



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 FOR August 11, 2021 MEETING

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

<u>FILE NO.</u>	<u>COMMITTEE</u>	<u>PAGES</u>
2021-185 . . .	Ways & Means
2021-189 . . .	Government Operations, Ways & Means
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2021-192 . . .	Economic Development, Ways & Means
2021-193 . . .	Public Safety, Ways & Means
2021-194 . . .	Public Safety, Ways & Means
2021-195 . . .	Public Safety, Ways & Means
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2021-207 . . .	Health & Human Services, Ways & Means
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2021-209 . . .	Health & Human Services, Ways & Means
2021-210 . . .	Health & Human Services, Ways & Means
2021-211 . . .	Health & Human Services, Ways & Means
2021-212 . . .	Health & Human Services, Ways & Means
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2021-217 . . .	Government Operations, Ways & Means
2021-218 . . .	Public Safety, Ways & Means
2021-219 . . .	Government Operations, Ways & Means



ONEIDA COUNTY
OFFICE OF THE COUNTY EXECUTIVE

ANTHONY J. PICENTE, JR.
County Executive
ce@ocgov.net

July 14, 2021

FN 20 21 - 189

Board of Legislators
Oneida County
800 Park Avenue
Utica, New York, 13501

GOVERNMENT OPERATIONS

WAYS & MEANS

Re: Reappointment of Commissioner of Personnel/Civil Service Commissioner

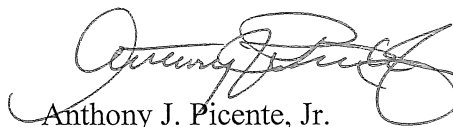
Honorable Members:

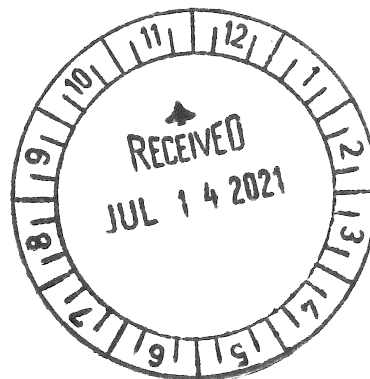
In accordance with Section 1401 of the Oneida County Charter, Section 1401 of the Oneida County Administrative Code, and Civil Service Law Section 15, I submit to you my reappointment of Joseph M. Johnson as Commissioner of Personnel and Civil Service Commissioner. This appointment will be for a term of six (6) years pursuant to Civil Service Law § 15(1)(b) to commence on July 15, 2021.

I request that this appointment be placed on the agenda for consideration at your next meeting.

Thank you for the Board's kind attention to this matter.

Very truly yours,


Anthony J. Picente, Jr.
Oneida County Executive





ONEIDA COUNTY
OFFICE OF THE COUNTY EXECUTIVE

ANTHONY J. PICENTE, JR.
County Executive
ce@ocgov.net

July 14, 2021

Gerald Fiorini, Chairman
Board of Legislators
800 Park Avenue
Utica, NY 13501

FN 20 21-190

**AIRPORT
WAYS & MEANS**

Dear Chairman:

The Board of Legislators' approval of Resolution Number 149 on June 9, 2021, requires the establishment of a new capital project. This resolution accepted a grant offered by the Department of Aviation and the United States through the Federal Aviation Administration in the amount of \$297,000. These funds will be used to rehabilitate Apron 1 and 2 at Griffiss International Airport.

I therefore request your Board's approval of the following:

A.) Establishment of **Capital Project H-622 - Griffiss Apron 1 & 2 Rehab.**

B.) Funding for the capital Project H-622 is as follows:

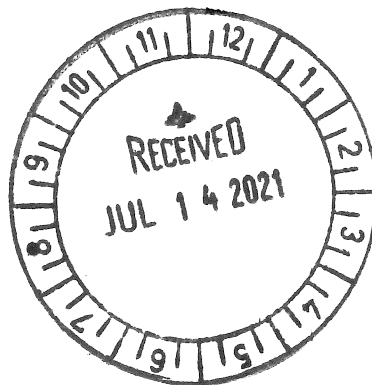
H - 622 - 5031 Transfer From General Fund	\$ 14,850.00
H - 622 - 4597 Federal Funds.....	\$267,000.00
H - 622 - 3597 New York State Funds.....	\$ 14,850.00
Total Funding.....	\$296,700.00

Thank you for your kind attention to this request.

Very truly yours,

Anthony J. Picente, Jr.
County Executive

CC: Comptroller
County Attorney
Budget
Griffiss



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

Anthony J. Picente, Jr.
County Executive
Date 7-14-21



ONEIDA COUNTY
OFFICE OF THE COUNTY EXECUTIVE

ANTHONY J. PICENTE, JR.
County Executive
ce@ocgov.net

June 29, 2021

FN 20 21-191

Board of Legislators
Oneida County
800 Park Avenue
Utica, New York 13501

**ECONOMIC DEVELOPMENT
& TOURISM**

RE: Reappointment of Wendy Waters
MVCC Board of Trustees

WAYS & MEANS

Honorable Members:

Pursuant to Article XX, Section 2002, of the Oneida County Charter and Section 6306 of the New York State Education Law, I submit to the Board of Legislators for your approval the reappointment of Wendy W. Waters to serve on the Mohawk Valley Community College Board of Trustees for a seven (7) year term expiring June 30, 2028.

I respectfully request that you approve this appointment at your earliest convenience.

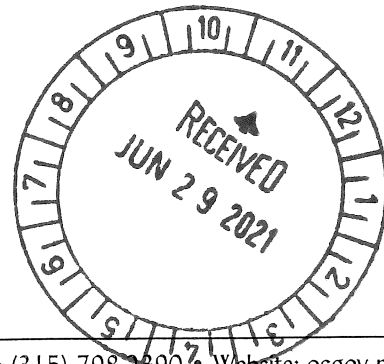
Thank you for the Board's kind attention to this matter.

Very truly yours,



Anthony J. Picente, Jr.

cc: Randall J. VanWagoner
Wendy W. Waters





ONEIDA COUNTY
DEPARTMENT OF PLANNING

Boehlert Center at Union Station
321 Main St., Utica NY 13501
Phone: (315) 798-5710 Fax: (315) 798-5852

ANTHONY J. PICENTE, JR.
County Executive
James J. Genovese II
Commissioner

July 6, 2021

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

FN 20 21-192
**ECONOMIC DEVELOPMENT
& TOURISM**

Dear County Executive:

WAYS & MEANS

When the Planning Department completed its 2021 Budget it did not include funding from the Federal Government, which it has received in previous years. There was so much uncertainty at the time of completing the 2021 budget that this funding was left out due to the COVID Pandemic. The Planning Department has been notified the federal funding is available for 2021 and needs to adjust the Department's budget.

I therefore request the Board's approval of the following 2021 supplemental appropriation for the K-Fund:

TO:

AA# K8220.211 Joint Activity /Planning: Office Equipment \$ 14,000.00

This supplemental appropriation will be fully supported by HOCTC Federal Allocation:

RA# K4909 Federal Aid – Comprehensive \$ 14,000.00

Thank you for kind attention to this request.

Very truly yours,

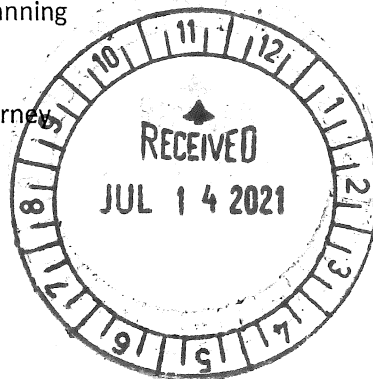
James Genovese
Commissioner of Planning

CC: Comptroller
County Attorney
Budget

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

Anthony J. Picente, Jr.
County Executive

Date 7-13-21





ONEIDA COUNTY
DEPARTMENT OF PROBATION

Boehlert Center at Union Station
321 Main Street, 2nd Floor, Utica, New York 13501
Utica ~ Phone: (315) 798-5914 Fax: (315) 624-3684

300 West Dominick Street, Rome, New York 13440
Rome ~ Phone: (315) 356-2900 Fax: (315) 337-5025

E-mail: probation@ocgov.net · Web Site: www.ocgov.net

ANTHONY J. PICENTE, JR.
County Executive

Patrick Cady
DIRECTOR

June 30, 2021

FN 20 21-193

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

PUBLIC SAFETY

WAYS & MEANS

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 \$24,520.00. The grant period is from July 1, 2021 through June 30, 2022. Matching funds are not required. These funds are used for overtime costs for Probation Officers to make home visits in partnership with the Utica Police Department for the purpose of eliminating shootings and homicides through integrated initiatives. A portion of the funds are also for GPS tracking devices to monitor probationers' locations.

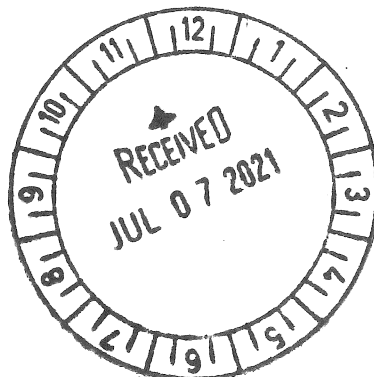
I am hereby requesting your review and approval of this grant. After doing so, please forward this information to the Oneida County Board of Legislators for their review and approval at their next meeting.

Thank you for your time and assistance in this matter.

Sincerely,

PATRICK CADY
PROBATION DIRECTOR

PC:kas
Enclosures



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

Anthony J. Picente, Jr.
County Executive

Date 7-6-21

Oneida Co. Department: Probation

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

ONEIDA COUNTY BOARD OF LEGISLATORS
CONTRACT SUMMARY

Name and Address of Vendor: New York State Division of Criminal Justice Services
80 South Swan Street,
Albany, New York 12210-8001

Title of Activity or Service: Project GIVE

Proposed Dates of Operation: July 1, 2021 – June 30, 2022

Client Population/Number to be served: Oneida County

Summary Statements:

- 1.) Narrative Description of Proposed Services: GIVE funds will be used for overtime costs for probation officers to work in partnership with the Utica Police Department, as well as for GPS tracking devices to monitor probationers' locations.
- 2.) Program/Service Objectives and Outcomes: GIVE funds help support coordinated reduction and prevention initiatives with the express goal of reducing violent firearm related offenses. This project is designed to achieve sustained, long-term gun crime reduction through the application of proven evidence-based practices.
- 3.) Program Design and Staffing: Existing Probation Department Staff

Total Funding Requested: \$24,520.00 Account#: A3140
A3027

Oneida County Department Funding Recommendation: \$24,520.00

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

Cost Per Client Served: NA

Past Performance Data: NA

O.C. Department Staff Comments: Coordinated effort with the Oneida County District Attorney, Oneida County Sheriff's Office, and Utica Police Department.

Mandated: X Not Mandated: _____

This grants covers the overtime hours worked by various officers as part of the GIVE initiative. They are limited to the 51 hours/month as stated in the contract.

This grant covers \$6,000.00 of the BUDDI contract which provides GPS tracking units for GIVE offenders.

<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>: T484808 (Contract Number): <u>ORIGINATING AGENCY CODE</u>: 01490 - Division of Criminal Justice Services</p>
<p><u>GRANTEE/CONTRACTOR</u>: (Name & Address) Onelda County 800 Park Avenue Utica, NY 13501-2939</p>	<p><u>TYPE OF PROGRAMS</u>: GIVE Initiative <u>DCJS NUMBERS</u>: GV21484808 <u>CFDA NUMBERS</u>:</p>
<p><u>INITIAL CONTRACT PERIOD</u>: FROM 07/01/2021 TO 06/30/2022 <u>FUNDING AMOUNT FROM INITIAL PERIOD</u>: \$24,520.00</p>	<p><u>AMENDED CONTRACT PERIOD</u>: FROM: TO: <u>FUNDING AMOUNT FROM AMENDED PERIOD</u>:</p>
<p><u>TRANSACTION TYPE</u>: New</p>	<p><u>MULTI-YEAR TERM</u>: (if applicable): 0 1-year renewal options.</p>
<p><u>FEDERAL TAX IDENTIFICATION NO</u>: 156000460 <u>MUNICIPALITY NO</u>: (if applicable) 300100000000. <u>STATUS</u>: Contractor is not a sectarian entity. Contractor is not a not-for-profit organization. <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></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> <input checked="" type="checkbox"/> <u>APPENDIX A1</u> Master Grant Agreement & Program Specific Terms and Conditions <input type="checkbox"/> <u>APPENDIX A2</u> Federally Funded Grants Special Conditions <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 checked="" type="checkbox"/> <u>APPENDIX G</u> Procedural Guidelines for the Control of Surveillance Equipment <input checked="" type="checkbox"/> <u>Other (Identify)</u>: Updated A-1 and C.</p>
<p>IN WITNESS THERE OF, the parties hereto have electronically executed or approved this MASTER GRANT on the dates of their signatures.</p>	
<p><u>NYS Division of Criminal Justice Services</u> 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. <u>GRANTEE</u>: In addition, I, acting in the capacity as Contractor, certify that I am the signing authority, or have been delegated or designated formally as the signing authority by the appropriate authority or officials, and as such I do agree, and I have the authority to agree, to all of the terms and conditions set forth in the Master Contract, including all appendices and attachments. I understand that (i) payment of a claim on this Master Contract is conditioned upon the Contractor's compliance with all applicable conditions of participation in this program and (if I am acting in the capacity as a not-for profit Contractor) the accuracy and completeness of information submitted to the State of New York through the Gateway vendor prequalification process and (ii) by electronically indicating my acceptance of the terms and conditions of the Master Contract, I certify that (a) to the extent that the Contractor is required to register and/or file reports with the Office of Attorney General's Charities Bureau ('Charities Bureau'), the Contractor's registration is current, all applicable reports have been filed, and the Contractor has no outstanding requests from the Charities Bureau relating to its filings and (b) all data and responses in the application submitted by the Contractor are true, complete and accurate. I also understand that use of my assigned User ID and Password on the State's contract management system is equivalent to having placed my signature on the Master Contract and that I am responsible for any activity attributable to the use of my User ID and Password. Additionally, any information entered will be considered to have been entered and provided at my direction. I further certify and agree that the Contractor agrees to waive any claim that this electronic record or signature is inadmissible in court, notwithstanding the choice of law provisions. BY: Hon. Anthony J. Picante 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>

Award Contract**Project No.**

GV21-1034-D00

Grantee Name

Oneida County

06/23/2021

NEW YORK STATE
DIVISION OF CRIMINAL JUSTICE SERVICES
GRANT CONTRACT

APPENDIX A-1

This Contract is hereby made by and between the State of New York acting by and through the New York State Division of Criminal Justice Services (DCJS or State Agency) and the public or private entity (Contractor) identified on the face page hereof (Face Page).

