  
Only Respondent \_\_\_\_\_  
Sole Source RFP \_\_\_\_\_  
Other **XXX**

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name & Address of Vendor:** NYS Division of Criminal Justice Services  
80 South Swan St.  
Albany, NY 12210

**Title of Activity or Service:** Grant

**Proposed Dates of Operation:** July 1, 2017 – June 30, 2018

**Client Population/Number to be Served:** Oneida County Residents

**Summary Statements**

**1) Narrative Description of Proposed Services:** This grant is part of the GIVE Project. The goal of this grant is to assign deputies on an overtime basis to conduct narcotics operations (involving gun possession), robbery (involving gun monitoring), warrant executions on top offenders, gang monitoring and surveillance, and multi-agency collaborations to reduce shootings and homicides. The Deputies will be assigned to the Gun Violence Strike Team (headed by UPD) and will be utilized in addition to the established multi-agency Emergency Response Team (ERT). The Sheriff's Office will schedule approximately 4 hours per month throughout the year, based upon the average overtime cost of fifty dollars (\$50.00) per hour.

**2) Program/Service Objectives and Outcomes:** The Sheriff's Office will schedule approximately 4 hours per month throughout the year for deputies to conduct those operations under the GIVE Project.

**3) Program Design and Staffing:** This grant will be used to pay overtime expenses.

**Total Funding Requested:** \$2,400      **Account #** A3384

**Oneida County Dept. Funding Recommendation:** \$2,400

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

**Cost Per Client Served:** N/A

**Past Performance Data:** This has been a good program

**O.C. Department Staff Comments:** E-Signature Required



<u>STATE AGENCY</u> Division of Criminal Justice Services 80 South Swan Street Albany, NY 12210	<u>NYS COMPTROLLER'S NUMBER:</u> T484515 (Contract Number)  <u>ORIGINATING AGENCY CODE:</u> 01490 - Division of Criminal Justice Services
<u>GRANTEE/CONTRACTOR:</u> (Name & Address) Oneida County 800 Park Avenue Utica, NY 13501-2939	<u>TYPE OF PROGRAMS:</u> GIVE Initiative <u>DCJS NUMBERS:</u> GV17484515 <u>CFDA NUMBERS:</u>
<u>FEDERAL TAX IDENTIFICATION NO:</u> 156000460 <u>MUNICIPALITY NO:</u> (if applicable) 300100000000	<u>INITIAL CONTRACT PERIOD:</u> FROM 07/01/2017 TO 06/30/2018 <u>FUNDING AMOUNT FROM INITIAL PERIOD:</u> \$2,400.00
<u>STATUS:</u> Contractor is not a sectarian entry. Contractor is not a not-for-profit organization.	<u>MULTI-YEAR TERM:</u> (if applicable): 0 1-year renewal options.
<u>CHARITIES REGISTRATION NUMBER:</u> <div style="border: 1px solid black; width: 150px; height: 15px; margin: 5px 0;"></div> (Enter number or Exempt) if "Exempt" is entered above, reason for exemption. <u>N/A</u>  <div style="border: 1px solid black; padding: 5px; width: fit-content;"> Contractor has ____ has not ____ timely  filed with the Attorney General's Charities  Bureau all required periodic or annual written  reports. </div>	<u>APPENDIX ATTACHED AND PART OF THIS AGREEMENT</u> <input checked="" type="checkbox"/> <u>APPENDIX A</u> Standard Clauses required by the Attorney General for all State contracts <input checked="" type="checkbox"/> <u>APPENDIX A1</u> Agency-specific Clauses <input checked="" type="checkbox"/> <u>APPENDIX B</u> Budget <input checked="" type="checkbox"/> <u>APPENDIX C</u> Payment and Reporting Schedule <input checked="" type="checkbox"/> <u>APPENDIX D</u> Program Workplan <input type="checkbox"/> <u>APPENDIX F</u> Guidelines for the Control and Use of Confidential Funds <input type="checkbox"/> <u>APPENDIX G</u> Procedural Guidelines for the Control of Surveillance Equipment <input type="checkbox"/> <u>APPENDIX M</u> <input type="checkbox"/> <u>Other (Identify)</u>
IN WITNESS THERE OF, the parties hereto have electronically executed or approved this AGREEMENT on the dates of their signatures.	
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: _____	
ATTORNEY GENERAL'S SIGNATURE  Title: _____ Date: _____	APPROVED, Thomas P. DiNapoli, State Comptroller  Title: _____ Date: _____

**Award Contract**

**GIVE Initiative**

**Project No.**

**Grantee Name**

GV17-1057-D00

Oneida County

06/26/2017

**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****GIVE Initiative****Project No.****Grantee Name**

GV17-1057-D00

Oneida County

06/26/2017

## 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**

**GIVE Initiative**

**Project No.**

**Grantee Name**

GV17-1057-D00

Oneida County

06/26/2017

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/](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/](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**

**GIVE Initiative**

**Project No.**  
GV17-1057-D00

**Grantee Name**  
Oneida County

06/26/2017

**APPENDIX B - Budget Summary by Participant**

Oneida County  
Oneida County Sheriffs Office - Version 1

#	Personnel	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	Sheriff's Deputy OT (approx. \$50.00/hr x 4 hrs/mo. x 12)	1	\$2,400.00	\$2,400.00	\$2,400.00	\$0.00
Justification: Oneida County Sheriff's Office Deputy will be assigned to the newly opened MVCAC on a full-time basis. Using an average overtime cost of \$50.00 per hour, the Department will schedule approximately 4 hours per month of overtime throughout the year to assist in the reduction and elimination of gun violence.						
Total				\$2,400.00	\$2,400.00	\$0.00

Total Project Costs	Total Cost	Grant Funds	Matching Funds
	\$2,400.00	\$2,400.00	\$0.00

Total Contract Costs	Total Cost	Grant Funds	Matching Funds
	\$2,400.00	\$2,400.00	\$0.00

**Award Contract****GIVE Initiative****Project No.****Grantee Name**

GV17-1057-D00

Oneida County

06/26/2017

## 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](http://www.osc.state.ny.us/epay/index.htm), or by email at [epayments@osc.state.ny.us](mailto: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  
Certified by - on

**Award Contract****GIVE Initiative****Project No.****Grantee Name**

GV17-1057-D00

Oneida County

06/26/2017

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**APPENDIX D - Work Plan****Goal**

The goal of the Gun Involved Violence Elimination (GIVE) Initiative is the elimination of shootings and homicides, or aggravated assaults where applicable, through the integrated use of evidence-based strategies that are incorporated into the four core elements of GIVE: People, Places, Alignment, and Engagement.

**Objective #1**

To implement the joint agency initiatives outlined in the GIVE IV strategy to directly combat shootings and homicides, or aggravated assaults where applicable, by implementing Hot-Spots Policing.

**Task #1 for Objective #1**

The Sheriff's Office, in conjunction with the other law enforcement agencies, will employ a focused Hot-Spots Policing strategy in predetermined GIVE areas.

**# Performance Measure**

- 1 Explain how the Sheriff's Office coordinates and cooperates with other agencies in the planning and implementation of their Hot-Spots Policing strategy.
- 2 Include how Hot-Spots Policing is used in conjunction with other gun violence reduction strategies.
- 3 List, and briefly summarize, any enforcement strategies used by the Sheriff's Office, specifically for focusing on gun offenders, or aggravated assault offenders, in Hot-Spots.
- 4 Explain how the Sheriff's Office participates in operations within Hot-Spots at appropriate times.
- 5 Explain how Hot-Spots data is regularly recorded, analyzed or reviewed by key the County Sheriff's Office personnel, or other appropriate law enforcement personnel.  
Summarize and list any coordinated inter-agency Hot-Spot operations, their results, and explain how those operations were conducted on appropriate dates and times. Please complete the required GIVE Tracker form when applicable.
- 7 Briefly explain how data is used by the Sheriff's Office to make operational decisions about Hot-Spots Policing strategies.
- 8 List any Hot-Spots technical Assistance or training that key Sheriff's Office personnel have received.
- 9 Briefly summarize how the Sheriff's Office uses procedural justice as a key component of their Hot-Spots Policing strategy and operations.
- 10 List any community outreach events organized or attended by Sheriff's Office personnel in GIVE Hot-Spots.
- 11 Explain how procedural justice-related data is collected by the Sheriff's Office as part of the Hot-Spots Policing strategy.
- 12 Report on the overall progress and effectiveness of the Hot-Spots strategy employed by the Sheriff's Office.

**Objective #2**

To implement the joint agency initiatives outlined in the GIVE IV strategy to directly combat shootings and homicides or aggravated assaults, where applicable, by implementing Focused Deterrence.

**Task #1 for Objective #2**

The Sheriff's Office, in conjunction with the other law enforcement agencies, will employ a Focused Deterrence strategy.

## # Performance Measure

- 1 Briefly summarize any contributions made to the planning and implementation of Focused Deterrence strategy by Sheriff's Office personnel in all applicable GIVE funded positions.
- 2 Provide the dates and duration of the operations in support of Focused Deterrence strategy.
- 3 Describe any training that was received by key personnel in focused deterrence.
- 4 Provide the role of the Sheriff's Office in identifying individuals for participants in Focused Deterrence.
- 5 Provide a brief narrative summarizing the role of the Sheriff's Office in the implementation of Focused Deterrence strategy.  
Summarize and list any coordinated multi-agency Focused Deterrence operations, their results, and explain how those operations were conducted on appropriate dates and times. Please complete the required GIVE Tracker form if applicable.
- 7 Describe how the Focused Deterrence strategy is used in conjunction with other gun violence reduction strategies.
- 8 Explain how components of procedural justice are evident in the Focused Deterrence strategy.
- 9 Explain how procedural justice-related data is collected by the Sheriff's Office as part of the Focused Deterrence strategy.

## Objective #3

To implement the joint agency initiatives outlined in the GIVE IV strategy to directly combat shootings and homicides, or aggravated assaults where applicable, by implementing Crime Prevention Through Environmental Design (CPTED) principals.

### Task #1 for Objective #3

The Sheriff's Office, in conjunction with the other law enforcement agencies, will employ CPTED principals in designated work areas.

## # Performance Measure

- 1 Briefly summarize any contributions made by Sheriff's Office personnel in the planning and implementation of the coordinated CPTED strategy.
- 2 Include how CPTED is used in conjunction with other gun violence reduction strategies.
- 3 List any CPTED technical assistance and/or training received by key Sheriff's Office personnel.
- 4 Explain how the Sheriff's Office coordinates and cooperates with other agencies in the planning and implementation of their CPTED strategy.
- 5 Summarize the role of the Sheriff's Office plays in identifying appropriate CPTED work areas.
- 6 List any procedural justice trainings, policies, or strategies employed by the Sheriff's Office as part of the coordinated CPTED strategy.
- 7 Explain how procedural justice-related data is collected and analyzed by the Sheriff's Office as part of the coordinated CPTED strategy.
- 8 Report on the overall contributions of the Sheriff's Office in the implementation of the coordinated CPTED strategy.

**Award Contract**

GIVE Initiative

**Project No.****Grantee Name**

GV17-1057-D00

Oneida County

06/26/2017

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**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****A. Publications:**

1. The implementing agency will submit to DCJS for review all proposed publications (written, visual or sound) prior to their public release. Any such publications shall contain the following statement... "This project is supported by a grant from the New York State Gun Involved Violence Elimination (GIVE) Initiative. Points of view in this document are those of the author and do not necessarily represent the official position of policies of the Division of Criminal Justice"

2. No materials, items or publications resulting from award activities associated with the GIVE Initiative grant may use the DCJS logo or provide any attribution to DCJS in any form, without the prior approval from the Executive Deputy Commissioner of DCJS or his/her designee. Requests for such approval must be submitted in writing to DCJS Executive Deputy Commissioner and Counsel at least 30 calendar days before requested use. Determinations of such requests will be made by the DCJS Executive Deputy Commissioner on a case-by-case basis.

**B. Programs:**

1. Grantee agrees that if funding is being provided for the implementation of any DCJS crime reduction strategies, the implementing agency will coordinate their GIVE strategy with those other strategy initiatives in the county.

2. Grantee agrees that if the project is not implemented within 60 calendar days of the award date, it will report by letter to OPDF the steps taken to initiate the project, the reasons for delay, and the expected implementation date. If the project is not operational within 90 calendar days of the original starting date of the grant period, the Grantee will submit a second statement to OPDF explaining the delay. At the discretion of the Executive Deputy Commissioner of DCJS, in consultation with the Board, the State may either revoke and redistribute the funds or extend the implementation date of the project beyond the 90-day period when warranted by extenuating circumstances.

3. The following special conditions apply to contracts with county or municipal governments as appropriate: Participating law enforcement agencies that are funded by DCJS to conduct drug, firearms or vehicle theft or vehicle related insurance fraud investigations shall register with SAFETNet. Participation in SAFETNet obligates the registered agency to submit information regarding persons or addresses under active investigation in accordance with SAFETNet standard operating procedures. In addition, the agency agrees to participate in the Upstate New York State Intelligence Center (NYSIC) or the New York/New Jersey High Intensity Drug Trafficking Area Regional Intelligence Center (NY/NJ HIDTA RIC) as appropriate.

4. Grantee shall enroll as a user of the Integrated Justice Portal (IJPortal) and make use of the IJPortal services as applicable. Law enforcement agencies are required to submit all monthly crime reports to DCJS through the Integrated Justice Portal (IJPortal) IBR/UCR Reporting Interface within 30 calendar days after the close of the reporting period. Failure to submit this information may result in grant funds being withheld.

Instructions for accessing and submitting crime reports through the IJPortal can be found at:  
[http://www.criminaljustice.ny.gov/crimnet/ojsa/crimereporting/ucr\\_refman/IJPortal-UCR-Data-Entry-Manual.pdf](http://www.criminaljustice.ny.gov/crimnet/ojsa/crimereporting/ucr_refman/IJPortal-UCR-Data-Entry-Manual.pdf)



All law enforcement agencies must stay current with their monthly submissions. When the police department is unable to submit the data within 30 days, the Chief must submit the reasoning to DCJS, while ensuring the data is submitted as soon as possible. If it is deemed that the reasoning for the late submission was out of the control of the police department, a waiver will be granted to avoid the fiscal penalty.

Monthly Gun Data - Both primary and DCJS designated secondary police departments must submit the Monthly Gun Data Report within 7 days of the end of the month that is being reported on. When the police department is unable to submit the data within 7 days, the Chief must submit the reasoning to DCJS, while ensuring the data is submitted as soon as possible. If it is deemed that the reasoning for the late submission was out of the control of the police department, a waiver will be granted to avoid the fiscal penalty.

**B. Program: Cont'd**

5. Incident-Based Reporting (IBR) agencies are required to use the IJPortal IBR Submission interface to upload their monthly NYSIBR extract file, and the IJPortal UCR Data Entry Interface to submit their monthly Hate Crime and Law Enforcement Officers Killed or Assaulted (LEOKA) reports.

Summary (UCR) reporting agencies are required to use the IJPortal UCR Data Entry Interface to submit all monthly UCR reports including the Return A (Monthly Offenses known to Police), Arrests of Persons 18 and Over, Arrest of Persons Under 18, Supplemental Homicide Report (SHR), Arson, Hate Crime, and the Law Enforcement Officers Killed or Assaulted (LEOKA).

6. Grantee shall enroll as applicable in the DCJSContact Directory established and administered by DCJS. DCJSContact is a statewide directory service provided free-of-charge by the Division of Criminal Justice Services to the criminal justice community of New York State. Information regarding enrollment in the DCJSContact Directory can be obtained by downloading the enrollment form: <http://www.criminaljustice.ny.gov/ojis/documents/dcjscontactenrollform.pdf> or by calling NYS DCJS Office of Public Safety at (518) 457-2667.

7. All criminal justice information management software which a grantee may purchase or develop with funds provided under the terms of this agreement must conform to established New York State criminal justice data standards as documented in the most current version of the New York Statewide Criminal Justice Data Dictionary. In addition, all such information management software purchased or developed with funds provided under the terms of this agreement must conform to statewide standards for the collection, processing and reporting of criminal justice information as documented in the New York State Standard Practices Manual for the Processing of Fingerprintable Criminal Cases. The latest versions of both documents referenced above can be accessed on the DCJS web site at <http://www.criminaljustice.ny.gov/dict/dict.htm> and [http://www.criminaljustice.ny.gov/pio/fp\\_services.htm](http://www.criminaljustice.ny.gov/pio/fp_services.htm) or obtained by calling the DCJS Customer Contact Center at (800) 262-3257.

8. Participating law enforcement agencies receiving GIVE funds shall enforce the provisions of Orders of Protection, particularly with respect to those provisions prohibiting the ownership or possession of firearms, when so ordered in family or criminal court and served upon the defendant and will enforce the firearms prohibition provisions of the federal Violence Against Women Act.

9. Participating agencies receiving funding through the GIVE Initiative will be required to participate in a GIVE program evaluation. This may require agencies to provide DCJS or its contractors with data and information relating to jurisdictional GIVE operations, initiatives, and enforcement efforts.

10. Grantee agrees to comply with all requirements included within the Project GIVE Request for Applications (RFA).

**C. Funding:** 1. Notwithstanding the provisions of paragraph 11 of Appendix A1, the parties agree that DCJS' prior 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 requests for reimbursement supported by documentation identifying the criminal matter involved, services provided, time commitment, and fee schedule.

2. This contract may be extended, increased, decreased, renewed, amended or renegotiated at the discretion of the Executive Deputy Commissioner of the Division of Criminal Justice Services or as otherwise agreed upon

by the Parties.

3. Grantee agrees that these funds will be used to supplement and not supplant existing funds and services.

4. The following condition will apply to contracts between two New York State governmental entities:

This is an agreement between two New York State governmental entities, and as such the provisions contained herein with respect to grants are applicable only to the extent that the provisions would otherwise be applicable between New York State governmental entities.

5. Grantee agrees that all specifications for technology purchases exceeding \$5,000 (excluding laptops and desktop computers) must be reviewed by the DCJS Office of Justice Information Services. The review will take place within three business days and should be coordinated through the DCJS Office of Program Development and Funding.

**Supplemental GIVE Special Conditions - 3/21/2016**

1. Participating police departments will attend monthly meetings, at a minimum, with the Operation SNUG (also known as Neighborhood Violence Prevention Project) program manager or his/her designee and regional crime analysts to discuss firearm related crime, gang activity, and violence. Meeting frequency may be increased at the discretion of DCJS based on shootings, homicides, and the incidence of violence crime within a jurisdiction.

2. By the 15th day of each month, participating police departments will provide Operation SNUG personnel with a monthly list of high risk individuals who have been identified as known or suspected gang members, gang leaders who promote gun violence, and candidates most likely to carry guns and/or be involved in shooting incidents. Police agencies may use discretion when it comes to supplying sensitive information regarding these high-risk individuals (i.e. persons involved in active criminal investigations).

3. By the 15th day of each month, the participating police department will provide DCJS a crime map pinpointing the locations of the prior month's shooting incidents for both the Operation SNUG target area(s) and the entire city.

**Supplemental GIVE Special Conditions - 3/21/2016**

4. Participating police departments will provide DCJS an annual crime map pinpointing the locations of all shooting incidents which have occurred between July 1 and June 30 of the preceding GIVE contract period for both the Operation SNUG target area(s) and the entire city. This annual crime map will be due on the last day of the month following the expiration date of the contract.

5. By the 15th day of each month the participating police department will provide DCJS a report detailing a month to month comparison of shootings and homicides for the current calendar year and the two preceding calendar years for the target area(s) and the entire city.

6. Participating police departments will provide DCJS an annual report detailing a year to year comparison of shootings and homicides for the current GIVE contract period and the two preceding GIVE contract periods for the target area(s) and the entire city. This annual comprehensive report will be due on the last day of the month following the expiration date of the contract.

7. Participating police departments will develop written protocols detailing established procedures to notify the Operation SNUG program manager or his/her designee of all shootings and/or homicides within 24 hours of each incident. The written procedures must be submitted to DCJS with the first Quarterly Progress Report. By 45 days after the end of the reporting period, each county GIVE partner must submit a comprehensive countywide Collaborative Quarterly Progress Report in a format provided by DCJS. Each funded implementing agency in a GIVE county is required to work collectively on their quarterly goals, tasks, objectives, and performance measures. As a county co-chair, a representative of the district attorney's office will be responsible to submit the countywide report as an attachment in GMS.

Office of the Sheriff

County of Oneida

Undersheriff Robert Swenszkowski  
Chief Deputy Jonathan G. Owens

Chief Deputy Gregory Pflieger  
Chief Deputy Joseph A. Lisi



*Sheriff Robert M. Maciol*

February 24, 2017

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

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

FN 20 17-247   
Anthony J. Picente, Jr.  
County Executive

**PUBLIC SAFETY** Date 6/28/17  
**WAYS & MEANS**

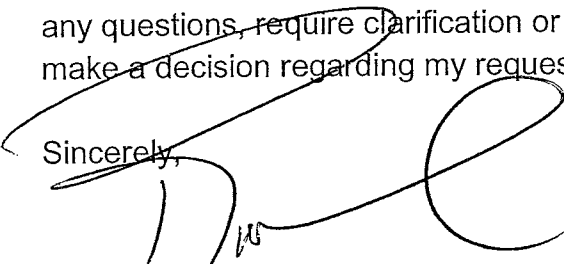
Dear County Executive Picente:

The Sheriff's Office is requesting that Oneida County approve the acceptance of a grant with the New York State Canal Corporation to patrol the NYS Canal and Canalway trail. This Office has been awarded a \$40,000 matching grant. The Canal Corporation's portion to be granted to Oneida County will be \$40,000 and Oneida County's matching funds will be \$13,334. This grant will expire March 31, 2017.

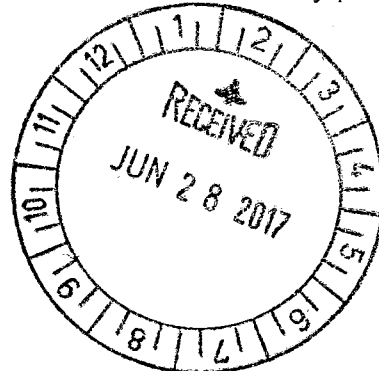
The monies obtained from this grant will be used to reimburse our expenses related to manpower costs and normal operating expenses such as gasoline while patrolling canals and the canalway trails to ensure that users of these systems comply with the NYS rules and regulations.

**This Grant requires Board approval at the Board's next meeting date.**

If you find the enclosed contract acceptable, I am requesting your approval by way of signature. 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



**Administrative Office**  
6065 Judd Road Oriskany, NY 13424  
Voice (315) 736-8364  
Fax (315) 765-2205

**Law Enforcement Division**  
6065 Judd Road Oriskany, NY 13424  
Voice (315) 736-0141  
Fax (315) 736-7946

**Correction Division**  
6075 Judd Road Oriskany, NY 13424  
Voice (315) 768-7804  
Fax (315) 765-2327

**Civil Division**  
200 Elizabeth Street Utica, NY 13501  
Voice (315) 798-5862  
Fax (315) 798-6495

Oneida Co. Department: Sheriff's Office

Competing Proposal \_\_\_\_\_  
Only Respondent \_\_\_\_\_  
Sole Source RFP \_\_\_\_\_  
Other Grant

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name & Address of Vendor:** New York State Canal Corporation  
PO Box 189  
200 Southern Blvd  
Albany, NY 12201-01889

**Title of Activity or Service:** Canal and Canalway Trail Law Enforcement Matching Grant

**Proposed Dates of Operation:** April 1, 2016 – March 31, 2017

**Client Population/Number to be Served:** Oneida County Residents

**Summary Statements**

- 1) **Narrative Description of Proposed Services:** Marine Patrol of the Canal and Canalway Trails in Oneida County (approximately 32 miles east to west).
- 2) **Program/Service Objectives and Outcomes:** To establish frequent patrols of the Canalway Trails by ATV, Snowmobile and Mountain Bike Patrols as well as Marine Patrol throughout the navigable season. This would be a deterrent to illegal activity and provide a proactive approach to keeping these areas safe and enjoyable for everyone's use
- 3) **Program Design and Staffing:** This grant will allow for the funding to reimburse expenses related to manpower costs and normal operating expenses such as gasoline.

**Total Funding Requested:** \$53,334      **Account # A3120 & A3315 (revenue)**

**Oneida County Dept. Funding Recommendation:** \$53,334.00 **The County must provide matching funds of \$13,334 to receive this grant.**

**Proposed Funding Sources (Federal \$/ State \$/County \$):** State funds – 75% (\$40,000) / County funds 25% (\$13,334)

**Cost Per Client Served:** n/a

**Past Performance Data:**

**O.C. Department Staff Comments:** This revenue will help to offset expenses incurred by patrolling the Canal and Canalway trails in Oneida County.

# **NEW YORK STATE CANAL CORPORATION**

## **Grant Agreement for**

### **The 2016 Marine Patrol Grants ONEIDA COUNTY SHERIFF'S OFFICE**

This AGREEMENT (hereinafter "Agreement") is made this **1st day of April, 2016**, by and between the New York State Canal Corporation (hereinafter the "CANAL CORPORATION"), a public corporation and subsidiary of the New York State Thruway Authority (hereinafter the "AUTHORITY"), organized and existing pursuant to Article 2, Title 9 of the New York State Public Authorities Law, as amended, whose principal office is located at 200 Southern Boulevard, Albany, New York 12209 (Mailing Address: P.O. Box 189, Albany, New York 12201-0189), and the **Oneida County Sheriff's Office** (hereinafter the "LOCAL SPONSOR") with offices at **6065 Judd Road, Oriskany, NY 13424**.

#### **WITNESSETH:**

WHEREAS, the CANAL CORPORATION is statutorily responsible for, among other things, operating, maintaining, improving, developing and promoting the 524-mile waterway known as the New York State Canal System; and

WHEREAS, in furtherance of these responsibilities, the CANAL CORPORATION wants to encourage police and public safety coverage on New York's Canals and Canalway Trail; and

WHEREAS, the CANAL CORPORATION does not have its own dedicated marine patrol but instead relies on local law enforcement; and

WHEREAS, the New York State Canal System has been designated a No Discharge Zone making it illegal to discharge sewage from vessels into the waterbody; and

WHEREAS, the LOCAL SPONSOR is eligible and has applied for funds to provide marine patrol services (hereinafter the "SERVICES") along the Canals and Canalway Trail; and

WHEREAS, the CANAL CORPORATION believes that police, public safety and environmental protection measures are most effective when set and administered at the local level, and desires to assist the LOCAL SPONSOR in partially funding such coverage along the Canal and Canalway Trail; and

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth in this Agreement, the CANAL CORPORATION and the LOCAL SPONSOR hereby agree as follows:

1. Agreement Term: The term of this Agreement shall commence on April 1, 2016 and shall terminate on March 31, 2017.
2. Agreement Amount: The CANAL CORPORATION agrees to make available to the LOCAL SPONSOR a sum not to exceed \$40,000.00 (hereinafter the "GRANT"). This sum shall cover no more than 75% of the total cost of the SERVICES.
3. Reimbursement Provisions:
  - a. Reimbursement shall be made to the LOCAL SPONSOR upon approval by the CANAL CORPORATION of vouchers executed by an authorized officer of the LOCAL SPONSOR accompanied by such receipts and documents verifying expenditures as may be required by the CANAL CORPORATION. Reimbursement requests shall include a certification by the LOCAL SPONSOR that the requested funds do not duplicate reimbursements for costs and services received from other sources.
  - b. No more than two reimbursement requests will be accepted. The final voucher must be submitted within 30 days from the end of the Agreement.
  - c. In no event will the CANAL CORPORATION process any reimbursement request that would cause the aggregate reimbursement for the SERVICES to exceed the GRANT amount set forth in paragraph 2 of this Agreement.
  - d. The LOCAL SPONSOR shall keep accurate and separate accounting records of all receipts and disbursements of all funds attributed to this Agreement, and shall produce such records for examination by the CANAL CORPORATION.

Records must be maintained so that they can be provided for examination at any time during the term of the Agreement and for a period of six (6) years after the termination of the Agreement.

4. Scope of Services:

Marine Patrol Services shall include:

- Enforcing all applicable laws, rules and regulations within the LOCAL SPONSOR'S authority and jurisdiction;
- Educating boaters on boating safety;
- Enforcing the Clean Vessel Act and educating boaters on the New York State Canal System's designation as a No Discharge Zone.

5. Representations, Warranties and Covenants:

The LOCAL SPONSOR represents, warrants and covenants that:

- a. In conducting the SERVICES the LOCAL SPONSOR will patrol waters on, or contiguous to, the current and historical alignments of the New York State Canal System, and provide supporting documentation of doing so.
- b. All officers assigned to patrols of the Canal and Canalway Trail supported by CANAL CORPORATION funding shall have appropriate certifications and accreditations for the operation of equipment utilized in the course of their patrols.
- c. All vessels assigned to patrol the New York State Canal System and supported by CANAL CORPORATION funding shall have all required registrations and comply with the Clean Vessel Act.
- d. The GRANT shall be used solely for eligible expenses and no materials purchased with the GRANT will be used for any other purpose other than to provide the SERVICES.

6. Independent Contractor: LOCAL SPONSOR is and shall be, in all respects, an independent contractor in performing any services pursuant to this Agreement. In accordance with its status as an independent contractor, LOCAL SPONSOR covenants and agrees that neither it nor its agents and/or employees will hold itself or themselves out as or claim to be an officer or employee of the CANAL CORPORATION and that neither LOCAL SPONSOR nor its agents and employees shall make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the CANAL CORPORATION, including, but not limited to Workers' Compensation coverage, Unemployment Insurance benefits, Social Security coverage or Retirement System membership or credit.

7. Liability: LOCAL SPONSOR shall be responsible for all damage to life and property due to negligent or otherwise tortious acts, errors or omissions of LOCAL SPONSOR and/or any of its officers, directors, agents, employees, contractors, subcontractors, assigns, successors, invitees and licensees in connection with this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement.

8. Indemnification: The LOCAL SPONSOR shall indemnify and protect and hold harmless the CANAL CORPORATION, the Authority and the State of New York, as their interests may appear, and their respective officers, directors, board members, agents, employees, successors and assigns, from all claims, suits, actions, damages, and costs of every name and description arising out of the performance or non-performance by the LOCAL SPONSOR and/or any of its officers, directors, agents, employees, contractors, subcontractors, assigns, successors, invitees and

licensees of the SERVICES provided for in connection with this Agreement. Such indemnity shall not be limited by reason of enumeration of any insurance coverage herein provided and shall survive the expiration or termination of this Agreement.

9. Insurance: The LOCAL SPONSOR must procure prior to commencement of SERVICES under this Agreement and maintain until this Agreement is completed, insurance of the kinds and in the amounts specified below.

A. General Conditions:

- a. All insurance required by this Agreement shall be obtained at the sole cost and expense of the LOCAL SPONSOR.
- b. All insurance required by this Agreement shall be maintained with insurance carriers licensed to do business in New York State, and acceptable to the CANAL CORPORATION, with an A.M. Best rating of "A-" or better. The CANAL CORPORATION may, at its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when certificates and/or other policy documentation are accompanied by a completed Excess Lines Association of New York (ELANY) Affidavit. Notwithstanding the foregoing, nothing herein shall be construed to require the CANAL CORPORATION to accept insurance placed with a non-authorized carrier under any circumstances.
- c. All insurance required by this Agreement shall be primary to any CANAL CORPORATION self-insurance policy or CANAL CORPORATION self-insurance program, which shall be excess and non-contributory.
- d. The LOCAL SPONSOR shall furnish CANAL CORPORATION with Certificate(s) of Insurance on ACORD Form 25, accompanied by the CANAL CORPORATION Supplemental Insurance Certificate, for each insurance carrier involved. Such Certificate(s) shall be executed by a duly authorized representative of the insurance carrier, certifying such authorization and showing compliance with CANAL CORPORATION insurance requirements set forth herein. A copy of every required Endorsement shall be furnished to CANAL CORPORATION. For work to be performed within New York State, proof of Workers' Compensation and Disability Benefits Insurance shall be indicated on the appropriate Workers' Compensation Board forms as listed in Sections 9(B)(b) and 9(B)(c) below.
- e. All policies, by specific endorsement, shall provide for written notice to the CANAL CORPORATION no less than thirty (30) days prior to the cancellation, nonrenewal, or material alteration of any insurance policies referred to therein. Any such notice shall be sent by mail to: Insurance Compliance Section, Office of Investments and Asset



Management, New York State Thruway Authority, P.O. Box 189,  
Albany, New York 12201-0189.

- f. If insurance policies utilized for CANAL CORPORATION projects contain Deductibles or Self-Insured Retentions (SIRs), they must be declared as such with applicable levels on the Certificate(s) of Insurance and the CANAL CORPORATION Supplemental Insurance Certificate. Insurance policies with Deductibles in excess of \$50,000 will require review and approval by the CANAL CORPORATION. Additional security or other requirements may be imposed at the sole discretion of the CANAL CORPORATION.
- g. Insurance policies with Self-Insured Retentions (SIRS) must receive prior approval by the CANAL CORPORATION. All applications for SIR approval must be submitted to the Authority's Office of Investments and Asset Management, indicate whether the program is administered by a third party and contain a complete description of the program. SIR programs in excess of \$50,000 must be administered by a third party administrator and must also meet additional security requirements. The CANAL CORPORATION at its sole discretion reserves the right to require the LOCAL SPONSOR to provide additional collateral or to reject the use of an SIR by the LOCAL SPONSOR. The LOCAL SPONSOR will be solely responsible for all claims, expenses and loss payments within the retention limit.
- h. The LOCAL SPONSOR shall provide certified copies of all declarations pages or of the insurance policies themselves, upon request by the CANAL CORPORATION, within twenty (20) days of such request.
- i. Failure of CANAL CORPORATION to demand such certificates, policies, endorsements, or other evidence of full compliance with CANAL CORPORATION insurance requirements, or failure of CANAL CORPORATION to identify a deficiency from evidence that is provided, shall not constitute or be construed as a waiver of the LOCAL SPONSOR'S obligation to maintain such insurance.
- j. Failure to maintain the required insurance and provide proof of such coverage to CANAL CORPORATION may, in CANAL CORPORATION'S sole discretion, result in termination of this Agreement, or in delay or stoppage of payments.
- k. At least two weeks prior to the expiration of any policy required by this Agreement, evidence of renewal or replacement policies of insurance with terms at least as favorable to the CANAL CORPORATION as the required minimum amounts set forth in Section 9(B)(a) must be furnished to the CANAL CORPORATION.
- l. By requiring insurance, CANAL CORPORATION does not represent that certain coverages and limits will necessarily be adequate to

protect the LOCAL SPONSOR, and such coverages and limits shall not be deemed a limitation on the LOCAL SPONSOR'S liability under the indemnities granted to CANAL CORPORATION under any provision of this Agreement.

- m. The LOCAL SPONSOR shall waive all rights against CANAL CORPORATION and its agents, officers, directors, and employees, for recovery of damages to the extent these damages are covered by the CGL policy, Business Auto policy, and Umbrella policy, as required.
- n. The LOCAL SPONSOR shall provide a copy of these CANAL CORPORATION Insurance Requirements to its insurance producer(s) and insurance carrier(s).

**B. Coverages:**

- a. Commercial General Liability - the LOCAL SPONSOR shall maintain commercial general liability (CGL) insurance with no less than the following limits:

▪ Each Occurrence Limit:	\$1,000,000
▪ General Aggregate:	\$2,000,000
▪ Products/Completed Operations Aggregate:	\$2,000,000
▪ Personal/Advertising Injury Liability:	\$1,000,000
▪ Fire Damage Legal Liability:	\$ 100,000
▪ Medical Expense	\$ 5,000

The CANAL CORPORATION, AUTHORITY and the State of New York shall be included as an Additional Insured, using ISO Additional Insured Endorsement CG 20 10 11 85 or its equivalent, under the CGL policy.

The CGL Policy shall apply as primary insurance with respect to any other insurance or self-insurance program afforded to or maintained by the CANAL CORPORATION.

- b. Workers' Compensation – the LOCAL SPONSOR shall provide and maintain coverage during the life of this Agreement for the benefit of such employees as are required to be covered by New York State Worker's Compensation Law.

If the Agreement involves work on or near a shoreline, a U.S. Longshore and Harbor Workers' Compensation Act Endorsement must be provided.

Evidence of Workers' Compensation coverage must be provided on one of the following forms specified by the Commissioner of the Workers' Compensation Board:

- (1) C-105.2 – Certificate of Workers' Compensation Insurance
  - (2) U-26.3 – Certificate of Workers' Compensation Insurance from the State Insurance Fund.
  - (3) GSI-105/SI-12 – Certificate of Workers' Compensation Self Insurance.
- c. Disability Benefits – the LOCAL SPONSOR shall provide and maintain coverage during the life of this Agreement for the benefit of such employees as are required to be covered by New York State Disability Benefits Law. Evidence of Disability Benefits coverage must be provided on one of the following forms specified by the Commissioner of the Workers' Compensation Board:
- (1) DB-120.1 – Certificate of Insurance Coverage under the New York State Disability Benefits Law.
  - (2) DB-155 – Certificate of Disability Self Insurance.
  - (3) CE-200 – Certificate of Attestation of Exemption.
- d. Marine Protection and Indemnity Coverage – the LOCAL SPONSOR shall provide and maintain Marine Protection and Indemnity (MPI) coverage under a marine policy providing coverage for all marine operations under this Agreement, with a minimum limit of \$1 million per occurrence/\$2 million aggregate. The CANAL CORPORATION, AUTHORITY and the State of New York shall be endorsed as additional insureds under the policy.
- e. Self Insurance: The LOCAL SPONSOR may elect to self-insure the CGL and/or MPI coverages with the approval of the CANAL CORPORATION. The approval to self-insure will be at the CANAL CORPORATION'S sole discretion. If the LOCAL SPONSOR self-insures, all of the provisions of the Grant relating to or affected by insurance required to be maintained by the LOCAL SPONSOR shall apply as if the LOCAL SPONSOR had in fact maintained policies of insurance in lieu of self-insurance, including, without limitation, benefits, if any, available to additional insureds. The CANAL CORPORATION, AUTHORITY and the State of New York shall receive the same coverage and protection under the LOCAL SPONSOR'S self-insurance as if it were named as an additional insured under the policies required pursuant to this section. The LOCAL SPONSOR will waive all subrogation rights under such self-insurance to the same extent such waiver is required under third party insurance.

10. Notices: All notices permitted or required to be given hereunder, except service of process as specified in Appendix A to this Agreement, shall be in writing and shall be transmitted using one of the following methods:
- (a) certified or registered United States mail, return receipt requested;
  - (b) facsimile transmission;
  - (c) personal delivery;
  - (d) expedited delivery service; or
  - (e) electronic mail
11. Termination: This Agreement may be terminated at any time upon the mutual written consent of the CANAL CORPORATION and LOCAL SPONSOR. The CANAL CORPORATION may terminate this Agreement immediately, upon written notice of termination to the LOCAL SPONSOR, if the LOCAL SPONSOR fails to comply with the terms and conditions of this Agreement and/or with any laws, rules, regulations, policies or procedures affecting this Agreement.
12. Severability Clause: If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be effected, but shall remain binding and effective as against all parties thereto.
13. Standard Contract Clauses and Appendices Incorporated by Reference: LOCAL SPONSOR agrees to comply with all of the terms and conditions set forth in Appendix A attached hereto and expressly made a part of this Agreement as fully as if set forth at length herein.

**Appendix A - Standard Clauses**

**Exhibit 1 - Supplemental Insurance Certificate (TA-W51343-9)**

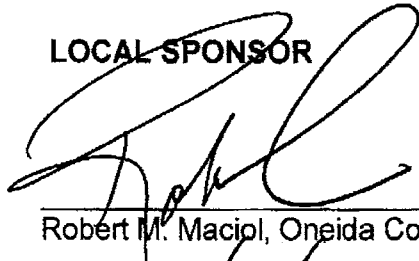
If any conflict or discrepancy should arise in the terms, conditions or technical documents of this Agreement or the interpretation thereof, the order of precedence for resolution shall be:

1. Appendix A
2. Agreement including all other Appendices

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written:

**NEW YORK STATE CANAL CORPORATION**

**LOCAL SPONSOR**



\_\_\_\_\_  
Maria Lehman, P.E.  
Interim Executive Director

\_\_\_\_\_  
Robert M. Maciol, Oneida County Sheriff

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

Date: 4/26/16

Federal ID #: \_\_\_\_\_

Approved as to Availability of Funds:

\_\_\_\_\_  
Anthony J. Picente Jr.  
Oneida County Executive

\_\_\_\_\_  
Authority Chief Financial Officer

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

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

Approved as to Policy:

\_\_\_\_\_  
Director of Purchasing

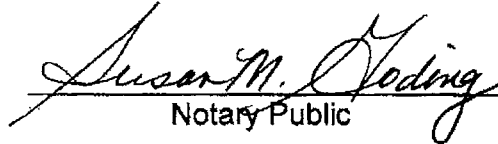
Recommended By:

\_\_\_\_\_  
Director, Canal Corporation

ONEIDA COUNTY SHERIFF'S OFFICE  
Contract #C010367

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF ONEIDA )

On this 26<sup>th</sup> day of APRIL, 2016, before me personally came, ROBERT M. MACIOL to me known or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and that he executed same in his capacity as the ONEIDA COUNTY SHERIFF and that by his signature on the instrument, the individual, or the person on behalf of whom the individual acted, executed the instrument.

  
Notary Public

SUSAN M. GODING  
Notary Public, State of New York  
Reg. #01GO6053603  
Qualified in Oneida County  
My Commission Expires Jan. 16, 2019

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF ONEIDA )

On this     day of             , 2016, before me personally came, ANTHONY J. PICENTE JR., to me known or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and that he executed same in his capacity as ONEIDA COUNTY EXECUTIVE and that by his signature on the instrument, the individual, or the person on behalf of whom the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public



APPENDIX A  
Standard Clauses



**APPENDIX A****Standard Clauses For New York State Thruway Authority And  
New York State Canal Corporation Contracts**

The parties to the attached contract, license, lease, amendment or other agreement of any kind ("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 and its agents, successors and assigns, other than the Thruway Authority ("Authority") or Canal Corporation ("Corporation"), whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. **NON-ASSIGNMENT CLAUSE.** This contract may not be assigned by the Contractor nor may its right, title or interest therein be assigned, transferred, conveyed, subcontracted, sublet or otherwise disposed of without the previous consent, in writing, of the Authority/Corporation and any attempts to assign the contract without the Authority's/Corporation's written consent are null and void.
2. **COMPTROLLER APPROVAL.** Unless otherwise provided by resolution of the Authority or Corporation Board, if this contract involves the expenditure of funds for goods or services in excess of \$50,000, or the expenditure of funds for any other purpose in excess of \$15,000, or if, by this contract, the Authority/Corporation agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, this contract shall not be valid, effective or binding upon the Authority/Corporation until it has been approved by the State Comptroller and filed in his office.
3. **WORKERS' COMPENSATION AND DISABILITY BENEFITS.** 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 State Workers' Compensation Law. If employees will be working on, near or over navigable waters, a U.S. Longshore and Harbor Workers' Compensation Act endorsement must be included.
4. **NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the State 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 (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with State Labor Law §220-e, 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 State Labor Law §230, then, in accordance with §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 per person per day for any violation of State Labor Law §§220-e or 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.
5. **WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the State 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 State 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 State Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the New York State 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 New York State Labor Law shall be a condition precedent to payment by the Authority/Corporation of any Authority/Corporation approved sums due and owing for work done on the project.
6. **NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with State Public Authorities Law §2878, if this contract was awarded based upon the submission of bids, the

Contractor warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further warrants that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the Authority/Corporation a non-collusive bidding certification on the Contractor's behalf.

**7. INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with State Labor Law §220-f, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of this 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. §§2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of the 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 Authority/Corporation within five (5) business days of such conviction, determination or disposition of appeal.

**8. SET-OFF RIGHTS.** The Authority/Corporation shall have rights of set-off. These rights shall include, but not be limited to, the Authority's/Corporation'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 by the Contractor to the Authority/Corporation with regard to this contract, or any other contract with the Authority/Corporation, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the Authority/Corporation for any other reason including, without limitation, monetary penalties, adjustments, fees, or claims for damages by the Authority/Corporation and third parties in connection therewith.

**9. RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (collectively, "Records") for a period of six (6) years (or any other longer period required by law) following final payment or the termination of this contract, whichever is later, and any extensions thereto. The Authority/Corporation, State Comptroller, State Attorney General and any other person or entity authorized to conduct an examination shall have access to the Records during normal business hours at an office of the Contractor within New York State, or, if no such office is available, at a mutually agreeable and reasonable venue within the State, during the contract term, any extensions thereof and said six (6) year period thereafter, for purposes of inspection, auditing and copying. As used in this

clause, "termination of this contract" shall mean the later of completion of the work of the contract or the end date of the term stated in the contract. The Authority/Corporation will take reasonable steps to protect from public disclosure those Records which are exempt from disclosure under State Public Officers Law §87 ("Statute") provided that: (i) the Contractor shall timely inform an appropriate Authority/Corporation official, in writing, that said records should not be disclosed; (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 Authority's/Corporation's right to discovery in any pending or future litigation.

**10. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to the Authority/Corporation must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

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 State Tax Law §5. Disclosure of this information by the seller or lessor to the Authority/Corporation 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 State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.

The above personal information is maintained at the New York State Thruway Authority/Canal Corporation, Department of Finance and Accounts, P.O. Box 189, Albany, New York 12201.

**11. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.** In accordance with State Executive Law §312, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000, whereby the Authority/Corporation 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 Authority/Corporation; or (ii) a written agreement in excess of \$100,000 whereby the Authority/Corporation 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 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, or major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this contract 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, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on Authority/Corporation 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. As used in this clause, "affirmative action" shall mean recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, lay-off or termination, and rates of pay or other forms of compensation.

(b) At the request of the Authority/Corporation, 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.

(c) The Contractor shall state, in all solicitations or advertisements for employees, that in the performance of this 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.

The Contractor shall include the provisions of (a), (b) and (c) above in every subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon except where such 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 Authority/Corporation will consider compliance by a Contractor or its subcontractor with the

requirements of any Federal law concerning equal employment opportunity which effectuates the purpose of this section. The Authority/Corporation 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 Authority/Corporation may 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 thereto.

**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 Appendix A, the terms of this Appendix A 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. LATE PAYMENT.** Timeliness of payment and any interest to be paid to the Contractor for late payment shall be governed by State Public Authorities Law §2880 and 21 NYCRR Part 109.

**15. 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.

**16. SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules, the Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon the Contractor's actual receipt of process or upon the Authority's/Corporation's receipt of the return thereof by the United States Postal Service as refused or undeliverable. The Contractor must promptly notify the Authority/Corporation, in writing, of each and every change of address to which service of process can be made. Service by the Authority/Corporation to the last known address shall be sufficient. The Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

**17. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165 (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 Authority/Corporation.

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 State Finance Law §165. Any such use must meet with the approval of the Authority/Corporation; 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 Authority/Corporation.

#### 18. 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 State Finance Law §165), and shall permit independent monitoring of compliance with such principles.

19. **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  
30 South Pearl Street – 7th Floor  
Albany, NY 12245  
Phone: (518) 292-5220  
Fax: (518) 292-5884  
<http://www.esd.ny.gov>

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development Minority and Women's Business Development Division  
30 South Pearl Street – 2nd Floor  
Albany, NY 12245  
Phone: (518) 292-5250  
Fax: (518) 292-5803  
<http://www.esd.ny.gov>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, the Contractor certifies 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 Authority/Corporation;

(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 NYS 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 Authority/Corporation upon request; and

(d) The Contractor acknowledges notice that the Authority/Corporation may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the Authority/Corporation in these efforts.

#### 20. 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 (Chapters 684 and 383, respectively) require that they be denied contracts which they would otherwise obtain. Contact the Department of Economic Development, Division for Small Business, 30 South Pearl Street, Albany, New York 12245, for a current list of jurisdictions subject to this provision.

#### 21. NON-PUBLIC PERSONAL INFORMATION.

The 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). In addition to any relief or damages that may be imposed pursuant to the provisions of this Act, the Contractor shall be liable for the costs imposed upon the Authority which are associated with breach of the Act if caused by Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of the Contractor's agents, officers, employees or subcontractors.

**22. IRAN DIVESTMENT ACT.** In accordance with State Public Authorities Law §2879-c, if this is a contract for work or services performed or to be performed, or goods sold or to be sold, the Contractor subscribes and affirms, under penalty of perjury, that: by signing this contract, each person and each person signing on behalf of any other party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each person is not on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law.

For the purposes of this clause, the term "person" shall be as defined in subdivision (1)(e) of Section 165-a of the State Finance Law.

**23. OBSERVANCE OF LAWS.** The Contractor agrees to observe all applicable Federal, State and local laws and regulations, and to procure all necessary licenses and permits.

**24. NO WAIVER OF PROVISIONS.** The Authority's/Corporation's failure to exercise or delay in exercising any right or remedy under this contract shall not constitute a waiver of such right or remedy or any other right or remedy set forth therein. No waiver by the Authority/Corporation of any right or remedy under this contract shall be effective unless made in a writing duly executed by an authorized officer of the Authority/Corporation, and such waiver shall be limited to the specific instance so written and shall not constitute a waiver of such right or remedy in the future or of any other right or remedy under this contract.

**25. ENTIRE AGREEMENT.** This contract, together with this Appendix A and any other appendices, attachments, schedules or exhibits, constitutes the entire understanding between the parties and there are no other oral or extrinsic understandings of any kind between the parties. This contract may not be changed or modified in any manner except by a subsequent writing, duly executed by the parties thereto.

**EXHIBIT 1**

**Authority Supplemental Insurance Certificate**



**SUPPLEMENTAL INSURANCE CERTIFICATE**



This form supplements ACORD 25 CERTIFICATE OF LIABILITY INSURANCE documentation as required by the NYSTA/NYSCC. For additional information, please contact the NYSTA's Insurance Compliance Section at (518) 436-2891.

Insured: \_\_\_\_\_

All Work under NYSTA/NYSCC Project/Agreement/Permit No.: \_\_\_\_\_  
(If NYSTA/NYSCC Permit, leave blank unless Permit No. is known)

Complete/check appropriate boxes:

	Yes	No
<b>I. Commercial General Liability (CGL) Insurance - Policy No.</b> _____		
a. Does the General Aggregate reflect a per-project aggregate endorsement (CG 25 03 05 09 or equivalent)?	<input type="checkbox"/>	<input type="checkbox"/>
b. Does the CGL provide coverage for:		
1. Explosion, Collapse and Underground Hazards (XCU)?	<input type="checkbox"/>	<input type="checkbox"/>
2. Products & Completed Operations Liability?	<input type="checkbox"/>	<input type="checkbox"/>
3. Additional Insureds for claims involving injury to employees of the Named Insured or subcontractors?	<input type="checkbox"/>	<input type="checkbox"/>
4. Is Cross liability in the ISO GL policy (i.e., Insured vs. Insured suits) excluded? If "No", is Cross liability in the ISO-GL policy restricted?	<input type="checkbox"/>	<input type="checkbox"/>
5. Property damage to work due to Independent contractor's (subcontractor's) operations?	<input type="checkbox"/>	<input type="checkbox"/>
c. Is the CGL policy written on ISO form CG 00 01 12 07 or an equivalent form?	<input type="checkbox"/>	<input type="checkbox"/>
<b>II. Workers' Compensation - Policy No.</b> _____		
a. Does Workers' Comp. apply to federally-regulated employment (i.e., Jones Act, USL&H)?	<input type="checkbox"/>	<input type="checkbox"/>
b. Is Workers' Comp. from a New York State authorized insurer?	<input type="checkbox"/>	<input type="checkbox"/>
c. If sole proprietorship, partnership, or corporation with one or two shareholders, is Workers' Comp. coverage provided for owners?	<input type="checkbox"/>	<input type="checkbox"/>
<b>III. Environmental Insurance (EI) (including Asbestos &amp; Lead Abatement) - Policy No.</b> _____		
<b>Professional Liability Insurance (PLI) (including Errors &amp; Omissions) - Policy No.</b> _____		
a. Do EI defense costs reduce liability limits?	<input type="checkbox"/>	<input type="checkbox"/>
b. If EI is on a claims-made basis, what is the retroactive date? _____		
c. Do PLI defense costs reduce liability limits?	<input type="checkbox"/>	<input type="checkbox"/>
d. If PLI is on a claims-made basis, what is the retroactive date? _____		
<b>IV. Mandatory Endorsements and Other Provisions (all policies including auto liability)</b>		
a. Is the NYSTA/NYSCC listed as an Additional Insured by ISO endorsement CG 20 10 11 85 or its equivalent, under the CGL and Umbrella policies?	<input type="checkbox"/>	<input type="checkbox"/>
b. Are the Umbrella and/or Excess Liability insurance policies issued on a "stand alone" or "follow form basis" to the primary CGL, Commercial Auto and/or Employer's Liability? Identify for each policy:		
	Stand Alone	Follow Form
Umbrella Policy No. _____	<input type="checkbox"/>	<input type="checkbox"/>
Excess Policy No. _____	<input type="checkbox"/>	<input type="checkbox"/>
	No Policy	
c. Are all policies endorsed to provide 30 days advance notice to the NYSTA/NYSCC of termination/material change, except for non-payment/cancellation? If "No", identify policies that are not endorsed: _____	<input type="checkbox"/>	<input type="checkbox"/>
d. Do any of the policies on the attached ACORD 25 contain a Deductible (D) or Self-Insured Retention (SIR)? If "Yes", indicate the specific policy, whether D or SIR, its amount, and whether it is on a per claim, per occurrence or aggregate basis: _____	<input type="checkbox"/>	<input type="checkbox"/>
e. Is the Automobile Liability policy endorsed to include <b>either</b> ISO endorsement CA 99 48 03 06 - Pollution Liability - Broadened Coverage for Covered Autos-Business Auto, Motor Carrier and Truckers Coverage Forms <b>or</b> ISO endorsement CA 00 12 03 06 - Truckers Coverage Forms?	<input type="checkbox"/>	<input type="checkbox"/>

This certificate is issued as a matter of information only. The information provided herein accurately describes the policies listed above; and does not affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed above. The insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

Signed: \_\_\_\_\_

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

Print Name: \_\_\_\_\_

Insurer's Agent

Title: \_\_\_\_\_

Insurance Broker

Firm Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Fax No.: ( ) - \_\_\_\_\_

E-mail: \_\_\_\_\_

Office of the Sheriff

County of Oneida

Undersheriff Robert Swenszkowski  
Chief Deputy Jonathan G. Owens

Chief Deputy Gregory Pflieger  
Chief Deputy Joseph A. Lisi



*Sheriff Robert M. Maciol*

June 16, 2017

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

FN 20 17-248

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

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

PUBLIC SAFETY

WAYS & MEANS

Date 6-29-17

Dear County Executive Picente:

The Sheriff's Office is requesting approval for the renewal of the contract to provide inmate security services at Central New York Psychiatric Center with Ulster County.

The Sheriff's Office has previously contracted with Ulster County to offer its inmates security services during the time that Ulster County inmates undergo psychiatric care at the Central New York Psychiatric Center, located in Marcy, New York. This agreement has been, and will continue to be, an important source of revenue for the Sheriff's Office.

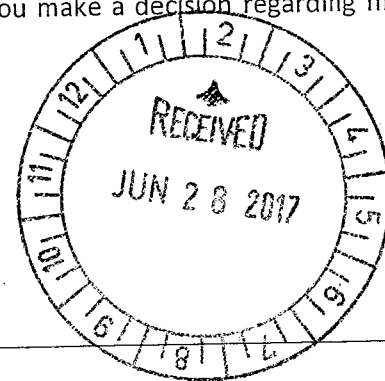
Consequently, the Sheriff's Office is currently seeking to renew this agreement with Ulster County, which would commence on January 1, 2017, and expire on December 31, 2019. The aforementioned county agrees to pay the Sheriff's Office \$185.00 per inmate, per day, for the security services rendered by the Sheriff's Office.

At this time we are requesting that this Agreement be used as a template for all counties throughout New York State. A list of counties that will be included is attached.

If you find the enclosed contract acceptable, I am requesting that you forward the same, with the list of all proposed counties, to the Board of County 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



**Administrative Office**  
6065 Judd Road Oriskany, NY 13424  
Voice (315) 736-8364  
Fax (315) 765-2205

**Law Enforcement Division**  
6065 Judd Road Oriskany, NY 13424  
Voice (315) 736-0141  
Fax (315) 736-7946

**Correction Division**  
6075 Judd Road Oriskany, NY 13424  
Voice (315) 768-7804  
Fax (315) 765-2327

**Civil Division**  
200 Elizabeth Street Utica, NY 13501  
Voice (315) 798-5862  
Fax (315) 798-6495



**Oneida County Department/Office:** Sheriff's Office

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

**ONEIDA COUNTY BOARD OF LEGISLATORS**

**Providing Service to:** Ulster County  
380 Boulevard  
Kingston, NY 12401

**Title of Activity or Service:** Security Services at the CNY Psychiatric Center

**Proposed Dates of Operation:** January 1, 2017 – December 31, 2019

**Client Population/Number to be Served:** For inmates who are in need of psychiatric care and meet Section 508 of Correction Law criteria

**Summary Statements**

- 1) **Narrative Description of Proposed Services:** Oneida County Sheriff's Office provision of security services at the CNY Psychiatric Center
- 2) **Program/Service Objectives and Outcomes:** Guarding Contract County's inmates as they obtain psychiatric care and treatment at the CNY Psychiatric Center
- 3) **Program Design and Staffing:** 24-7 security coverage of contracted county's inmates at the CNY Psychiatric Center

**Total Funding Requested:** \$185.00 Daily rate

**Account #:** A2270 (revenue)

**Oneida County Dept. Funding Recommendation:** N/A

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

**Cost Per Client Served:** \$185.00 per day/per inmate (revenue)

**Past Performance Data:** N/A

**Oneida County Department/Office Staff Comments:** Revenue helps to offset expenses incurred by the correctional facility. At this time we are requesting this Agreement be used as a template for all counties throughout New York State.

Security: Central New York Psychiatric Center

## AGREEMENT

# ORIGINAL

THIS AGREEMENT, made the first day of January, 2017, by and between the County of Oneida, a municipal corporation organized and existing under the laws of the State of New York, with principal offices located at 800 Park Avenue, Utica, New York 13501, hereinafter called "Oneida County", by and through the Oneida County Sheriff's Office, with offices at 6075 Judd Road, Oriskany, New York 13424, and the County of Ulster, a municipal corporation organized and existing under the laws of the State of New York, with principal offices at 244 Fair Street, Kingston, NY 12401 hereinafter called "Contract County," by and through the Ulster County Sheriff's Office, with offices at 380 Boulevard, Kingston, NY 12401.

## WITNESSETH

WHEREAS, the Central New York Psychiatric Center Forensic Unit (hereinafter called "Forensic Unit") provides services at the Central New York Psychiatric Center, located at P.O. Box 300, 9005 Old River Road, Marcy, NY 13403; and

WHEREAS, the Forensic Unit has the capability of providing services for the Sheriff's Departments of surrounding counties which may have inadequate facilities for treating mentally ill inmates; and

WHEREAS, the Forensic Unit is located in Oneida County and the Contract County has the need from time to time to have prisoners treated at the Forensic Unit; and

WHEREAS, the Oneida County Sheriff's Office is able to provide security services at the Forensic Unit; and

WHEREAS, the New York State Correction Law provides for the designation of substitute jails, and for the removal of prisoners from a jail to appropriate facilities for care and treatment; and

WHEREAS, the parties hereto wish to confirm their understanding and make an agreement pursuant to Section 508 of the New York State Correction Law for security at the Central New York Psychiatric Center in Marcy, New York for Contract County's inmates who are in need of psychiatric care; and

WHEREAS, the parties acknowledge that the Central New York Psychiatric Center provides in-patient services to Contract County's inmates who meet the criteria of Section 508 of the New York State Correction Law, conditioned upon available bed space and the recommendations of the examining psychiatrist at the Central New York Psychiatric Center;

NOW, THEREFORE, the parties hereto agree as follows:

### SECTION 1. DUTIES OF THE CONTRACT COUNTY

- A. The Contract County agrees to obtain and complete all applications and certificates required by Section 508 of the New York State Correction Law for the removal of its inmates to a Psychiatric Hospital for the provision of mental health treatment.

Security: Central New York Psychiatric Center

- B. Upon completion of all required paperwork, the Contract County shall call the Oneida County Sheriff's Office during the business day to confirm availability of bed space.
1. The Contract County shall give as much information as possible concerning the potential admission.
  2. The psychiatrist at Central New York Psychiatric Center shall make the final decision as to whether to admit the Contract County's inmate to the facility.
- C. The Contract County agrees to apply for and obtain, pursuant to Section 504 of the New York State Correction Law, any and all orders from the New York State Commission of Corrections deemed necessary in order to designate the Oneida County Correctional Facility as a substitute jail for the confinement of the Contract County's inmates who are in need of the forensic services provided for at the Forensic Unit.
- D. The Contract County agrees that in the event an inmate is transferred to the custody of the Oneida County Sheriff's Office and is thereafter admitted for treatment at the Forensic Unit, the Contract County shall:
1. Notify the Director of Community Services at the Central New York Psychiatric Center, notify the inmate's attorney, and notify the inmate's family (in the event that information on the family is available);
  2. Transport the inmate to the Forensic Unit;
  3. Retain custody of the inmate until a body receipt is obtained from an Oneida County Sheriff's Office Correction Officer on duty at the Forensic Unit;
  4. Complete and deliver to the Forensic Unit with the inmate, all appropriate admission papers and other information relative to the inmate's psychiatric condition. The Contract County hereby acknowledges its understanding that failure to provide correctly completed paperwork will result in an inability to admit the inmate;
  5. Transport the inmate to and from any location outside Oneida County; and
  6. Transport the inmate from the Forensic Unit back to the Contract County in the event that the inmate is discharged, released from custody by means of posting bail, being released on their own recognizance, having had all charges dismissed, having been adjudicated not guilty of all charges by a court, or by other legal means.

Security: Central New York Psychiatric Center

- E. The Contract County agrees to pay to Oneida County the sum of One Hundred Eighty-Five Dollars (\$185.00) per day, per inmate, for security services detailed in Section 2, below.

## **2. DUTIES OF ONEIDA COUNTY**

- A. Oneida County agrees to provide a Correction Officer at the Forensic Unit to guard said inmate(s) at all times after their admission into the Forensic Unit.
- B. In the event that such becomes necessary, Oneida County agrees to provide transportation for all inmates in need of medical care to and from local medical providers and hospitals only, subject to the following:
1. If an inmate committed to the Forensic Unit is subsequently treated by a medical provider, or admitted to a hospital, the Contract County shall pay for all medical expenses incurred; and
  2. Within 48 hours of admission, the Contract County shall either:
    - a. Assume custody of their inmate at the hospital; or
    - b. Arrange for transfer of the inmate/patient to a hospital in the Contract County; and
  3. In the event that an inmate is admitted to a hospital as an inpatient, the security services fee of \$185.00 per day shall be waived and Oneida County shall charge the Contract County the actual costs of transporting and guarding the inmate.