WITNESSETH:

WHEREAS, the State has the authority to regulate and provide funding for the establishment and operation of program services, design or the execution and performance of construction projects, as applicable and desires to contract with skilled parties possessing the necessary resources to provide such services or work, as applicable, and

WHEREAS, the Contractor is ready, willing, and able to provide such program services or the execution and performance of construction projects and possesses or can make available all necessary qualified personnel licenses, facilities and expertise to perform or have performed the services or work, as applicable, required pursuant to the terms of the Contract,

NOW THEREFORE, in consideration of the promises, responsibilities, and covenants herein, the State and the Contractor agree as follows:

STATE STANDARD TERMS AND CONDITIONS

I. GENERAL PROVISIONS

A. Executory Clause: In accordance with Section 41 of the State Finance Law, the State shall have no liability under this Contract to the Contractor or to anyone else beyond funds appropriated and available for the Contract.

B. Required Approvals: In accordance with Section 112 of the State Finance Law (or, if the Contract is with the State University of New York (SUNY) or City University of New York (CUNY), Section 355 or Section 6218 of the Education Law), if the 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 the contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, 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 including, but not limited to, changes in amount, consideration, scope or contract term identified on the Face Page (Contract Term), it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the New York Attorney General Contract Approval Unit (AG) and OSC. If, by the Contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the AG and OSC.

Budget Changes: An amendment that would result in a transfer of funds among program activities or budget cost categories that does not affect the amount, consideration, scope or other terms of such contract may be subject to the approval of the AG and OSC where the amount of such modification is, as a portion of the total value of the contract, equal to or greater than ten percent for contracts of less than five million dollars, or five percent for contracts of more than five million dollars, and, in addition, such amendment may be subject to prior approval by the applicable State Agency as detailed in Section V(C).

C. Order of Precedence:

In the event of a conflict among (i) the terms of the Contract (including any and all Appendices and amendments) or (ii) between the terms of the Contract and the original request for proposal, the program application or other Appendix that was completed and executed by the Contractor in connection with the Contract, the order of precedence is as follows:

1. Appendix A-1.
2. Modifications to the Face Page

3. Modifications to Appendix B, Appendix C and Appendix D.

4. The Face Page.

5. Appendix B, Appendix C and Appendix D.

6. Modification to Appendix A-1

7. Other appendices, including, but not limited to, the request for proposal or program application

D. Funding: Funding for the term of the Contract shall not exceed the amount specified as 'Funding Amount for Initial Period' on the Face Page or as subsequently revised to reflect an approved renewal or cost amendment. Funding for the initial and subsequent periods of the Contract shall not exceed the applicable amounts specified in the applicable Appendix B: (Budget).

E. Contract Performance: The Contractor shall perform all services or work, as applicable, and comply with all provisions of the Contract to the satisfaction of the State. The Contractor shall provide services or work, as applicable, and meet the program objectives summarized in Appendix D: (Work Plan and Special Conditions) in accordance with the provisions of the Contract, relevant laws, rules and regulations, administrative, program and fiscal guidelines, and where applicable, operating certificate for facilities or licenses for an activity or program.

F. Modifications: To modify the Contract, the parties shall revise or complete the appropriate appendix form(s). In addition, to the extent that such modification meets the criteria set forth in Section I.B herein, it shall be subject to the approval of the AG and OSC before it shall become valid, effective and binding upon the State. Modifications that are not subject to the AG and OSC approval shall be processed in accordance with the guidelines stated in this Appendix in Section V(C.) herein.

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

H. Severability: Any provision of the Contract that is held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof, provided, however, that the parties to the Contract shall attempt in good faith to reform the Contract in a manner consistent with the intent of any such ineffective provision for the purpose of carrying out such intent. If any provision is held void, invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

I. Interpretation: The headings in the Contract are inserted for convenience and reference only and do not modify or restrict any of the provisions herein. All personal pronouns used herein shall be considered to be gender neutral. The Contract has been made under the laws of the State of New York, and the venue for resolving any disputes hereunder shall be in a court of competent jurisdiction of the State of New York.

J. Notice:

1. All notices, except for notices of termination, shall be in writing and shall be transmitted either:

a) by certified or registered United States mail, return receipt requested,

b) by facsimile transmission,

c) by personal delivery,

d) by expedited delivery services, or

e) by e-mail.

2. Notices to the State shall be addressed to the Program Office designated in this Appendix in Section V(A)(1).

3. Notices to the Contractor shall be addressed to the Contractor's designee.

4. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or e-mail, upon receipt.

5. The parties may, from time to time, specify any new or different e-mail address, facsimile number or address in the United States as their address for purpose of receiving notice under the Contract by giving fifteen (15) calendar days prior written:

notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their representatives for the purposes of receiving notices under the Contract. Additional individuals may be designated in writing by the parties for purposes of implementation, administration, billing and resolving issues and/or disputes.

K. Service of Process: In addition to the methods of service allowed by the State Civil Practice Law & Rules (CPLR), Contractor hereby consents to service of process upon it by registered or certified mail; return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. The Contractor shall have thirty (30) calendar days after service hereunder is complete in which to respond.

L. Set-Off Rights: the State shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold, for the purposes of set-off, any moneys due to the Contractor under the Contract up to any amounts due and owing to the State with regard to the Contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of the Contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State Agency, its representatives, or OSC.

M. Indemnification: The Contractor shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the Contractor or its subcontractors pursuant to this Contract. The Contractor shall indemnify and hold harmless the State and its officers and employees from claims, suits, actions, damages and cost of every nature arising out of the provision of services pursuant to the Contract.

N. Non-Assignment Clause: In accordance with Section 138 of the State Finance Law, the Contract may not be assigned by the Contractor or its right, title or in 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 the Contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

O. Legal Action: No litigation or regulatory action shall be brought against the State of New York, the State Agency, or against any county or other local government entity with funds provided under the Contract. The term 'litigation' shall include commencing or threatening to commence a lawsuit, joining or threatening to join as a party to ongoing litigation, or requesting any relief from any of the State of New York, the State Agency, or any county, or other local government entity. The term 'regulatory action' shall include commencing or threatening to commence a regulatory proceeding, or requesting any regulatory relief from any of the State of New York, the State Agency, or any county, or other local government entity.

P. No Arbitration: Disputes involving the Contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

Q. Secular Purpose: Service performed pursuant to the Contract are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

R. Partisan Political Activity and Lobbying: Funds provided pursuant to the Contract shall not be used for any partisan political activity, or for activities that attempt to influence legislation or election or defeat of any candidate for public office.

S. Reciprocity and Sanctions Provisions: The Contractor is hereby notified that if its principal place of business is located in a country, nation, province, state, or political subdivision that penalizes New York State vendors, and if the goods or services it offers shall be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that it be denied contracts which it would otherwise obtain. [1]

[1 - As of October 9, 2012, the list of discriminatory jurisdictions subject to this provision includes the states of Alaska, Hawaii, Louisiana, South Carolina, West Virginia and Wyoming. Contact NYS Department of Economic Development for the most current list of jurisdictions subject to this provision.]

T. Reporting Fraud and Abuse: Contractor acknowledges that it has reviewed information on how to prevent, detect, and report fraud, waste and abuse of public funds, including information about the Federal False Claims Act, the New York State False Claims Act and whistleblower protections.

U. Non-Collusive Bidding: By submission of this bid, the Contractor and each person signing on behalf of the Contractor certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive binding certification on the Contractor's behalf.

V. Federally Funded Grants: All of the Specific Federal requirements that are applicable to the Contract are identified in Appendix D (Workplan and Special Conditions) hereto. To the extent that the Contract is funded, in whole or part, with Federal funds or mandated by Federal law, (i) the provisions of the Contract that conflict with Federal rules, Federal regulations, or Federal program specific requirements shall not apply and (ii) the Contractor agrees to comply with all applicable Federal rules, regulations and program specific requirements including, but not limited to, those provisions that are set forth in Appendix D (Workplan and Special Conditions) hereto.

II. TERM, TERMINATION AND SUSPENSION

A. Term: The term of the Contract shall be specified on the Face Page, unless terminated sooner as provided herein.

B. Renewal:

1. General Renewal: The Contract may consist of successive periods on the same terms and conditions, as specified within the Contract (a 'Simplified Renewal Contract'). Each additional or superseding period shall be on the forms specified by the State and shall be incorporated in the Contract.

2. Renewal Notice to Not-for-Profit Contractors:

a) Pursuant to State Finance Law §179-t, if the Contract is with a not-for-profit Contractor and provides for a renewal option, the State shall notify the Contractor of the State's intent to renew or not to renew the Contract no later than ninety (90) calendar days prior to the end of the term of the Contract, unless funding for the renewal is contingent upon enactment of an appropriation. If funding for the renewal is contingent upon enactment of an appropriation, the State shall notify the Contractor of the State's intent to renew the Contract the later of: (1) ninety (90) calendar days prior to the end of the term of the Contract, and (2) thirty (30) calendar days after the necessary appropriation becomes law. Notwithstanding the foregoing, in the event that the State is unable to comply with the time frames set forth in this paragraph due to unusual circumstances beyond the control of the State ('Unusual Circumstances'), no payment of interest shall be due to the not-for-profit Contractor. For purposes of State Finance Law §179-t, 'Unusual Circumstances' shall not mean the failure by the State to (i) plan for implementation of a program, (ii) assign sufficient staff resources to implement a program, (iii) establish a schedule for the implementation of a program or (iv) anticipate any other reasonably foreseeable circumstances.

b) Notification to the not-for-profit Contractor of the State's intent to not renew the Contract must be in writing in the form of a letter, with the reason(s) for the non-renewal included. If the State does not provide notice to the not-for-profit Contractor of its intent not to renew the Contract as required in this Section and State Finance Law §179-t, the Contract shall be deemed continued until the date the State provides the necessary notice to the Contractor, in accordance with State Finance Law §179-t. Expenses incurred by the not-for-profit Contractor during such extension shall be reimbursable under the terms of the Contract.

C. Termination:

1. Grounds:

a) Mutual Consent: The Contract may be terminated at any time upon mutual written consent of the State and the Contractor.

b) Cause: The State may terminate the Contract immediately, upon written notice of termination to the Contractor, if the Contractor fails to comply with any of the terms and conditions of the Contract and/or with any laws, rules, regulations, policies, or procedures that are applicable to the Contract.

c) Non-Responsibility: In accordance with the provisions of Sections IV(N)(6) and (7) herein, the State may make a final determination that the Contractor is non-responsible (Determination of Non-Responsibility). In such event, the State may terminate the Contract at the Contractor's expense, complete the contractual requirements in any manner the State deems advisable and pursue available legal or equitable remedies for breach.

d) Convenience: The State may terminate the Contract in its sole discretion upon thirty (30) calendar days prior written

notice.

e) Lack of Funds: If for any reason the State or the Federal government terminates or reduces its appropriation to the applicable State Agency entering into the Contract or fails to pay the full amount of the allocation for the operation of one or more programs funded under this Contract, the Contract may be terminated or reduced at the State Agency's discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to the State Agency for payment of such costs. Upon termination or reduction of the Contract, all remaining funds paid to the Contractor that are not subject to allowable costs already incurred by the Contractor shall be returned to the State Agency. In any event, no liability shall be incurred by the State (including the State Agency) beyond monies available for the purposes of the Contract. The Contractor acknowledges that any funds due to the State Agency or the State of New York because of disallowed expenditures after audit shall be the Contractor's responsibility.

f) Force Majeure: The State may terminate or suspend its performance under the Contract immediately upon the occurrence of a 'force majeure'. For purposes of the Contract, 'Force majeure' shall include, but not be limited to, natural disasters, war, rebellion, insurrection, riot, strikes, lockout and any unforeseen circumstances and acts beyond the control of the State which render the performance of its obligations impossible.