## **3. TREATMENT OF INMATES AT CENTRAL NEW YORK PSYCHIATRIC CENTER**

- A. Admitted inmates shall be treated and housed at the Forensic Unit in Marcy, New York until such time as the Central New York Psychiatric Center's Director shall discharge said inmates in accordance with the provisions of Section 508 of the New York State Correction Law.
- B. All costs for the care and treatment of said inmates shall be assessed in accordance with the applicable provisions of the Mental Hygiene Law and shall be the responsibility of either the Contract County or the State of New York.
- C. The Contract County shall be responsible for taking any action necessary to make the cost for care and treatment the responsibility of the State of New York.

## **4. TERM; CANCELLATION**

- A. The parties hereto agree the term of this Agreement shall be for three (3) years, commencing on January 1, 2017 and running until December 31, 2019.

Security: Central New York Psychiatric Center

- B. Either Oneida County or the Contract County may cancel this agreement, with or without cause, by giving the other party thirty (30) days written notice of its intent to terminate.

## **5. INDEMNIFICATION**

To the fullest extent permitted by applicable law, Contract County, or (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 Contract County's Authorized Personnel) arising out of or in connection with the exercise by Contract County or any of Contract County'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.

## **6. 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.

## **7. ENTIRE AGREEMENT**

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, Addendum I (Standard Oneida County Conditions).

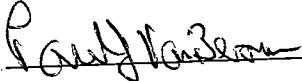
No waiver, alterations or modifications of and provisions of this Agreement shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

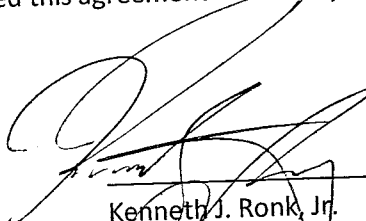
SIGNATURES FOLLOW ON THE NEXT PAGE

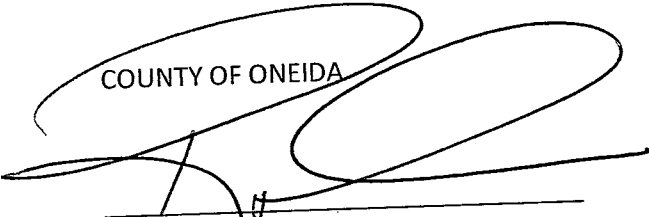
Security: Central New York Psychiatric Center

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year written below.

COUNTY OF ULSTER

  
Paul VanBlarcum  
Ulster County Sheriff

  
Kenneth J. Ronk, Jr.  
Ulster County Chairman

COUNTY OF ONEIDA  
  
Robert M. Maciol  
Oneida County Sheriff


\_\_\_\_\_  
Anthony J. Picente, Jr.  
Oneida County Executive

Approved

\_\_\_\_\_  
Robert E. Pronteau  
Assistant County Attorney

STATE OF NEW YORK  
COUNTY OF ULSTER

On this 5 day of Jan., <sup>2017</sup>2016, before me, the subscriber, personally came Paul VanBlarcum to me known, who being by me duly sworn, did depose and say that he resides in Ulster County New York; that he is the SHERIFF of the Contract County, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that it was so affixed by virtue of the statutes of the State of New York in such case made and provided and that he signed his name hereto by virtue of such authority.

  
Notary Public

AMIE O. GOODRICH  
Notary Public, State of New York  
No. 01GO439455  
Commission Expires July 25, 2018

Security: Central New York Psychiatric Center

STATE OF NEW YORK

COUNTY OF ULSTER

On this 18<sup>th</sup> day of January, <sup>2017</sup>~~2016~~, before me, the subscriber, personally came Kenneth J. Ronk, Jr. to me known, who being by me duly sworn, did depose and say that she resides in Ulster County New York; that she is the COUNTY CHAIRMAN of the Contract County, the corporation described in and which executed the above instrument; that she knows the seal of said corporation; that it was so affixed by virtue of the statutes of the State of New York in such case made and provided and that she signed her name hereto by virtue of such authority.

**BEATRICE HAVRANEK**  
NOTARY PUBLIC - STATE OF NEW YORK  
Registration No. 02HA5024263  
Qualified in Ulster County  
Commission Expires March 7, 2018

Beatrice Havranek  
Notary Public

STATE OF NEW YORK

COUNTY OF ONEIDA

On this 16<sup>th</sup> day of JUNE, <sup>2017</sup>~~2016~~ before me, the subscriber, personally came Robert M. Maciol, to me known, who being by me duly sworn, did depose and say that he resides in Oneida County New York; that he is the SHERIFF of Oneida County, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that it was so affixed by virtue of the statutes of the State of New York in such case made and provided and that he signed his name hereto by virtue of such authority.

SUSAN M. GODING  
Notary Public, State of New York  
Reg. #01GO6053603  
Qualified in Oneida County  
My Commission Expires Jan. 16, 2019

Susan M. Goding  
Notary Public

STATE OF NEW YORK

COUNTY OF ONEIDA

On this \_\_\_ day of \_\_\_\_\_, 2016, before me, the subscriber, personally came Anthony J. Picente, Jr., to me known, who being by me duly sworn, did depose and say that he resides in Oneida County New York; that he is the COUNTY EXECUTIVE of Oneida County, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that it was so affixed by virtue of the statutes of the State of New York in such case made and provided and that he signed his name hereto by virtue of such authority.

\_\_\_\_\_  
Notary Public

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**ADDENDUM I**

**THIS ADDENDUM**, entered into on this \_\_\_ day of \_\_\_\_\_, 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



Security: Central New York Psychiatric Center

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

Security: Central New York Psychiatric Center

- 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).

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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

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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:

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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

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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.

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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

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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

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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.





Undersheriff Robert Swenszkowski  
Chief Deputy Jonathan G. Owens

Chief Deputy Gregory Pflieger  
Chief Deputy Joseph A. Lisi

*Sheriff Robert M. Maciol*

June 6, 2017

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

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

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

Date 6-19-17

FN 20 17-249

PUBLIC SAFETY

WAYS & MEANS

Dear County Executive Picente:

The Sheriff's Office was recently awarded a Grant from the New York State Division of Criminal Justice Services in the amount of \$29,786.00. I am requesting approval of this grant contract.

The grant is set to begin January 1, 2017, and end on December 31, 2017. **There are no county dollars in this contract.** The goal of this grant is to purchase fifty (50) Ballistic Helmets and fifty (50) Ceramic Body Armor response systems to be used in active shooter and similar high-risk incidents. Both items will provide enhanced protection to responding officers in high-risk situations.

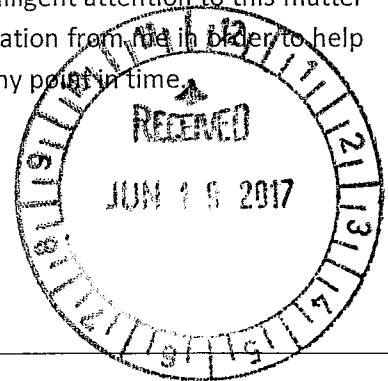
**This Agreement requires Board approval at the Board's next meeting date for the following:**

- A. Approval of the Grant Award from NYS Division of Criminal Justice Services in the amount of \$29,786.00; and
- B. Approval of a Supplemental Appropriations for the funds received in the amount of \$29,786.00 to be moved from Revenue Account A3384 "State Aid" into Expense Account A3120.4365 "Body Armor".

If you find the enclosed grant contract acceptable, I am requesting your approval by way of signature both on paper and by **e-signature in the GMS portal**. 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*

Robert M. Maciol  
Sheriff



**Oneida County Department:** Sheriff's Office

**Competing Proposal:**  
**Only Respondent:**  
**Sole Source RFP:**  
**Other: Grant**

**ONEIDA COUNTY BOARD OF LEGISLATORS**

**Name & Address of Vendor:** NYS Division of Criminal Justice Services  
80 South Swan Street  
Albany, NY 12210

**Title of Activity or Service:** Grant to purchase equipment

**Proposed Dates of Operation:** 1/1/2017-12/31/2017

**Client Population/Number to be Served:** Oneida County Residents

**Summary Statements**

- 1) **Narrative Description of Proposed Services:** Purchase of Ballistic Helmets and Ceramic Body Armor.
- 2) **Program/Service Objectives and Outcomes:** Purchase of Equipment to enhance level of safety and coverage to officers responding to high-risk incidents
- 3) **Program Design and Staffing:** N/A

**Total Funding Requested:** \$29,786      **Account #:** A3120.4365 (expense) A3384 (Revenue)

**Oneida County Dept. Funding Recommendation:** \$29,786

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

Cost Per Client Served: N/A

Past performance Data: N/A

**Oneida County Department/Office Staff Comments:** This equipment will help to enhance the level of safety to officers responding to high risk situations throughout the County.

<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> T444767                  (Contract Number)   <u>ORIGINATING AGENCY CODE:</u> 01490 - Division of Criminal Justice Services</p>
<p><u>GRANTEE/CONTRACTOR:</u> (Name &amp; Address)                  Oneida County                  800 Park Avenue                  Utica, NY 13501-2939</p>	<p><u>TYPE OF PROGRAMS:</u> Police Protective Equipment Program  <u>DCJS NUMBERS:</u> PP16444767  <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 01/01/2017 TO 12/31/2017  <u>FUNDING AMOUNT FROM INITIAL PERIOD:</u> \$29,786.00</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): 0 1-year renewal options.</p>
<p><u>CHARITIES REGISTRATION NUMBER:</u>                  [ ]                  (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"/> <u>APPENDIX A:</u> Standard Clauses required by the Attorney General for all State contracts</p> <p><input checked="" type="checkbox"/> <u>APPENDIX A1:</u> Agency-specific Clauses</p> <p><input checked="" type="checkbox"/> <u>APPENDIX B:</u> Budget</p> <p><input checked="" type="checkbox"/> <u>APPENDIX C:</u> Payment and Reporting Schedule</p> <p><input checked="" type="checkbox"/> <u>APPENDIX D:</u> Program Workplan</p> <p><input type="checkbox"/> <u>APPENDIX F:</u> Guidelines for the Control and Use of Confidential Funds</p> <p><input type="checkbox"/> <u>APPENDIX G:</u> Procedural Guidelines for the Control of Surveillance Equipment</p> <p><input checked="" type="checkbox"/> <u>APPENDIX M:</u></p> <p><input checked="" type="checkbox"/> <u>Other (Identify)</u></p> <p>Appendix M</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><u>ATTORNEY GENERAL'S SIGNATURE</u>                  _____                  Title: _____                  Date: _____</p>	<p><u>APPROVED,</u>                  Thomas P. DiNapoli, State Comptroller                  _____                  Title: _____                  Date: _____</p>

**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

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.

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

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

The most current version of these Federal OMB Circulars may be viewed on-line at: [http://www.whitehouse.gov/omb/circulars\\_default/](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



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

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).

**Award Contract**

**Police Protective Equipment Program**

**Project No.**

**Grantee Name**

PP16-1196-D00

Oneida County

03/20/2017

**APPENDIX B - Budget Summary by Participant**

Oneida County

Oneida County Sheriffs Office -Version 1

#	Equipment	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	Paraclete PASGT level IIIA Ballistic Helmet	1	\$10,786.00	\$10,786.00	\$10,786.00	\$0.00
Justification: The Oneida County Sheriff's Office is interested in purchasing, from the grant funding, protective armor equipment including helmets and body armor in order to better facilitate the protection of officers that may respond to active shooter and similar high-risk incidents. Such armor provides an enhanced level of safety and coverage to officers that do not currently exist within our agency. Such protection enhances a responding officer's ability to better address threats posed to the public in active shooter situations. Specifically we are requesting the purchase of 50 PASGT style level IIIA ballistic helmets supported by a four point harness system and padding. Also we request to purchase 50 level IV ceramic body armor response systems inclusive of rapid deployment carriers to facilitate a simple and quick accessible means of protection. Number- 50						
2	Active Shooter Response Package level IV Ceramic Armor	1	\$19,000.00	\$19,000.00	\$19,000.00	\$0.00
Justification: The Oneida County Sheriff's Office is interested in purchasing, from the grant funding, protective armor equipment including helmets and body armor in order to better facilitate the protection of officers that may respond to active shooter and similar high-risk incidents. Such armor provides an enhanced level of safety and coverage to officers that do not currently exist within our agency. Such protection enhances a responding officer's ability to better address threats posed to the public in active shooter situations. Specifically we are requesting the purchase of 50 PASGT style level IIIA ballistic helmets supported by a four point harness system and padding. Also we request to purchase 50 level IV ceramic body armor response systems inclusive of rapid deployment carriers to facilitate a simple and quick accessible means of protection. Number- 50						
Total				\$29,786.00	\$29,786.00	\$0.00

Total Project Costs	Total Cost	Grant Funds	Matching Funds
	\$29,786.00	\$29,786.00	\$0.00

Total Contract Costs	Total Cost	Grant Funds	Matching Funds
	\$29,786.00	\$29,786.00	\$0.00

**Award Contract****Police Protective Equipment Program****Project No.****Grantee Name**

PP16-1196-D00

Oneida County

03/20/2017

## 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

VER05/13/2013  
Certified by + on

**Objective #3**

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 #3**

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.**

4. Participating law enforcement agencies also receiving GIVE funds shall enforce the provisions of Orders of Protection, particularly with respect to those provisions prohibiting the ownership or possession of firearms, when so ordered in family or criminal court and served upon the defendant and will enforce the firearms prohibition provisions of the federal Violence Against Women Act.

5. All local police agencies accepting funding for DCJS approved patrol rifles will be responsible to train any and all officers in the use of these DCJS approved patrol rifles prior to utilizing the equipment provided by DCJS. Appropriate training shall include agency approved training, manufacturer training or the use of the Municipal Police Training Council Patrol Rifle Course. Annual patrol rifle proficiency training consisting of live fire training on the firing range is also required.

**C. Funding:**

1. This contract may be extended, increased, decreased, renewed, amended or renegotiated at the discretion of the Executive Deputy Commissioner of the Division of Criminal Justice Services or as otherwise agreed upon by the Parties.

2. Grantee agrees that these funds will be used to supplement and not supplant existing funds and services.

3. The following conditions will apply to contracts between two New York State governmental entities: This is an agreement between two New York State governmental entities, and as such the provisions contained herein with respect to grants are applicable only to the extent that the provisions would otherwise be applicable between New York State governmental entities.

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 Contractor's 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 utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce,



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.

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

**CHIEF TRIAL COUNSEL**  
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# Oneida County Public Defender Criminal Division

## Main Office

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321 Main Street  
Utica, New York 13501  
Telephone: (315) 798-5870 • Fax: (315) 734-0364  
e-mail: [Pubdef@ocgov.net](mailto:Pubdef@ocgov.net)

**CHIEF APPELLATE COUNSEL**  
Patrick J. Marthage, Esq.

**INVESTIGATOR'S OFFICE**  
James J. Laribee, Sr. Investigator

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

Tuesday, June 13, 2017

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

FN 20 17-250

**PUBLIC SAFETY**

**WAYS & MEANS**

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

  
Anthony J. Picente, Jr.  
County Executive

Date 6/23/17

**Re: Certification of Section 606 Expenses**

Kevin Baptiste, George Coney, Jonathan M. Conorquie, Jonathan Corona, Kenneth Figueroa, Robert A. Gaddy, Sheldon W. Gilbert, Adarryll Hammond, Ismael Heredia, Lloyd R. Hunt, Gerald T. Jackson, Eric Kurts, Randy Manzueta, Louis W. Martin, Peter Martinez, Carlos Morales, Eugene W. Peek, Justo J. Pena, Luis Pinero, Vidal Soriano and Anthony Valentin, 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:

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

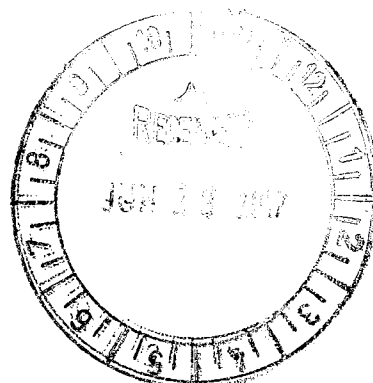
Upon approval by the Board of Legislators, the certification needs to be attached to this packet and forwarded to the Oneida County Comptroller for his signature on the payment voucher prior to submission to the State.

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



PROPOSED RESOLUTION

WHEREAS, certain inmates in the custody of the New York State Department of Correctional Services were charged with crimes while residing in a New York State correctional facility located in the County of Oneida, and said inmates having required the services of the Oneida County Public Defender, Criminal Division to represent them before the various courts in Oneida County while incarcerated herein, and

WHEREAS, the Oneida County Public Defender, Criminal Division duly represented said inmates, and

WHEREAS, Section 606 of the Correction Law of the State of New York mandates reimbursement for such services to the County of Oneida for such legal defense, and

WHEREAS, the Oneida County Public Defender, Criminal Division has certified to the Oneida County Board of Legislators that the expenses incurred by him while undertaking said legal representation amounted to the sum of **\$11,173.45** for undertaking the legal defense of:

Kevin Baptiste, George Coney, Johnathan M. Conorquie, Jonathan Corona, Kenneth Figueroa, Robert A. Gaddy, Sheldon W. Gilbert, Adarryll Hammond, Ismael Heredia, Lloyd R. Hunt, Gerald T. Jackson, Eric Kurts, Randy Manzueta, Louis W. Martin, Peter Martinez, Carlos Morales, Eugene W. Peek, Justo J. Pena, Luis Pinero, Vidal Soriano and Anthony Valentin, being inmates of the State of New York.

WHEREAS, we have examined the documents provided by the Oneida County Public Defender, Criminal Division and find them to be a true and accurate account of his expenses concerning these matters,

NOW, THEREFORE BE IT RESOLVED, that this resolution and the vouchers, documents and affidavits of the Oneida County Public Defender, Criminal Division be forwarded to the Budget and Finance Office of the New York State Department of Correctional Services as required by Section 606 of the Correction Law and Title 7, Part 410 of the New York Code of Rules and Regulations for payment.

**In the Matter of the Claim of the  
Oneida County Public Defender, Criminal Division**

under Section 606 of the Correction Law for Payment  
of Legal Expenses Incurred in the Defense of Inmates  
of the State of New York

**AFFIDAVIT IN SUPPORT OF  
CLAIM FOR PAYMENT OF  
OF  
SECTION 606 EXPENSES**

STATE OF NEW YORK        ) ss:  
COUNTY OF ONEIDA        )

Frank J. Nebush, Jr., being duly sworn, deposes and says:

1. I am a duly licensed attorney-at-law in the State of New York and the Public Defender, Criminal Division in and for the County of Oneida and make this affidavit for the purpose of certifying to the Oneida County Board of Legislators and the State of New York that the legal services of the attorneys and staff assigned to the above-mentioned matters are true and accurate.

2. All rates for legal services are based upon Section 722-b of the County Law of the State of New York.

3. The following times and dates represent legal services provided by this office on behalf of the following inmates, to wit:

Kevin Baptiste, George Coney, Johnathan M. Conoquie, Jonathan Corona, Kenneth Figueroa, Robert A. Gaddy, Sheldon W. Gilbert, Adarryll Hammond, Ismael Heredia, Lloyd R. Hunt, Gerald T. Jackson, Eric Kurts, Randy Manzueta, Louis W. Martin, Peter Martinez, Carlos Morales, Eugene W. Peek, Justo J. Pena, Luis Pinero, Vidal Soriano and Anthony Valentin, being inmates of the State of New York.

A true and accurate copy of the indictment follows the itemization of expenses for each inmate.

TOTAL OF EXPENSES

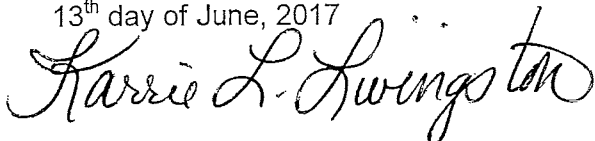
People v. Kevin Baptiste	\$1,052.19
People v. George Coney	\$1,460.66
People v. Johnathan M. Conoquie	\$109.05
People v. Jonathan Corona	\$127.80
People v. Kenneth Figueroa	\$109.05
People v. Robert A. Gaddy	\$823.44
People v. Sheldon W. Gilbert	\$224.40
People v. Adarryll Hammond	\$659.73
People v. Ismael Heredia	\$811.11
People v. Lloyd R. Hunt	\$115.85
People v. Gerald T. Jackson	\$146.55
People v. Eric Kurts	\$71.55
People v. Randy Manzueta	\$109.05
People v. Louis W. Martin	\$97.10
People v. Peter Martinez	\$275.89
People v. Carlos Morales	\$1,153.22
People v. Eugene W. Peek	\$486.58
People v. Justo J. Pena	\$372.59
People v. Luis Pinero	\$165.30
People v. Vidal Soriano	\$1,288.40
<u>People v. Anthony Valentin</u>	<u>\$1,513.94</u>
<b>TOTAL</b>	<b>\$11,173.45</b>

I hereby certify that the above statement is a true and accurate account of the expenses incurred in the defense of the above matters.

Dated: June 13, 2017

  
Frank J. Nebush, Jr.

Subscribed and sworn to before me this  
13<sup>th</sup> day of June, 2017



KARRIE L. LIVINGSTON  
Notary Public, State of New York  
Qualified in Oneida County  
My Commission Expires 7/28/20



ONEIDA COUNTY  
OFFICE OF THE DISTRICT ATTORNEY

Scott D. McNamara  
District Attorney

Michael A. Coluzza  
First Assistant

Dawn Catera Lupi  
First Assistant

Laurie Lisi  
Matthew P. Worth  
Joseph A. Saba  
Grant J. Garramone  
Steven G. Cox  
Stacey L. Scotti  
Bernard L. Hyman, Jr.  
Todd C. Carville  
Michael R. Nolan  
Joshua L. Bauer

Steven P. Feiner  
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

FN 20 17-251

PUBLIC SAFETY

June 25, 2017

WAYS & MEANS

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

  
Anthony J. Picente, Jr.  
County Executive

Date 7/14/17

Dear Mr. Picente:

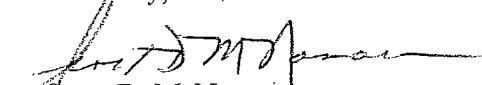
Enclosed is an Agreement between Oneida County and The John Finn Institute for Public Safety, Inc. The Finn Institute, as an independent contractor, will operate as a planning group and will work together with our office to implement and coordinate strategies with the goal of reducing crime throughout Oneida County. The institute will provide a researcher that is needed to assist the D.A.'s Office with crime intelligence analysis. This position is fully funded through the GIVE grant award to the D.A.'s Office from the New York State Division of Criminal Justice Services.

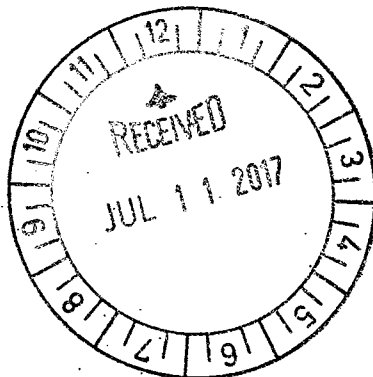
If this meets with your approval, I am requesting that you forward this contract to the Board of Legislators for their action.

Should you have any questions or concerns, please notify me.

Thank you for your time and assistance in this matter.

Sincerely,

  
Scott D. McNamara  
Oneida County District Attorney



SDM/jl  
Enc.

Oneida County District Attorney

Competing Proposal:

Only Respondent \_\_\_\_\_

Sole Source RFP \_\_\_\_\_

Other \_\_\_\_\_

X

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name of Proposing Organization:** The John F. Finn Institute for Public Safety, Inc.  
421 New Karner Road  
Albany, New York 12205

**Title of Activity or Service:** Consultant Services

**Proposed Dates of Operation:** 07/01/2016 – 06/30/2017

**Client Population/Number to be Served:** Oneida County Residents

**Summary Statements:**

**1) Narrative Description of Proposed Services**

The John F. Finn Institute for Public Safety, Inc. will operate as a planning group and will work together with the D.A.'s Office to implement and coordinate strategies with the goal to reduce crime throughout Oneida County. The institute will provide a researcher that is needed to assist the D.A.'s Office with crime intelligence analysis. This position is fully funded through the Project GIVE II grant award to the D.A.'s Office from the New York State Division of Criminal Justice Services.

**2) Program/Service Objectives and Outcomes: N/A**

**3) Program Design and Staffing: N/A**

**Total Funding Requested:** \$85,380

**Account #**

A3038

A1165.495124

**Oneida County Dept. Funding Recommendation:** \$85,380.00

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

**Cost Per Client Served:** N/A

**Past Performance Data:** N/A

**O.C. Department Staff Comments:** N/A



## AGREEMENT

THIS AGREEMENT, made by and between THE JOHN F. FINN INSTITUTE FOR PUBLIC SAFETY, INC., a not-for-profit corporation organized and existing under the laws of the State of New York and having an office located at 421 New Karner Road, Albany, New York 12205, hereinafter referred to as the "Institute," and 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, hereinafter referred to as the "County," by and through the ONEIDA COUNTY DISTRICT ATTORNEY'S OFFICE, having its principal place of business located at 235 Elizabeth Street, Utica, New York 13501, hereinafter referred to as the "DA," and acting on behalf of the Oneida County GIVE Task Force, hereinafter referred to as the "Task Force."

### WITNESSETH:

WHEREAS, the Task Force has agreed that it will operate as a planning group and will work together to implement and coordinate strategies with the goal to reduce gun violence throughout Oneida County; and

WHEREAS, the Task Force is supported by a grant from the New York State Division of Criminal Justice Services for Gun Involved Violence Elimination (GIVE); and

WHEREAS, researchers are needed to assist the DA and the Task Force with crime intelligence analysis and performance assessment in support of GIVE initiatives; and

WHEREAS, the Institute is capable of providing the analysis necessary to fulfill these needs; and

WHEREAS, the DA has accepted the Institute's proposal in order to provide for the analysis necessary to fulfill these needs; and

WHEREAS, the County desires to enter into an agreement with the Institute to more completely describe the services to be provided to the DA.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein set forth the parties hereto agree as follows:

1. Services: The Institute shall perform the duties and deliver the products as defined in the proposal labeled "GIVE Crime Analysis and Assessment – Oneida County" attached

hereto and made a part hereof as Exhibit A (such duties and products hereinafter referred to as the "Services").

2. Consideration: In consideration of the above, the County will pay the Institute a sum of eighty-five thousand, three hundred and eighty dollars, (\$85,380.00), half of which, forty-two thousand, six hundred and ninety dollars (\$42,690.00), shall be due and payable upon execution of this agreement, and half of which, forty-two thousand, six hundred and ninety dollars (\$42,690.00), shall be due and payable in January, 2017. Upon receipt of proper invoice, the Institute shall receive such payment within thirty (30) business days.
3. Term: The term of this agreement is for twelve (12) months, and will become effective on July 1, 2016, and shall continue through June 30, 2017, subject to and in accordance with the terms of Exhibit A.
4. Amendments and Extensions: This agreement may be amended or extended upon mutual written consent of the parties.
5. Publication: The Institute and/or its staff shall have the right to publish the results of any research conducted under this Agreement, subject to the following conditions:
  - a. Such publications shall not be published until after the services contemplated by this agreement have been fully provided; and
  - b. Such publications shall not specifically or implicitly identify the municipalities or agencies in which the research was conducted.
6. Confidentiality:
  - a. The Institute agrees that it will keep strictly confidential all records and information provided to it, whether provided directly or indirectly, orally, in writing, or by other means, and will only provide access to such records to those of its employees whose responsibilities cannot be accomplished without such access, and as may otherwise be required by law.
  - b. Further, the Institute will advise these employees as to the confidential nature of these records and information, and the obligation not to release to anyone else, nor to discuss with anyone else, the contents of such records or such information, except as otherwise required by law. All such employees shall sign and acknowledge their understanding and acceptance of the confidentiality requirements contained in this paragraph.

- c. When in use, diligent steps shall be taken to minimize the risk of access to such records and information by unauthorized persons. Diligent steps shall include, but are not limited to, keeping such records and information under the personal observation and control of authorized individuals, or in a secure location or container.
  - d. When not in use, such records and information shall be maintained in a secure container, such as a locked drawer or filing cabinet.
  - e. Any record will be reproduced only to the minimum extent necessary, and the confidentiality of any such reproduced record will be protected in the same manner and to the same extent as the original.
7. Notices: Any notice to any party hereunder must be in writing, signed by the party giving it, and shall be served either personally or by registered mail addressed as follows:

TO THE INSTITUTE:

Robert E. Worden  
Director  
The John F. Finn Institute for Public Safety, Inc.  
421 New Karner Road, Suite 12  
Albany, New York 12203

TO THE DA:

Scott McNamara  
Oneida County District Attorney  
235 Elizabeth Street  
Utica, New York 13501

TO THE COUNTY:

Peter Rayhill  
Oneida County Attorney  
800 Park Avenue  
Utica, New York 13501

The parties hereto may substitute or amend such addresses as may be hereafter designated by notice. All notices become effective only when received by the addressee.

8. Assignment: The Institute may not assign its obligations under this agreement, nor any part of its interest in this agreement, without the written consent of the County and the DA. Any assignment made without said consent shall be null and void.

9. Performance of Services:

- a. The Institute represents that it is duly licensed (as applicable) and has the qualifications, the specialized skill(s), the experience and the ability to properly perform the Services. The Institute shall use its best efforts to perform the Services such that the results are satisfactory to the County and the DA. The Institute 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.
- b. The Institute may, at its own expense, employ or engage the services of such employees, subcontractors and/or partners as the Institute 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. The Institute shall be solely responsible and shall remain liable for the performance of the Services by the Assistants in a manner satisfactory to the County and the DA, in compliance with any and all applicable Federal, State or Local Laws and Regulations. The Institute shall expressly advise the Assistants of the terms of this Agreement.
- c. The Institute acknowledges and agrees that the Institute 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.
- d. The Institute shall inform the County within twenty-four (24) hours if it is unable or unwilling to accept an assignment and/or perform services pursuant to this Agreement. The Institute 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.

10. Independent Contractor:

- a. It is expressly agreed that the relationship of the Institute to the County shall be that of an Independent Contractor. The Institute and its Assistants shall not be considered employees of the County for any purpose including, but not limited to, claims for unemployment insurance, worker's compensation, retirement, or health

benefits. The Institute and its Assistants, in accordance with their status as an independent contractor, covenant and agree that they will conduct themselves in accordance with such status, that they shall not 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.

- b. The Institute 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 Institute and the County agree that the Institute 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 Institute's Assistants 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. The Institute acknowledges and agrees that none of the Institute's Assistants shall be eligible for any County employee benefits, including retirement membership credits.
- e. The Institute shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to the Institute or its Assistants under this Agreement, and for compliance with all applicable labor and employment requirements with respect to the Institute's self-employment, sole proprietorship or other form of business organization, and with respect to the Assistants, including payroll deductions, worker's 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, worker's compensation, disability insurance or social security insurance (FICA). The Institute shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Agreement.
- f. The Institute shall fully 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.



arising from premises, operations, independent contracts, products-completed operations, and personal and advertising injury.

- ii. 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).

b. Workers Compensation and Employers Liability

- i. Statutory limits apply.

c. Commercial Umbrella

- i. Umbrella limits must be at least \$1,000,000.

- ii. Umbrella coverage must include as additional insureds all entities that are additional insureds on the CGL.

- iii. 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 other than the CGL, Auto Liability and Employers Liability coverages maintained by the County of Oneida.

- d. Waiver of Subrogation: the Institute 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 Employers Liability insurance maintained per requirements stated above.

- e. Certificates of Insurance: Prior to the start of any work, the Institute 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 the Institute'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 30 days prior written notice has been given to the County.

13. Expenses: The Institute 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.
14. Training: Neither the Institute, nor its Assistants, shall be required to attend or undergo any training by the County. The Institute shall be fully responsible for all 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.
15. 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.
16. 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.
17. Entire Agreement: 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, Addendum I (Standard Oneida County Conditions), as well as the aforementioned Exhibit A. No waiver, alterations or modifications of and provisions of this Agreement shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

SIGNATURES APPEAR ON NEXT PAGE



IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date indicated below.

The John F. Finn Institute for Public  
Safety, Inc.

Oneida County District Attorney's Office:

By \_\_\_\_\_  
Robert E. Worden  
Director

By \_\_\_\_\_  
Scott McNamara  
District Attorney

Date \_\_\_\_\_

Date \_\_\_\_\_

Oneida County Executive's Office

By \_\_\_\_\_  
Anthony J. Picente, Jr.  
Oneida County Executive

Date \_\_\_\_\_

Approved

\_\_\_\_\_  
Robert E. Pronteau  
Assistant County Attorney

Exhibit A  
GIVE Crime Analysis and Assessment – Oneida County

Duties of the Institute:

GIVE – Gun Crime Analysis

With a full-time gun crime analyst working on-site at the Utica Police Department, the Institute will continue to provide analysis, including:

- improving the quality and quantity of gun and gang related data;
- analysis of gun and gun-related activity, including, but not limited to, spatial analysis;
- generating the “key offender” list;
- preparing daily briefings for distribution to internal and external law enforcement personnel;
- analysis to support performance management of GIVE strategies;
- responding to ad hoc requests for information/intelligence that supports gun investigations and the work of the gun field intelligence officer;
- collating and analyzing information from field contacts, arrest debriefings, and other sources to further understanding of shootings and gun crime;
- other analysis in support of law enforcement efforts to address shootings;
- presenting data at monthly GIVE task force meeting and monthly Law Enforcement Coalition meeting; and
- analytical support to the on-site analyst.

GIVE- Organizational Development and Performance Management/Assessment

1. Assess and support fidelity to program models, including:
  - (a) conduct a process and outcome evaluation of hotspots policing, and
  - (b) conduct a process and outcome evaluation of the offender-based policing strategy
2. Meet with the GIVE Task Force each month to present findings and discuss their practical implications.
3. Capacity building to assist GIVE partners’ efforts to expand and formalize the system for intelligence sharing and identifying “key offenders” , including:
  - (a) identifying information sources,
  - (b) assisting in organizational development planning,
  - (c) organizing and supporting intelligence sharing sessions with selected law enforcement personnel to identify individuals driving gun-violence and to identify underlying factors driving the shootings and gun homicides,
  - (d) collate information collected in each intelligence-gathering session to draw strategic implications for addressing shootings and gun homicides , and
  - (e) work with GIVE partners to develop or refine shooting strategies.

Products of the Institute:

1. Written reports and/or presentations to describe implementation and effectiveness of GIVE strategies.
2. Spreadsheets containing information collected in each intelligence gathering session.
3. Social network diagrams.

Anthony J. Picente, Jr.  
County Executive

David Tomidy  
Director



**Oneida County Probation Department**  
321 Main Street, 2<sup>nd</sup> Floor, Utica, New York 13501

Utica ~ Phone: (315) 798-5914 Fax: (315) 624-3684  
Rome ~ Juvenile: (315) 356-1350 Adult: (315) 356-1300  
E-mail: [probation@ocgov.net](mailto:probation@ocgov.net) · Web Site: [www.ocgov.net](http://www.ocgov.net)

Deputy Director  
Patrick Cady

Supervisors  
Holly Bolton  
Thomas Brognano  
Mark F. Joseph  
Holly Matthews  
John Sharrino

June 20, 2017

FN 20 17-252

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

PUBLIC SAFETY

WAYS & MEANS

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

Anthony J. Picente, Jr.  
County Executive

Date 7/7/17

Dear Mr. Picente:

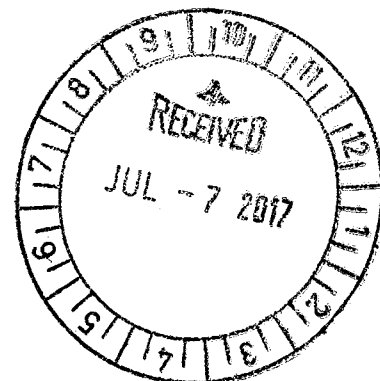
Enclosed is the proposed Gun Involved Violence Elimination (GIVE) grant which the New York State Division of Criminal Justice Services has awarded our office in the amount of \$19,000.00. The grant period is from July 1, 2017 through June 30, 2018. Matching funds are not required. These funds are for overtime costs for one Probation Officer to make home visits in partnership with the Utica Police Department for the purpose of eliminating shootings and homicides through integrated initiatives, as well as funds for GPS tracking devices to monitor probationers' locations.

I am hereby requesting your review and approval of this grant. After doing so, please forward this information to the Oneida County Board of Legislators for their review and approval.

Thank you for your time and assistance in this matter.

Sincerely,  
  
DAVID TOMIDY  
PROBATION DIRECTOR

DT:kas  
Enclosures





<p><b>STATE AGENCY</b>                  Division of Criminal Justice Services                  80 South Swan Street                  Albany, NY 12210</p>	<p><b>NYS COMPTROLLER'S NUMBER:</b> T484516                  (Contract Number)   <b>ORIGINATING AGENCY CODE:</b> 01490 - Division of Criminal Justice Services</p>
<p><b>GRANTEE/CONTRACTOR:</b> (Name &amp; Address)                  Oneida County                  800 Park Avenue                  Utica, NY 13501-2939</p>	<p><b>TYPE OF PROGRAMS:</b> GIVE Initiative  <b>DCJS NUMBERS:</b> GV17484516  <b>CFDA NUMBERS:</b></p>
<p><b>FEDERAL TAX IDENTIFICATION NO:</b> 156000460  <b>MUNICIPALITY NO:</b> (if applicable) 300100000000</p>	<p><b>INITIAL CONTRACT PERIOD:</b>                  FROM 07/01/2017 TO 06/30/2018  <b>FUNDING AMOUNT FROM INITIAL PERIOD:</b> \$19,000.00</p>
<p><b>STATUS:</b>                  Contractor is not a sectarian entry.                  Contractor is not a not-for-profit organization.</p>	<p><b>MULTI-YEAR TERM:</b> (if applicable): 0 1-year renewal options.</p>
<p><b>CHARITIES REGISTRATION NUMBER:</b>                  _____                  (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; width: fit-content;"> <p>Contractor has _____ has not _____ timely filed with the Attorney General's Charities Bureau all required periodic or annual written reports.</p> </div>	<p><b>APPENDIX ATTACHED AND PART OF THIS AGREEMENT</b></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 checked="" type="checkbox"/> APPENDIX G Procedural Guidelines for the Control of Surveillance Equipment</p> <p><input type="checkbox"/> APPENDIX M</p> <p><input type="checkbox"/> Other (Identify)</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  <b>State Agency Certification:</b> "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><b>ATTORNEY GENERAL'S SIGNATURE</b>                  _____                  Title: _____                  Date: _____</p>	<p><b>APPROVED,</b>                  Thomas P. DiNapoli, State Comptroller                  _____                  Title: _____                  Date: _____</p>

**Award Contract****Project No.**

GV17-1058-D00

**Grantee Name**

Oneida County

06/19/2017

**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**Project No.**

GV17-1058-D00

**Grantee Name**

Oneida County

06/19/2017

## 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****Project No.**

GV17-1058-D00

**Grantee Name**

Oneida County

06/19/2017

## 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/](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/](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**

**Project No.**

GV17-1058-D00

**Grantee Name**

Oneida County

06/19/2017

**APPENDIX B - Budget Summary by Participant**

Oneida County

Oneida County Probation Department - Version 1

#	Personnel	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	Probation Officer OT @ approx. \$30.00/hr	1	\$15,000.00	\$15,000.00	\$15,000.00	\$0.00
Justification: The Oneida County Probation Office will continue to supply officers for Probation/Parole Home Visits and work with the Partnership to supply intelligence learned from or about probationers who have histories of gun possession and gun violence. They will be utilized to conduct these visits with members of UPD at hours that crime analysis indicates are the peak hours for shot fired calls. They will also check homes for any weapons that would be in violation of probationer's conditions of probation.						
Total				\$15,000.00	\$15,000.00	\$0.00

#	Equipment	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	BI LOC8 GPS Offender Tracker (\$800.00 x5)	1	\$4,000.00	\$4,000.00	\$4,000.00	\$0.00
Justification: The Oneida County Probation Office will be able to use these devices to better monitor individuals on probation. It will allow probation to pinpoint a probationers location in near real-time. This will allow probation to monitor group/gang members who are on probation to better assure they are not associating with other members of the group and/or gang.						
Total				\$4,000.00	\$4,000.00	\$0.00

Total Project Costs	Total Cost	Grant Funds	Matching Funds
	\$19,000.00	\$19,000.00	\$0.00

Total Contract Costs	Total Cost	Grant Funds	Matching Funds
	\$19,000.00	\$19,000.00	\$0.00

**Award Contract****Project No.**

GV17-1058-D00

**Grantee Name**

Oneida County

06/19/2017

## 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](http://www.osc.state.ny.us/epay/index.htm), or by email at [epayments@osc.state.ny.us](mailto: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

Certified by - on

**Award Contract****Project No.**

GV17-1058-D00

**Grantee Name**

Oneida County

06/19/2017

**APPENDIX D - Work Plan****Goal**

The goal of the Gun Involved Violence Elimination (GIVE) Initiative is the elimination of shootings and homicides, or aggravated assaults where applicable, through the integrated use of evidence-based strategies that are incorporated into the four core elements of GIVE: People, Places, Alignment, and Engagement.

**Objective #1**

To implement the joint agency initiatives outlined in the GIVE IV strategy to directly combat shootings and homicides, or aggravated assaults where applicable, by implementing Hot-Spots Policing.

**Task #1 for Objective #1**

The Probation Department, in conjunction with the other law enforcement agencies, will employ a focused Hot-Spots Policing strategy in predetermined GIVE areas.

**# Performance Measure**

- 1 Briefly summarize any contributions made to the planning and implementation of Hot-Spots operations by Probation Department personnel in GIVE funded positions.
- 2 Include how Hot-Spots Policing is used in conjunction with other gun violence reduction strategies.
- 3 Explain how the Probation Department coordinates and cooperates with other agencies in the planning and implementation of the Hot-Spots Policing strategy.
- 4 Briefly explain how Hot-Spots information and data is shared between the Probation Department and their GIVE partners.
- 5 List, and briefly summarize, any enforcement strategies used by the Probation Department specifically focused on probationers in Hot-Spots locations.
- 6 List any procedural justice trainings, policies, or strategies employed by the Probation Department as part of their Hot-Spots Policing strategy.
- 7 Explain how Hot-Spots data is regularly recorded, analyzed and reviewed by key Probation Department personnel, or other appropriate law enforcement personnel.
- 8 Summarize and list any coordinated intra-agency Hot-Spot operations, their results, and explain how those operations were conducted on appropriate dates and times. Please complete the required GIVE Tracker form when applicable.
- 9 List any community outreach events organized or attended by Probation Department personnel in GIVE Hot-Spots.
- 10 Briefly explain how data is used by the Probation Department to make operational decisions about Hot-Spots Policing strategies.
- 11 List any Hot-Spots technical Assistance or training that key Probation Department personnel have received.
- 12 Explain how procedural justice-related data is collected by the Probation Department as part of the Hot-Spots Policing strategy.
- 13 Report on the overall progress and effectiveness of the Hot-Spots strategy employed by the Probation Department.

**Objective #2**

To implement the joint agency initiatives outlined in the GIVE IV strategy to directly combat shootings and homicides or aggravated assaults, where applicable, by implementing Focused Deterrence.

**Task #1 for Objective #2**

The Probation Department, in conjunction with the other law enforcement agencies, will employ a Focused Deterrence strategy.

**# Performance Measure**

- 1 Briefly summarize any contributions made to the planning and implementation of Focused Deterrence strategy by the Probation Department personnel in all applicable GIVE funded positions.
- 2 Describe how Focused Deterrence strategy is used in conjunction with other gun violence reduction strategies.

- 3 Describe how data is used to identify individuals for Focused Deterrence.
- 4 Provide a brief narrative summarizing the role of the Probation Department in the implementation of the Focused Deterrence strategy.
- 5 Provide recidivism data for Focused Deterrence participants, including all arrests, violent arrests, gun-involved arrests or violations of probation.
- 6 Describe the Probation Department's role in enforcement and demonstration actions.
- 7 Explain how components of procedural justice are evident in the Focused Deterrence strategy.
- 8 Explain how procedural justice-related data is collected by the Probation Department as part of the Focused Deterrence strategy.
- 9 Provide the number of participants and the types of social services assistance requested within 30, 60 and 90 days of call-ins or custom notification.
- 10 Describe any training that was received by key personnel in focused deterrence.
- 11 Summarize and list any coordinated multi-agency Focused Deterrence operations, their results, and explain how those operations were conducted on appropriate dates and times. Please complete the required GIVE Tracker form if applicable.

### Objective #3

To implement the joint agency initiatives outlined in the GIVE IV strategy to directly combat shootings and homicides, or aggravated assaults where applicable, by implementing Crime Prevention Through Environmental Design (CPTED) principals.

#### Task #1 for Objective #3

The Probation Department, in conjunction with the other law enforcement agencies, will employ CPTED principals in designated work areas.

#### # Performance Measure

- 1 Briefly summarize any contributions made by Probation Department personnel in the planning and implementation of the coordinated CPTED strategy.
- 2 Include how CPTED is used in conjunction with other gun violence reduction strategies.
- 3 List any CPTED technical assistance and/or training received by key Probation Department personnel.
- 4 Explain how the Probation Department coordinates and cooperates with other agencies in the planning and implementation of the CPTED strategy.
- 5 Summarize the role of the Probation Department plays in identifying appropriate CPTED work areas.
- 6 List any procedural justice trainings, policies, or strategies employed by the Probation Department as part of the coordinated CPTED strategy.
- 7 Explain how procedural justice-related data is collected and analyzed by the Probation Department as part of the coordinated CPTED strategy.
- 8 Report on the overall progress and effectiveness of the CPTED strategy employed by the Probation Department.



**Award Contract****Project No.**

GV17-1058-D00

**Grantee Name**

Oneida County

06/19/2017

**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****A. Publications:**

1. The implementing agency will submit to DCJS for review all proposed publications (written, visual or sound) prior to their public release. Any such publications shall contain the following statement... "This project is supported by a grant from the New York State Gun Involved Violence Elimination (GIVE) Initiative. Points of view in this document are those of the author and do not necessarily represent the official position of policies of the Division of Criminal Justice"
2. No materials, items or publications resulting from award activities associated with the GIVE Initiative grant may use the DCJS logo or provide any attribution to DCJS in any form, without the prior approval from the Executive Deputy Commissioner of DCJS or his/her designee. Requests for such approval must be submitted in writing to DCJS Executive Deputy Commissioner and Counsel at least 30 calendar days before requested use. Determinations of such requests will be made by the DCJS Executive Deputy Commissioner on a case-by-case basis.

**B. Programs:**

1. Grantee agrees that if funding is being provided for the implementation of any DCJS crime reduction strategies, the implementing agency will coordinate their GIVE strategy with those other strategy initiatives in the county.
2. Grantee agrees that if the project is not implemented within 60 calendar days of the award date, it will report by letter to OPDF the steps taken to initiate the project, the reasons for delay, and the expected implementation date. If the project is not operational within 90 calendar days of the original starting date of the grant period, the Grantee will submit a second statement to OPDF explaining the delay. At the discretion of the Executive Deputy Commissioner of DCJS, in consultation with the Board, the State may either revoke and redistribute the funds or extend the implementation date of the project beyond the 90-day period when warranted by extenuating circumstances.
3. The following special conditions apply to contracts with county or municipal governments as appropriate: Participating law enforcement agencies that are funded by DCJS to conduct drug, firearms or vehicle theft or vehicle related insurance fraud investigations shall register with SAFETNet. Participation in SAFETNet obligates the registered agency to submit information regarding persons or addresses under active investigation in accordance with SAFETNet standard operating procedures. In addition, the agency agrees to participate in the Upstate New York State Intelligence Center (NYSIC) or the New York/New Jersey High Intensity Drug Trafficking Area Regional Intelligence Center (NY/NJ HIDTA RIC) as appropriate.
4. Grantee shall enroll as a user of the Integrated Justice Portal (IJPortal) and make use of the IJPortal services as applicable. Law enforcement agencies are required to submit all monthly crime reports to DCJS through the Integrated Justice Portal (IJPortal) IBR/UCR Reporting Interface within 30 calendar days after the close of the reporting period. Failure to submit this information may result in grant funds being withheld.

Instructions for accessing and submitting crime reports through the IJPortal can be found at:  
[http://www.criminaljustice.ny.gov/crimnet/ojsa/crimereporting/ucr\\_refman/IJPortal-UCR-Data-Entry-Manual.pdf](http://www.criminaljustice.ny.gov/crimnet/ojsa/crimereporting/ucr_refman/IJPortal-UCR-Data-Entry-Manual.pdf)

All law enforcement agencies must stay current with their monthly submissions. When the police department is unable to submit the data within 30 days, the Chief must submit the reasoning to DCJS, while ensuring the data is submitted as soon as possible. If it is deemed that the reasoning for the late submission was out of the control of the police department, a waiver will be granted to avoid the fiscal penalty.

Monthly Gun Data - Both primary and DCJS designated secondary police departments must submit the Monthly Gun Data Report within 7 days of the end of the month that is being reported on. When the police department is unable to submit the data within 7 days, the Chief must submit the reasoning to DCJS, while ensuring the data is submitted as soon as possible. If it is deemed that the reasoning for the late submission was out of the control of the police department, a waiver will be granted to avoid the fiscal penalty.

**B. Program: Cont'd**

5. Incident-Based Reporting (IBR) agencies are required to use the IJPortal IBR Submission Interface to upload their monthly NYSIBR extract file, and the IJPortal UCR Data Entry Interface to submit their monthly Hate Crime and Law Enforcement Officers Killed or Assaulted (LEOKA) reports.

Summary (UCR) reporting agencies are required to use the IJPortal UCR Data Entry Interface to submit all monthly UCR reports including the Return A (Monthly Offenses known to Police), Arrests of Persons 18 and Over, Arrest of Persons Under 18, Supplemental Homicide Report (SHR), Arson, Hate Crime, and the Law Enforcement Officers Killed or Assaulted (LEOKA).

6. Grantee shall enroll as applicable in the DCJSContact Directory established and administered by DCJS. DCJSContact is a statewide directory service provided free-of-charge by the Division of Criminal Justice Services to the criminal justice community of New York State. Information regarding enrollment in the DCJSContact Directory can be obtained by downloading the enrollment form: <http://www.criminaljustice.ny.gov/ojis/documents/dcjscontactenrollform.pdf> or by calling NYS DCJS Office of Public Safety at (518) 457-2667.

7. All criminal justice information management software which a grantee may purchase or develop with funds provided under the terms of this agreement must conform to established New York State criminal justice data standards as documented in the most current version of the New York Statewide Criminal Justice Data Dictionary. In addition, all such information management software purchased or developed with funds provided under the terms of this agreement must conform to statewide standards for the collection, processing and reporting of criminal justice information as documented in the New York State Standard Practices Manual for the Processing of Fingerprintable Criminal Cases. The latest versions of both documents referenced above can be accessed on the DCJS web site at <http://www.criminaljustice.ny.gov/dict/dict.htm> and [http://www.criminaljustice.ny.gov/pio/fp\\_services.htm](http://www.criminaljustice.ny.gov/pio/fp_services.htm) or obtained by calling the DCJS Customer Contact Center at (800) 262-3257.

8. Participating law enforcement agencies receiving GIVE funds shall enforce the provisions of Orders of Protection, particularly with respect to those provisions prohibiting the ownership or possession of firearms, when so ordered in family or criminal court and served upon the defendant and will enforce the firearms prohibition provisions of the federal Violence Against Women Act.

9. Participating agencies receiving funding through the GIVE Initiative will be required to participate in a GIVE program evaluation. This may require agencies to provide DCJS or its contractors with data and information relating to jurisdictional GIVE operations, initiatives, and enforcement efforts.

10. Grantee agrees to comply with all requirements included within the Project GIVE Request for Applications (RFA).

**C. Funding:**1. Notwithstanding the provisions of paragraph 11 of Appendix A1, the parties agree that DCJS' prior 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 requests for reimbursement supported by documentation identifying the criminal matter involved, services provided, time commitment, and fee schedule.

2. This contract may be extended, increased, decreased, renewed, amended or renegotiated at the discretion of the Executive Deputy Commissioner of the Division of Criminal Justice Services or as otherwise agreed upon by the Parties.

3. Grantee agrees that these funds will be used to supplement and not supplant existing funds and services.

4. The following condition will apply to contracts between two New York State governmental entities:

This is an agreement between two New York State governmental entities, and as such the provisions contained herein with respect to grants are applicable only to the extent that the provisions would otherwise be applicable between New York State governmental entities.

5. Grantee agrees that all specifications for technology purchases exceeding \$5,000 (excluding laptops and desktop computers) must be reviewed by the DCJS Office of Justice Information Services. The review will take place within three business days and should be coordinated through the DCJS Office of Program Development and Funding.

**Supplemental GIVE Special Conditions - 3/21/2016**

1. Participating police departments will attend monthly meetings, at a minimum, with the Operation SNUG (also known as Neighborhood Violence Prevention Project) program manager or his/her designee and regional crime analysts to discuss firearm related crime, gang activity, and violence. Meeting frequency may be increased at the discretion of DCJS based on shootings, homicides, and the incidence of violence crime within a jurisdiction.

2. By the 15th day of each month, participating police departments will provide Operation SNUG personnel with a monthly list

of high risk individuals who have been identified as known or suspected gang members, gang leaders who promote gun violence, and candidates most likely to carry guns and/or be involved in shooting incidents. Police agencies may use discretion when it comes to supplying sensitive information regarding these high-risk individuals (i.e. persons involved in active criminal investigations).

3. By the 15th day of each month, the participating police department will provide DCJS a crime map pinpointing the locations of the prior month's shooting incidents for both the Operation SNUG target area(s) and the entire city.

**Supplemental GIVE Special Conditions - 3/21/2016**

4. Participating police departments will provide DCJS an annual crime map pinpointing the locations of all shooting incidents which have occurred between July 1 and June 30 of the preceding GIVE contract period for both the Operation SNUG target area(s) and the entire city. This annual crime map will be due on the last day of the month following the expiration date of the contract.

5. By the 15th day of each month the participating police department will provide DCJS a report detailing a month to month comparison of shootings and homicides for the current calendar year and the two preceding calendar years for the target area(s) and the entire city.

6. Participating police departments will provide DCJS an annual report detailing a year to year comparison of shootings and homicides for the current GIVE contract period and the two preceding GIVE contract periods for the target area(s) and the entire city. This annual comprehensive report will be due on the last day of the month following the expiration date of the contract.

7. Participating police departments will develop written protocols detailing established procedures to notify the Operation SNUG program manager or his/her designee of all shootings and/or homicides within 24 hours of each incident. The written procedures must be submitted to DCJS with the first Quarterly Progress Report.

By 45 days after the end of the reporting period, each county GIVE partner must submit a comprehensive countywide Collaborative Quarterly Progress Report in a format provided by DCJS. Each funded implementing agency in a GIVE county is required to work collectively on their quarterly goals, tasks, objectives, and performance measures. As a county co-chair, a representative of the district attorney's office will be responsible to submit the countywide report as an attachment in GMS.

**Award Contract****GIVE Initiative****Project No.****Grantee Name**

GV17-1058-D00

Oneida County

06/19/2017

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## APPENDIX G

## PROCEDURAL GUIDELINES FOR THE CONTROL OF SURVEILLANCE EQUIPMENT

## 1. PURPOSE

The purpose of these guidelines is to set forth the minimum requirements for insuring the security and control of surveillance equipment purchased or leased under the project.

## 2. SURVEILLANCE EQUIPMENT DEFINED

As used in these guidelines, Asurveillance equipment@ means, but is not limited to, any instrument or device used or primarily intended for use in:

- a) the surreptitious interception of aural communications; or
- b) the recording or re-recording of aural communications; or
- c) the surreptitious interception of direct frequency indicators.

Such equipment includes, but is not limited to, the following: tape recorders, including miniaturized tape recorders; microphones; induction coils; transmitters; video equipment; receivers; amplifiers; dial recorders; Atouch tone@ decoders; and vehicle tracking systems.

## 3. FACILITY FOR STORAGE, ISSUANCE, AND RETURN

The Grantee shall store surveillance equipment in as few facilities or locations as possible in order to centralize storage, issuance, and return of such equipment. Each facility or location must be a secure one.

## 4. INVENTORY CONTROL

The Grantee shall maintain a system of inventory control for all surveillance equipment by providing for identification of each item of equipment and maintaining a record of custody and location of each item at all times.

## 5. STORAGE OF EQUIPMENT

The grantee shall adopt procedures to assure that surveillance equipment which is not currently being used for official purposes is stored only at an authorized facility.

## 6. INSPECTION BY THE DIVISION OF CRIMINAL JUSTICE SERVICES

Authorized representatives of the Division of Criminal Justice Services may, at all reasonable times, inspect grant surveillance equipment, the facilities in which they are stored, and the records relating to inventory control.

Nothing contained herein shall authorize the inspection of records relating to surveillance equipment which identify the particular investigation in which such equipment has been or is being used.

Certified by - on



Oneida County

Anthony J. Picente, Jr.  
County Executive

Office for the Aging & Continuing Care

Michael J. Romano  
Director

120 Airline Street-Suite 201 Oriskany, NY 13424 Phone 315-798-5456 Fax 315-768-3658 E-mail. ofa@ocgov.net

March 24, 2017

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

Anthony J. Picente, Jr.  
County Executive

Honorable Anthony J. Picente, JUN 20  
Oneida County Executive  
800 Park Avenue  
Utica, New York 13501

Date 6-29-17

HEALTH & HUMAN SERVICES  
**WAYS & MEANS**

Dear Mr. Picente:

I am submitting the following Agreement between the Oneida County Office for the Aging and Continuing Care, and the Family Home Care Inc., located at 519 North Madison Street, Rome, New York 13440, for your review and approval. If this Agreement meets with your approval, please forward to the Board of Legislators for further consideration.

Under this service Agreement, Family Home Care, Inc., will provide home care services for elderly homebound individuals. Home care services are provided as part of a New York State program that provides personal care to frail senior through the Expanded In-Home Services for the Elderly Program (EISEP). Family Home Care is one of four home care agencies to provide this service. The total amount of this Agreement is \$99,000.00. This consists of 75% State (\$74,250.00) and 25% County (\$24,750.00) funds. The terms of this Agreement commence on April 1, 2017 and terminate March 31, 2018.

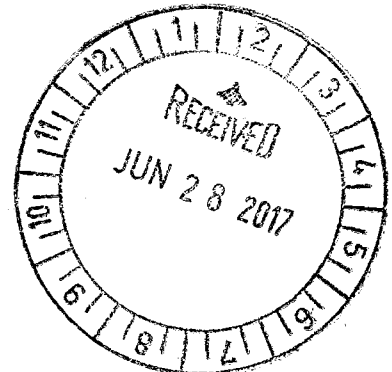
I am available at your convenience to answer any questions you may have regarding this Agreement.

Sincerely,

Michael J. Romano  
Director

MJR/jc

Enclosure



Oneida Co. Department: OFA/OCC

Competing Proposal \_\_\_\_\_  
Only Respondent \_\_\_\_\_  
Sole Source RFP \_\_\_\_\_  
Other  X

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name & Address of Vendor:** Family Home Care, Inc.  
519 North Madison Street  
Rome, New York 13440

**Title of Activity or Service:** Home Health Care Agency

**Proposed Dates of Operation:** April 1, 2017 through March 31, 2018

**Client Population/Number to be Served:** Approximately 87 individuals, age 60 or above  
**Summary Statements:**

**1) Narrative Description of Proposed Services**

To provide – non-medical homemaker/personal care services to Oneida County residents, age 60 and older who are functionally impaired in at least one Activity of Daily Living (i.e., bathing, dressing, toileting) or two Instrumental Activities of Daily Living (i.e., housekeeping, shopping, and preparing meals).

**2) Program/Service Objectives and Outcomes:**

- To provide personal care services to frail, disabled, or homebound individuals who are limited in their activities of daily living.
- Usual tasks that may be performed by the Housekeeper/Chore Worker (PCA Level I) include:
  - Making/changing beds, dusting/vacuuming, light cleaning of kitchens, bedrooms and bathrooms, dishwashing, shopping for client, laundering, transportation to various appointments and community activities.
- Usual tasks that may be performed by the Personal Care Worker (PCA Level II) include:
  - All of PCA Level I tasks as well as bathing, dressing, grooming, assistance toileting, preparation of meals, feeding, and administering medications.

**3) Program Design and Staffing**

Personal Care Workers will provide a variety of services that include physically assisting clients with medical needs. Housekeeper/Chore Workers will provide clients with assistance with regular housekeeping and chores. Designated qualified supervisors will train both PCA I and PCA II workers and make regularly scheduled visits to the clients home to ensure the client's satisfaction with their services.

**Total Funding Requested:** \$ 99,000.00 Account #: A6774.49599

**Oneida County Dept. Funding Recommendation:** \$99,000.00

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

Federal: 0% (\$0) State: 75% (\$74,250.00) County: 25% (\$24,750.00)

**Cost Per Client Served:** \$18.50 per hour for homemaker/personal care worker (PCA Level II)  
\$17.85 per hour for housekeeper/chore worker (PCA Level I)

**Past Performance Data:** Current provider of personal care services for OFA EISEP clients.

**O.C. Department Staff Comments:** N/A

## AGREEMENT

**THIS AGREEMENT**, made by and between **FAMILY HOME CARE, INC.**, a domestic business corporation organized and existing under the laws of the State of New York, located at 519 North Madison Street, Rome, New York 13440, hereinafter known as "**CONTRACTOR**," and the **COUNTY OF ONEIDA**, a municipal corporation, organized and existing under the laws of the State of New York, with its offices located at 800 Park Ave., Utica, New York 13501, by and through its department of **OFFICE FOR THE AGING AND CONTINUING CARE**, located at 120 Airline Street, Suite 201, Oriskany, NY 13424, hereinafter known as the "**COUNTY**," collectively, the "Parties."

### **WITNESSETH:**

**WHEREAS**, the **COUNTY** has the primary responsibility for the overall planning and coordination of **COUNTY** funds including the Federal AOA-Older Americans Act Title III, Title V, NYSOFA - EISEP, CSEP, CSI, SNAP, HIICAP, MIPPA/SHIP, and County of Oneida funds; and

**WHEREAS**, the **COUNTY** has the responsibility to formally and informally monitor, assess and evaluate all programs, services and contracts funded through the **COUNTY**; and

**WHEREAS**, the **COUNTY** will provide technical assistance, upon request, to assist the **CONTRACTOR** in more effectively carrying out service delivery and/or complying with Federal, State and local statutes, policies, rules and regulations; and

**WHEREAS**, the **CONTRACTOR** is willing and able to perform the services required by this Agreement;

**NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES AS FOLLOWS:**

1. **TERM OF AGREEMENT**

A. The terms and conditions of this Agreement shall commence April 1, 2017 and terminate March 31, 2018.

B. The **COUNTY** and the **CONTRACTOR** may negotiate this Agreement annually. Nothing herein shall be construed to indicate that the **COUNTY** is bound to renew this Agreement with **CONTRACTOR** on an annual basis, and **COUNTY** reserves the right to seek the same or similar services from third parties.