2. Notice of Termination: a) Service of notice: Written notice of termination shall be sent by:

- (i) personal messenger service, or
- (ii) certified mail, return receipt requested and first class mail.

b) Effective date of termination: The effective date of the termination shall be the later of (i) the date indicated in the notice and (ii) the date the notice is received by the Contractor, and shall be established as follows:

- (i) if the notice is delivered by hand, the date of receipt shall be established by the receipt given to the Contractor or by affidavit of the individual making such hand delivery attesting to the date of delivery; or
- (ii) if the notice is delivered by registered or certified mail, by the receipt returned from the United States Postal Service, or if no receipt is returned, five (5) business days from the date of mailing of the first class letter, postage prepaid, in a depository under the care and control of the United States Postal Service.

3. Effect of Notice and Termination on State's Payment Obligations:

- a) Upon receipt of notice of termination, the Contractor agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the State.
- b) The State shall be responsible for payment on claims for services or work provided and costs incurred pursuant to the terms of the Contract. In no event shall the state be liable for expenses and obligations arising from the requirements of the Contract after its termination date.

4. Effect of Termination Based on Misuse or Conversation of State or Federal Property:

Where the Contract is terminated for cause based on Contractor's failure to use some or all of the real property or equipment purchased pursuant to the Contract for the purposes set forth herein, the State may, as its option, require:

- a) the repayment to the State of any monies previously paid to the Contractor, or
- b) the return of any real property or equipment purchased under the terms of the Contract, or
- c) an appropriate combination of clauses (a) and (b) of Section II(C)(4) herein.

Nothing herein shall be intended to limit the State's ability to pursue such other legal or equitable remedies as may be available.

D. Suspension: The State may, in its discretion, order the Contractor to suspend performance for a reasonable period of time. In the event of such suspension, the Contractor shall be given a formal written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor shall comply with the particulars of the notice. The State shall have no obligation to reimburse Contractor's expenses during such suspension period. Activities may resume at such time as the State issues a formal written notice authorizing a resumption of performance under the Contract.

III. PAYMENT AND REPORTING

A. Terms and Conditions:

1. In full consideration of contract services to be performed, the State Agency agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page.
2. The State has no obligation to make payment until all required approvals, including the approvals of the AG and OSC, if required, have been obtained. Contractor obligations or expenditures that precede the start date of the Contract shall not be reimbursed.
3. The Contractor must provide complete and accurate billing invoices to the State in order to receive payment. Provided, however, the State may, at its discretion, automatically generate a voucher in accordance with an approved contract payment schedule. Billing invoices submitted to the State must contain all information and supporting documentation required by Appendix C (Payment and Reporting Schedule) and Section III(C) herein. The State may require the Contractor to submit billing invoices electronically.
4. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the head of the State Agency, in the sole discretion of the head of such State Agency, due to extenuating circumstances. Such electronic payment shall be made in accordance with OSC's procedures and practices to authorize electronic payments.
5. If travel expenses are an approved expenditure under this Contract, travel expenses shall be reimbursed at the lesser of the rates set forth in the written standard travel policy of the Contractor, the OSC guidelines, or United States General Services Administration rates. No out-of-state travel costs shall be permitted unless specifically detailed and pre-approved by the State.
6. Timeliness of advance payments or other claims for reimbursement, and any interest to be paid to Contractor for late payment, shall be governed by Article 11-A of the State Finance Law to the extent required by law.
7. Article 11-B of the State Finance Law sets forth certain time frames for the Full Execution of contracts or renewal contracts with not-for-profit organizations and the implementation of any program plan associated with such contract. For purposes of this section, 'Full Execution' shall mean that the contract has been signed by all parties thereto and has obtained the approval of the AG and OSC. Any interest to be paid on a missed payment to the Contractor based on a delay in the Full Execution of the Contract shall be governed by Article 11-B of the State Finance Law.

B. Advance Payment and Recoupment: 1. Advance payments, which the State in its sole discretion may make to not-for-profit grant recipients, shall be made and recouped in accordance with State Finance Law Section 179(u), this Section and the provisions of Appendix C (Payment and Reporting Schedule) and Appendix D (Workplan and Special Conditions).

2. Initial advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the first day of the Contract Term or, if renewed, in the period identified on the Face Page. Subsequent advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the dates specified in Appendix C (Payment and Reporting Schedule).

3. For subsequent contract years in multi-year contracts, Contractor will be notified of the scheduled advance payments for the upcoming contract year no later than 90 days prior to the commencement of the contract year. For simplified renewals, the payment schedule (Appendix C) will be modified as part of the renewal process.

4. Recoupment of any advance payment(s) shall be recovered by crediting the percentage of subsequent claims listed in Appendix C (Payment and Reporting Schedule) and Section III(C) herein and such claims shall be reduced until the advance is fully recovered within the Contract Term. Any unexpected advance balance at the end of the Contract Term shall be refunded by the Contractor to the State.

5. If for any reason the amount of any claim is not sufficient to cover the proportionate advance amount to be recovered, then subsequent claims may be reduced until the advance is fully recovered.

C. Claims for Reimbursement:

1. The Contractor shall submit claims for the reimbursement of expenses incurred on behalf of the State under the Contract in accordance with this Section and the applicable claiming schedule in Appendix C (Payment and Reporting Schedule).

Vouchers submitted for payment shall be deemed to be a certification that the payments requested are for project expenditures made in accordance with the items as contained in the applicable Appendix B (Budget) and during the Contract Term. When submitting a voucher, such voucher shall also be deemed to certify that: (i) the payments requested do not duplicate reimbursement from other sources of funding, and (ii) the funds provided herein do not replace funds that, in the absence of this grant, would have been made available by the Contractor for this program. Requirement (iii) does not

apply to grants funded pursuant to a Community Projects Fund appropriation.

2. Consistent with the selected reimbursement claiming schedule in Appendix C (Payment and Reporting Schedule); the Contractor shall comply with the appropriate following provisions:

a) Quarterly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Appendix D (Work Plan and Special Conditions).

The Contractor shall submit to the State Agency quarterly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

b) Monthly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Appendix D (Work Plan and Special Conditions).

The Contractor shall submit to the State Agency monthly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

c) Biannual Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Appendix D (Work Plan and Special Conditions).

The Contractor shall submit to the State Agency biannually voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

d) Milestone/Performance Reimbursement/2: Requests for payment based upon an event or milestone may be either severable or cumulative. A severable event/milestone is independent of accomplishment of any other event. If the event is cumulative, the successful completion of an event or milestone is dependent on the previous completion of another event.

Milestone payments shall be made to the Contractor when requested in a form approved by the State, and at frequencies and in amounts stated in Appendix C (Payment and Reporting Schedule). The State Agency shall make milestone payments subject to the Contractor's satisfactory performance.

e) Fee for Service Reimbursement/3: Payment shall be limited to only those fees specifically agreed upon in the Contract and shall be payable no more frequently than monthly upon submission of a voucher by the contractor.

f) Rate Based Reimbursement/4: Payment shall be limited to rate(s) established in the Contract. Payment may be requested no more frequently than monthly.

g) Scheduled Reimbursement/5: The State Agency shall generate vouchers at the frequencies and amounts as set forth in Appendix C (Payment and Reporting Schedule), and service reports shall be used to determine funding levels appropriate to the next annual contract period.

h) Interim Reimbursement: The State Agency shall generate vouchers on an interim basis and at the amounts requested by the Contract as set forth in Appendix C (Payment and Reporting Schedule).

i) Fifth Quarter Payments/6: Fifth quarter payment shall be paid to the Contractor at the conclusion of the final scheduled payment period of the preceding contract period. The State Agency shall use a written directive for fifth quarter financing. The State Agency shall generate a voucher in the fourth quarter of the current contract year to pay the scheduled payment for the next contract year.

[2 - A milestone/performance payment schedule identifies mutually agreed-to payment amounts based on meeting contract events or milestones. Events or milestones must represent integral and meaningful aspects of contract performance and should signify true progress in completing the Contract effort.]

[3 - Fee for Service is a rate established by the Contractor for a service or services rendered.]

[4 - Rate based agreements are those agreements in which payment is premised upon a specific established rate per unit.]

[5 - Scheduled Reimbursement agreements provide for payments that occur at defined and regular intervals that provide for a specified dollar amount to be paid to the Contractor at the beginning of each payment period (i.e., quarterly, monthly or bi-annually). While these payments are related to the particular services and outcomes defined in the Contract, they are not dependent upon particular services or expenses in any one payment period and provide the Contractor with a defined and regular payment over the life of the contract.]

[6 - Fifth Quarter Payments occurs where there are scheduled payments and where there is an expectation that services will be continued through renewals or subsequent contracts. Fifth Quarter Payments allow for the continuation of scheduled payments to a Contractor for the first payment period quarter of an anticipated renewal or new contract.]

3. The Contractor shall also submit supporting fiscal documentation for the expenses claimed.

4. The State reserves the right to withhold up to fifteen percent (15%) of the total amount of the Contract as security for the faithful completion of services or work, as applicable, under the Contract. This amount may be withheld in whole or in part from any single payment or combination of payments otherwise due under the Contract. In the event that such withheld funds are insufficient to satisfy Contractor's obligations to the State, the State may pursue all available remedies, including the right to setoff and recoupment.

5. The State shall not be liable for payments on the Contract if it is made pursuant to a Community Projects Fund appropriation if insufficient monies are available pursuant to Section 99-d of the State Finance Law.

6. All vouchers submitted by the Contractor pursuant to the Contract shall be submitted to the State Agency no later than thirty (30) calendar days after the end date of the period for which reimbursement is claimed. In no event shall the amount received by the Contractor exceed the budget amount approved by the State Agency, and, if actual expenditures by the Contractor are less than such sum, the amount payable by the State Agency to the Contractor shall not exceed the amount of actual expenditures.

7. All obligations must be incurred prior to the end date of the contract. Notwithstanding the provisions of Section III(C)(6) above, with respect to the final period for which reimbursement is claimed, so long as the obligations were incurred prior to the end date of the contract, the Contractor shall have up to ninety (90) calendar days after the contract end date to make expenditures, provided, however, that if the Contract is funded in whole or in part with Federal funds, the Contractor shall have up to sixty (60) calendar days after the contract end date to make expenditures.

D. Identifying Information and Privacy Notification:

1. Every voucher or New York State Claim for Payment submitted to a State Agency by the Contractor, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property, must include the Contractor's Vendor Identification Number assigned by the Statewide Financial System, and any or all of the following identification numbers: (i) the Contractor's Federal employer identification number, (ii) the Contractor's Federal social security number, and/or (iii) DUNS number. Failure to include such identification number or numbers may delay payment by the State to the Contractor. Where the Contractor does not have such number of numbers, the Contractor, on its voucher or Claim for Payment, must provide the reason or reasons for why the Contractor does not have such number or numbers.

2. The authority to request the above to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify person affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. The personal information is requested by the purchasing unit of the State Agency contracting to purchase the goods or service or lease the real or personal property covered by the Contract. This information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York, 12236.

E. Refunds: 1. In the event that the Contractor must make a refund to the State for Contract-related activities, including repayment of an advance or an audit disallowance, payment must be made payable as set forth in this Appendix. The Contractor must reference the contract number with its payment and include a brief explanation of why the refund is being made. Refund payments must be submitted to the Office address listed in Section V(A)(2):

2. If at the end or termination of the Contract, there remains any unexpected balance of the monies advanced under the Contract in the possession of the Contractor, the Contractor shall make payment within forty-five (45) calendar days of the end or termination of the Contract. In the event that the Contractor fails to refund such balance the State may pursue all available remedies.

F. Outstanding Amounts Owed to the State: Prior period overpayments (including, but not limited to, contract advances in excess of actual expenditures) and/or audit recoveries associated with the Contractor may be recouped against future payments made under this Contract to Contractor. The recoupment generally begins with the first payment made to the Contractor following identification of the overpayment and/or audit recovery amount. In the event that there are no payments to apply recoveries against, the Contractor shall make payment as provided in Section III(E) (Refunds) herein.

G. Program and Fiscal Reporting Requirements:

1. The Contractor shall submit required periodic reports in accordance with the applicable schedule provided in Appendix C (Payment and Reporting Schedule). All required reports or other work products developed pursuant to the Contract must be completed as provided by the agreed upon work schedule in a manner satisfactory and acceptable to the State Agency in order for the Contractor to be eligible for payment.