2. **SCOPE OF SERVICES- EISEP/III-E SERVICES**

A. The **CONTRACTOR** agrees to provide non-medical homemaker/personal care (PCA Level II), housekeeper/chore (PCA Level I), and III-E in-home community based PCA Level II respite services through the **COUNTY**'s EISEP/III-E Programs; homemaker/personal care (PCA Level II), housekeeper/chore (PCA Level I) services provided to those Oneida County residents who are age sixty (60) or older and who are functionally impaired in at least one (1) Activity of Daily Living (i.e., bathing, dressing, toileting) or two (2) Instrumental Activities of Daily Living (i.e., housekeeping, shopping, preparing meals); III-E in-home community based respite services are provided to care receivers for those Oneida County residents who are primary informal caregivers of persons who are age sixty (60) or older and who are functionally impaired, as shown by the need for the assistance of another person in at least one (1) Activity of Daily Living or two (2) Instrumental Activities of Daily Living.

B. The **CONTRACTOR** and **COUNTY** agree that all EISEP/III-E funded homemaker/personal care (PCA Level II), housekeeper/personal care (PCA Level I) and III-E in-home PCA Level II in-home community based respite services provided by the **CONTRACTOR** shall be prior approved and authorized by the client's Case Manager as defined in the client's Home Care Plan.

C. Residents who are eligible for services shall be referred to as "clients."

D. The **CONTRACTOR** and **COUNTY** agree that non-medical homemaker/personal care (PCA Level II), and housekeeper/chore (PCA Level I) services as defined under EISEP/III-E are equivalent to PCA Level II and PCA Level I services as defined under the New York State Department of Social Services regulations for the Medicaid Program.

E. The **COUNTY** and **CONTRACTOR** agree that the EISEP non-medical homemaker/personal care (PCA Level II), housekeeper/chore (PCA Level I) and III-E in-home community based PCA Level II respite service clients shall be provided environmental support and personal care functions.

F. The following is a summary of usual tasks that may be performed by a homemaker/personal care (PCA Level II), housekeeper/chore (PCA Level I) worker in accordance with NYS regulations:

- 1) some or total assistance with making and changing beds; (Level I & II)
- 2) some or total assistance with dusting and vacuuming the rooms which the client uses; (Level I & II)
- 3) some or total assistance with light cleaning of the kitchen, bedroom and bathroom; (Level I & II)
- 4) some or total assistance with dishwashing; (Level I & II)



- 5) some or total assistance with listing needed supplies; (Level I & II)
- 6) some or total assistance with shopping for the client; (Level I & II)
- 7) some or total assistance with client's laundering; this may include necessary ironing and mending; (Level I & II)
- 8) some or total assistance with payment of bills and other essential errands; (Level I & II)
- 9) escort assistance in getting to various appointments and community activities; (Level I & II)
- 10) some or total assistance with bathing of the client in the bed, the tub or in the shower; (Level II).
- 11) some or total assistance with dressing; (Level II)
- 12) some or total assistance with grooming, including care of hair, shaving, and ordinary care of nails, teeth, and mouth; (Level II)
- 13) some assistance with toileting; this may include assisting the client on and off the bedpan, commode or toilet; (Level II)
- 14) some assistance in walking, beyond that provided by durable medical equipment, within the home and outside the home; (Level II)
- 15) some assistance in transferring from bed to chair or wheelchair; (Level II)
- 16) some assistance with preparation of meals in accordance with modified diets, including low sugar, low fat, low salt and low residue diets, as prescribed by a qualified professional; (Level II)
- 17) some assistance with feeding; (Level II)
- 18) some assistance, at the request of the client, with self-administration of medication, including prompting client of time, bringing the medication to the client, opening the container, removing medication from the container and providing necessary liquids for taking the medication, acting as an extension of the client; (Level II)
- 19) assistance with routine skin care, including application of non-prescription skin care products; (Level II)
- 20) non-technical physical assistance to clients in following directions of a qualified professional for use of medical supplies and equipment such as walkers and wheelchairs; (Level II)
- 21) assistance with changing of simple dressings. (Level II)

G. For the activities described herein, the measure of a UNIT is equal to one (1) hour of service to or on behalf of the client.

H. The **CONTRACTOR** agrees to assign a designated person who shall have the responsibility for coordinating the assignments of aides/associates.

I. The **COUNTY** and **CONTRACTOR** agree that all homemaker/personal care (PCA Level II), housekeeper/chore (PCA Level I) and III-E in-home community respite workers shall have a designated qualified supervisor(s) who shall insure the maintenance of quality care and provide the necessary support, understanding and consultation to the homemaker/personal care (PCA Level II), housekeeper/chore (PCA Level I) or III-E in-home community respite worker as (s)he carries out duties and responsibilities.

J. The **CONTRACTOR** understands and shall ensure that homemaker/personal care (PCA Level II), housekeeper/chore (PCA Level I) supervisor(s) shall:

- 1) make a supervisory in-home visit within five (5) working days of the first time the regularly scheduled homemaker/personal care (PCA Level II), housekeeper/chore (PCA Level I) worker is to provide services to the client;
- 2) demonstrate and instruct the worker and the client concerning specific tasks to be performed in accordance with the care plan;
- 3) provide information concerning the provider agency;
- 4) clarify the roles and responsibilities of the worker, the client, and the supervisor in relation to the Care Plan;
- 5) conduct scheduled visits to the client's home at least every six (6) months;
- 6) conduct unscheduled visits to the client's home at least one (1) time a year;
- 7) evaluate the worker's performance of the required tasks;
- 8) provide to the worker appropriate information, consultation, instruction and demonstration as needed;
- 9) determine the extent to which client needs are appropriately and adequately being met;
- 10) follow-up, as specified by the case manager, to report the findings of the supervisory visit; and
- 11) provide an opportunity to discuss in private with the client/authorized representative the service being provided.

K. When a service promised by the **CONTRACTOR** for a scheduled assignment cannot be met or there is a client no show, or a change in the client's condition, including death or hospitalization, the **CONTRACTOR** must notify the **COUNTY** immediately via the approved fax form.

L. Any incident that occurs during an agency workers' presence must be reported immediately in writing to the **COUNTY** on the specified fax form.

M. The **CONTRACTOR** agrees to provide the non-medical homemaker/personal care (PCA Level II), housekeeper/chore (PCA Level I) and respite workers with training as required by the New York State Department of Social Services and Department of Health. Each worker shall be instructed on how to work with the elderly. Each worker shall receive an orientation, prior to delivering any in-home services.

N. Training shall include:

- 1) the housekeeping chore and/or personal care tasks which the worker may/may not perform;
- 2) the policies and procedures of the **CONTRACTOR's** agency; and
- 3) the rights of clients as set forth in the EISEP standards and regulations.

O. MEDICAID PROCEDURES:

1) The **CONTRACTOR** and **COUNTY** agree that non-medical homemaker/personal care (PCA Level II), housekeeper/chore (PCA Level I) and respite services shall not be provided to individuals eligible to receive the same or similar services under Titles XVII, XIX, or XX of the Federal Social Security Act or any other governmental program or services provided to residents in adult residential care facilities which had previously been provided by such facility.

2) The **COUNTY** agrees to assume the responsibility for collecting the cost-share fees and donations for EISEP/III-E Program's in-home services received by the clients.

3) The **CONTRACTOR** agrees to bill Medicaid and credit the **COUNTY** for the billed amount for any EISEP/III-E client services provided after the Medicaid start date, and bill Medicaid for those Medicaid covered services provided three months prior to the Medicaid start date.

4) The **COUNTY** agrees to notify the **CONTRACTOR** of client approval for Medicaid.

5) The **CONTRACTOR** will credit the **COUNTY** for Medicaid payments received.

6) The **COUNTY** will process prior approvals for Medicaid billing for services provided in this section.

7) The **CONTRACTOR** and the **COUNTY** shall endeavor to hold periodic coordinating meetings that shall be responsive to each other's needs.

8) The **CONTRACTOR** agrees to work in cooperation with the **COUNTY** to develop a comprehensive service delivery system for the EISEP/III-E Program.

P. Notwithstanding any other provisions in this Agreement, the **CONTRACTOR** and the **COUNTY** remain responsible for:

- 1) ensuring that any service provided pursuant to this Agreement complies with all pertinent provisions of federal, state and local statutes, rules and regulations;
- 2) planning, coordination and ensuring the quality of all services provided; and
- 3) ensuring adherence by both **CONTRACTOR** and **COUNTY** staff to the Home Care Plan established for the clients.

Q. The **COUNTY** will provide the **CONTRACTOR** with a care plan, confirmation of documentation, and a PCA approval form. This documentation will be provided at the time of referral and every six months thereafter. It is the responsibility of the **COUNTY** to develop the care plan according to regulations and to obtain required Physician(s) Orders related to the **COUNTY** services being provided by the **CONTRACTOR**. It is also understood that a Registered Nurse from the **COUNTY** will review and sign all approved care plans. If there is a change in a patient's condition, a new home assessment or a new Physician Orders a revised care plan needs to be developed by the **COUNTY** and a copy sent to the **CONTRACTOR** at that time.

3. **PERFORMANCE OF SERVICES**

A. The **CONTRACTOR** represents that **CONTRACTOR** is duly licensed (as applicable) and has the qualifications, the specialized skill(s), the experience and the ability to properly perform the services. **CONTRACTOR** shall use **CONTRACTOR'S** best efforts to perform the services such that the results are satisfactory to the **COUNTY**. **CONTRACTOR** shall be solely responsible for communications with the client or client's caregiver in order 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. **CONTRACTOR** may, at **CONTRACTOR'S** own expense, employ or engage the services of such employees, subcontractors and/or partners as **CONTRACTOR** deems necessary to perform the services. The employees, subcontractors and/or partners are not and shall not be employees of the **COUNTY**, and the **COUNTY** shall have no obligation to provide employees, subcontractors and/or partners with any salary or benefits. **CONTRACTOR** shall be solely responsible and shall remain liable for the performance of the services by the employees, subcontractors and/or partners in a manner satisfactory to the **COUNTY**, in compliance with any and all applicable Federal, State or Local Laws and Regulations.

C. **CONTRACTOR** acknowledges and agrees that **CONTRACTOR** and its employees, subcontractors and/or partners 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**.

4. **REIMBURSEMENT FOR SERVICES**

A. It is agreed and understood by all Parties that the **COUNTY** shall reimburse the **CONTRACTOR** for EISEP/III-E Services which are provided in accordance with the terms and conditions of this Agreement and the Community Services for the Elderly Program (CSEP) and the Caregiver Support III-E grants.

B. The **COUNTY** agrees to reimburse the **CONTRACTOR** the rates of **\$18.50 per hour** for homemaker/personal care (PCA Level II), and **\$17.85 per hour** for housekeeper/chore (PCA Level I). A full day of programming is defined as five (5) hours, but the **CONTRACTOR** may bill in ½ hour increments when the client is attending less than five (5) hours per day. The total payments for this contract will not exceed Ninety-Nine Thousand Dollars (**\$99,000.00**).

C. The **COUNTY** funds are contingent upon availability of State and County of Oneida funding; reimbursement is payable in twelve (12) monthly vouchers as specified in the Voucher Instructions, attached hereto as **APPENDIX C**.

D. The **CONTRACTOR** agrees to make no claim for damages for delay of reimbursement due to an act or omission by the **COUNTY**

E. The **COUNTY** shall not be liable for any late fees for any interest in late payments.

F. The obligations of the Parties hereunder are conditioned upon the continued availability of New York State and **COUNTY** funds for the purposes set forth in this Agreement. Should funds become unavailable or should appropriate New York State and **COUNTY** officials fail to approve sufficient funds for completion of the services set forth in this Agreement, the **COUNTY** shall have the option to immediately terminate this Agreement upon providing written notice to the **CONTRACTOR** by certified mail. In such an 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.

G. The **COUNTY** reserves the right to withhold payment under this Agreement due to Contractor's failure to properly perform its obligations under this Agreement. The **COUNTY** may withhold payment for including but not limited to:

1. defective services;
2. third party claims;
3. failure of the **CONTRACTOR** to pay its subcontractors, if any;

4. damage to the **COUNTY**, or
5. failure to carry out the services in accordance with this Agreement.

H. It is understood and agreed that the **COUNTY** shall not be responsible for any costs incurred by the **CONTRACTOR** prior to the effective date or following the termination date of this Agreement.

5. **TRAINING**

A. The **CONTRACTOR** shall not be required to attend or undergo any training by the **COUNTY**. **CONTRACTOR** shall be fully responsible for his or her 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.

6. **INDEPENDENT CONTRACTOR STATUS**

A. It is expressly agreed that the relationship of the **CONTRACTOR** and its employees, subcontractors and/or partners to the **COUNTY** shall be that of independent contractors. The **CONTRACTOR** and its employees, subcontractors and/or partners shall not be considered employees of the **COUNTY** for any purpose including, but not limited to, claims for unemployment insurance, worker's compensation, retirement, or health benefits. The **CONTRACTOR** and its employees, subcontractors and/or partners, 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** 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 **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 Agreement, and may continue to make his or her services available to the public.

C. The **CONTRACTOR** and its employees, subcontractors and/or partners 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. The **CONTRACTOR** acknowledges and agrees that neither **CONTRACTOR**, nor its employees, subcontractors and/or partners, shall be eligible for any **COUNTY** employee benefits, including retirement membership credits.

E. The **CONTRACTOR** shall be solely responsible for applicable taxes for all compensation paid to **CONTRACTOR** or its employees, subcontractors and/or partners under this Agreement, 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, subcontractors and/or partners, including payroll deductions, worker's 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, worker's compensation, disability insurance or social security insurance (FICA). **CONTRACTOR** shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Agreement.

F. The **CONTRACTOR** 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 **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.

## 7. SUBCONTRACTS

A. A subcontractor is a person and/or entity who have an agreement with the **CONTRACTOR** to perform any of the services stated herein.

B. The **CONTRACTOR** agrees to furnish to the **COUNTY**, prior to the execution of this Agreement, a list of names of subcontractors to whom the **CONTRACTOR** proposes to award any portion of the services. The **COUNTY** shall be provided a copy of any and all agreement(s) between the **CONTRACTOR** and any subcontractors regarding the award of any portion of the services within ten (10) days of their final execution.

C. Any agreements between the **CONTRACTOR** and the subcontractors shall be in accordance with the terms of this Agreement and shall include the conditions of this Agreement including all exhibits, attachments, appendices, and addendums, insofar as applicable.

8. **NON ASSIGNMENT CLAUSE**

A. The **CONTRACTOR** shall not assign, transfer, convey, sublet or otherwise dispose of the Agreement or of its right, title, or interest therein, or its power to execute this Agreement, to any other corporation or person without the prior written consent of the **COUNTY**.

9. **STANDARD ASSURANCES**

A. The **CONTRACTOR** shall comply with statutes, regulations, and policies set by the following: Federal Department of Health and Human Services, Federal Administration on Aging, the New York State Office for the Aging (NYSOFA), and the County of Oneida, more fully described in **APPENDIX A**.

B. The **CONTRACTOR** shall comply with section 504 of the Rehabilitation Act of 1973 (Nondiscrimination) which states, "No otherwise qualified handicapped individual in the United States shall solely, by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance."

C. The **CONTRACTOR** shall comply with Article 15 and Article 15A of the Executive Law of New York State (State Human Rights Law and Minority/Women's Business Contract Requirements) and the Governor's Executive Order 28 (Prohibiting discrimination based on Sexual Orientation): "The opportunity to obtain employment without discrimination because of age, race, creed, color, national origin, gender, marital status or sexual orientation is hereby recognized as and declared to be a civil right..."

D. The **CONTRACTOR** shall comply with Title VI of the Civil Rights Act of 1964 (Public Law 38-352), and any amendment thereto: "No person in the United States shall, on the grounds of race, color, religion, gender, national origin, partisan affiliation or sexual orientation be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

E. The **CONTRACTOR** agrees that any program, public information materials, or other printed or published materials on the work of or funded by CSEP/III-E will give due recognition to the New York State Office for the Aging and the Oneida County Office for the



Aging and Continuing Care. The statement shall be in font which is one of the following: in italics, or at least two font sizes larger than the rest of the text, or in bold font or underlined. (i.e., *“This program is supported by Oneida County Office for the Aging and Continuing Care, New York State Office for the Aging, and the Administration on Aging.”*). The **CONTRACTOR** should forward copies of all materials to the **COUNTY** at the end of each month.

F. The **COUNTY** shall conduct a program review to ensure that the **CONTRACTOR** is in compliance with all standards and regulations as set forth in this Agreement.

10. **NEW YORK STATE OFFICE FOR THE AGING (NYSOFA) TERMS AND CONDITIONS**

A. The **CONTRACTOR** agrees that all its activities under this contract, shall conform with all applicable Federal, State, and Local laws, and with Federal and State regulations, and Program Standards and Program Instructions of the New York State Office for the Aging (NYSOFA) that apply to such activities, including, but not limited to:

- 1) Rehabilitation Act of 1973, Sec. 504 (29 U.S.C. 794, Nondiscrimination);
- 2) Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.; see 92-PI-32, [8/4/92];
- 3) Civil Rights Act of 1964, Title VI, as amended (42 U.S.C. 2000-d et. seq.);
- 4) Older Americans Act;
- 5) Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency);
- 6) Federal Executive Order 11246, as Amended by Executive Order 11375 (Affirmative Action); as Amended by Executive Order 12086 (Consolidation of Compliance Functions); and as Amended by Executive Order 13279 (Equal Protection for Faith-Based and Community Organizations.);
- 7) Executive Law, Article 15 (State Human Rights Law Prohibiting Discrimination Based on Race, Color, Creed, National Origin, Sex, Age, Disability, Sexual Orientation and Other Factors);
- 8) Equal Access to Services and Targeting Policy (12-PI-08);
- 9) Elder Law.

B. The **CONTRACTOR**, to the extent it has discretion regarding to whom it will provide services, agrees to provide services to those unserved and underserved older adults in greatest social or economic need, particularly those who are low-income, low-income minorities, older adults with Limited English Proficiency (LEP), Native Americans, and frail/persons with disabilities and older adults residing in rural areas, in accordance with their need for such services, and to meet specific objectives established by the Area Agencies on Aging (AAA) for providing services to the above groups within Oneida County. The

**CONTRACTOR** agrees to concentrate the services on older adults in the targeted populations identified by the AAA following the methods the AAA has established for complying with the targeting requirements under the Older Americans Act and the Equal Access and Targeting Policy issued by the New York State Office for the Aging.

C. The **CONTRACTOR** shall inform persons with Limited English Proficiency (LEP) of the availability of language assistance, free of charge, by providing written notice of such assistance in a manner designed to be understandable by LEP persons at service locations and, at a minimum, have a telephonic interpretation service contract or similar community arrangement with a language interpretation services provider of their choice. The **CONTRACTOR** shall train staff that have contact with the public in the timely and appropriate use of these and other available language services.

D. To the extent that the contract with the AAA is for a program or service funded under the Area Plan, the **CONTRACTOR** agrees that it and any subcontractors will perform such work in accordance with the terms of the Area Plan. The AAA agrees to make the Area Plan available to the **CONTRACTOR**.

E. The **CONTRACTOR** agrees that for programs established and funded in whole or in part pursuant to Title III of the Older Americans Act, the **CONTRACTOR** shall specify how it intends to satisfy the service needs of low-income minority individuals, older adults with Limited English Proficiency, and older adults residing in rural areas in the area served by it; will to the maximum extent feasible, provide services to low-income minority individuals, older individuals with Limited English Proficiency, and older adults residing in rural areas in accordance with their need for such services; and meet specific objectives established by the AAA, for providing services to low-income minority individuals, older adults with Limited English Proficiency, and older adults residing in rural areas within the planning and service area.

#### 11. **GRIEVANCE PROCEDURES**

A. The **CONTRACTOR** agrees to implement the **COUNTY'S** grievance procedures as required by the New York State Office for the Aging. The written procedures are attached in **APPENDIX B**.

#### 12. **FISCAL REQUIREMENTS/RESPONSIBILITIES**

A. The **CONTRACTOR** shall keep CSEP/III-E funds separate; further, state and federal funds shall not be used as local share (match).

B. The **CONTRACTOR** shall comply with all voucher and contribution procedures, and submissions of required reports as described in the **COUNTY** Voucher Instructions, refer to **APPENDIX C**.

C. The **COUNTY** will be responsible for sending monthly donation letters and collecting client contributions for all clients who attend Office for the Aging and Continuing Care funded day care program. Any contributions received by the **CONTRACTOR** for Office for the Aging and Continuing Care funded client, directly, will be reported and deducted on monthly vouchers by the **CONTRACTOR**.

D. The **CONTRACTOR** shall report to the **COUNTY** any and all additional moneys or program income (contributions, donations,) given to the CSEP/III-E supported programs. "Program income means gross income received by the subcontractor directly generated by a **COUNTY** grant supported activity, or earned as a result of the **COUNTY** grant agreement during the grant period." REF: Department of Health & Human Services, Program Instruction AoA-PI-96-01, October 16, 1995.

E. The **CONTRACTOR** shall maintain copies of proper documentation for all program income, including, but not limited to, in-kind support, donations, contributions, reimbursements and other grants within its program budget.

F. The **COUNTY** shall conduct a periodic audit of revenues and expenditures, as well as the required annual on-site review of the program's fiscal status to ensure expenditures are in proportion to the total program budget.

G. The **CONTRACTOR** shall agree to have an independent audit conducted for the contracted program if it has been a **CONTRACTOR** for two (2) years or more; a copy of the audit shall be submitted to the **COUNTY** upon completion of the program/fiscal audit conducted by the outside auditor.

H. The **CONTRACTOR** shall maintain fiscal records for six (6) years and shall make them available for **COUNTY** review upon request.

I. The **CONTRACTOR** shall cooperate with the close-out audit that is required when the contract is terminated.

J. The **CONTRACTOR** shall follow close-out procedures administered by the **COUNTY** in accordance with the Code of Federal Regulations 45-74, as amended in 1980.

### 13. **INDEMNIFICATION**

A. The obligations of the **CONTRACTOR** under this section shall survive any expiration or termination of this Agreement, and shall not be limited by any enumeration herein of required insurance coverage.

B. The **CONTRACTOR** shall defend, indemnify and hold harmless the **COUNTY** from and against all liability, damages, expenses, costs, including, without limitation, attorneys' fees and expenses, 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 services of the **CONTRACTOR** and its agents, servants, employees, independent contractors, volunteers or partners 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 the Agreement.

C. The **CONTRACTOR** shall be solely responsible for all physical injuries or death to its agents, servants, employees, independent contractors, volunteers or partners or to any other persons or damage to any property sustained during its operations and services under this Agreement resulting from any act of omission or commission or error in judgment of any of its officers, trustees, servants, independent subcontractors, and shall hold harmless and indemnify the **COUNTY** from liability upon any and all claims for injuries to persons or damages to property on account of any neglect, fault or default of the **CONTRACTOR**, its officers, trustees, agents, servants, volunteers or independent subcontractors. The **CONTRACTOR** shall be solely responsible for the safety and protection of all of its agents, servants, employees, independent contractors, volunteers or partners whether due to the negligence, fault or default of the **CONTRACTOR** or not.

14. **INSURANCE COVERAGE REQUIREMENTS**

A. As part of its obligation to indemnify, defend and hold harmless the **COUNTY**, its agents, servants, employees, independent contractors, volunteers or partners, as set forth above, the **CONTRACTOR** agrees to obtain and maintain in full force and effect, for the term of this Agreement, insurance coverage as described below.

B. 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 shall have at least an A- (excellent) rating by A.M. Best.

C. The **CONTRACTOR** shall not commence services until such insurance has been approved by the **COUNTY**. The certificates shall be on forms approved by the **COUNTY**. Acceptance of the certificates shall not relieve the **CONTRACTOR** of any of the insurance requirements, nor decrease the liability of the **CONTRACTOR**. The **COUNTY** reserves the right to require the Contractor to provide insurance policies for review by the **COUNTY**. The

**CONTRACTOR** grants **COUNTY** a limited power of attorney to communicate with the **CONTRACTOR'S** insurance provider and/or agent for the express purpose of confirming the coverages required hereunder.

D. Certificates of Insurance: Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of the **CONTRACTOR'S** Commercial General Liability Policy, Auto, and Excess/Umbrella Policy. These Certificates and the Insurance Policies required below 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 the **COUNTY**. The **COUNTY** must be named as the certificate holder and additional insured.

E. Commercial General Liability Insurance (CGL): The **CONTRACTOR** shall 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/death with regard to any property or persons. The liability and property damage coverage of such insurance shall not be less than One Million Dollars (\$1,000,000.00) per occurrence and such insurance shall not be less than Three Million Dollars (\$3,000,000.00) annual aggregate. The **CONTRACTOR** shall have the **COUNTY** added to said insurance policy and /or policies as a named additional insured, on a primary, non-contributory basis. 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 insured.

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) The **COUNTY** shall be included as an 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 insured.

F. Business Auto Liability: The **CONTRACTOR** shall at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of insurance Business Auto Liability Insurance in an amount equal to or greater than One Million Dollars (\$1,000,000.00) for the term of this Agreement. Business Auto Coverage must include coverage for liability arising out of all owned, leased, hired and non-owned automobiles. The

**CONTRACTOR** agrees to have the **COUNTY** added to said insurance policies as a named additional insured, on a primary, non-contributory basis.

G. Excess/Umbrella Liability Insurance: The **CONTRACTOR** shall, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of insurance Umbrella/Excess Liability Insurance in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence and such insurance shall not be less than One Million Dollars (\$1,000,000.00) annual aggregate. The **CONTRACTOR** shall have the **COUNTY** added to said insurance policies as a named additional insured, on a primary, non-contributory basis. 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 other than the CGL, Auto Liability, and Employers Liability maintained by the **COUNTY**.

H. Professional Liability Insurance: The **CONTRACTOR** shall, during the term of this Agreement maintain a professional liability policy and shall provide the **COUNTY** with proof of coverage in the amount of One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000) annual aggregate.

I. Workers Compensation and Employers Liability Insurance: The **CONTRACTOR** shall, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of insurance, written by one or more insurance carriers licensed to do business in the State of New York, and having offices within the State of New York, which will insure against all claims under New York State Worker's Compensation Law at statutory New York limits.

J. The **CONTRACTOR** shall require any subcontractors to procure and maintain insurance coverage of the same type and in the same amounts with the same endorsements required of the **CONTRACTOR** in the above Insurance Requirements paragraphs.

K. Payment(s) to the **CONTRACTOR** may be suspended in the event the **CONTRACTOR** and its sub-contractors, if any, fails to provide the required insurance documentation in a timely manner.

L. Waiver of Subrogation: **CONTRACTOR** waives all rights against the **COUNTY** and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by Commercial General Liability, Business Auto Liability or Workers Compensation and Employers Liability Insurance maintained per the requirements stated above.

15. **REPORTING REQUIREMENTS**

A. The **COUNTY** shall, pursuant to the requirements of CSEP/III-E funded programs, comply with the Definition of Services, April 2011, as established by the New York State Office for the Aging (96-PI-43).

B. The **CONTRACTOR** shall provide the **COUNTY** with required information needed to meet planning, coordination, evaluation and reporting requirements as required by the New York State Office for the Aging's Consolidated Area Agency Reporting System (CAARS), by the 10<sup>th</sup> of every month. The current and revised CAARS Monthly Report Forms and Monthly Summary Form must be submitted as an attachment to the voucher on a monthly basis.

C. The **CONTRACTOR** shall maintain appropriate client records on each EISEP client who receives services through this program; the **COUNTY** shall have access to the client records upon request; the **COUNTY** shall have ownership of all patient's records and files.

D. The **CONTRACTOR** agrees to comply with policies ensuring client confidentiality, as established by the **COUNTY**, when information sharing between agencies is crucial to the client's well-being and is needed to ensure effective service provision; pertinent information shall be shared in accordance with federal and state regulations and statutes.

E. The **CONTRACTOR** shall provide the **COUNTY** with required monthly, periodic, and/or special reports and shall submit all reports to the **COUNTY** by the dates specified.

16. **COORDINATION REQUIREMENTS**

A. The **CONTRACTOR** and the **COUNTY** shall coordinate referrals.

B. The **CONTRACTOR** and the **COUNTY** shall work with older persons, who are not eligible for services through this contracted program, to obtain needed services.

C. The **CONTRACTOR** shall coordinate with other appropriate service providers in obtaining and providing referrals for older residents of Oneida County.

17. **AGREEMENT CANCELLATION**

A. The Agreement may be cancelled by the **COUNTY** for failure by the **CONTRACTOR** to comply with the terms and conditions of this Agreement. The **CONTRACTOR** shall agree to incur no new obligations nor submit a claim for any expenses made after the receipt of written notification of termination.

B. The **CONTRACTOR** and the **COUNTY** reserve the right to cancel the Agreement upon thirty (30) day written notice to the other Party.

C. The **CONTRACTOR** agrees that in the event of termination, said party shall make a full and final accounting of all funds received and monies expended under the Agreement within thirty (30) days after the date of termination. Any unexpended funds shall be the property of the **COUNTY**.

D. The **CONTRACTOR** shall coordinate with the **COUNTY** and other providers to ensure that any break in service to clients shall not be detrimental to a clients' health or well-being. If available and appropriate, other services shall be substituted and/or coordinated on the clients' behalf.

18. **ENTIRE AGREEMENT**

A. This Agreement contains the binding Agreement between the Parties and supersedes all other agreements and representations, written or oral, on the subject matter of this Agreement.

B. Oral statements and understandings are not valid or binding, and neither this Agreement nor any other shall be changed or modified except by a writing signed by all Parties.

C. 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.

19. **INCORPORATION BY REFERENCE**

A. All exhibits, addenda, appendices and attachments, to which reference is made, are deemed incorporated in this Agreement, whether or not actually attached.

20. **STANDARD ADDENDUM**

A. The **CONTRACTOR** agrees to comply with the County's Standard Clauses as set forth in the Addendum, which is attached hereto and made a part hereof as **APPENDIX D**.

21. **CHOICE OF LAW/FORUM**

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.



22. SUCCESSORS AND ASSIGNS

A. 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.

23. NON WAIVER

A. 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, unless explicitly stated otherwise.

24. SEVERABILITY

A. 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 the Agreement shall be reformed to replace the stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision. Further, the Parties agree that all other provisions shall remain valid and enforceable.

25. AUTHORITY TO ACT/SIGN

A. The **CONTRACTOR** hereby represents and certifies that it has the power and authority to execute and deliver this Agreement and to carry out its obligations hereunder. The execution and delivery by **CONTRACTOR** of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by the **CONTRACTOR**; no other action on the part of the **CONTRACTOR** or any other person or entity, whether pursuant to its Articles of Incorporation, Articles of Operation, Operating Agreement or Bylaws, as the case may be, or by law or otherwise, are necessary to authorize the **CONTRACTOR** to enter into this Agreement, or to consummate the transactions contemplated herein.

26. ADVICE OF COUNSEL

A. 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 THEREOF, the Parties have here unto set their hand on the date respectively stated.

**CONTRACTOR**

*Russell C. Brooke*

~~Gloria Brooke, President~~  
Family Home Care, Inc.

*Corporate Treasurer*

*6/7/2017*

Date

**COUNTY OF ONEIDA**

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

\_\_\_\_\_  
Date

**OFFICE FOR THE AGING AND CONTINUING CARE**

*m. romano*

Michael J. Romano, Director  
Oneida County Office for the Aging

*6/21/17*

Date

**Approved:**

\_\_\_\_\_  
Merima Smajic, Esq., Assistant County Attorney

\_\_\_\_\_  
Date

## APPENDIX A

The Older Americans Act (OAA) of 1965, as amended (42 U.S.C. 3001 et. seq.)  
45 CFR Part 74 (Administration of Grants)  
45 CFR Part 84 (Nondiscrimination on the basis of Handicap)  
45 CFR Part 92 (Uniform Administrative Requirements for Grant and Cooperative  
Agreements to State and Local Governments)  
45 CFR Part 93 (New Restrictions on Lobbying)  
45 CFR Part 1321, Subparts A-D (Grants to State and Community Programs on Aging)  
45 CFR Part 1321.61 (b)(4) (Support of State Titled VII Activities)  
Age Discrimination in Employment Act of 1975, as amended (29 USC 621, et seq.)  
Americans with Disabilities Act of 1990 (42 USC 12101, et seq.)  
Civil Rights Act of 1964, Subchap. VI, as amended by the Equal Employment Opportunity Act of  
1972 (42 USC 2000e, et. seq.)  
Equal Pay Act of 1963, as amended (29 USC 206)  
Home Energy Assistance Act of 1981, as amended (42 USC 8601, et seq.)  
Rehabilitation Act of 1973, Sec. 504 (29 USC 794) (Nondiscrimination)  
Single Audit Act of 1984 (31 USC 7501, et. seq.)  
USDA Nutrition Programs for the Elderly (7 C.F.R. Secs 250.42 and 250.12 (b))  
Office of Management and Budget (OMB)  
OMB Circular A-87 (Cost Principles for State and Local Governments)  
OMB Circular A-95 (Clearinghouse Review)  
OMB Circular A-102 (Uniform administrative Requirements for 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 and other Non-profit Organizations)  
OMB Circular A-122 (Cost Principles for Non-profit Organizations)  
OMB Circular A-128 (Audits of State and Local Governments)  
OMB Circular A-133 (Audits of State and Local Government and Non-Profit Organizations)  
Federal Executive Order 11246, as Amended by Executive Order 11375 (Affirmative Action)  
Article 19 - J of the Executive Law  
New York State Office for the Aging Rules and Regulations (9 NYCRR Part 6651 et. seq.)  
**New York State Office for the Aging Rules and Regulations (9 NYCRR Part 6654.20)**  
**(Social Adult Day Care)**  
Executive Law of New York State, Article 15 (State Human Rights Law)  
Executive Law of New York State, Article 15A (Minority/Women's Business contract Requirements)  
Executive Law, Section 544-A (Establishes Basic Requirements for LTCOP program under the  
Older Americans Act)  
Executive Law, Section 544-b (Defense and indemnification of representatives of the State  
Long-Term Care Ombudsman Program)  
Executive Law, Article 7-A (Registration and reporting provisions required of Charitable  
Organizations)  
EISEP Program Standards  
**NYS Office for the Aging's 1990 Nutrition Program Standards (90-PI-26)**  
Legal Assistance Standards (94-PI-52)  
Weatherization Referral and Packaging Program (WRAP) Handbook  
Governor's 1960 Code of Fair Practices  
Governor's Executive Order 6 (Affirmative Action Efforts)  
Governor's Executive Order 19 (Prevention of Sexual Harassment)  
Governor's Executive Order 28 (Prohibiting discrimination based on Sexual Orientation)

## APPENDIX B

### Oneida County Office for the Aging

#### **Grievance Procedures**

In accordance with the Older Americans Act (OAA), as amended, the Oneida County Office for the Aging has established the following process for resolving complaints from clients who are dissatisfied with or persons denied services funded under the Act.

#### **Right to File a Grievance**

The Office for the Aging and all contracting provider agencies who receive OAA funds shall notify program clients of their right to file a grievance with the provider agency and/or with Oneida County Office for the Aging. Upon request, the Office for the Aging will provide assistance with filing a grievance.

#### **Denial of Service or Client's Un-satisfaction of Service**

A client or applicant who is denied OAA services must be given the reasons for the denial. Services may be denied because of funding restrictions, ineligibility, hours or locations have changed, reassessment determined services no longer needed, or client is disruptive to the program. For OAA services for which a written application is made, the denial shall be confirmed in writing and the applicant informed of the right to file a grievance and to whom the grievance shall be made. For OAA services for which verbal application is made by telephone or in person, the person may be denied verbally and verbally informed of the right to file a grievance and to whom.

#### **Grievance Process**

##### **Filing a Grievance**

- Individual must submit their grievance in writing to the Director of the Office for the Aging who will forward the Letter to the designated person of the provider agency to conduct the initial review.
- **The grievance must be filed within thirty (30) calendar days of denial, reduction or termination of services, or of the event or circumstances with which the person is dissatisfied.** The Office for the Aging or the provider agency may grant an extension for good cause shown.
- The Letter of Grievance should include a written statement setting forth in detail the date, time and circumstances that are the basis for the complaint.

##### **Investigation and Response to a Grievance**

- The designated reviewer will investigate the complaint. The reviewer will determine whether the action was in accordance to applicable Older Americans Act and State laws and regulation and are supported by facts.
- The reviewer will prepare and send written response to the grievant and to the Office for the Aging Director within fifteen (15) working days after the grievance is filed. The response will set forth the circumstances relating to the grievance, the action requested by the grievant, the findings of the reviewer, a proposed remedial action and, if any, the reason(s) for and facts relied on in the determination.

##### **Appeal of Initial Response/Decision**

If the grievant is not satisfied with the determination, s(he) has the right to further review as follows:

- S(he) may initiate a request for subsequent review by the Office for the Aging Director within ten (10) calendar days following receipt of notification from the provider agency of its decision.
- The Office for the Aging Director will request, and the provider agency shall provide, copies of the initial file on the complaint in question. The Office for the Aging Director will review the materials to ensure that pertinent policies and procedures have been applied and followed.
- If the policies and procedures have been adhered to, the Office for the Aging Director will not overturn the decision of its contracting provider agency. If the proper policies and procedures have not been applied, the director reserves the right to overturn the decision.
- A written notification of the results will be made to the grievant within twenty (20) working days of receipt of the appeal request.

### **Record Keeping**

The provider agency will keep a file, for six years, of all relevant documents and records of a grievance. The file shall include at a minimum: the initial grievance; any investigative reports; any and all written responses; any documents or other records submitted by any party; and, if applicable, the notice to the grievant of the right to appeal.

### **Confidentiality**

No information, documents or other records relating to a grievance shall be disclosed by program staff or volunteers in a form that identifies the grievant without the written informed consent of the grievant, unless the disclosure is required by court order or for program monitoring by authorized agencies.

## APPENDIX C

Oneida County Office for the Aging  
2015-2016

### **Voucher Instructions For Units of Services Contracts**

Complete the Oneida County voucher (3-part white, yellow, and pink form) as follows:

1. **Department:** Office for the Aging and Continuing Care
2. **Claimants Name and Address:** Contractor name and address (checks will be payable to the name given and sent to the address listed).
3. **Date:** List month this claim covers.
4. **Vendor's Invoice Number:** leave blank
5. **Quantity/Description of Material or Service/Unit Price/Amount:**
  - ✓ State the number of units of service and the description of services performed during the month.
  - ✓ List the Unit Price as stated in the Contract Budget.
  - ✓ Place the amount (Units X Unit Price) in the Amount column.
  - ✓ Place the amount to be reimbursed in the Total block.
  - ✓ Specify program funds (III-E, EISEP, CSE, III-B etc.) in the space after the Contract Number.
6. **Claimant's Certification:**

Fill out completely, Note that Oneida County will not pay a voucher without an original signature, Federal ID Number or Social Security Number.
7. **Voucher Backup**
  - ✓ Attach CAARS monthly report.
  - ✓ Master list of clients billed for on voucher (with individual total monthly amount billed).
  - ✓ Attach appropriate backup:
    - Payroll certification sheets and time sheets signed by Agency employee.
    - Legal Assistance Program – case numbers, DOB, Legal Assistance Referral, Type of Service, Fax Date and Unit of Services.
    - Housekeeper/Chore (PCA Level I) or Homemaker/personal care (PCA Level II), Housekeeper/chore (Level I) – Contract EISEP voucher backup. Copies of PCA daily logs including date and times of service and all must be signed by client.
    - Adult Day Care – OFFICE approved sign-in log sheet with dates and times of service and all must be signed by client.
    - Emergency Response Systems – (Original Invoice)

Have all accounting records, receipts and supporting documentation readily available for review by the County, State and/or Federal personnel authorized to examine and/or audit program accounts. Ref: US Code of Federal Regulations 45-74 amended in 1980. Check numbers, dates paid and amounts paid must be written on each receipt.
8. **Timely Submissions:**
  - ✓ Submit monthly vouchers by the 10<sup>th</sup> day of the month following the reporting month.
  - ✓ Checks are issued by Oneida County Audit and Control only on Fridays - approximately 30 days after submission.

- ✓ If all documentation is not included, the voucher will be returned unpaid with a request for proper backup and documentation.

**9. Changes To The Budget** (including personnel):

- ✓ Submit a Budget Revision and a justification for the change.

**10. Technical Assistance:**

- ✓ If you have fiscal questions regarding your program or require technical assistance, please contact the OFA-OCC Fiscal Unit directly at 315-798-5456.

Susie Perritano, Accounting Supervisor

**APPENDIX D**  
**Standard Contract Clauses Addendum**

THIS ADDENDUM, 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 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. 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 tension, 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 clients 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 (1), (0), (0), (d), (0), (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.
  3. 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 "HIPPA," as well as all regulations promulgated by the Federal Government in furtherance hereof, 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.**

- a. 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.
- b. 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.**

- 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 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.
- 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 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).
- 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.
- c. 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.

- d. 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

Anthony J. Picente, Jr.  
County Executive

Office for the Aging & Continuing Care

Michael J. Romano  
Director

120 Airline Street-Suite 201 Oriskany, NY 13424 Phone 315-798-5456 Fax 315-768-3658 E-mail.ofa@ocgov.net

May 12, 2017

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

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

FN. 20 17-2579  
  
Anthony J. Picente, Jr.  
County Executive

HEALTH & HUMAN SERVICES  
Date 6/19/17

**WAYS & MEANS**

Dear Mr. Picente:

Enclosed please find for your review and signature, the Contract Agreement between GTL, Incorporated d/b/a Link to Life and the Oneida County Office for the Aging and Continuing Care.

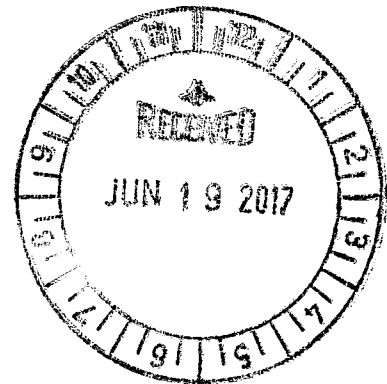
The purpose of this Agreement is to provide for the rental of Personal Emergency Response Systems (PERS) to be used as ancillary support to in-home services by eligible clients of the Expanded In-Home Services for the Elderly Program (EISEP). The total amount of this Agreement is \$93,240.00, which is paid by 75% State (\$69,930.00) and 25% County (\$23,310.00) funding. The terms of this Agreement will commence upon execution and terminate March 31, 2019.

If this Agreement meets with your approval, please forward to the Board of Legislators for further consideration.

I am available at your convenience to respond to any questions which you may have regarding this Agreement.

Sincerely,

Michael J. Romano  
Director



MJR/jc  
Enclosure

Oneida Co. Department: Aging

Competing Proposal	<u>  X  </u>
Only Respondent	_____
Sole Source RFP	_____
Other	_____

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

Name & Address of Vendor: **GTL, Incorporated d/b/a Link to Life**  
27475 Meadowbrook Road  
Novi, Michigan. 48377-3532

Title of Activity or Service: Personal Emergency Response System  
(PERS)

Proposed Dates of Operation: Upon execution through March 31,  
2019

Client Population/Number to be Served: Approximately 300 clients

**Summary Statements:**

**1) Narrative Description of Proposed Services**

To provide for rental of Personal Emergency Response Systems (PERS) which allow senior citizens the ability to stay safe and independent in their own home.

**2) Program/Service Objectives and Outcomes:**

PERS systems are to be used as ancillary support to in-home services by eligible clients of the Expanded In-Home Services for the Elderly Program (EISEP).

**3) Program Design and Staffing**

N/A

**Total Funding Requested:** \$ 93,240.00 Account #: A6774.495.99

**Oneida County Dept. Funding Recommendation:** \$93,240.00

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

Federal: 0% (\$0) State: 75% (\$69,930.00) County: 25% (\$23,310.00)

**Cost Per Client Served:** \$14.00 – Rental per month for Landline Device  
\$23.00 – Rental per month for Cellular Device  
\$5.00 – Additional fee per Spouse  
\$6.00 – Additional fee for Fall Detection Device  
\$0.00 – Installation Fee

**Past Performance Data:** N/A

**O.C. Department Staff Comments:** This is the first year that GTL, Incorporated d/b/a Link to Life will be providing services for all Emergency Response Systems used by the Office of the Aging and Continuing Care.

## AGREEMENT

**THIS AGREEMENT**, made by and between **GTL, INCORPORATED, D/B/A LINK TO LIFE**, a domestic business corporation organized and existing under the laws of the State of New York, with its principal offices at 27475 Meadowbrook Road, Novi, Michigan 48377, hereinafter known as "**CONTRACTOR**," and 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, by and through its department of **OFFICE FOR THE AGING AND CONTINUING CARE**, located at 120 Airline Street, Suite 201, Oriskany, New York 13424, hereinafter known as the "**COUNTY**," collectively, the "Parties."

### WITNESSETH:

**WHEREAS**, the **COUNTY** has the primary responsibility for the overall planning and coordination of **COUNTY** funds including the Federal AOA-Older Americans Act Title III, Title V, NYSOFA - EISEP, CSEP, CSI, SNAP, HIICAP, MIPPA/SHIP, and County of Oneida funds; and

**WHEREAS**, the **COUNTY** has the primary responsibility for the overall planning and coordination of the Expanded In-home Service for the Elderly Program and the Caregiver Support III-E Program; and

**WHEREAS**, the **COUNTY** has the responsibility to formally and informally monitor, assess and evaluate all programs, services and contracts funded through the **COUNTY**; and

**WHEREAS**, the **COUNTY** will provide technical assistance, upon request, to assist the **CONTRACTOR** in more effectively carrying out service delivery and/or complying with Federal, State and local statutes, policies, rules and regulations; and

**WHEREAS**, the **CONTRACTOR** is willing and able to perform the services required by this Agreement;

**NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES AS FOLLOWS:**

1. **TERM OF AGREEMENT**

A. The terms and conditions of this Agreement shall commence upon execution and terminate March 31, 2019.

B. This Agreement may be renewed for four (4) additional one (1) year periods upon mutual, written consent of both parties and in the best interest of Oneida County. Rates in

subsequent periods may be adjusted upon written request with a minimum of ninety (90) days' notice to the county and acceptable supporting documentation.

2. **SCOPE OF SERVICES- EISEP/III-E SERVICES**

A. The **CONTRACTOR** has available Personal Emergency Response System (PERS) items to be used as ancillary equipment as an in-home service provided to eligible clients of the Expanded In-home Services for the Elderly Program (EISEP) and the Caregiver Support III-E Program.

B. The **CONTRACTOR** agrees to test each unit monthly, maintain records of such tests, and provide required conformation documentation as proof of successful client contact and equipment function for each client billed for along with a monthly voucher.

C. The authorization for said services will be made solely by the Office for the Aging's Director or designee.

3. **PERFORMANCE OF SERVICES**

A. The **CONTRACTOR** represents that **CONTRACTOR** is duly licensed (as applicable) and has the qualifications, the specialized skill(s), the experience and the ability to properly perform the services. **CONTRACTOR** shall use **CONTRACTOR'S** best efforts to perform the services such that the results are satisfactory to the **COUNTY**. **CONTRACTOR** shall be solely responsible for communications with the client or client's caregiver in order 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. **CONTRACTOR** may, at **CONTRACTOR'S** own expense, employ or engage the services of such employees, subcontractors and/or partners as **CONTRACTOR** deems necessary to perform the services. The employees, subcontractors and/or partners are not and shall not be employees of the **COUNTY**, and the **COUNTY** shall have no obligation to provide employees, subcontractors and/or partners with any salary or benefits. **CONTRACTOR** shall be solely responsible and shall remain liable for the performance of the services by the employees, subcontractors and/or partners in a manner satisfactory to the **COUNTY**, in compliance with any and all applicable Federal, State or Local Laws and Regulations.

C. **CONTRACTOR** acknowledges and agrees that **CONTRACTOR** and its employees, subcontractors and/or partners 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**.

4. **REIMBURSEMENT FOR SERVICES**

A. It is agreed and understood by all Parties that the **COUNTY** shall reimburse the **CONTRACTOR** for EISEP/III-E Services which are provided in accordance with the terms and conditions of this Agreement and the Community Services for the Elderly Program (CSEP) and the Caregiver Support III-E grants.

B. The **COUNTY** agrees to reimburse the **CONTRACTOR** the rates of **\$14.00 per month** per landline unit and **\$23.00 per month** per cellular unit for monitoring and rental of PERS equipment. A fee of **\$5.00** will be charged for an additional fall pendant for their spouse. A fee of **\$6.00** will be charged for an automatic fall detection device. Private pay clients will be charged a one-time fee of **\$50.00** for the installation of the PERS equipment; clients authorized and referred by the **COUNTY** will not be charged an installation fee. The total payments for this Agreement will not exceed Ninety-Three Thousand Two Hundred Forty Dollars (**\$93,240.00**).

C. The **COUNTY** funds are contingent upon availability of State and County of Oneida funding; reimbursement is payable in twelve (12) monthly vouchers as specified in the Voucher Instructions, attached hereto as **APPENDIX C**.

D. The **CONTRACTOR** agrees to make no claim for damages for delay of reimbursement due to an act or omission by the **COUNTY**

E. The **COUNTY** shall not be liable for any late fees for any interest in late payments.

F. The obligations of the Parties hereunder are conditioned upon the continued availability of New York State and **COUNTY** funds for the purposes set forth in this Agreement. Should funds become unavailable or should appropriate New York State and **COUNTY** officials fail to approve sufficient funds for completion of the services set forth in this Agreement, the **COUNTY** shall have the option to immediately terminate this Agreement upon providing written notice to the **CONTRACTOR** by certified mail. In such an 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.

G. The **COUNTY** reserves the right to withhold payment under this Agreement due to Contractor's failure to properly perform its obligations under this Agreement. The **COUNTY** may withhold payment for including but not limited to:

1. defective services;

2. third party claims;
3. failure of the **CONTRACTOR** to pay its subcontractors, if any;
4. damage to the **COUNTY**, or
5. failure to carry out the services in accordance with this Agreement.

H. It is understood and agreed that the **COUNTY** shall not be responsible for any costs incurred by the **CONTRACTOR** prior to the effective date or following the termination date of this Agreement.

5. **TRAINING**

A. The **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.

6. **INDEPENDENT CONTRACTOR STATUS**

A. It is expressly agreed that the relationship of the **CONTRACTOR** and its employees, subcontractors and/or partners to the **COUNTY** shall be that of independent contractors. The **CONTRACTOR** and its employees, subcontractors and/or partners shall not be considered employees of the **COUNTY** for any purpose including, but not limited to, claims for unemployment insurance, worker's compensation, retirement, or health benefits. The **CONTRACTOR** and its employees, subcontractors and/or partners, 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** 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 **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 Agreement, and may continue to make its services available to the public.

C. The **CONTRACTOR** and its employees, subcontractors and/or partners 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. The **CONTRACTOR** acknowledges and agrees that neither **CONTRACTOR**, nor its employees, subcontractors and/or partners, shall be eligible for any **COUNTY** employee benefits, including retirement membership credits.

E. The **CONTRACTOR** shall be solely responsible for applicable taxes for all compensation paid to **CONTRACTOR** or its employees, subcontractors and/or partners under this Agreement, 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, subcontractors and/or partners, including payroll deductions, worker's 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, worker's compensation, disability insurance or social security insurance (FICA). **CONTRACTOR** shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Agreement.

F. The **CONTRACTOR** 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 **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.

7. **SUBCONTRACTS**

A. A subcontractor is a person and/or entity who have an agreement with the **CONTRACTOR** to perform any of the services stated herein.

B. The **CONTRACTOR** agrees to furnish to the **COUNTY**, prior to the execution of this Agreement, a list of names of subcontractors to whom the **CONTRACTOR** proposes to award any portion of the services. The **COUNTY** shall be provided a copy of any and all agreement(s) between the **CONTRACTOR** and any subcontractors regarding the award of any portion of the services within ten (10) days of their final execution.

C. Any agreements between the **CONTRACTOR** and the subcontractors shall be in accordance with the terms of this Agreement and shall include the conditions of this Agreement including all exhibits, attachments, appendices, and addendums, insofar as applicable.

8. **NON ASSIGNMENT CLAUSE**

A. The **CONTRACTOR** shall not assign, transfer, convey, sublet or otherwise dispose of the Agreement or of its right, title, or interest therein, or its power to execute this Agreement, to any other corporation or person without the prior written consent of the **COUNTY**.

9. **STANDARD ASSURANCES**

A. The **CONTRACTOR** shall comply with statutes, regulations, and policies set by the following: Federal Department of Health and Human Services, Federal Administration on Aging, the New York State Office for the Aging (NYSOFA), and the County of Oneida, more fully described in **APPENDIX A**.

B. The **CONTRACTOR** shall comply with section 504 of the Rehabilitation Act of 1973 (Nondiscrimination) which states, "No otherwise qualified handicapped individual in the United States shall solely, by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance."

C. The **CONTRACTOR** shall comply with Article 15 and Article 15A of the Executive Law of New York State (State Human Rights Law and Minority/Women's Business Contract Requirements) and the Governor's Executive Order 28 (Prohibiting discrimination based on Sexual Orientation): "The opportunity to obtain employment without discrimination because of age, race, creed, color, national origin, gender, marital status or sexual orientation is hereby recognized as and declared to be a civil right..."

D. The **CONTRACTOR** shall comply with Title VI of the Civil Rights Act of 1964 (Public Law 38-352), and any amendment thereto: "No person in the United States shall, on the grounds of race, color, religion, gender, national origin, partisan affiliation or sexual orientation be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance."

E. The **CONTRACTOR** agrees that any program, public information materials, or other printed or published materials on the work of or funded by CSEP/III-E will give due recognition to the New York State Office for the Aging and the Oneida County Office for the



Aging and Continuing Care. The statement shall be in font which is one of the following: in italics, or at least two font sizes larger than the rest of the text, or in bold font or underlined. (i.e., *“This program is supported by Oneida County Office for the Aging and Continuing Care, New York State Office for the Aging, and the Administration on Aging.”*). The **CONTRACTOR** should forward copies of all materials to the **COUNTY** at the end of each month.

F. The **COUNTY** shall conduct a program review to ensure that the **CONTRACTOR** is in compliance with all standards and regulations as set forth in this Agreement.

10. **NEW YORK STATE OFFICE FOR THE AGING (NYSOFA) TERMS AND CONDITIONS**

A. The **CONTRACTOR** agrees that all its activities under this contract, shall conform with all applicable Federal, State, and Local laws, and with Federal and State regulations, and Program Standards and Program Instructions of the New York State Office for the Aging (NYSOFA) that apply to such activities, including, but not limited to:

- 1) Rehabilitation Act of 1973, Sec. 504 (29 U.S.C. 794, Nondiscrimination);
- 2) Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.; see 92-PI-32, [8/4/92];
- 3) Civil Rights Act of 1964, Title VI, as amended (42 U.S.C. 2000-d et. seq.);
- 4) Older Americans Act;
- 5) Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency);
- 6) Federal Executive Order 11246, as Amended by Executive Order 11375 (Affirmative Action); as Amended by Executive Order 12086 (Consolidation of Compliance Functions); and as Amended by Executive Order 13279 (Equal Protection for Faith-Based and Community Organizations.);
- 7) Executive Law, Article 15 (State Human Rights Law Prohibiting Discrimination Based on Race, Color, Creed, National Origin, Sex, Age, Disability, Sexual Orientation and Other Factors);
- 8) Equal Access to Services and Targeting Policy (12-PI-08);
- 9) Elder Law.

B. The **CONTRACTOR**, to the extent it has discretion regarding to whom it will provide services, agrees to provide services to those unserved and underserved older adults in greatest social or economic need, particularly those who are low-income, low-income minorities, older adults with Limited English Proficiency (LEP), Native Americans, and frail/persons with disabilities and older adults residing in rural areas, in accordance with their need for such services, and to meet specific objectives established by the Area Agencies on Aging (AAA) for providing services to the above groups within Oneida County. The

**CONTRACTOR** agrees to concentrate the services on older adults in the targeted populations identified by the AAA following the methods the AAA has established for complying with the targeting requirements under the Older Americans Act and the Equal Access and Targeting Policy issued by the New York State Office for the Aging.

C. The **CONTRACTOR** shall inform persons with LEP of the availability of language assistance, free of charge, by providing written notice of such assistance in a manner designed to be understandable by LEP persons at service locations and, at a minimum, have a telephonic interpretation service contract or similar community arrangement with a language interpretation services provider of their choice. The **CONTRACTOR** shall train staff that have contact with the public in the timely and appropriate use of these and other available language services.

D. To the extent that the contract with the AAA is for a program or service funded under the Area Plan, the **CONTRACTOR** agrees that it and any subcontractors will perform such work in accordance with the terms of the Area Plan. The AAA agrees to make the Area Plan available to the **CONTRACTOR**.

E. The **CONTRACTOR** agrees that for programs established and funded in whole or in part pursuant to Title III of the Older Americans Act, the **CONTRACTOR** shall specify how it intends to satisfy the service needs of low-income minority individuals, older adults with LEP, and older adults residing in rural areas in the area served by it; will to the maximum extent feasible, provide services to low-income minority individuals, older individuals with LEP, and older adults residing in rural areas in accordance with their need for such services; and meet specific objectives established by the AAA, for providing services to low-income minority individuals, older adults with LEP, and older adults residing in rural areas within the planning and service area.

11. **GRIEVANCE PROCEDURES**

A. The **CONTRACTOR** agrees to implement the **COUNTY'S** grievance procedures as required by the New York State Office for the Aging. The written procedures are attached in **APPENDIX B**.

12. **FISCAL REQUIREMENTS/RESPONSIBILITIES**

A. The **CONTRACTOR** shall keep CSEP/III-E funds separate; further, state and federal funds shall not be used as local share (match).

B. The **CONTRACTOR** shall comply with all voucher and contribution procedures, and submissions of required reports as described in the **COUNTY** Voucher Instructions, refer to **APPENDIX C**.

C. The **COUNTY** will be responsible for sending monthly donation letters and collecting client contributions for all clients who attend Office for the Aging and Continuing Care funded day care program. Any contributions received by the **CONTRACTOR** for Office for the Aging and Continuing Care funded client, directly, will be reported and deducted on monthly vouchers by the **CONTRACTOR**.

D. The **CONTRACTOR** shall report to the **COUNTY** any and all additional moneys or program income (contributions, donations,) given to the CSEP/III-E supported programs. "Program income means gross income received by the subcontractor directly generated by a **COUNTY** grant supported activity, or earned as a result of the **COUNTY** grant agreement during the grant period." REF: Department of Health & Human Services, Program Instruction AoA-PI-96-01, October 16, 1995.

E. The **CONTRACTOR** shall maintain copies of proper documentation for all program income, including, but not limited to, in-kind support, donations, contributions, reimbursements and other grants within its program budget.

F. The **COUNTY** shall conduct a periodic audit of revenues and expenditures, as well as the required annual on-site review of the program's fiscal status to ensure expenditures are in proportion to the total program budget.

G. The **CONTRACTOR** shall agree to have an independent audit conducted for the contracted program if it has been a **CONTRACTOR** for two (2) years or more; a copy of the audit shall be submitted to the **COUNTY** upon completion of the program/fiscal audit conducted by the outside auditor.

H. The **CONTRACTOR** shall maintain fiscal records for six (6) years and shall make them available for **COUNTY** review upon request.

I. The **CONTRACTOR** shall cooperate with the close-out audit that is required when the contract is terminated.

J. The **CONTRACTOR** shall follow close-out procedures administered by the **COUNTY** in accordance with the Code of Federal Regulations 45-74, as amended in 1980.

13. **INDEMNIFICATION**

A. The obligations of the **CONTRACTOR** under this section shall survive any expiration or termination of this Agreement, and shall not be limited by any enumeration herein of required insurance coverage.

B. The **CONTRACTOR** shall defend, indemnify and hold harmless the **COUNTY** from and against all liability, damages, expenses, costs, including, without limitation, attorneys' fees and expenses, 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 services of the **CONTRACTOR** and its agents, servants, employees, independent contractors, volunteers or partners 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 the Agreement.

C. The **CONTRACTOR** shall be solely responsible for all physical injuries or death to its agents, servants, employees, independent contractors, volunteers or partners or to any other persons or damage to any property sustained during its operations and services under this Agreement resulting from any act of omission or commission or error in judgment of any of its officers, trustees, servants, independent subcontractors, and shall hold harmless and indemnify the **COUNTY** from liability upon any and all claims for injuries to persons or damages to property on account of any neglect, fault or default of the **CONTRACTOR**, its officers, trustees, agents, servants, volunteers or independent subcontractors. The **CONTRACTOR** shall be solely responsible for the safety and protection of all of its agents, servants, employees, independent contractors, volunteers or partners whether due to the negligence, fault or default of the **CONTRACTOR** or not.

#### 14. INSURANCE COVERAGE REQUIREMENTS

A. As part of its obligation to indemnify, defend and hold harmless the **COUNTY**, its agents, servants, employees, independent contractors, volunteers or partners, as set forth above, the **CONTRACTOR** agrees to obtain and maintain in full force and effect, for the term of this Agreement, insurance coverage as described below.

B. 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 shall have at least an A- (excellent) rating by A.M. Best.

C. The **CONTRACTOR** shall not commence services until such insurance has been approved by the **COUNTY**. The certificates shall be on forms approved by the **COUNTY**. Acceptance of the certificates shall not relieve the **CONTRACTOR** of any of the insurance requirements, nor decrease the liability of the **CONTRACTOR**. The **COUNTY** reserves the right to require the Contractor to provide insurance policies for review by the **COUNTY**. The

**CONTRACTOR** grants **COUNTY** a limited power of attorney to communicate with the **CONTRACTOR'S** insurance provider and/or agent for the express purpose of confirming the coverages required hereunder.

D. Certificates of Insurance: Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of the **CONTRACTOR'S** Commercial General Liability Policy, Auto, and Excess/Umbrella Policy. These Certificates and the Insurance Policies required below 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 the **COUNTY**. The **COUNTY** must be named as the certificate holder and additional insured.

E. Commercial General Liability Insurance (CGL): The **CONTRACTOR** shall 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/death with regard to any property or persons. The liability and property damage coverage of such insurance shall not be less than One Million Dollars (\$1,000,000.00) per occurrence and such insurance shall not be less than Three Million Dollars (\$3,000,000.00) annual aggregate. The **CONTRACTOR** shall have the **COUNTY** added to said insurance policy and /or policies as a named additional insured, on a primary, non-contributory basis. 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 insured.