2. Consistent with the selected reporting options in Appendix C (Payment and Reporting Schedule), the Contractor shall comply with the following applicable provisions:

a) If the Expenditure Based Reports option is indicated in Appendix C (Payment and Reporting Schedule), the Contractor shall provide the State Agency with one or more of the following reports as required by the following provisions and Appendix C (Payment and Reporting Schedule) as applicable:

(i) *Narrative/Qualitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Appendix C (Payment and Reporting Schedule), a report, in narrative form, summarizing the services rendered during the quarter. This report shall detail how the Contractor has progressed toward attaining the qualitative goals enumerated in Appendix D (Work Plan and Special Conditions). This report should address all goals and objectives of the project and include a discussion of problems encountered and steps taken to solve them.

(ii) *Statistical/Quantitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Appendix C (Payment and Reporting Schedule), a detailed report analyzing the quantitative aspects of the program plan, as appropriate (e.g., number of meals served, clients transported patient/client encounters, procedures performed, training sessions conducted, etc.)

(iii) *Expenditure Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Appendix C (Payment and Reporting Schedule), a detailed expenditure report, by object of expense. This report shall accompany the voucher submitted for such period.

(iv) *Final Report*: The Contractor shall submit a final report as required by the Contract, not later than the time period listed in Appendix C (Payment and Reporting Schedule) which reports on all aspects of the program and detailing how the use of funds were utilized in achieving the goals set forth in Appendix D (Work Plan and Special Conditions).

b) If the Contract is Performance-Based, the Contractor shall provide the State Agency with the following reports as required by the following provisions and Appendix C (Payment and Reporting Schedule) and Appendix D (Work Plan and Special Conditions) as applicable:

(i) *Progress Reports*: The Contractor shall provide the State Agency with a written progress report using the forms and formats as provided by the State Agency, summarizing the work performed during the period. These reports shall detail the Contractor's progress toward attaining the specific goals enumerated in Appendix D (Work Plan and Special Conditions). Progress reports shall be submitted in a format prescribed in the Contract.

(ii) *Final Progress Report*: Final scheduled payment is due during the time period set forth in Appendix C (Payment and Reporting Schedule). The deadline for submission of the final report shall be the date set forth in Appendix C (Payment and Reporting Schedule). The State Agency shall complete its audit and notify the Contractor of the results no later than the date set forth in Appendix C (Payment and Reporting Schedule). Payment shall be adjusted by the State Agency to reflect only those services/expenditures that were made in accordance with the Contract. The Contractor shall submit a detailed comprehensive final progress report not later than the date set forth in Appendix C (Payment and Reporting Schedule), summarizing the work performed during the entire Contract Term (i.e., a cumulative report), in the forms and formats required.

3. In addition to the periodic reports stated above, the Contractor may be required (a) to submit such other reports as are required in Appendix C (Payment and Reporting Schedule) and Appendix D (Workplan and Special Conditions) as applicable, and (b) prior to receipt of final payment under the Contract, to submit one or more final reports in accordance with the form, content, and schedule stated in Appendix C (Payments and Reporting Schedule) and Appendix D (Work Plan and Special Conditions) as applicable.

H. Notification of Significant Occurrences:

1. If any specific event or conjunction of circumstances threatens the successful completion of this project, in whole or in part, including where relevant, timely completion of milestones or other program requirements, the Contractor agrees to submit to the State Agency within three (3) calendar days of becoming aware of the occurrence or of such problem, a written description thereof together with a recommended solution thereto.

2. The Contractor shall immediately notify in writing the program manager assigned to the Contractor of any unusual incident, occurrence, or event that involves the staff, volunteers, directors or officers of the Contractor, any subcontractor or program participant funded through the Contract, including but not limited to the following: death or serious injury, an arrest or possible criminal activity that could impact the successful completion of this project, any destruction of property, significant damage to the physical plant of the Contractor, or other matters of a similarly serious nature.

IV. ADDITIONAL CONTRACTOR OBLIGATIONS, REPRESENTATIONS AND WARRANTIES

A. Contractor as an Independent Contractor/Employees:

1. The State and the Contractor agree that the Contractor is an independent contractor and not an employee of the State and may neither hold itself out nor claim to be an officer, employee, or subdivision of the State nor make any claim, demand, or application to or for any right based upon any different status. Notwithstanding the foregoing, the State and the Contractor agree that if the contractor is a New York State municipality, the Contractor shall be permitted to hold itself out, and claim, to be a subdivision of the State.

The Contractor shall be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries and management of its project personnel. These functions shall be carried out in accordance with the provisions of the Contract, and all applicable Federal and State laws and regulations.

2. The Contractor warrants that it, its staff, and any and all subcontractors have all the necessary licenses, approvals, and certifications currently required by the laws of any applicable local, state, or Federal government to perform the services or work, as applicable, pursuant to the Contract and/or any subcontract entered into under the Contract. The Contractor further agrees that such required licenses, approvals, and certificates shall be kept in full force and effect during the term of the Contract, or any extension thereof, and to secure any new licenses, approvals, or certificates within the required time frames and/or to require its staff and subcontractors to obtain the requisite licenses, approvals, or certificates. In the event the Contractor, its staff, and/or subcontractors are notified of a denial or revocation of any license, approval, or certification to perform the services or work, as applicable, under the Contract, Contractor shall immediately notify the State.

B. Subcontractors:

1. If the Contractor enters into subcontracts for the performance of work pursuant to the Contract, the Contractor shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the State under the Contract. No contractual relationship shall be deemed to exist between the subcontractor and the State.

2. If requested by the state, the Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, that are in excess of \$100,000 for the performance of the obligations contained herein until it has received the prior written permission of the State, which shall have the right to review and approve each and every subcontract in excess of \$100,000 prior to giving written permission to the Contractor to enter into the subcontract. All agreements between the Contractor and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of the Contract, (2) that nothing contained in the subcontract shall impair the rights of the State under the Contract, and (3) that nothing contained in the subcontract, nor under the Contract, shall be deemed to create any contractual relationship between the subcontractor and the State. In addition, subcontracts shall contain any other provisions which are required to be included in subcontracts pursuant to the terms herein.

3. If requested by the State, prior to executing a subcontract, the Contractor agrees to require the subcontractor to provide to the State the information the State needs to determine whether a proposed subcontractor is a responsible vendor.

4. If requested by the State, when a subcontract equals or exceeds \$100,000, the subcontractor shall submit a Vendor Responsibility Questionnaire (Questionnaire).

5. If requested by the State, upon the execution of a subcontract, the Contractor shall provide detailed subcontract information (a copy of subcontract will suffice to the State within fifteen (15) calendar days after execution. The State may request from the Contractor copies of subcontracts between a subcontractor and its subcontractor.

6. The Contractor shall require any and all subcontractors to submit to the Contractor all financial claims for Services or work to the State Agency, as applicable, rendered and required for supporting documentation and reports as necessary to permit Contractor to meet claim deadlines and documentation requirements as established in Appendix C (Payment and Reporting Schedule) and Section III. Subcontractors shall be paid by the Contractor on a timely basis after submitting the required reports and vouchers for reimbursement of services of work, as applicable. Subcontractors shall be informed by the Contractor of the possibility of non-payment or rejection by the Contractor of claims that do not contain the required information, and/or are not received by the Contractor by said due date.

C. Use of Material, Equipment, or Personnel:

1. The Contractor shall not use materials, equipment, or personnel paid for under the Contract for any activity other than those provided for under the Contract, except with the State's prior written permission.

2. Any interest accrued on funds paid to the Contractor by the State shall be deemed to be the property of the State and shall either be credited to the State at the close-out of the Contract or, upon the written permission of the State, shall be expended on additional services or work, as applicable; provided for under the Contract.

D. Property: 1. Property is real property, equipment, or tangible personal property having a useful life of more than one year and an acquisition cost of \$1,000 or more per unit.

- a) If an item of Property required by the Contractor is available as surplus to the State, the State as its sole discretion, may arrange to provide such Property to the Contractor in lieu of the purchase of such Property.
- b) If the State consents in writing, the Contractor may retain possession of Property owned by the State, as provided herein, after the termination of the Contract to use for similar purposes. Otherwise, the Contractor shall return such Property to the State at the Contractor's cost and expense upon the expiration of the Contract.
- c) In addition, the Contractor agrees to permit the State to inspect the Property and to monitor its use at reasonable intervals during the Contractor's regular business hours.
- d) The Contractor shall be responsible for maintaining and repairing Property purchased or procured under the Contract and its own cost and expense. The Contractor shall procure and maintain insurance at its own cost and expense. The Contractor shall procure and maintain insurance at its own cost and expense in an amount satisfactory to the State Agency naming the State Agency as an additional insured, covering the loss, theft or destruction of such equipment.
- e) A rental charge to the Contract for a piece of Property owned by the Contractor shall not be allowed.
- f) The State has the right to review and approve in writing any new contract for the purchase of or lease for rental of Property (Purchase/Lease Contract) operated in connection with the provision of the services or work, as applicable, as specified in the Contract, if applicable, and any modifications, amendments, or extensions of an existing lease or purchase prior to its execution. If, in its discretion, the State disapproves of any Purchase/Lease Contract, then the State shall not be obligated to make any payments for such Property.
- g) No member, officer, director or employee of the Contractor shall retain or acquire any interest, direct or indirect, in any Property, paid for with funds under the Contract, nor retain any interest, direct or indirect, in such, without full and complete prior disclosure of such interest and the date of acquisition thereof, in writing to the Contractor and the State.

2. For non-Federally-funded contracts, unless otherwise provided herein, the State shall have the following rights to Property purchased with funds provided under the Contract.

- a) For cost-reimbursement contracts, all right, title and interest in such Property shall belong to the State.
- b) For performance-based contracts, all right, title and interest in such Property shall belong to the Contractor.

3. For Federally funded contracts, title to Property whose requisition cost is borne in whole or in part by monies provided under the Contract shall be governed by the terms and conditions of the most recent versions of the *DOJ Grants Financial Guide*.

4. Upon written direction by the State, the Contractor shall maintain an inventory of all Property that is owned by the State as provided herein.

5. The Contractor shall execute any documents which the State may reasonably require to effectuate the provisions of this section.

E. Records and Audits:

1. General:

- a) The Contractor shall establish and maintain, in paper or electronic format, complete and accurate books, records, documents, receipts, accounts, and other evidence directly pertinent to its performance under the Contract (collectively, Records).
- b) The Contractor agrees to produce and retain for the balance of the term of the Contract, and for a period of six years from the later of the date of (i) the Contract and (ii) the most recent renewal of the Contract, any and all Records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under the Contract. Such Records may include, but not be limited to, original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:
 - (i) personal service expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, cash and check disbursement records including copies of money orders and the like, vouchers and invoices, records of contract labor, any and all records listing payroll and the money value of non-cash advantages provided to

employees, time cards, work schedules and logs, employee personal history folders, detailed and general ledgers, sales records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

(ii) payroll taxes and fringe benefits: cancelled checks, copies of related bank statements, cash and check disbursement records including copies of money orders and the like; invoices for fringe benefit expenses, miscellaneous reports and returns (tax and otherwise); and cost allocation plans, if applicable.

(iii) non-personal services expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, and cost allocation plans, if applicable.

(iv) receipt and deposit of advance and reimbursements, itemized bank stamped deposit slips, and a copy of the related bank statements.

c) The OSC, AG and any other person or entity authorized to conduct an examination, as well as the State Agency or State Agencies involved in the Contract that provided funding, shall have access to the Records during the hours of 9:00 a.m. until 5:00 p.m., Monday through Friday (excluding State recognized holidays); at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.

d) The State shall protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed, and (ii) designation of said records, as exempt under Section 87 of the Public Officers Law, is reasonable.

e) Nothing contained herein shall diminish, or in any way adversely affect, the State's rights in connection with its audit and investigatory authority or the State's rights in connection with discovery in any pending or future litigation.

2. Cost Allocation:

a) For non-performance based contracts, the proper allocation of the Contractor's costs must be made according to a cost allocation plan that meets the requirements of 2 CFR Part 200. Methods used to determine and assign costs shall conform to generally accepted accounting practices and shall be consistent with the method(s) used by the Contractor to determine costs for other operations or programs. Such accounting standards and practices shall be subject to approval of the State.

b) For performance-based milestone contracts, or for the portion of the contract amount paid on a performance basis, the Contractor shall maintain documentation demonstrating that milestones were attained.

3. Federal Funds: For records and audit provisions governing Federal funds, please see Appendix D (Workplan and Special Conditions).

F. Confidentiality: The Contractor agrees that it shall use and maintain personally identifiable information relating to individuals who may receive services, and their families pursuant to the Contract, or any other information, data or records marked as, or reasonably deemed, confidential by the State (Confidential Information) only for the limited purposes of the Contract and in conformity with applicable provisions of State and Federal law. The Contractor (i) has an affirmative obligation to safeguard any such Confidential Information from unnecessary or unauthorized disclosure and (ii) must comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa and State Technology Law Section 208) and commencing March 21, 2020 shall also comply with General Business Law Section 899-bb.