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) The **COUNTY** shall be included as an 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 insured.

F. Business Auto Liability: The **CONTRACTOR** shall at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of Business Auto Liability Insurance in an amount equal to or greater than One Million Dollars (\$1,000,000.00) for the term of this Agreement. Business Auto Coverage must include coverage for liability arising out of all owned, leased, hired and non-owned automobiles. The

**CONTRACTOR** agrees to have the **COUNTY** added to said insurance policies as a named additional insured, on a primary, non-contributory basis.

G. Excess/Umbrella Liability Insurance: The **CONTRACTOR** shall, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of Umbrella/Excess Liability Insurance in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence and such insurance shall not be less than One Million Dollars (\$1,000,000.00) annual aggregate. The **CONTRACTOR** shall have the **COUNTY** added to said insurance policies as a named additional insured, on a primary, non-contributory basis. 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 other than the CGL, Auto Liability, and Employers Liability maintained by the **COUNTY**.

H. Professional Liability Insurance: The **CONTRACTOR** shall, during the term of this Agreement maintain a professional liability policy and shall provide the **COUNTY** with proof of coverage in the amount of One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000) annual aggregate.

I. Workers Compensation and Employers Liability Insurance: The **CONTRACTOR** shall, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of insurance, written by one or more insurance carriers licensed to do business in the State of New York, and having offices within the State of New York, which will insure against all claims under New York State Worker's Compensation Law at statutory New York limits.

J. The **CONTRACTOR** shall require any subcontractors to procure and maintain insurance coverage of the same type and in the same amounts with the same endorsements required of the **CONTRACTOR** in the above Insurance Requirements paragraphs.

K. Payment(s) to the **CONTRACTOR** may be suspended in the event the **CONTRACTOR** and its sub-contractors, if any, fails to provide the required insurance documentation in a timely manner.

L. Waiver of Subrogation: **CONTRACTOR** waives all rights against the **COUNTY** and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by Commercial General Liability, Business Auto Liability or Workers Compensation and Employers Liability Insurance maintained per the requirements stated above.

15. **REPORTING REQUIREMENTS**

A. The **COUNTY** shall, pursuant to the requirements of CSEP/III-E funded programs, comply with the Definition of Services, April 2011, as established by the New York State Office for the Aging (96-PI-43).

B. The **CONTRACTOR** shall provide the **COUNTY** with required information needed to meet planning, coordination, evaluation, and reporting requirements as required by the New York State Office for the Aging's Consolidated Area Agency Reporting System (CAARS), by the 10<sup>th</sup> of every month. The current and revised CAARS Monthly Report Forms and Monthly Summary Form must be submitted as an attachment to the voucher on a monthly basis.

C. The **CONTRACTOR** shall maintain appropriate client records on each EISEP client who receives services through this program; the **COUNTY** shall have access to the client records upon request; the **COUNTY** shall have ownership of all patient's records and files.

D. The **CONTRACTOR** agrees to comply with policies ensuring client confidentiality, as established by the **COUNTY**, when information sharing between agencies is crucial to the client's well-being and is needed to ensure effective service provision; pertinent information shall be shared in accordance with federal and state regulations and statutes.

E. The **CONTRACTOR** shall provide the **COUNTY** with required monthly, periodic, and/or special reports and shall submit all reports to the **COUNTY** by the dates specified.

16. **COORDINATION REQUIREMENTS**

A. The **CONTRACTOR** and the **COUNTY** shall coordinate referrals.

B. The **CONTRACTOR** and the **COUNTY** shall work with older persons, who are not eligible for services through this contracted program, to obtain needed services.

C. The **CONTRACTOR** shall coordinate with other appropriate service providers in obtaining and providing referrals for older residents of Oneida County.

17. **AGREEMENT CANCELLATION**

A. The Agreement may be cancelled by the **COUNTY** for failure by the **CONTRACTOR** to comply with the terms and conditions of this Agreement. The **CONTRACTOR** shall agree to incur no new obligations nor submit a claim for any expenses made after the receipt of written notification of termination.

B. The **CONTRACTOR** and the **COUNTY** reserve the right to cancel the Agreement upon thirty (30) day written notice to the other Party.

C. The **CONTRACTOR** agrees that in the event of termination, said party shall make a full and final accounting of all funds received and monies expended under the Agreement within thirty (30) days after the date of termination. Any unexpended funds shall be the property of the **COUNTY**.

D. The **CONTRACTOR** shall coordinate with the **COUNTY** and other providers to ensure that any break in service to clients shall not be detrimental to a clients' health or well-being. If available and appropriate, other services shall be substituted and/or coordinated on the clients' behalf.

18. **ENTIRE AGREEMENT**

A. This Agreement contains the binding Agreement between the Parties and supersedes all other agreements and representations, written or oral, on the subject matter of this Agreement.

B. Oral statements and understandings are not valid or binding, and neither this Agreement nor any other shall be changed or modified except by a writing signed by all Parties.

C. 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.

19. **INCORPORATION BY REFERENCE**

A. All exhibits, addenda, appendices and attachments, to which reference is made, are deemed incorporated in this Agreement, whether or not actually attached.

20. **STANDARD ADDENDUM**

A. The **CONTRACTOR** agrees to comply with the County's Standard Clauses as set forth in the Addendum, which is attached hereto and made a part hereof as **APPENDIX D**.

21. **CHOICE OF LAW/FORUM**

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.



22. SUCCESSORS AND ASSIGNS

A. 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.

23. NON WAIVER

A. 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, unless explicitly stated otherwise.

24. SEVERABILITY

A. 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 the Agreement shall be reformed to replace the stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision. Further, the Parties agree that all other provisions shall remain valid and enforceable.

25. AUTHORITY TO ACT/SIGN

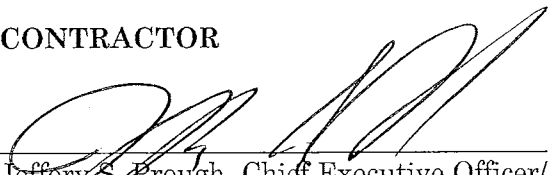
A. The **CONTRACTOR** hereby represents and certifies that it has the power and authority to execute and deliver this Agreement and to carry out its obligations hereunder. The execution and delivery by **CONTRACTOR** of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by the **CONTRACTOR**; no other action on the part of the **CONTRACTOR** or any other person or entity, whether pursuant to its Articles of Incorporation, Articles of Operation, Operating Agreement or Bylaws, as the case may be, or by law or otherwise, are necessary to authorize the **CONTRACTOR** to enter into this Agreement, or to consummate the transactions contemplated herein.

26. ADVICE OF COUNSEL

A. 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 THEREOF, the Parties have here unto set their hand on the date respectively stated.

**CONTRACTOR**

  
\_\_\_\_\_  
Jeffery S. Prough, Chief Executive Officer/President  
GTL, Incorporated

6/8/17  
\_\_\_\_\_  
Date

**COUNTY OF ONEIDA**

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

\_\_\_\_\_  
Date

**OFFICE FOR THE AGING AND CONTINUING CARE**

  
\_\_\_\_\_  
Michael J. Romano, Director  
Oneida County Office for the Aging

6/13/17  
\_\_\_\_\_  
Date

**Approved:**

\_\_\_\_\_  
Maryangela Scalzo, Esq.  
Assistant County Attorney

\_\_\_\_\_  
Date

## APPENDIX A

The Older Americans Act (OAA) of 1965, as amended (42 U.S.C. 3001 et. seq.)  
45 CFR Part 74 (Administration of Grants)  
45 CFR Part 84 (Nondiscrimination on the basis of Handicap)  
45 CFR Part 92 (Uniform Administrative Requirements for Grant and Cooperative  
Agreements to State and Local Governments)  
45 CFR Part 93 (New Restrictions on Lobbying)  
45 CFR Part 1321, Subparts A-D (Grants to State and Community Programs on Aging)  
45 CFR Part 1321.61 (b)(4) (Support of State Titled VII Activities)  
Age Discrimination in Employment Act of 1975, as amended (29 USC 621, et seq.)  
Americans with Disabilities Act of 1990 (42 USC 12101, et seq.)  
Civil Rights Act of 1964, Subchap. VI, as amended by the Equal Employment Opportunity Act of  
1972 (42 USC 2000e, et. seq.)  
Equal Pay Act of 1963, as amended (29 USC 206)  
Home Energy Assistance Act of 1981, as amended (42 USC 8601, et seq.)  
Rehabilitation Act of 1973, Sec. 504 (29 USC 794) (Nondiscrimination)  
Single Audit Act of 1984 (31 USC 7501, et. seq.)  
USDA Nutrition Programs for the Elderly (7 C.F.R. Secs 250.42 and 250.12 (b))  
Office of Management and Budget (OMB)  
OMB Circular A-87 (Cost Principles for State and Local Governments)  
OMB Circular A-95 (Clearinghouse Review)  
OMB Circular A-102 (Uniform administrative Requirements for 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 and other Non-profit Organizations)  
OMB Circular A-122 (Cost Principles for Non-profit Organizations)  
OMB Circular A-128 (Audits of State and Local Governments)  
OMB Circular A-133 (Audits of State and Local Government and Non-Profit Organizations)  
Federal Executive Order 11246, as Amended by Executive Order 11375 (Affirmative Action)  
Article 19 - J of the Executive Law  
New York State Office for the Aging Rules and Regulations (9 NYCRR Part 6651 et. seq.)  
**New York State Office for the Aging Rules and Regulations (9 NYCRR Part 6654.20)**  
**(Social Adult Day Care)**  
Executive Law of New York State, Article 15 (State Human Rights Law)  
Executive Law of New York State, Article 15A (Minority/Women's Business contract Requirements)  
Executive Law, Section 544-A (Establishes Basic Requirements for LTCOP program under the  
Older Americans Act)  
Executive Law, Section 544-b (Defense and indemnification of representatives of the State  
Long-Term Care Ombudsman Program)  
Executive Law, Article 7-A (Registration and reporting provisions required of Charitable  
Organizations)  
EISEP Program Standards  
**NYS Office for the Aging's 1990 Nutrition Program Standards (90-PI-26)**  
Legal Assistance Standards (94-PI-52)  
Weatherization Referral and Packaging Program (WRAP) Handbook  
Governor's 1960 Code of Fair Practices  
Governor's Executive Order 6 (Affirmative Action Efforts)  
Governor's Executive Order 19 (Prevention of Sexual Harassment)  
Governor's Executive Order 28 (Prohibiting discrimination based on Sexual Orientation)

## APPENDIX B

### Oneida County Office for the Aging

#### **Grievance Procedures**

In accordance with the Older Americans Act (OAA), as amended, the Oneida County Office for the Aging has established the following process for resolving complaints from clients who are dissatisfied with or persons denied services funded under the Act.

#### **Right to File a Grievance**

The Office for the Aging and all contracting provider agencies who receive OAA funds shall notify program clients of their right to file a grievance with the provider agency and/or with Oneida County Office for the Aging. Upon request, the Office for the Aging will provide assistance with filing a grievance.

#### **Denial of Service or Client's Dissatisfaction with Service**

A client or applicant who is denied OAA services must be given the reasons for the denial. Services may be denied because of funding restrictions, ineligibility, hours or locations have changed, a reassessment has determined services are no longer needed, or client is disruptive to the program. For OAA services for which a written application is made, the denial shall be confirmed in writing and the applicant informed of the right to file a grievance and to whom the grievance shall be made.

For OAA services for which verbal application is made by telephone or in person, the person may be denied verbally and verbally informed of the right to file a grievance and to whom.

#### **Grievance Process**

#### **Filing a Grievance**

- Individual must submit their grievance in writing to the Director of the Office for the Aging who will forward the Letter to the designated person of the provider agency to conduct the initial review.
- **The grievance must be filed within thirty (30) calendar days of denial, reduction or termination of services, or of the event or circumstances with which the person is dissatisfied.** The Office for the Aging or the provider agency may grant an extension for good cause shown.
- The Letter of Grievance should include a written statement setting forth in detail the date, time, and circumstances that are the basis for the complaint.

#### **Investigation and Response to a Grievance**

- The designated reviewer will investigate the complaint. The reviewer will determine whether the action was in accordance to applicable Older Americans Act and State laws and regulation and are supported by facts.
- The reviewer will prepare and send written response to the grievant and to the Office for the Aging Director within fifteen (15) working days after the grievance is filed. The response will set forth the circumstances relating to the grievance, the action requested by the grievant, the findings of the reviewer, a proposed remedial action and, if any, the reason(s) for and facts relied on in the determination.

#### **Appeal of Initial Response/Decision**

If the grievant is not satisfied with the determination, (s)he has the right to further review as follows:

- (S)he may initiate a request for subsequent review by the Office for the Aging Director within ten (10) calendar days following receipt of notification from the provider agency of its decision.

- The Office for the Aging Director will request, and the provider agency shall provide, copies of the initial file on the complaint in question. The Office for the Aging Director will review the materials to ensure that pertinent policies and procedures have been applied and followed.
- If the policies and procedures have been adhered to, the Office for the Aging Director will not overturn the decision of its contracting provider agency. If the proper policies and procedures have not been applied, the director reserves the right to overturn the decision.
- A written notification of the results will be made to the grievant within twenty (20) working days of receipt of the appeal request.

### **Record Keeping**

The provider agency will keep a file, for six years, of all relevant documents and records of a grievance. The file shall include at a minimum: the initial grievance; any investigative reports; any and all written responses; any documents or other records submitted by any party; and, if applicable, the notice to the grievant of the right to appeal.

### **Confidentiality**

No information, documents or other records relating to a grievance shall be disclosed by program staff or volunteers in a form that identifies the grievant without the written informed consent of the grievant, unless the disclosure is required by court order or for program monitoring by authorized agencies.

**APPENDIX C**  
Oneida County Office for the Aging  
2015-2016  
**Voucher Instructions**  
**For Units of Services Contracts**

Complete the Oneida County voucher (3-part white, yellow, and pink form) as follows:

1. **Department:** Office for the Aging and Continuing Care
2. **Claimants Name and Address:** Contractor name and address (checks will be payable to the name given and sent to the address listed).
3. **Date:** List month this claim covers.
4. **Vendor's Invoice Number:** leave blank
5. **Quantity/Description of Material or Service/Unit Price/Amount:**
  - ✓ State the number of units of service and the description of services performed during the month.
  - ✓ List the Unit Price as stated in the Contract Budget.
  - ✓ Place the amount (Units X Unit Price) in the Amount column.
  - ✓ Place the amount to be reimbursed in the Total block.
  - ✓ Specify program funds (III-E, EISEP, CSE, III-B etc.) in the space after the Contract Number.
6. **Claimant's Certification:**

Fill out completely, note that Oneida County will not pay a voucher without an original signature, Federal ID Number or Social Security Number.
7. **Voucher Backup**
  - ✓ Attach CAARS monthly report.
  - ✓ Master list of clients billed for on voucher (with individual total monthly amount billed).
  - ✓ Attach appropriate backup:
    - Payroll certification sheets and time sheets signed by Agency employee.
    - Legal Assistance Program – case numbers, DOB, Legal Assistance Referral, Type of Service, Fax Date and Unit of Services.
    - Housekeeper/Chore (PCA Level I) or Homemaker/personal care (PCA Level II), Housekeeper/chore (Level I) – Contract EISEP voucher backup. Copies of PCA daily logs including date and times of service and all must be signed by client.
    - Adult Day Care – OFFICE approved sign-in log sheet with dates and times of service and all must be signed by client.
    - Emergency Response Systems – (Original Invoice)

Have all accounting records, receipts and supporting documentation readily available for review by the County, State and/or Federal personnel authorized to examine and/or audit program accounts. Ref: US Code of Federal Regulations 45-74 amended in 1980. Check numbers, dates paid and amounts paid must be written on each receipt.
8. **Timely Submissions:**
  - ✓ Submit monthly vouchers by the 10<sup>th</sup> day of the month following the reporting month.
  - ✓ Checks are issued by Oneida County Audit and Control only on Fridays - approximately 30 days after submission.
  - ✓ If all documentation is not included, the voucher will be returned unpaid with a request for proper backup and documentation.

**9. Changes To The Budget** (including personnel):

- ✓ Submit a Budget Revision and a justification for the change.

**10. Technical Assistance:**

- ✓ If you have fiscal questions regarding your program or require technical assistance, please contact the OFA-OCC Fiscal Unit directly at 315-798-5456.

Susie Perritano, Accounting Supervisor

**APPENDIX D**  
**Standard Contract Clauses Addendum**

THIS ADDENDUM, 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. 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 tension, 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 clients 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 (1), (0), (0), (d), (0), (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.
  - 3. 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 "HIPPA," as well as all regulations promulgated by the Federal Government in furtherance hereof, 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.**
    - a. 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.
    - b. 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.**

- 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 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.
- 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 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).
- 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.
- c. 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.

- d. 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**  
**Office for the Aging & Continuing Care**

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

**Michael J. Romano**  
Director

120 Airline Street – Suite 201, Oriskany, NY 13424 Phone 315-798-5456 Fax 315-798-6444 E-mail: ofa@ocgov.net

February 7, 2017

FN 20 17-255 Reviewed and Approved for submittal to the  
Oneida County Board of Legislators by

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

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

FN 20 \_\_\_\_\_

Date 7/7/17

**HEALTH & HUMAN SERVICES**  
**WAYS & MEANS**

Dear Mr. Picente:

I am submitting the following Agreement between the Oneida County Office for the Aging and Continuing Care, and the Resource Center for Independent Living, for the Board of Legislature's review and approval.

This Agreement is for the provision of Adult Day Services. This Agreement will continue to provide community based long term care services to the frail and elderly, and help older consumers to delay or divert nursing facility placement. The total amount of this Agreement is \$103,000.00 which is 75% (\$77,250.00) State, and 25% (\$25,750.00) County funds. This contract commences January 1, 2017 and terminates December 31, 2017.

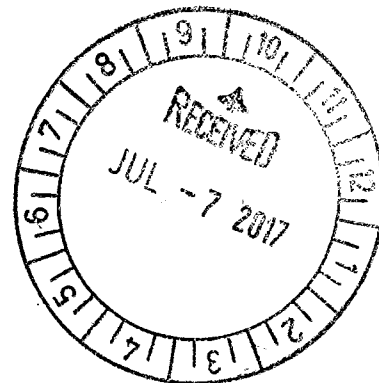
I am available at your convenience to answer any questions you may have regarding this Agreement.

Sincerely,

Michael J. Romano  
Director

MJR/kb

Enclosures



Oneida County Department: Office for the Aging

Competing Proposal	_____
Only Respondent	_____
Sole Source RFP	_____
Other	<u>  X  </u>

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name & Address of Vendor:** Resource Center for Independent Living, Inc.  
401-409 Columbia Street  
Utica, New York 13503

**Title of Activity or Service:** Social Adult Day Care

**Proposed Dates of Operation:** January 1, 2017 through December 31, 2017

**Client Population/Number to be Served:** Frail elderly age 60+ with functional impairment

**Summary Statements**

**1) Narrative Description of Proposed Services**

Social Model Adult Day Services is a structured five hour; five day a week adult day care that serves frail elderly individuals in a supervised group setting. The program is in compliance with the New York State Regulations for Social Adult Day Care. Eligible participants must be age 60 or older and functionally impaired, meaning needing assistance of another person in at least one of the following activities of daily living: toileting, mobility, transferring and eating; or needing supervision due to cognitive and /or psycho-social impairment. Services include a noon meal and transportation to and from the program

**2) Program/Service Objectives and Outcomes:**

- To provide 5-hour per weekday adult day care programming
- To provide noon meal and transportation
- To provide services that include socialization, supervision and monitoring, personal care, nutrition, appropriate activities - maintenance and enhancement of daily living skills, caregiver assistance, and transportation.
- To provide intergenerational programming to ensure a mutually beneficial social opportunity for program participants and area youth

**3) Program Design and Staffing**

Each adult day service provider will serve OFA authorized participants with a structured 5-hour program that meets the NY State regulations. Each site will have a coordinator and sufficient staff; both paid and volunteer. The staff will supervise participants in a safe environment and the staff will provide appropriate activities and therapies that will enhance the participants' general wellbeing.

**Total Funding Requested:** \$103,000.00

**Account #:** 6772.495.116

**Oneida County Dept. Funding Recommendation:** \$ 60.00 /day total

**Proposed Funding Source (Federal/State/County):**

Federal: \$0

State: 75% (\$77,250.00)

County: 25% (\$25,750.00)

**Cost per Client Served:** \$60.00 per client per five hour day

**Past Performance Data:** The Resource Center for Independent Living has provided Social Adult Day Care since 1984.

**O.C. Department Staff Comments:**

AGREEMENT

THIS AGREEMENT by and between the RESOURCE CENTER FOR INDEPENDENT LIVING, INC. (RCIL), a domestic not-for-profit corporation organized and existing under the laws of the State of New York, located at 401-409 Columbia Street, Utica, New York 13503, hereinafter known as "CONTRACTOR"; and the COUNTY OF ONEIDA, a municipal corporation organized and existing under the laws of the State of New York, with its principal place of business and office located at 80 Park Ave Utica, New York 13501, by and through its department of OFFICE FOR THE AGING AND CONTINUING CARE, located at 120 Airline Street, Suite 201, Oriskany, NY 13424, hereinafter known as the "COUNTY," collectively the "PARTIES."

WITNESSETH:

WHEREAS, the COUNTY has the primary responsibility for the overall planning and coordination of COUNTY funds including the Federal AOA-Older Americans Act Title III, Title V, NYSOFA - EISEP, CSE, CSI, SNAP, HIICAP, MIPPA/SHIP, and County of Oneida funds; and

WHEREAS, the COUNTY has the responsibility to formally and informally monitor, assess and evaluate all programs, services and contracts funded through the COUNTY; and

WHEREAS, the COUNTY will provide technical assistance, upon request, to assist the CONTRACTOR in more effectively carrying out service delivery and/or complying with Federal, State and local statutes, policies, rules and regulations; and

WHEREAS, the CONTRACTOR is willing and able to perform the services required by this Agreement;

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. AGREEMENT TERM

A. The terms and conditions of this Agreement shall commence January 1, 2017 and terminate December 31, 2017.

2. AGREEMENT RENEWAL

A. The COUNTY and the CONTRACTOR may negotiate this Agreement annually.

3. SCOPE OF SERVICES- SOCIAL ADULT DAY CARE SERVICES

A. The CONTRACTOR agrees as part of the terms and conditions of this Agreement to comply with the State of New York's Social Adult Day Care Regulations, Executive Law, Article 19-J, Part 6656, effective January 1, 1995, and to comply with the COUNTY's 2012 Policy and Procedure Manual.

B. The CONTRACTOR agrees to provide Social Model Adult Day Services to frail individuals as authorized by the COUNTY and its designated agents. The target population served by this Agreement are Oneida County residents who are age sixty (60) years or older who are living independently in the community with emphasis on older individuals who are: 1) residing in rural areas, 2) with greatest economic need (with particular attention to low-income minority individuals); 3) with greatest social need (with particular attention to low-income minority individuals); 4) with severe disabilities; and 5) with Alzheimer's disease or related disorder with neurological and organic brain dysfunction (and the caretakers of such individuals).

C. The CONTRACTOR agrees to provide services in Oneida County.

D. The CONTRACTOR agrees to provide Social Adult Day Services as defined by the 1995 Social Adult Day Care Program Regulations, Executive Law, Article 19-J Part 6656:

1. A structured, comprehensive program which provides functionally impaired individuals with the required components of socialization; supervision and monitoring; personal care; and nutrition in a protective setting during any part of the day, but for less than a 24-hour period;
2. "Functionally impaired" means needing the assistance of another person in at least one of the following activities of daily living: toileting, mobility, transferring, or eating; or needing supervision due to cognitive and/or psycho-social impairment.
3. "Nutrition" means providing nutritious meals for participants who are attending the program at normal meal times; meals are to be consistent with the standards set forth in the Regulations for a Nutrition Program for the Elderly site and as established by the Area Agency on Aging; and offering snacks and liquids for all participants at appropriate times.

E. The CONTRACTOR agrees that all participants will receive services only in accordance with an individualized written Service Plan that is based on the COMPASS assessment, and will specify the individual participant outcomes expected from the provision of social adult day care services; and the Service Plans will be reevaluated at a minimum annually.

F. As specified in State of New York's Social Adult Day Care Program Regulations, all of the CONTRACTOR'S adult day care personnel, both paid and volunteer, will attend six (6) hours of training annually, and new program employees or volunteers will receive at least twenty hours of group, individual and/or on-the-job training.

G. The CONTRACTOR'S personnel shall keep abreast of new developments in the field of Gerontology and community based social adult day care; attendance at relevant local, state or national training is encouraged.

H. The CONTRACTOR and COUNTY agree to hold periodic coordinating meetings as needed.

I. The CONTRACTOR and COUNTY agree to work cooperatively to develop comprehensive adult day services for Oneida County.

J. As specified in State of New York's Social Adult Day Care Program Regulations, all of the CONTRACTOR's adult day care personnel, both paid and volunteer, will attend six (6) hours of training annually, and new program employees or volunteers will receive at least twenty hours of group, individual and/or on-the-job training.

K. The CONTRACTOR's personnel should keep abreast of new developments in the field of Gerontology and community based social adult day care; attendance at relevant local, state, or national training is encouraged.

L. The CONTRACTOR and COUNTY agree to hold periodic coordinating meetings as needed.

M. The CONTRACTOR and COUNTY agree to work cooperatively to develop comprehensive adult day services for Oneida County.

N. The CONTRACTOR agrees to make a good faith effort to recruit interns from the local colleges' student intern programs.

#### 4. REIMBURSEMENT FOR SERVICES

A. It is agreed and understood by all PARTIES that the COUNTY shall reimburse the CONTRACTOR for Social Adult Day Care Services which are provided in accordance with the terms and conditions of this Agreement and the Community Services for the Elderly Program (CSEP) and the Caregiver Support IIIIE grants.

B. The COUNTY agrees to reimburse the CONTRACTOR \$60.00 per day (\$6.00 per ½ hour or \$12.00 per hour) which will include programing, meals and transportation. A full day of programming is defined as five (5) hours, but the CONTRACTOR may bill in ½ hour increments when the client is attending less than five (5) hours per day. The total payments for this contract will not exceed \$103,000.00.

C. The COUNTY funds are contingent upon availability of State and County of Oneida funding; reimbursement is payable in twelve (12) monthly vouchers as specified in the Voucher Instructions in Appendix D.

D. The COUNTY shall not be liable for any late fees for any interest in late payments.

The obligations of the PARTIES hereunder are conditioned upon the continued availability of New York State and Federal funds for the purposes set forth in this Agreement. Should funds become unavailable or should appropriate New York State and COUNTY officials fail to approve sufficient funds for completion of the services set forth in this Agreement, the COUNTY shall have the option to immediately terminate this Agreement upon providing written notice to the CONTRACTOR by certified mail. In such an 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.

E. The COUNTY reserves the right to withhold payment under this Agreement due to Contractor's failure to properly perform its obligations under this Agreement. The COUNTY may withhold payment for including but not limited to:

1. defective services;
2. third party claims;
3. failure of the CONTRACTOR to pay its subcontractors, if any;
4. damage to the COUNTY; or
5. (5) failure to carry out the services in accordance with this Agreement.

F. It is understood and agreed that the COUNTY shall not be responsible for any costs incurred by the CONTRACTOR prior to the effective date or following the termination date of this Agreement.

5. NO CLAIM FOR DAMAGE

A. The CONTRACTOR agrees to make no claim for damages for delay of reimbursement due to an act or omission by the COUNTY.

6. INDEPENDENT CONTRACTOR STATUS

A. It is expressly agreed that the relationship of the CONTRACTOR and its employees to the COUNTY shall be that of an Independent Contractor. The CONTRACTOR and its employees shall not be considered employees of the COUNTY for any purpose including, but not limited to, claims for unemployment insurance, worker's compensation, retirement, or health benefits. The CONTRACTOR and its employees, in accordance with their status as an independent contractor, 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 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 Agreement, and may continue to make his or her services available to the public.

C. The CONTRACTOR and its 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 neither CONTRACTOR, nor its employees, subcontractors and/or partners, shall be eligible for any COUNTY employee benefits, including retirement membership credits.

E. CONTRACTOR shall be solely responsible for applicable taxes for all compensation paid to CONTRACTOR or its employees, subcontractors and/or partners under this Agreement, 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, subcontractors and/or partners, including payroll deductions, worker's 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, worker's compensation, disability insurance or social security insurance (FICA). CONTRACTOR shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Agreement.

F. The CONTRACTOR 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 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.

7. NON ASSIGNMENT CLAUSE

A. CONTRACTOR shall not assign, transfer, convey, sublet or otherwise dispose of the Agreement or of its right, title, or interest therein, or its power to execute this Agreement, to any other corporation or person without the prior written consent of the COUNTY.

8. SUBCONTRACTS

A. A subcontractor is a person who has an agreement with the CONTRACTOR to perform any of the services.

B. The CONTRACTOR agrees to furnish to the COUNTY, prior to the execution of this Agreement, a list of names of subcontractors to whom the CONTRACTOR proposes to award any portion of the Services. The COUNTY shall be provided a copy of any and all agreement(s) between the CONTRACTOR and any subcontractors regarding the award of any portion of the services within ten (10) days of their final execution.

C. Any agreements between the CONTRACTOR and the subcontractors shall be in accordance with the terms of this Agreement and shall include the conditions of this Agreement including all exhibits, attachments, appendices, and addendums, insofar as applicable.

9. STANDARD ASSURANCES

A. The CONTRACTOR shall comply with statutes, regulations, and policies set by the following: Federal Department of Health and Human Services, Federal Administration on Aging, the New York



State Office for the Aging (NYSOFA), and the County of Oneida, more fully described in APPENDIX A.

B. The CONTRACTOR shall comply with section 504 of the Rehabilitation Act of 1973 (Nondiscrimination) which states, "No otherwise qualified handicapped individual in the United States shall solely, by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance."

C. The CONTRACTOR shall comply with Article 15 and Article 15A of the Executive Law of New York State (State Human Rights Law and Minority/Women's Business Contract Requirements) and the Governor's Executive Order 28 (Prohibiting discrimination based on Sexual Orientation): "The opportunity to obtain employment without discrimination because of age, race, creed, color, national origin, gender, marital status or sexual orientation is hereby recognized as and declared to be a civil right...."

D. The CONTRACTOR shall comply with Title VI of the Civil Rights Act of 1964 (Public Law 38-352), and any amendment thereto: "No person in the United States shall, on the grounds of race, color, religion, gender, national origin, partisan affiliation or sexual orientation be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

E. The CONTRACTOR agrees that any program, public information materials, or other printed or published materials on the work of or funded by CSEP/III-E will give due recognition to the New York State Office for the Aging and the Oneida County Office for the Aging. The statement shall be in font which is one of the following: in italics, or at least two font sizes larger than the rest of the text, or in bold font or underlined. (i.e., "*This program is supported by Oneida County Office for the Aging and Continuing Care, New York State Office for the Aging, and the Administration on Aging.*"). The CONTRACTOR should forward copies of all materials to the COUNTY at the end of each month.

F. The COUNTY shall conduct a program review to ensure that the CONTRACTOR is in compliance with all standards and regulations as set forth in this Agreement.