G. Publicity:

1. Publicity includes, but is not limited to: news conferences, new releases, public announcements, advertising, brochures, reports, discussions or presentations at conferences or meetings, and/or the inclusion of State materials, the State's name or other such references to the State in any document or forum. Publicity regarding this project may not be released without prior written approval from the State.

2. Any publications, presentation or announcements of conferences, meetings or trainings which are funded in whole or in part through any activity supported under the Contract may not be published, presented or announced without prior approval of the State. Any such publication, presentation or announcement shall:

a) Acknowledge the support of the State of New York and, if funded with Federal funds, the applicable Federal funding agency, and

b) State that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Contractor and do not necessarily represent the opinions, interpretations or policy of the State or if funded with Federal

funds, the applicable Federal funding agency.

3. Notwithstanding the above, (i) if the Contractor is an educational research institution, the Contractor may, for scholarly or academic purposes, use, present, discuss, report or publish any material, data or analyses, other than Confidential Information, that derives from activity under the Contract and the Contractor agrees to use best effort to provide copies of any manuscripts arising from Contractor's performance under this Contract, or if requested by the State, the Contractor shall provide the State with a thirty (30) day period in which to review each manuscript for compliance with Confidential Information requirements, or (ii) if the Contractor is not an educational research institution, the Contractor may submit for publication, scholarly or academic publications that derive from activity under the Contract (but are not deliverable under the Contract), provided that the Contractor first submits such manuscripts to the State forty-five (45) calendar days prior to submission for consideration by a publisher in order for the State to review the manuscript for compliance with confidentiality requirements and restrictions and to make such other comments as the State deems appropriate. All derivative publications shall follow the same acknowledgements and disclaimer as described in Section IV(G)(2) (Publicity) hereof.

H. Web-Based Applications-Accessibility: Any web-based intranet and Intranet information and applications development, or programming delivered pursuant to the Contract or procurement shall comply with New York State Enterprise IT Policy NYS-P08-005, Accessibility Web-Based Information and Applications, and New York State Enterprise IT Standard NYS-S08-005, Accessibility of Web-Based Information Applications, as such policy or standard may be amended, modified or superseded, which requires that State Agency web-based intranet and Internet information and applications are accessible to person with disabilities. Web content must conform to New York State Enterprise IT Standards NYS-S08-005, as determined by quality assurance testing. Such quality assurance testing shall be conducted by the State Agency and the results of such testing must be satisfactory to the State Agency before web content shall be considered a qualified deliverable under the Contract or procurement.

I. Non-Discrimination Requirements: Pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that the Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work, or (b) discriminate against or intimidate any employee hired for the performance of work under the Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work, or (b) discriminate against or intimidate any employee hired for the performance of work under the Contract. The Contractor shall be subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 of the Labor Law.

J. Equal Opportunities for Minorities and Women, Minority and Women Owned Business Enterprises: In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if the Contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting State Agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting State Agency, or (ii) a written agreement in excess of \$100,000 whereby a contracting State Agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon, or (iii) a written agreement in excess of \$100,000 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the Contractor certifies and affirms that (i) it is subject to Article 15-A of the Executive Law which includes, but is not limited to, those provisions concerning the maximizing of opportunities for the participation of minority and women-owned business enterprises and (ii) the following provisions shall apply and it is Contractor's equal employment opportunity policy that:

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

of compensation.

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

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

The Contractor shall include the provisions of subclauses 1-5 of this Section IV(J), in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (Work) except where the Work is for the beneficial use of the Contractor. Section 312 of the Executive Law does not apply to: (i) work, goods or services unrelated to the Contract, or (ii) unemployment outside New York State. The State shall consider compliance by the Contractor or a subcontractor with the requirements of any Federal law concerning equal employment opportunity which effectuates the purpose of this section. The State shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such Federal law and if such duplication or conflict exists, the State shall waive the applicability of Section 312 of the Executive Law to the extent of such duplication or conflict. The Contractor shall comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

K. Omnibus Procurement Act of 1992: It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises, as bidders, subcontractors and suppliers on its procurement contracts.

1. If the total dollar amount of the Contract is greater than \$1 million, the Omnibus Procurement Act of 1992 requires that by signing the Contract, the Contractor certifies the following:

a) The Contractor has made reasonable efforts to encourage the participation of State business enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State,

b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended,

c) The Contractor agrees to make reasonable efforts to provide notification to State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request, and

d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of the Contract and agrees to cooperate with the State in these efforts.

L. Workers' Compensation Benefits:

1. In accordance with Section 142 of the State Finance Law, the Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of the Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

2. If a Contractor believes they are exempt from the Workers' Compensation insurance requirement they must apply for an exemption.

M. Unemployment Insurance Compliance: The Contractor shall remain current in both its quarterly reporting and payment of contributions or payments in lieu of contributions, as applicable, to the State Unemployment Insurance system as a condition of maintaining this grant.

The Contractor hereby authorizes the State Department of Labor to disclose to the State Agency staff only such information as is necessary to determine the Contractor's compliance with the State Unemployment Insurance Law. This includes, but is not limited to, the following:

1. Any records of unemployment insurance (UI) contributions, interest, and/or penalty payment arrears or reporting delinquency,

2. Any debts owed for UI contributions, interest, and/or penalties,

3. The history and results of any audit or investigation, and
4. Copies of wage reporting information.

Such disclosures are protected under Section 537 of the State Labor Law, which makes it a misdemeanor for the recipient of such information to use or disclose the information for any purpose other than the performing due diligence as a part of the approval process for the Contract.

N. Vendor Responsibility:

1. If a Contractor is required to complete a Questionnaire, the Contractor covenants and represents that it has, to the best of its knowledge, truthfully, accurately and thoroughly completed such Questionnaire. Although electronic filing is preferred, the Contractor may obtain a paper form from the OSC prior to execution of the Contract. The Contractor further covenants and represents that as of the date of execution of the Contract, there are no material events, omissions, changes or corrections to such document requiring an amendment to the Questionnaire.
2. The Contractor shall provide to the State updates to the Questionnaire if any material event(s) occurs requiring an amendment or as new information material to such Questionnaire becomes available.
3. The Contractor shall, in addition, promptly report to the State the initiation of any investigation or audit by a governmental entity with enforcement authority with respect to any alleged violation of Federal or state law by the Contractor, its employees, its officers and/or directors in connection with matters involving, relating to or arising out of the Contractor's business. Such report shall be made within five (5) business days following the Contractor becoming aware of such event, investigation, or audit. Such report may be considered by the State in making a Determination of Vendor Non-Responsibility pursuant to this section.
4. The State reserves the right, in its sole discretion, at any time during the term of the Contract:
 - a) to require updates or clarifications to the Questionnaire upon written request,
 - b) to inquire about information included in or required information omitted from the Questionnaire,
 - c) to require the Contractor to provide such information to the State within a reasonable timeframe, and
 - d) to require as a condition precedent to entering into the Contract that the Contractor agree to such additional conditions as shall be necessary to satisfy the State that the Contractor is, and shall remain, a responsible vendor, and
 - e) to require the Contractor to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity. By signing the Contract, the Contractor agrees to comply with any such additional conditions that have been made a part of the Contract.
5. The State, in its sole discretion, reserves the right to suspend any or all activities under the Contract, at any time, when it discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor shall be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the State issues a written notice authorizing a resumption of performance under the Contract.
6. The State, in its sole discretion, reserves the right to make a final Determination of Non-Responsibility at any time during the term of the Contract based on:
 - a) any information provided in the Questionnaire and/or in any updates, clarifications or amendments thereof, or
 - b) the State's discovery of any material information which pertains to the Contractor's responsibility.
7. Prior to making a final Determination of Non-Responsibility, the State shall provide written notice to the Contractor that it has made a preliminary determination of non-responsibility. The State shall detail the reason(s) for the preliminary determination, and shall provide the Contractor with an opportunity to be heard.

O. Charities Registration: If applicable, the Contractor agrees to (i) obtain not-for-profit status, a Federal identification number, and a charitable registration number (or a declaration of exemption) and to furnish the State Agency with this information as soon as it is available, (ii) be in compliance with the OAG charities registration requirements at the time of the awarding of this Contract by the State and (iii) remain in compliance with the OAG charities registration requirements throughout the term of the Contract.

P. Consultant Disclosure Law: [7] If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services, then in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

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

R. Admissibility of Reproduction of Contract: Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

[7 - Not applicable to not-for-profit entities.]

V. AGENCY SPECIFIC TERMS AND CONDITIONS

A. Designees

1. The designated Program Office, for the purpose of notice as referenced in the Standard Terms and Conditions, Section I(J)(2), shall be:

NYS Division of Criminal Justice Services (DCJS)
Office of Program Development and Funding
80 S. Swan St.
Albany, NY 12210

2. For the purpose of refunds as referenced in the Standard Terms and Conditions, Section III(E)(1), refunds shall be submitted to:

NYS Division of Criminal Justice Services
Office of Financial Services, Grants Unit
80 S. Swan St.
Albany, NY 12210

3. The Contractor's Designee, for the purpose of notice as referenced in the Standard Terms and Conditions, Section I(J)(3), shall be the same as indicated on the Face Page of the Contract.

B. Contractual Obligations

The failure of a party to enforce a contractual obligation shall not eliminate the other party's obligation to perform such contractual obligation, unless otherwise approved in writing by both parties' signatories or their designees.

C. Budget Amendments

Budget amendments for expenditure-based contracts are governed in accordance with Section I(B) of this Appendix and also as follows:

Requests for any budget modifications shall be made in writing by an authorized representative of the Contractor and must be approved in writing by DCJS.

1. For contracts with a total value of \$200,000 or less, no budget amendment is required for a budget modification that would result in a transfer of funds between budget cost categories where the amount of such modification is, as a portion of the total value of the contract, equal to or less than ten percent.

2. For contracts with a total value greater than \$200,000, no budget amendment is required for a budget modification that would result in a transfer of funds between budget cost categories where the amount of such modification is, as a portion of the total value of the contract, equal to or less than five percent.

For budget modifications involving amounts above the thresholds established in preceding paragraphs a. and b., including multiple budget modifications that cumulatively exceed the thresholds provided, a budget amendment setting forth the proposed new budget will be required to be submitted and approved within the applicable state grants management system before the next payment will be approved.

Any other budget changes not covered in paragraphs a. or b., such as modifications within budget cost categories or changes in the number, title, job duties or rate of remuneration of project staff or changes under the thresholds for a formal amendment, shall be requested by the Contractor and approved via email by DCJS. Such approval shall be retained by the Contractor. DCJS reserves the right to require a formal budget amendment to be submitted and approved within the applicable state grants management system when deemed to be in the best interest of the State.

3. Grant Amendment Request (GAR) for Performance-Based Contracts

For performance-based contracts, the Contractor shall request reallocations of milestones from the state DCJS Office of Program Development and Funding (OPDF) within 30 days of the close of each contract quarter, or no later than 45 calendar days after the end of the last contract quarter, or no later than 45 calendar days after the end of the last quarter of a contract budget term, to adjust any milestones and/or outcomes to reflect actual achievements. If the reallocation request is approved, the reimbursement will be at the agreed upon cost for the milestones and/or outcomes, and shall not exceed the total maximum award amount delineated in the Contract for such contract budget term. The reallocation request must also include the completed Grant Amendment Request (GAR) form. The Contractor may request from OPDF within the aforementioned 45-day period an extension of the GAR submission period due to extenuating circumstances. DCJS reserves the right to deny all or part of a GAR reallocation and/or extension request.

D. Time and Effort Reporting

The Contractor shall maintain specific documentation as support for project related personal service costs. For all Contractor's staff whose salaries are paid in whole or in part from grant funds provided under this Contract, the Contractor 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 determined 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.

E. Space Rental

Space rental provided by this Contract shall be supported by a written lease or other related, DCJS-approved documentation, maintained on file, and made available by the Contractor upon request.

F. Employment of a Consultant

The Contractor's employment of a consultant shall be supported by a written agreement executed by the Contractor and the consultant. A consultant is defined as an individual or organization hired by the Contractor for the stated purpose of accomplishing a specific task relative to the funded project. A copy of the agreement shall be submitted to DCJS and uploaded into the applicable state grants management system no later than the due date of the second quarterly progress report unless otherwise approved by DCJS. All consultant services shall be obtained in a manner that provides for fair and open competition. The Contractor shall retain copies of all solicitations seeking a consultant, written agreements, and documentation justifying the cost and selection of the consultant. The Contractor further agrees that it shall assume sole and complete responsibility for fulfilling all the obligations set forth in the Contract and the Contractor shall guarantee the work of the consultant as if it were its own.

1. The rate for a consultant should not exceed \$650 for an eight-hour day or \$81.25 per hour (not including travel and subsistence costs). A rate exceeding \$650 per eight-hour day or \$81.25 per hour 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. 2. Procurement of a consultant shall be undertaken consistent with the procedures outlined in Section V(G) (Procurement) presented below.

3. A Contractor who proposed to obtain consultant services from a vendor without competitive bidding, shall obtain the prior written approval of DCJS. The request for approval shall 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 shall 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 and/or any applicable state or federal agency. DCJS approval shall be retained

by the Contractor and submitted upon request.