#### 10. NEW YORK STATE OFFICE FOR THE AGING (NYSOFA) TERMS AND CONDITIONS

A. The CONTRACTOR agrees that all its activities under this contract, shall conform with all applicable Federal, State, and Local laws, and with Federal and State regulations, and Program Standards and Program Instructions of the New York State Office for the Aging (NYSOFA) that apply to such activities, including, but not limited to:

1. Rehabilitation Act of 1973, Sec. 504 (29 U.S.C. 794, Nondiscrimination)
2. Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.; see 92-PI-32, [8/4/92])
3. Civil Rights Act of 1964, Title VI, as amended (42 U.S.C. 2000-d et. seq.)
4. Older Americans Act

5. Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency)
6. Federal Executive Order 11246, as Amended by Executive Order 11375 (Affirmative Action); as Amended by Executive Order 12086 (Consolidation of Compliance Functions); and as Amended by Executive Order 13279 (Equal Protection for Faith-Based and Community Organizations.)
7. Executive Law, Article 15 (State Human Rights Law Prohibiting Discrimination Based on Race, Color, Creed, National Origin, Sex, Age, Disability, Sexual Orientation and Other Factors)
8. Equal Access to Services and Targeting Policy (12-PI-08)
9. Elder Law

B. The **CONTRACTOR**, to the extent it has discretion regarding to whom it will provide services, agrees to provide services to those unserved and underserved older adults in greatest social or economic need, particularly those who are low-income, low-income minorities, older adults with Limited English Proficiency (LEP), Native Americans, and frail/persons with disabilities and older adults residing in rural areas, in accordance with their need for such services, and to meet specific objectives established by the Area Agencies on Aging (AAA) for providing services to the above groups within Oneida County. The **CONTRACTOR** agrees to concentrate the services on older adults in the targeted populations identified by the AAA following the methods the AAA has established for complying with the targeting requirements under the Older Americans Act and the Equal Access and Targeting Policy issued by the New York State Office for the Aging.

C. The **CONTRACTOR** shall inform persons with Limited English Proficiency (LEP) of the availability of language assistance, free of charge, by providing written notice of such assistance in a manner designed to be understandable by LEP persons at service locations and, at a minimum, have a telephonic interpretation service contract or similar community arrangement with a language interpretation services provider of their choice. The **CONTRACTOR** shall train staff that have contact with the public in the timely and appropriate use of these and other available language services.

D. To the extent that the contract with the AAA is for a program or service funded under the Area Plan, the **CONTRACTOR** agrees that it and any subcontractors will perform such work in accordance with the terms of the Area Plan. The AAA agrees to make the Area Plan available to the **CONTRACTOR**.

E. The **CONTRACTOR** agrees that for programs established and funded in whole or in part pursuant to Title III of the Older Americans Act, the **CONTRACTOR** shall specify how it intends to satisfy the service needs of low-income minority individuals, older adults with Limited English Proficiency, and older adults residing in rural areas in the area served by it; will to the maximum extent feasible, provide services to low-income minority individuals, older individuals with Limited English Proficiency, and older adults residing in rural areas in accordance with their need for such services; and meet specific objectives established by the AAA, for providing services to low-

income minority individuals, older adults with Limited English Proficiency, and older adults residing in rural areas within the planning and service area.

#### **11. GRIEVANCE PROCEDURES**

A. The CONTRACTOR agrees to implement the COUNTY'S grievance procedures as required by the New York State Office for the Aging. The written procedures are attached in APPENDIX B.

#### **12. FISCAL REQUIREMENTS/RESPONSIBILITIES**

A. The CONTRACTOR shall keep CSEP/III-E funds separate; further, state and federal funds shall not be used as local share (match).

B. The CONTRACTOR shall comply with all voucher and contribution procedures, and submissions of required reports as described in the COUNTY Voucher Instructions, refer to APPENDIX C.

C. The COUNTY will be responsible for sending monthly donation letters and collecting participant contributions for all participants who attend Office for the Aging and Continuing Care funded day care program. Any contributions received by the CONTRACTOR for Office for the Aging and Continuing Care funded participant, directly, will be reported and deducted on monthly vouchers by the CONTRACTOR.

D. The CONTRACTOR shall report to the COUNTY any and all additional moneys or program income (contributions, donations,) given to the CSEP/III-E supported programs. "Program income means gross income received by the subcontractor directly generated by a COUNTY grant supported activity, or earned as a result of the COUNTY grant agreement during the grant period." REF: Department of Health & Human Services, Program Instruction AoA-PI-96-01, October 16, 1995.

E. The CONTRACTOR shall maintain copies of proper documentation for all program income, including, but not limited to, in-kind support, donations, contributions, reimbursements and other grants within its program budget.

F. The COUNTY shall conduct a periodic audit of revenues and expenditures, as well as the required annual on-site review of the program's fiscal status to ensure expenditures are in proportion to the total program budget.

G. The CONTRACTOR shall agree to have an independent audit conducted for the contracted program if it has been a CONTRACTOR for two (2) years or more; a copy of the audit shall be submitted to the COUNTY upon completion of the program/fiscal audit conducted by the outside auditor.

H. The CONTRACTOR shall maintain fiscal records for six (6) years and shall make them available for COUNTY review upon request.

I. The CONTRACTOR shall cooperate with the close-out audit that is required when the contract is terminated.

J. The CONTRACTOR shall follow close-out procedures administered by the COUNTY in accordance with the Code of Federal Regulations 45-74, as amended in 1980.

### 13. INDEMNIFICATION

A. The obligations of the **CONTRACTOR** under this section shall survive any expiration or termination of this Agreement, and shall not be limited by any enumeration herein of required insurance coverage.

B. The **CONTRACTOR** agrees that it shall defend, indemnify and hold harmless the **COUNTY** from and against all liability, damages, expenses, costs, including, without limitation, attorneys' fees and expenses, 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 services of the **CONTRACTOR** and its agents, 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 the Agreement.

C. The **CONTRACTOR** shall be solely responsible for all physical injuries or death to its agents; servants, volunteers, or employees or to any other persons or damage to any property sustained during its operations and work under this Agreement resulting from any act of omission or commission or error in judgment of any of its officers, trustees, servants, independent subcontractors, and shall hold harmless and indemnify the **COUNTY** from liability upon any and all claims for injuries to persons or damages to property on account of any neglect, fault or default of the **CONTRACTOR**, its officers, trustees, agents, servants, volunteers or independent subcontractors. The **CONTRACTOR** shall be solely responsible for the safety and protection of all of its employees, volunteers or other agents whether due to the negligence, fault or default of the **CONTRACTOR** or not.

### 14. INSURANCE COVERAGE REQUIREMENTS

A. As part of its obligation to indemnify, defend and hold harmless the **COUNTY**, its officers, agents, employees, as set forth above, the **CONTRACTOR** agrees to obtain and maintain in full force and effect, for the term of this Agreement, insurance coverage as described below.

B. 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 shall have at least an A- (excellent) rating by A.M. Best.

C. The **CONTRACTOR** shall not commence work until such insurance has been approved by the **COUNTY**. The certificates shall be on forms approved by the **COUNTY**. Acceptance of the certificates shall not relieve the **CONTRACTOR** of any of the insurance requirements, nor decrease the liability of the **CONTRACTOR**. **COUNTY** reserves the right to require the Contractor to provide insurance policies for review by the **COUNTY**. The **CONTRACTOR** grants **COUNTY** a limited power of attorney to communicate with the **CONTRACTOR'S** insurance provider and/or agent for the express purpose of confirming the coverages required hereunder.

D. Certificates of Insurance: Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of the CONTRACTOR'S Commercial General Liability Policy, Auto Liability Policy, and Excess/Umbrella Policy. These Certificates and the Insurance Policies required below shall contain a provision that coverage afforded under the Policies will not be cancelled or allowed to expire until at least 30 days prior written notice has been given to the COUNTY.

E. Commercial General Liability Insurance (CGL): The CONTRACTOR agrees that it shall, 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/death with regard to any property or persons. The liability and property damage coverage of such insurance shall not be less than One Million Dollars (\$1,000,000.00) per occurrence and such insurance shall not be less than Three Million Dollars (\$3,000,000) annual aggregate. The CONTRACTOR agrees to have the COUNTY added to said insurance policy and /or policies as a named additional insured, on a primary, non-contributory basis. 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 insured.

1. Coverage for the additional insured shall include completed operations.
2. The CGL coverage shall include a General Aggregate Limit and such General Aggregate Limit shall apply separately to each project.
3. 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.
4. There shall be no exclusions to contractual liability for Employee Injuries (i.e. Labor Law Exclusions).
5. The CONTRACTOR shall maintain CGL coverage for itself and all additional insureds for the duration of the project and maintain Completed Operations coverage for itself and each additional insured for at least tree (3) years after completion of the Services.

F. Auto Liability: The CONTRACTOR agrees that it shall, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of insurance Business Auto Liability Insurance in an amount equal to or greater than One Million Dollars (\$1,000,000) for the term of this Agreement. Business Auto Coverage must include coverage for liability arising out of all owned, leased, hired and non-owned automobiles. The CONTRACTOR agrees to have the COUNTY added to said insurance policies as a named additional insured, on a primary, non-contributory basis.

G. Excess/Umbrella Liability Insurance: The CONTRACTOR agrees that it shall, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of insurance Umbrella/Excess Liability Insurance in an amount not less than One Million Dollars (\$1,000,000) per occurrence and such insurance shall not be less than One Million Dollars

(\$1,000,000) annual aggregate. The CONTRACTOR agrees to have the COUNTY added to said insurance policies as a named additional insured, on a primary, non-contributory basis. 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 other than the CGL, Auto Liability, and Employers Liability maintained by the COUNTY.

H. Professional Liability Insurance: The CONTRACTOR agrees that it shall, during the term of this Agreement maintain a professional liability policy and will provide the COUNTY with proof of coverage in the amount of One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) annual aggregate.

I. Workers Compensation and Employers Liability Insurance: The CONTRACTOR agrees that it shall, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of insurance, written by one or more insurance carriers licensed to do business in the State of New York, and having offices within the State of New York, which will insure against all claims under New York State Worker's Compensation Law at statutory New York limits.

J. The CONTRACTOR shall require any subcontractors to procure and maintain insurance coverage of the same type and in the same amounts with the same endorsements required of the CONTRACTOR in the above Insurance Requirements paragraphs.

K. Payment(s) to the CONTRACTOR may be suspended in the event the CONTRACTOR and his sub-contractors, if any, fails to provide the required insurance documentation in a timely manner.

L. Waiver of Subrogation: CONTRACTOR waives all rights against the COUNTY and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by Commercial General Liability, Business Auto Liability or Workers Compensation and Employers Liability Insurance maintained per requirements stated above.

#### 15. REPORTING REQUIREMENTS

A. The COUNTY shall, pursuant to the requirements of CSEP/III-E funded programs, comply with the Definition of Services, April 2011, as established by the New York State Office for the Aging (96-PI-43).

B. The CONTRACTOR shall provide the COUNTY with required information needed to meet planning, coordination, evaluation and reporting requirements as required by the New York State Office for the Aging's Consolidated Area Agency Reporting System (CAARS), by the 10<sup>th</sup> of every month. The current and revised CAARS Monthly Report Forms and Monthly Summary Form must be submitted as an attachment to the voucher on a monthly basis.

C. The CONTRACTOR shall maintain appropriate client records on each EISEP client who receives services through this program; the COUNTY shall have access to the client records upon request; the COUNTY shall have ownership of all patient's records and files.

D. The CONTRACTOR agrees to comply with policies ensuring client confidentiality, as established by the COUNTY, when information sharing between agencies is crucial to the client's well-being and is needed to ensure effective service provision; pertinent information shall be shared in accordance with federal and state regulations and statutes.

E. The CONTRACTOR shall provide the COUNTY with required monthly, periodic, and/or special reports and shall submit all reports to the COUNTY by the dates specified.

16. COORDINATION REQUIREMENTS

A. The CONTRACTOR and the COUNTY shall coordinate referrals.

B. The CONTRACTOR and the COUNTY shall work with older persons, who are not eligible for services through this contracted program, to obtain needed services.

C. The CONTRACTOR shall coordinate with other appropriate service providers in obtaining and providing referrals for older residents of Oneida County.

17. AGREEMENT CANCELLATION

A. The Agreement may be cancelled by the COUNTY for failure by the CONTRACTOR to comply with the terms and conditions of this Agreement. The CONTRACTOR shall agree to incur no new obligations nor submit a claim for any expenses made after the receipt of written notification of termination.

B. The CONTRACTOR and the COUNTY reserve the right to cancel the Agreement upon thirty (30) day written notice to the other party.

C. The CONTRACTOR agrees that in the event of termination, said party shall make a full and final accounting of all funds received and monies expended under the Agreement within thirty (30) days after the date of termination. Any unexpended funds shall be the property of the COUNTY.

D. The CONTRACTOR shall coordinate with the COUNTY and other providers to ensure that any break in service to clients shall not be detrimental to a clients' health or well-being. If available and appropriate, other services shall be substituted and/or coordinated on the clients' behalf.

18. ENTIRE AGREEMENT

A. This Agreement contains the binding Agreement between the PARTIES and supersedes all other agreements and representations, written or oral, on the subject matter of this Agreement.

B. Oral statements and understandings are not valid or binding, and neither this Agreement nor any other shall be changed or modified except by a writing signed by all PARTIES.

C. 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.

19. INCORPORATION BY REFERENCE

A. All exhibits, addenda, appendices and attachments, to which reference is made, are deemed incorporated in this Agreement, whether or not actually attached.

20. STANDARD ADDENDUM

A. The CONTRACTOR agrees to comply with the COUNTY's Standard Clauses as set forth in the Addendum, which is attached hereto and made a part hereof as APPENDIX D.

21. CHOICE OF LAW/FORUM

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. The CONTRACTOR expressly consents to personal jurisdiction in New York State.

C. This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

22. SERVICE OF PROCESS

A. The CONTRACTOR 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.

23. SUCCESSORS AND ASSIGNS

A. 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. NON WAIVER

A. 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, unless explicitly stated otherwise.

25. SUCCESSORS AND ASSIGNS

A. 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.

26. SEVERABILITY

A. 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 the Agreement shall be reformed to replace the



stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision. Further, the Parties agree that all other provisions shall remain valid and enforceable.

**27. AUTHORITY TO ACT/SIGN**

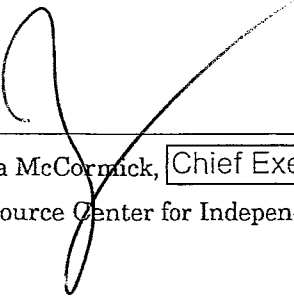
A. The CONTRACTOR hereby represents and certifies that it has the power and authority to execute and deliver this Agreement and to carry out its obligations hereunder. The execution and delivery by CONTRACTOR of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by the CONTRACTOR; no other action on the part of the CONTRACTOR or any other person or entity, whether pursuant to its Articles of Incorporation, Articles of Operation, Operating Agreement or Bylaws, as the case may be, or by law or otherwise, are necessary to authorize the CONTRACTOR to enter into this Agreement, or to consummate the transactions contemplated herein.

**28. ADVICE OF COUNSEL**

A. 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 THEREOF, the Parties have here unto set their hand on the date respectively stated.

CONTRACTOR



\_\_\_\_\_  
Zvia McCormick, Chief Executive Officer  
Resource Center for Independent Living, Inc.

\_\_\_\_\_  
June 23, 2017  
Date

COUNTY OF ONEIDA

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

\_\_\_\_\_  
Date

  
Michael J. Romano, Director OFA/OCC

4/29/17  
Date

Approved:

By: \_\_\_\_\_  
Merima Smajic, Assistant County Attorney Date

APPENDIX A

The Older Americans Act (OAA) of 1965, as amended (42 U.S.C. 3001 et. seq.)  
45 CFR Part 74 (Administration of Grants)  
45 CFR Part 84 (Nondiscrimination on the basis of Handicap)  
45 CFR Part 92 (Uniform Administrative Requirements for Grant and Cooperative Agreements to State and Local Governments)  
45 CFR Part 93 (New Restrictions on Lobbying)  
45 CFR Part 1321, Subparts A-D (Grants to State and Community Programs on Aging)  
45 CFR Part 1321.61 (b)(4) (Support of State Titled VII Activities)  
Age Discrimination in Employment Act of 1975, as amended (29 USC 621, et seq.)  
Americans with Disabilities Act of 1990 (42 USC 12101, et seq.)  
Civil Rights Act of 1964, Subchap. VI, as amended by the Equal Employment Opportunity Act of 1972 (42 USC 2000e, et. seq.)  
Equal Pay Act of 1963, as amended (29 USC 206)  
Home Energy Assistance Act of 1981, as amended (42 USC 8601, et seq.)  
Rehabilitation Act of 1973, Sec. 504 (29 USC 794) (Nondiscrimination)  
Single Audit Act of 1984 (31 USC 7501, et. seq.)  
USDA Nutrition Programs for the Elderly (7 C.F.R. Secs 250.42 and 250.12 (b))  
Office of Management and Budget (OMB)

OMB Circular A-87 (Cost Principles for State and Local Governments)

OMB Circular A-95 (Clearinghouse Review)

OMB Circular A-102 (Uniform administrative Requirements for 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 and other Non-profit Organizations)

OMB Circular A-122 (Cost Principles for Non-profit Organizations)

OMB Circular A-128 (Audits of State and Local Governments)

OMB Circular A-133 (Audits of State and Local Government and Non-Profit Organizations)

Federal Executive Order 11246, as Amended by Executive Order 11375 (Affirmative Action)

Article 19 - J of the Executive Law

New York State Office for the Aging Rules and Regulations (9 NYCRR Part 6651 et. seq.)

New York State Office for the Aging Rules and Regulations (9 NYCRR Part 6654.20) (Social Adult Day Care)

Executive Law of New York State, Article 15 (State Human Rights Law)

Executive Law of New York State, Article 15A (Minority/Women's Business contract Requirements)

Executive Law, Section 544-A (Establishes Basic Requirements for LTCOP program under the Older Americans Act)

Executive Law, Section 544-b (Defense and indemnification of representatives of the State Long-Term Care Ombudsman Program)

Executive Law, Article 7-A (Registration and reporting provisions required of Charitable Organizations)

EISEP Program Standards

NYS Office for the Aging's 1990 Nutrition Program Standards (90-PI-26)

Legal Assistance Standards (94-PI-52)

Weatherization Referral and Packaging Program (WRAP) Handbook

Governor's 1960 Code of Fair Practices

Governor's Executive Order 6 (Affirmative Action Efforts)

Governor's Executive Order 19 (Prevention of Sexual Harassment)

Governor's Executive Order 28 (Prohibiting discrimination based on Sexual Orientation)

## APPENDIX B

### Oneida County Office for the Aging

#### **Grievance Procedures**

In accordance with the Older Americans Act (OAA), as amended, the Oneida County Office for the Aging has established the following process for resolving complaints from participants who are dissatisfied with or persons denied services funded under the Act.

#### Right to File a Grievance

The Office for the Aging and all contracting provider agencies who receive OAA funds shall notify program participants of their right to file a grievance with the provider agency and/or with Oneida County Office for the Aging. Upon request, the Office for the Aging will provide assistance with filing a grievance.

#### Denial of Service or Client's Unsatisfaction of Service

A participant or applicant who is denied OAA services must be given the reasons for the denial. Services may be denied because of funding restrictions, ineligibility, hours or locations have changed, reassessment determined services no longer needed, or client is disruptive to the program. For OAA services for which a written application is made, the denial shall be confirmed in writing and the applicant informed of the right to file a grievance and to whom the grievance shall be made. For OAA services for which verbal application is made by telephone or in person, the person may be denied verbally and verbally informed of the right to file a grievance and to whom.

#### **Grievance Process**

##### Filing a Grievance

- Individual must submit their grievance in writing to the Director of the Office for the Aging who will forward the Letter to the designated person of the provider agency to conduct the initial review.
- The grievance must be filed within thirty (30) calendar days of denial, reduction or termination of services, or of the event or circumstances with which the person is dissatisfied. The Office for the Aging or the provider agency may grant an extension for good cause shown.
- The Letter of Grievance should include a written statement setting forth in detail the date, time and circumstances that are the basis for the complaint.

##### Investigation and Response to a Grievance

- The designated reviewer will investigate the complaint. The reviewer will determine whether the action was in accordance to applicable Older Americans Act and State laws and regulation and are supported by facts.
- The reviewer will prepare and send written response to the grievant and to the Office for the Aging Director within fifteen (15) working days after the grievance is filed. The response will set forth the circumstances relating to the grievance, the action requested by the grievant, the findings of the

reviewer, a proposed remedial action and, if any, the reason(s) for and facts relied on in the determination.

#### Appeal of Initial Response/Decision

If the grievant is not satisfied with the determination, s(he) has the right to further review as follows:

- S(he) may initiate a request for subsequent review by the Office for the Aging Director within ten (10) calendar days following receipt of notification from the provider agency of its decision.
- The Office for the Aging Director will request, and the provider agency shall provide, copies of the initial file on the complaint in question. The Office for the Aging Director will review the materials to ensure that pertinent policies and procedures have been applied and followed.
- If the policies and procedures have been adhered to, the Office for the Aging Director will not overturn the decision of its contracting provider agency. If the proper policies and procedures have not been applied, the director reserves the right to overturn the decision.
- A written notification of the results will be made to the grievant within twenty (20) working days of receipt of the appeal request.

#### Record Keeping

The provider agency will keep a file, for six years, of all relevant documents and records of a grievance. The file shall include at a minimum: the initial grievance; any investigative reports; any and all written responses; any documents or other records submitted by any party; and, if applicable, the notice to the grievant of the right to appeal.

#### Confidentiality

No information, documents or other records relating to a grievance shall be disclosed by program staff or volunteers in a form that identifies the grievant without the written informed consent of the grievant, unless the disclosure is required by court order or for program monitoring by authorized agencies.

## APPENDIX C

Oneida County Office for the Aging  
**Voucher Instructions**  
For Units of Services Contracts

Complete the Oneida County voucher (3-part white, yellow, and pink form) as follows:

1. **Department:** Office for the Aging and Continuing Care
2. **Claimants Name and Address:** Contractor name and address (checks will be payable to the name given and sent to the address listed).
3. **Date:** List month this claim covers.
4. **Vendor's Invoice Number:** leave blank
5. **Quantity/Description of Material or Service/Unit Price/Amount:**
  - ✓ State the number of units of service and the description of services performed during the month.
  - ✓ List the Unit Price as stated in the Contract Budget.
  - ✓ Place the amount (Units X Unit Price) in the Amount column.
  - ✓ Place the amount to be reimbursed in the Total block.
  - ✓ Specify program funds (III-E, EISEP, CSE, III-B etc.) in the space after the Contract Number.
6. **Claimant's Certification:**

Fill out completely, Note that Oneida County will not pay a voucher without an original signature, Federal ID Number or Social Security Number.
7. **Voucher Backup**
  - ✓ Attach CAARS monthly report.
  - ✓ Master list of clients billed for on voucher (with individual total monthly amount billed).
  - ✓ Attach appropriate backup:
    - Payroll certification sheets and time sheets signed by Agency employee.
    - Legal Assistance Program – case numbers, DOB, Legal Assistance Referral, Type of Service, Fax Date and Unit of Services.

- Housekeeper/Chore (PCA Level I) or Homemaker/personal care (PCA Level II), Housekeeper/chore (Level I) – Contract EISEP voucher backup. Copies of PCA daily logs including date and times of service and all must be signed by client.
- Adult Day Care – OFFICE approved sign-in log sheet with dates and times of service and all must be signed by client.
- Emergency Response Systems – (Original Invoice)

Have all accounting records, receipts and supporting documentation readily available for review by the County, State and/or Federal personnel authorized to examine and/or audit program accounts. Ref: US Code of Federal Regulations 45-74 amended in 1980. Check numbers, dates paid and amounts paid must be written on each receipt.

**8. Timely Submissions:**

- ✓ Submit monthly vouchers by the 10<sup>th</sup> day of the month following the reporting month.
- ✓ Checks are issued by Oneida County Audit and Control only on Fridays - approximately 30 days after submission.
- ✓ If all documentation is not included, the voucher will be returned unpaid with a request for proper backup and documentation.

**9. Changes To The Budget (including personnel):**

- ✓ Submit a Budget Revision and a justification for the change.

**10. Technical Assistance:**

- ✓ If you have fiscal questions regarding your program or require technical assistance, please contact the OFA-OCC Fiscal Unit directly at 315-798-5456.

## APPENDIX D

### Standard Contract Clauses Addendum

THIS ADDENDUM, between the County of Oneida, hereinafter known as COUNTY, and a provider, 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. 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 tension, 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 (1), (0), (0), (d), (0), (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.
- 3. 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 "HIPPA," as well as all regulations promulgated by the Federal Government in furtherance hereof, 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.**
- a. 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.
- b. 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.**

- 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 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.
- 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.

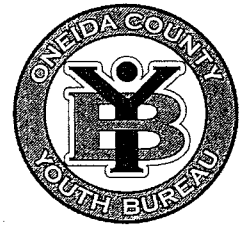
18. **Certification of compliance with the Iran Divestment Act.**

- a. Pursuant 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).
- 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.
- c. 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.
- d. 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 1<sup>st</sup> 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

June 19, 2017

FN 20 17-256

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

Anthony J. Picente, Jr.  
County Executive

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

HEALTH & HUMAN SERVICES Date 7/10/17

Dear Mr. Picente:

## WAYS & MEANS

Re: 2017 Resource Allocation Plan

We are submitting the attached Resource Allocation Plan for the year 2017 for review and approval by the Board of Legislators.

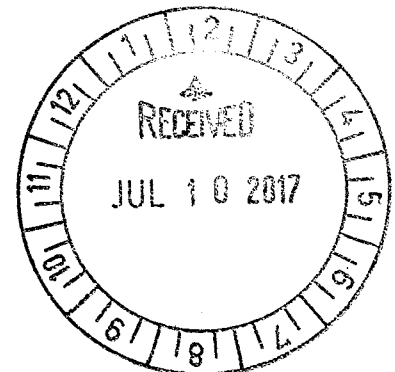
The Plan allocates funding from the New York State Office of Children and Family Services to the agencies contracting with the Oneida County Youth Bureau. The allocation of state funding is in the amount of \$ 320,003 which provides support to 30 different agency programs and 20 different programs provided by localities in Oneida County.

I am respectfully requesting your approval and that this matter be forwarded to the Board of Legislators for action as soon as possible. Thank you for your consideration.

Very truly yours,

Kevin Green  
Director, Oneida County Youth Bureau

Attachment



Oneida Co. Department Youth Bureau

Competing Proposal	_____
Only Respondent	_____
Sole Source RFP	_____
Other	<u>  X  </u>

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name of Proposing Organization:** NYS Office of Children & Family Services

**Title of Activity or Service:** Resource Allocation Plan (RAP)

**Proposed Dates of Operation:** January 1, 2017 to December 31, 2017

**Client Population/Number to be Served:** 56,242 youth throughout Oneida County

**Summary Statements:**

**Narrative Description of Proposed Services**

The Resource Allocation Plan (RAP) for 2017 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 2017 these funds are to be distributed to 30 agency programs and 20 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.

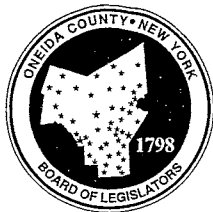
**Total Funding:** \$320,003 Account # A3820, A3823, A3902

**Oneida County Dept. Funding Recommendation:** \$320,003

**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.



## ONEIDA COUNTY BOARD OF LEGISLATORS

ONEIDA COUNTY OFFICE BUILDING ♦ 800 PARK AVENUE ♦ UTICA, N.Y. 13501-2977

Gerald J. Fiorini  
Chairman  
(315) 798-5900

Mikale Billard  
Clerk  
(315) 798-5404

George Joseph  
Majority Leader

Philip M. Sacco  
Minority Leader

June 19, 2017

FN 20 17-257

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

**READ & FILED**

Dear County Executive,

Enclosed, please find the Memorializing Petition executed by the Oneida County Board of Legislators at the June 14<sup>th</sup> board meeting.

*Petition Urging State Legislators to Pass Legislation Supporting Enhanced Child Safety Laws Through 1.8100/S.6523.*

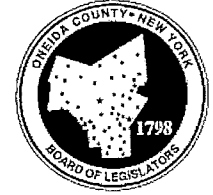
Thank you.

Respectfully yours,

Mikale Billard  
Clerk of the Board

Cc: Oneida County Chairman of the Board Gerald Fiorini  
Governor Andrew Cuomo  
New York State Senator Joseph 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 William Magee  
New York State Assembly Representative Marc Butler  
New York State Assembly Representative Kenneth Blankenbush  
Director of Emergency Services Kevin Revere  
New York State Association of Counties

**Petition by Oneida County, New York  
Board of County Legislators  
for Memorializing Petition**



F.N.

**A MEMORIALIZING PETITION URGING STATE REPRESENTATIVES TO PASS LEGISLATION  
SUPPORTING ENHANCED CHILD SAFETY LAWS THROUGH A.8100/S.6523**

SPONSORS: Messrs. Welsh, Flisnik, Waterman, Leach, *Idzi Calandra, Clancy (Porter)*

**WHEREAS**, Oneida County recognizes that traffic crashes are a leading cause of death for children and that more can be done to prevent this from happening; and

**WHEREAS**, the National Highway Traffic Safety Administration (NHTSA) estimates that among children age 4 and younger, 1,329 lives were saved from proper restraint use between 2011 and 2015; and

**WHEREAS**, a 2007 University of Virginia study found that children under the age of two were 75% more likely to suffer an injury if they were in forward-facing seats rather than rear-facing; and

**WHEREAS**, in 2014, the total crashes occurring on Oneida County roadways resulted in \$6.6 million in hospitalization and emergency room charges, and vehicle occupants that did not use child safety seats were six times more likely to require hospitalizations (source: NYS Department of Health, Motor Vehicle Traffic Injuries-Oneida County Roadways, 2014); and

**WHEREAS**, if we can save just one child's life from proper restraint, this law is worth the effort; and

**WHEREAS**, A.8100/S.6523 requires a child under the age of two to be secured in a *rear-facing* car seat unless the child's weight or height exceeds the occupant size and weight of the recommendations of the manufacturer; and

**NOW THEREFORE BE IT HEREBY RESOLVED**, the Oneida County Board of Legislators recognizes the importance of protecting children from unnecessary injuries through passage of this legislation; and

**BE IT FURTHER RESOLVED**, that the Oneida County Board of Legislators hereby urges the New York State Legislature and Governor Cuomo to support this cause through legislation; and

**BE IT FURTHER RESOLVED**, that a copy of this Petition shall be forwarded by mail or email to the following:

New York State Governor Andrew Cuomo, New York State Senator Joseph A. Griffo, New York State Assembly Representative Anthony Brindisi, New York State Assembly Representative Brian Miller, New York State Assembly Representative Ken Blankenbush, New York State Assemblyman Marc Butler, New York State Senator David Valesky, New York State Assembly Representative William Magee, County Executive Anthony Picente, Jr., Director of Emergency Services Kevin Revere and all others deemed necessary and proper.

Legislators Supporting Petition

Legislators Opposing Petition

1. Edm P W	
2. Bin Mansky	
3. Ana Paul	
4. Jim E. Sanchez	
5. <del>_____</del> and <del>_____</del>	
6. <del>_____</del>	
7. <del>_____</del>	
8. <del>_____</del>	
9. <del>_____</del>	
10. Emil R. Paparella	
11. Norman Lega	
12. <del>_____</del>	
13. <del>_____</del>	
14. <del>_____</del>	
15. <del>_____</del>	
16. Charles Deane	
17. Barbara Calandris	
18. <del>_____</del>	
19. Philip M Sacco	
20. <del>_____</del>	
21.	
22.	
23.	

The enclosed petition represents the opinion of those members of the Board of County Legislators for the County of Oneida 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 Board of County Legislators for the County of Oneida.

Date: June 14, 2017