4. Notwithstanding the provisions of this section, 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 supporting documentation identifying the criminal matter involved, services provided, time commitment and schedule shall be retained by the Contractor and submitted upon request.

G. Procurement

All procurements 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):

1. A Contractor that is a local government must make procurements in accordance with General Municipal Law Article 5-A and any other applicable regulations.
2. A Contractor that is a not-for-profit organization shall make all procurements as noted below:
 - a) If the Contractor 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.
 - b) A Contractor may purchase any single piece of equipment, single service or multiples of each that cost up to \$999 at its discretion.
 - c) Before purchasing any piece of equipment, service or multiples of each that have an aggregate cost between \$1,000 and \$4,999, a Contractor must secure at least three telephone quotes and create a record for audit of such quotes.
 - d) Before purchasing any piece of equipment, service or multiples of each that have an aggregate cost between \$5,000 and \$9,999, the Contractor must secure at least three written quotes on a vendor's stationery and maintain a record of the competitive procurement process for audit purposes.
3. A Contractor that is a state entity shall make all procurements in accordance with State Finance Law Article 11, and any other applicable laws and/or regulations.
4. A Contractor spending in aggregate of \$10,000 and above must use a competitive bidding process. 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. Further guidance may be obtained from DCJS.
5. Any Contractor who proposes to purchase from a 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 shall be retained by the Contractor and submitted upon request.

H. Participation By Minority Group Members And Women With Respect To Grant Contracts: Requirements And Procedures (state-funded grants only)

1. General Provisions

- a) The Division of Criminal Justice Services (DCJS) is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (MWBE Regulations) for all state contracts as defined therein, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- b) The Contractor to the subject contract (the Contractor and the Contract, respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the DCJS, to fully comply and cooperate with the DCJS in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (EEO) and contracting opportunities for certified minority group members and women-owned business enterprises (MWBEs). Contractor's demonstration of good faith efforts pursuant to 5 NYCRR §142.8 shall be part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of,

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the nondiscrimination provisions required by New York State Executive Law Article 15 (the Human Rights Law) or other applicable federal, state or local laws.

c). Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section V(H)(7) of this Appendix or enforcement proceedings as allowed by the Contract.

2. Contract Goals

a) For purposes of this contract, DCJS has established an overall goal of 30% for Minority and Women-Owned Business Enterprises (MWBE) participation which are specified as part of the contract on the Local Assistance MWBE Sub-Contractor Supplier Utilization Form 3301..

b) For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in the contract workplan hereof, the Contractor shall reference the directory of New York State Certified MWBEs found at the following internet address: <https://ny.newnycontracts.com>. Additionally, Contractor is encouraged to contact the Division of Minority and Women's Business Development (518) 292-5250; (212) 803-2414, or (716) 846-8200 to discuss additional methods of maximizing participation by MWBEs on the Contract.

c) Where the MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the DCJS for liquidated or other appropriate damages, as set forth herein.

3. Equal Employment Opportunity (EEO).

a) Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the Division). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.

b) Contractor shall comply with the following provisions of Article 15-A:

i. 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.

ii. The Contractor agrees to the EEO Policy Statement as provided below, or if the Contractor or Subcontractor has its own EEO Policy Statement, it should 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.) above and Paragraph (e) of this Section 3, 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

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To ensure compliance with this Section, the Local Assistance MWBE Equal Employment Opportunity Staffing Plan Form is required for contracts with a total expenditure in excess of \$250,000. The Contractor shall submit the 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

i. If the Local Assistance MWBE Equal Employment Opportunity Staffing Plan form is required, once a Contract has been awarded and during the term of the 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.

ii. Separate forms shall be completed by Contractor and any Subcontractor performing work on the Contract.

iii. 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, Contractor shall submit the Local Assistance MWBE Workforce Employment Utilization Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

e) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

4. MWBE Utilization Plan

a) The Contractor represents and warrants that Contractor has submitted a Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Form either prior to, or at the time of, the execution of the Contract.

b) Contractor agrees to use such Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Form for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in the Contract workplan.

c) Contractor further agrees that a failure to submit and/or use such Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Form shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, DCJS shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

5. Waivers

a) If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, DCJS shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

b) If DCJS, upon review of the Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Plan, the Detailed Itemization Forms or the Local Assistance MWBE Workforce Employment Utilization Report determines that a Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, DCJS may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

6. MWBE Subcontractor Utilization Quarterly Report

Contractor is required to report MWBE Subcontractor utilization, as part of the quarterly claim process, to DCJS over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

7. Liquidated Damages - MWBE Participation

a) Where DCJS determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, such finding constitutes a breach of contract and DCJS may withhold payment from the Contractor as liquidated damages and/or provide for other appropriate remedies.

b) Such liquidated damages shall be calculated as an amount equaling the difference between:

- i. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals, and
- ii. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

c) In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the DCJS, Contractor shall pay such liquidated damages to the DCJS within sixty (60) days after they are accessed by the DCJS unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Women's Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the DCJS.

8. MWBE and EEO Policy Statement

The Contractor agrees to adopt the following policies with respect to the project being developed or services rendered in this Contract with the Division of Criminal Justice Services:

a) MWBE

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the MWBE contract participation goals set by the State for that area in which the State-funded project is located, by taking the following steps:

- i. Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to MWBE contractor associations.
- ii. Request a list of State-certified M/WBEs from the Division of Minority and Women's Business Development and solicit bids from them directly.
- iii. 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.
- iv. Where feasible, divide the work into smaller portions to enhance participation by M/WBEs and encourage the formation of joint ventures and other partnerships among M/WBE contractors to enhance their participation.
- v. 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.
- vi. Ensure that progress payments to M/WBEs are made on a timely basis so that financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

b) EEO

- i. 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.
- ii. 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 state.
- iii. 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 organization's obligations herein.

iv. 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.

v. This organization will include the provisions of sections (i) through (iv) 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 Contract.

Contractor agrees to comply with all MWBE and EEW contract goals reflected on the MWBE Utilization Plan and Staffing Plan, respectively, that have been submitted with the application for this Contract.

I. Equipment Inventory

Applicable equipment purchased with funds provided by this Contract as listed in Appendix B, shall be assigned a unique inventory number. The Contractor shall list all equipment purchased with such funds on the Equipment Inventory Form and attach it in the applicable state grants management system 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 on the Equipment Inventory Form, although the Contractor is encouraged to maintain an internal inventory for audit purposes. Upon completion of all contractual requirements by the Contractor, DCJS will permit continued use and possession of the equipment purchased with grant funds provided the equipment continues to be used in conducting a public safety program, unless otherwise notified by DCJS.

J. Accounting and Audits

1. Grant funds may be expended only for purposes and activities set forth in this Contract. Accordingly, the most important single requirement of accounting for this grant is the complete and accurate documentation of grant expenditures.
2. In addition to all other contract terms and conditions contained herein, performance-based Contractors must be able to document that they expended at least 90% of their program operating budget on program expenses specific to the contracted program. Any short-fall in documented expenditures below the 90% threshold will be subject to recoupment by DCJS.
3. If the Contractor receives funding from two or more sources, all necessary steps shall be taken to ensure that grant funds are not co-mingled with any other grantee funds, and 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.
4. Expenditures must be cross-referenced to supporting source documents (purchase orders, contracts, real estate leases, invoices, vouchers, timesheets, mileage logs, etc.).
5. Contractor 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.
6. This Contract 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 Contract. Such audits may include review of the Contractor's accounting, financial, and reporting practices to determine compliance with the Contract 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 any applicable Federal, State, and DCJS guidelines.

K. Non-Compliance

DCJS reserves the right to suspend program funds if the Contractor is found to be in noncompliance with the provisions of this Contract or other grant contracts between the Contractor and DCJS or, if the Contractor or principals of the Contractor 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' judgement, the services provided by the Contractor under the Contract are unsatisfactory or untimely. DCJS shall provide the Contractor with written notice of noncompliance. Upon the Contractor's failure to correct or comply with the written notice by DCJS, DCJS reserves the right to terminate this Contract, recoup funds and recover any assets purchased with the proceeds of this Contract. 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 Contractor, or upon reasonable assurance that the Contractor is not in compliance with the terms of the Contract.

L. Program Income

Program income is gross income earned by the Contractor that is directly generated by a supported activity or earned as a result of the grant award during the period of performance. Program Income earned by the Contractor during the funding period as a direct result of the grant award shall be reported in writing to DCJS in a manner or format prescribed by DCJS, in addition to any other applicable reporting requirements. This includes income received from seized and forfeited assets, cash, the 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 Contractor shall report the receipt and expenditures of grant program income to DCJS. All income, including interest, generated using these grant funds shall be used to enhance the grant project.

M. Lapsing Appropriations

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.

N. Refunds

If at the end of this Contract there remains any unexpended balance of the monies advanced under this Contract in the possession of the Contractor, the Contractor 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 at the address in Section V(A)(2) of this Appendix with its final fiscal cost report by the last day of the month following the end of the Contract period.

O. Limit on Overtime Earnings

If Appendix B, makes provisions for overtime payment, the Contractor shall 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 Contract. Prior written approval from DCJS is required for overtime charges in excess of the 25 percent (25%) limit. A copy of DCJS' written approval shall be retained by the Contractor and submitted upon request.

P. Subawards/Subcontractor

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 in the applicable grants management system, DCJS' approval is deemed given, if these activities are funded as proposed.

If this Contract makes provisions for the Contractor to subaward funds to other recipients, the Contractor agrees that all Subcontractors shall be held accountable by the Contractor for all terms and conditions set forth in this Contract. The Contractor further agrees that it shall assume sole and complete responsibility for fulfilling all the obligations set forth in the Contract and the Contractor shall guarantee the work of any Subcontractor.

The Contractor agrees that all Subcontractor agreements shall be formalized in writing between the parties involved, and shall include at a minimum:

- * Activities to be performed,
- * Time schedule,
- * Project policies,
- * Other policies and procedures to be followed,
- * Dollar limitation of the agreement,
- * Appendix A-1, Appendix C, Certified Assurance for Federally Supported Projects, Certification Regarding Lobbying, Debarment and Suspension, and any special conditions set forth in Appendix D (Work Plan and Special Conditions) of the Contract, and
- * Applicable Federal and/or State cost principles to be used in determining allowable costs.

The Contractor will not be reimbursed for subawarded funds unless all expenditures by a Subcontractor are listed on applicable forms. Backup documentation for such expenditures shall be made available upon request. All expenditures shall be programmatically consistent with the goals and objectives of this Contract and with the financial plan set forth in Appendix B.

Q. Work Product Ownership and Distribution/DCJS Logo

Any work products developed under this Contract by the Contractor shall be the exclusive property of DCJS and Contractor may not assert a copyright to any work products developed. Any work products shall not be disseminated by any means, in whole or in part, unless express written permission in advance is granted by the DCJS Deputy Commissioner of the Office of Program Development and Funding (OPDF) and Contractor adheres to any conditions or limitations with respect to usage. Where Contractor uses their pre-existing materials in connection with this Contract, DCJS may use any said materials, in whole or in part, with proper attribution to the Contractor.

No materials or presentations resulting from Contract activities nor any Contractor's website or social platform may use the DCJS logo in any form without the prior written approval from the Executive Deputy Commissioner of DCJS or his/her designee. Requests for such approval shall be submitted in writing to the DCJS Deputy Commissioner of the Office of Program Development and Funding (OPDF) and/or DCJS General Counsel at least thirty (30) calendar days before requested use. DCJS' determination of any requests shall be made on a case-by-case basis.

R. Delayed Implementation

Contractor agrees that if the project is not operational within 60 days of the original starting date of the grant period, it will report in writing to the DCJS Office of Program Development and Funding (OPDF) the steps taken to initiate the project, the reasons for delay, and the expected starting date. If the project is not operational within 90 days of the original starting date of the grant period, the Contractor will submit a second written report to OPDF explaining the delay. The State may either cancel the project and redistribute the funds or extend the implementation date of the project beyond the 90-day period when warranted by extenuating circumstances.

S. Changes at the Discretion of DCJS

This Contract may be extended, increased, decreased, terminated, renewed, amended or renegotiated at the discretion of the Division of Criminal Justice Services.

T. Non-Supplanting

The Contractor shall not deliberately reduce funds available for a stated purpose because of the availability of funds under this grant. Funds shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for grant activities. Additionally, a grantee may not reduce State, local, or other non-Federal funds that have been allocated for such permissible activity because Federal funds are available (or expected to be available) to funds that same activity. State and Federal funds must be used to supplement existing State, local or other funds for program activities. Non-supplanting does not apply to grants made with State funds where DCJS receives a Legislative Initiative Form (LIF) from the State Legislature.

U. SAFETNet

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 county or municipal government agency to submit information regarding persons or addresses under active investigation in accordance with SAFETNet standard operating procedures. In addition, the county or municipal government agency agrees to participate in the Upstate New York State Intelligence Center (UNYSIC) or the New York/New Jersey High Intensity Drug Trafficking Area Regional Intelligence Center (NY/NJ HIDTA RIC) as appropriate.

V. Compliance with New York State Policies and Standards

All information management software which a Contractor may purchase, utilize or develop with funds provided under the terms of this Contract shall comply with all applicable New York State Office of Information Technology Services security policies and related standards located at: <http://www.its.ny.gov/tables/technologypolicyindex.htm>.

In addition, all such information management software and/or hardware which a Contractor may purchase, utilize or develop with funds provided under the terms of this Contract shall comply with established DCJS standards as outlined in the following documents:

1. New York State Criminal Justice Electronic Biometric Transmission Standard
2. New York State Standard Practices for the Processing of Fingerprintable Criminal Cases
3. New York State Standard Practices for Fingerprinting Juveniles

The latest versions of these documents referenced above can be accessed on the DCJS website at:

<http://criminaljustice.ny.gov/advtech/ebts.pdf>

http://criminaljustice.ny.gov/stdpractices/main_menu.htm

<http://www.criminaljustice.ny.gov/stdpractices/lj/nys-standard-practices-for-processing-fingerprinting-juveniles.pdf>
or obtained by calling the DCJS Customer Contact Center at (800) 262-3257.

W. IJPortal:

Contractors who are law enforcement agencies shall enroll as a user of the Integrated Justice Portal (IJPortal) services as applicable.

X. DCJSContact Directory

Contractor shall enroll as applicable in the DCJSContact Directory established and administered by the Division of Criminal Justice Services. DCJSContact is a free-of-charge statewide email directory used to alert the law enforcement community to the availability of free law enforcement training courses and materials, legal updates, and officer safety bulletins, among others. Information regarding enrollment in the DCJSContact Directory can be obtained by accessing the enrollment form at <http://www.surveygizmo.com/s3/3351854/DCJS-Contact-Enrollment-Form>.

Y. Incident-Based Reporting (IBR)/UCR Data Entry Interface

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, Arrests of Persons Under 18, Supplemental Homicide Report (SHR); Arson, Hate Crime, and the Law Enforcement Officers Killed or Assaulted (LEOKA).

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/crimenet/ojsa/crimereporting-ucr_refman/IJPortal-UCR-Data-Entry-Manual.pdf.

All law enforcement agencies shall stay current with their monthly submissions. When the police department is unable to submit the data within 30 days, the Chief shall 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.

Law enforcement agencies shall submit full UCR Part 1 crime reports, including supplemental homicide reports, to DCJS by 30 days following the end of the month. These monthly reports may be submitted either under the Uniform Crime Reporting System (UCR) or under the Incident Based Reporting System (IBR). Quick Reports will not be accepted. Failure to submit this information may result in grant funds being withheld.

UCR agencies shall fill out the Domestic Violence Victim Data table found on the last page of the Return A in accordance with the new domestic violence reporting requirements. These requirements can be found online at:
http://www.criminaljustice.ny.gov/crimnet/ojsa/crimereporting/domestic_violence_reporting_alert_5-08-08.pdf.

Failure to submit this information may result in grant funds being withheld. Agencies reporting through IBR do not submit a supplemental report for domestic violence. The required data is automatically collected through the monthly submission of an IBR file.

Z. Publications

The Contractor will submit to DCJS for review all proposed publications (written, visual or audio) 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 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.'

AA. Sexual Harassment Prevention Policy Certification

As of January 1, 2019, bidders on procurements subject to competitive bidding in New York State, are required to submit a

certification with every bid that states they have a policy addressing sexual harassment prevention and that they provide sexual harassment training to all employees on an annual basis.

Pursuant to State Finance Law §139-l, bidders responding to a competitively bid Request for Proposal (RFP), must certify that by submission of their bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies its own organization, under penalty of perjury, that the bidder has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law.

Bidders that do not certify will not be considered for award, provided however, that if the bidder cannot make the certification, the bidder provides a signed statement with their bid detailing the reasons why the certification cannot be made.

In addition, requiring this certification for competitively bid RFPs, DCJS has included this requirement for all grantees receiving funds from DCJS. Grantees must provide certification that they have implemented a written policy addressing sexual harassment prevention in the workplace and that they provide annual sexual harassment prevention training to all of its employees.

The certification from described above is available at <https://www.criminaljustice.ny.gov/ofpa/applicantgrntfrms.html> and is required from grantees as part of the submission in the applicable state grants management system.

VI. PROGRAM SPECIFIC TERMS AND CONDITIONS:

The following terms and conditions apply only to the Contractors receiving funds under the identified program:

Aid to Crime Labs Program:

The Contractor consents to and acknowledges the New York State Inspector General's jurisdiction to investigate allegations of serious negligence or misconduct regarding its Forensic Laboratory, and agrees that the Laboratory and its staff are required to cooperate with the New York State Inspector General in its investigation of what it deems to be allegations of serious negligence or misconduct substantially effecting the integrity of the forensic results committed by employees or subcontractors of the Laboratory. Nothing in the agreement shall affect or impair the Inspector General's jurisdiction under Article 4-A of the New York State Executive Law.

Contractor agrees to require as part of the agreement with a subcontractor that the subcontractor consent to and acknowledge the NYS Inspector General's jurisdiction to investigate allegations of serious negligence or misconduct regarding the subcontractor and to agree all of the subcontractor's staff are required to cooperate with the NYS Inspector General in any investigation of the subject of allegations that may substantially affect the integrity to forensic results committed by employees of the subcontractor. The contractor further agrees the integrity of forensic results committed by employees of the subcontractor. The contractor further agrees to require as a part of any agreement with a subcontractor designate the Contractor as an agent to accept service for purposes of any investigation conducted by the Inspector General.

County Re-entry Task Force (CRTFs):

The Contractor agrees that, as part of DCJS' crime reduction strategy initiatives, each County Re-entry Task Force will develop a formal interactive relationships with other crime reduction strategies in their county.

The Contractor must work towards the development of a comprehensive array of reentry services within the county to ensure that the individual needs of all returning individuals can be appropriately addressed. The Contractor shall review all services proposed by subcontractors for compliance with evidence-based practices.

In addition to services designed to meet the basic needs of returning persons, the Contractor will ensure that the county's network of services include those that address criminogenic needs, have been evaluated for effective in achieving their desired outcomes, and comport with evidence-based interventions for people who have offended. Examples include, but are not limited to, the provision of Thinking for a Change (T4C) and Offender Workforce Development Specialist (OWDS) Programming which may be evaluated as part of the Contract with the Contractor.

Crimes Against Revenue Program (CARP)

The Contractor, in cooperation with DCJS, the Department of Taxation and Finance (DTF) and/or any other state agencies where applicable, will publicize noteworthy prosecutions to promote deterrence.

The Contractor shall enter into a signed Memorandum of Understanding (MOU) with DTF and other agencies if appropriate, to set forth roles, responsibilities and coordination between the parties, with respect to the investigation and prosecution of

tax crimes and other fraud that can adversely affect governmental revenues.

Gun Involved Violence Elimination (GIVE) Initiative

The Contractor agrees that if funding is being provided for the implementation of any other DCJS crime reduction strategies within the same jurisdiction, the implementing agency will coordinate their GIVE strategy with those other initiatives.

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.

The Contractor agrees to comply with all program requirements including those outlined within the GIVE Initiatives Request for Applications (RFA).

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 of the federal Violence Against Women Act.

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 firearms 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.

Participating police departments will develop writing 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.

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.

Motor Vehicle Theft and Insurance Fraud (MVTIF) Program

The Contractor shall expend funds in a manner that is consistent with the MVT/MVIF Plans of Operation

New York State Defender's Association (NYSDA)

Any income, including interest, arising from state funds paid to the NYSDA shall be used to pay for the cost or expansion of tasks to be performed as part of the NYSDA's programs or projects, provided that all such income shall first be used to reimburse the NYSDA for monies expended from its general fund to support the Backup Center services.

Whenever possible, the NYSDA and its employees shall seek state rates for travel, meals, and lodging. Where such rates are not obtainable, NYSDA employees must provide three quotes demonstrating reasonableness of price for alternate travel, meals, and lodging, except when seeking lodging at the venue of a conference essential to the NYSDA program, in which case the NYSDA shall document the conference arrangements and rates for travel, meals, and lodging.

Upon DCJS request, the NYSDA will arrange for DCJS personnel to attend the NYSDA trainings and conferences offered for the purposes of program and contract monitoring. The parties of this Contract, understand that nothing in this Contract shall be construed to preclude or impair the right of the NYSDA attorneys to act in the best interest of their clients. In providing access to records and submitting reports required pursuant to the provisions of this Contract, the NYSDA shall, in accordance with its professional responsibility under the New York Rules of Professional Conduct (see 22 NYCRR Pt. 1200), protect the confidences and secrets of its clients, including the clients of the attorneys to whom the NYSDA provided assistance or services. No record or report shall be deemed deficient because of the omission of information, the provision of which would result in the disclosure of any such confidences or secrets, or would otherwise compromise the interest of any client.

10/31/19 VERSION

Certified by - on.

Award Contract

Project No.
GV21-1034-D00

Grantee Name
Oneida County

06/23/2021

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(\$30.00/hr x 51hrs/month x 12months)	1	\$18,520.00	\$18,520.00	\$18,520.00	\$0.00
Justification: tbd.						
Total				\$18,520.00	\$18,520.00	\$0.00

#	All Other Expenses	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	GPS Offender Tracker	1	\$6,000.00	\$6,000.00	\$6,000.00	\$0.00
Justification: tbd						
Total				\$6,000.00	\$6,000.00	\$0.00

Total Project Costs	Total Cost	Grant Funds	Matching Funds
	\$24,520.00	\$24,520.00	\$0.00

Total Contract Costs	Total Cost	Grant Funds	Matching Funds
	\$24,520.00	\$24,520.00	\$0.00

Award Contract

Project No.

Grantee Name

GV21-1034-D00

Oneida County

06/23/2021

ATTACHMENT C, PAYMENT AND REPORTING SCHEDULE

III. Special Payment and Reporting Provisions

For All Grantees:

All requests for reimbursement must reflect actual costs that have been incurred for goods or services that were received by the Contractor during the contract period, or alternatively, the number of milestones achieved during the contract period for performance-based contracts. A purchase order issued without receipt of the items or services is not eligible for reimbursement. Goods or services ordered but not received during the contract period are not eligible for reimbursement. Additionally, the Contractor must have paid for the goods or services in order to be eligible for reimbursement.

A. Contractors must submit all required fiscal reports, supporting documentation and program progress reports as required under Section II. Failure to meet these requirements may result in rejection of the associated voucher, placement of a stop payment or withholding of funds. Final vouchers and required 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.

B. If an advance was approved and a contract renewal is permitted, this serves as notification to contractors that advances shall not be automatically renewed. If an advance in subsequent renewal periods is requested, supporting documentation in a manner prescribed by the State Agency is required. The State Agency at its sole discretion shall be determined if a subsequent advance is supported. Nothing in this agreement shall require any advance during subsequent renewal periods simply because an advance was approved in the initial or prior contract term.

C. Vouchers (Claims for Payment) shall be submitted in a format acceptable to the State Agency and the Office of the State Comptroller (see <http://www.criminaljustice.ny.gov/ofpa/applcngntfrms.html>). All required reports, such as Fiscal Cost Reports and Detailed Itemization Forms, must be prepared quarterly as defined in Attachment D Section II of this Master Contract. Prior period adjustments shall be reported in the same accounting period that the correction was made. Requests for payments must be accompanied by adequate supporting documentation as determined by the State Agency.

D. All submitted vouchers shall reflect the Contractor's actual disbursements and be accompanied by supporting detailed itemizations of personal service and non-personal service expenditures and other documentation as required - or by milestone achievements for performance-based contracts - and a fiscal cost report for the reporting period. Timely, properly completed and signed vouchers and fiscal cost reports, as well as detailed itemization forms with supporting documentation as required, shall be submitted to:

NYS Division of Criminal Justice Services
Office of Financial Services, Grants Unit
80 So. Swan St.
Albany, NY 12210

The State Agency reserves the right not to release subsequent grant awards pending Contractor compliance with this Agreement. In the event that any expenditure for which the Contractor has been reimbursed by grant funds is subsequently disallowed, the State Agency in its sole discretion, may reduce the voucher payment by the amount disallowed.

E. For purposes of prompt payment provisions, the Designated Payment Office for the processing of all vouchers is the DCJS Office of Financial Services as described above. Payment of grant vouchers shall be made in accordance with the provisions of Article XI-A of the State Finance Law. The Contractor 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 interest.

Certified by - on

Award Contract**Project No.**

GV21-1034-D00

Grantee Name

Oneida County

06/23/2021

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:

Oneida County Probation will, using the relevant elements of the GIVE Strategy Self-Assessment Guide, implement and record GIVE-strategy related activities and provide details to the primary police department for insertion into the appropriate GIVE Strategy Monitoring Tool upon conclusion of the reporting quarter.

Task #1 for Objective #1

Record and send to the primary police department information on your agencies hot-spots implementation efforts (including chronic offenders)

Performance Measure

- 1 Hot-spots implementation efforts recorded and sent to primary police department.

Task #2 for Objective #1

If applicable, record and send to the primary police department information on your agencies CPTED implementation efforts

Performance Measure

- 1 CPTED implementation efforts recorded and sent to primary police department (if applicable).

Task #3 for Objective #1

If applicable, record and send to the primary police department information on your agencies Focused Deterrence efforts

Performance Measure

- 1 Focused Deterrence implementation efforts recorded and sent to primary police department (if applicable).

Objective #2

Oneida County Probation will, if applicable, complete the GIVE Tracker for all overtime details that use GIVE funding. The tracker shall be uploaded to GMS as an attachment and emailed to give@dcjs.ny.gov.

Task #1 for Objective #2

Complete and upload to GMS a copy of the GIVE Tracker

Performance Measure

- 1 Give Tracker completed and uploaded (if applicable).

Award Contract

GIVE Initiative

Project No.

Grantee Name

GV21-1034-D00

Oneida County

06/23/2021

Additional Special Conditions

Award Contract

Project No.

GV21-1034-D00

Grantee Name

Oneida County

06/23/2021

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, surveillance 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; touch 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

Anthony J. Picente Jr.
Oneida County Executive



Joseph M. Johnson
Commissioner of Personnel

**ONEIDA COUNTY
DEPARTMENT OF PERSONNEL**

County Office Building ♦ 800 Park Avenue ♦ Utica, New York 13501-2986
Phone: (315) 798-5726 ♦ Fax: (315) 798-6490
E-mail: labor@ocgov.net

July 13, 2021

FN 20 21-194

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

PUBLIC SAFETY

WAYS & MEANS

Re: Reallocation of Special Patrol Officer

Dear County Executive Picente:

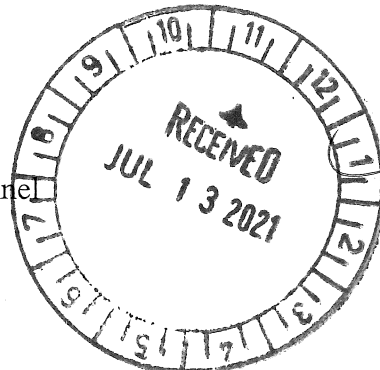
Currently the title Special Patrol Officer is allocated as a J4, prorated part-time, to an hourly rate of \$26.46 per hour. While part time employees are always paid at the entry level (first step) of the salary schedule, they do get the benefit of any annual increases to the schedule that are approved. Following discussions with the Sheriff's Department, we have determined that it would be best to remove the Special Patrol Officer title from a salary schedule and allocate it on an hourly basis, which is permissible pursuant to County Law § 205. This will allow for predictability for school districts in budgeting for the Special Patrol Officer contracts. As such, I recommend that this title be allocated on an hourly basis of \$26.50 per hour.

In addition, pursuant to County Law § 206, I recommend that the legal day's work be set at eight (8) hours per day/forty (40) hours per week. In doing so, so long as the Board of Legislators continues to approve and budget Special Patrol Officers are part time employees, they would continue to be limited to a twenty (20) hour work week as they are now.

Thank you for your time and anticipated support in this matter. I am available to answer any questions you may have. Should this request meet with your approval, I respectfully request you the same to the Board of Legislators for consideration at their next meeting.

Sincerely,

Joseph M. Johnson
Commissioner of Personnel



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

Anthony J. Picente, Jr.
County Executive

Date 7-13-21



ONEIDA COUNTY
DEPARTMENT OF PROBATION

Boehlert Center at Union Station
321 Main Street, 2nd Floor, Utica, New York 13501
Utica ~ Phone: (315) 798-5914 Fax: (315) 624-3684

300 West Dominick Street, Rome, New York 13440
Rome ~ Phone: (315) 356-2900 Fax: (315) 337-5025

E-mail: probation@ocgov.net · Web Site: www.ocgov.net

ANTHONY J. PICENTE, JR.
County Executive

Patrick Cady
DIRECTOR

June 7, 2021

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

FN 20 21-195

PUBLIC SAFETY

Re: Waterville Central School/IRT Program (2021-2022)

WAYS & MEANS

Dear Mr. Picente:

Enclosed is an agreement between the Probation Department and the Waterville Central School District wherein the school district reimburses the County for 50% of salary, fringe benefits, and travel expenses for one full-time Probation Officer. Waterville Central School District will reimburse the County \$50,865.84 for the services of the Probation Officer.

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

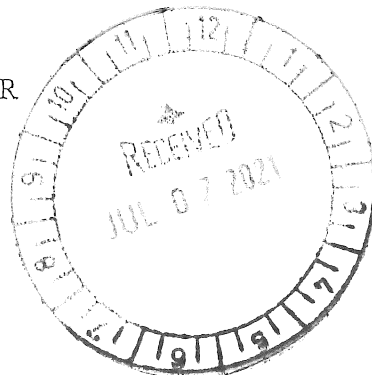
I strongly feel this mutually beneficial program is a cost effective, preventive, and well-received effort worthy of continuing. If you are in agreement, please forward this contract to the Board of Legislators for their approval.

Your support of our programming continues to be most appreciated.

Very truly yours,

PATRICK CADY
PROBATION DIRECTOR

PC:kas



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

Anthony J. Picente, Jr.
County Executive

Date 7-6-21

Oneida Co. Department: Probation

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

ONEIDA COUNTY BOARD OF LEGISLATORS
CONTRACT SUMMARY

Name & Address of Vendor: Waterville Central School District
381 Madison Street
Waterville, New York 13480

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

Proposed Dates of Operation: 7/1/2021 to 6/30/2022

Client Population/Number to be served: 150 youth at Waterville Central School District

Summary Statements:

- 1) Narrative Description of Proposed Services: The Oneida County Probation Department provides Initial Response Team (IRT) services to the Waterville Central School District. It is an early intervention strategy where students starting to display attendance and behavior problems are involved in a process wherein the Probation Department works with students, parents, school authorities, and service providers to effect positive outcomes and improvement.
- 2) Program/Service Objectives and Outcomes: This program is designed to reach 150 students and adjust 80% of attendance and behavior problems without formal Court intervention. In 2020, we worked with 158 cases and diverted 95% of those cases.
- 3) Program Design and Staffing: One full-time Probation Officer is stationed full-time at the Junior High and High School buildings. This Officer also serves the elementary school as needed.

Total Funding Requested: \$50,865.84

Account #: A3142 (Revenue)

Oneida County Department Funding Recommendation: \$50,865.84

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

Cost Per Client Served: In 2020 the cost per client served totaled \$288.00.

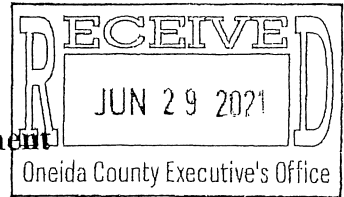
Past Performance Data: We have surpassed our goals of students referred to the program and deferred from Family Court for the past four years.

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

Mandated: _____ Not Mandated: X

This contract does not cover the total County cost of the probation officer. Waterville covers 50% of the total cost of salary and fringe. The breakdown is as follows:

	2021	2022
Salary:	\$31,192.00	\$32,050.53
Retirement:	\$5,449.24	\$6,240.24
Social Security:	\$2,386.19	\$2,451.87
Workers Comp:	\$873.38	\$897.41
Unemployment Ins:	\$77.98	\$80.13
Health Insurance:	\$8,577.80	\$9,454.91
Total:	\$48,556.59	\$51,175.08
Total 2021-2022:	\$99,731.67	
50%	\$49,865.84	
Plus \$1000 for travel	\$1,000.00	
District owes the County:	\$50,865.84	
Additional County Cost:	\$49,865.84	



Waterville Central School District IRT Agreement

This Agreement (the "Agreement") is by and between Oneida County, a municipal corporation organized and existing under the laws of the State of New York, with its principal office located at 800 Park Avenue, Utica, New York 13501 (hereinafter referred to as the "County"), through its Probation Department, with offices located at 321 Main Street, 2nd Floor, Utica, New York 13501 (hereinafter referred to as the "Probation Department"), and the Waterville Central School District, a political subdivision of the State of New York, with its principal offices located at 381 Madison Street, Waterville, New York 13480 (hereinafter referred to as the "School District").

WITNESSETH

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

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

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

1. TERM:

This Agreement shall be effective from July 1, 2021 until June 30, 2022 (the "Term"), unless earlier terminated as provided hereafter.

2. SCOPE OF SERVICES:

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

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

3. **REIMBURSEMENT FOR SERVICES:**

- a. The School District shall reimburse the County a total of fifty thousand eight hundred sixty-five dollars and eighty-four cents (\$50,865.84) for providing the Services. Salary, fringe benefits, and related travel and mileage costs are included in the \$50,865.84 amount.
- b. Reimbursement for the Services shall be made upon the Probation Department's submission of a voucher to the School District, according to the School District's regular policy for payment of its vendors. The Probation Officer shall continue to perform the Services regardless of whether or not school is held in-person or remote due to the COVID-19 pandemic.

4. **INDEPENDENT CONTRACTOR STATUS:**

- a. The Probation Officer's status shall be that of an independent contractor, and nothing in this Agreement shall be construed to create an employer/employee relationship between the County and the School District.
- b. The Probation Officer assigned under this Agreement shall remain a County employee for the purposes of salary, benefits, employee discipline, time off, sick days, and other terms and conditions of employment. Likewise, the Probation Officer shall not be considered an employee of the School District for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement or health benefits.
- c. The assignment of a particular Probation Officer shall be the sole discretion of the Probation Department. Probation Officers assigned under this Agreement are subject to

being re-assigned and replaced based on the discretion, needs, and policies of the Probation Department.

- d. It is understood by the parties that the County and Probation Department offer the same or similar Services to other school districts. The parties agree that the County and Probation Department are free to continue to offer these Services to other school districts during the Term of this Agreement.

5. **TERMINATION:**

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

6. **INDEMNIFICATION:**

To the fullest extent permitted by applicable law, the School District (the "Indemnifying Party") shall indemnify and hold harmless, and at the County's option, defend, Oneida County, and/or its officers, directors, members, agents, employees, contractors and other representatives (each, individually, an "Indemnified Party" and, collectively, the "Indemnified Parties"), from and against any and all liabilities, damages, losses, costs, expenses (including, without limitation, any and all reasonable attorneys' fees and disbursements), causes of action, suits, liens, claims, damages, penalties, obligations, demands or judgments of any nature, including, without limitation, for death, personal injury and property damage, economic damage, and claims brought by third parties 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 arising out of or in connection with the exercise by the School District 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.

7. **CONFIDENTIALITY AND DISCLOSURE OF RECORDS:**

- a. The County and the School District agree that all information exchanged is considered confidential and subject to provisions of Federal and New York State Law, and shall be used only for the purposes outlined in this Agreement.
- b. The County and the School District shall comply with the requirements set forth in the Family Education Rights to Privacy Act (FERPA), New York State Education Law Section 2-d, as well as any regulations promulgated under those laws, as the same may be amended from time-to-time. Attached hereto and made a part of this Agreement in Addenda A-2 are the terms required by New York State Education Law Section 2-d concerning the disclosure of protected identifiable student, principal, and teacher information from disclosure.
- c. Notwithstanding any other provision of this Agreement, the County and the

School District shall comply with all New York State laws, rules, and regulations governing Child Abuse, Neglect, and Maltreatment.

- d. The parties agree that all records must be available for a period of years that is in compliance with Records Retention and Disposition Schedule ED-1, and must be made available for audit by the New York State Department of Education and New York State Audit and Control upon request. Records related to student discipline must be kept for a minimum of three (3) years after the student reaches the age of eighteen (18).

8. NEW YORK STATE EDUCATION LAW SECTION 2-d:

- a. The purposes of this Agreement may require the disclosure of certain personally identifiable student information (hereinafter referred to as "PII"), as defined by Education Law Section 2-d (1), (d) and (j). Accordingly, it is anticipated that this Agreement will involve disclosure of such data to the Probation Department. The exclusive purpose for which the referenced PII will be used is the delivery of IRT services provided under the Agreement. Upon expiration of this Agreement, the Probation Department must securely destroy or return all PII to the District that remains in the Probation Department's possession.
- b. If PII is disclosed to the Probation Department by the School District for purposes of providing Services to the School District, the Probation Department and County must additionally comply with the following express requirements of New York State Education Law Section 2-d(5), (e) & (f) (Chapter 56, Subpart L of the Laws of 2014); as well as any implementing regulations and/or any data privacy policy adopted by the School District:
 - i. Any officers or employees of the third party contractor and its assignees who have access to student data or teacher or principal data have received or will receive training on Federal and State law governing confidentiality of such data prior to receiving access;
 - ii. Limit internal access to education records to those individuals that are determined to have legitimate educational interests;
 - iii. Not use the education records for any other purposes than those explicitly authorized in this Agreement;
 - iv. Except for authorized representatives of the third party contractor to the extent they are carrying out the Agreement, not disclose any PII to any other party:
 - A. Without prior written consent of the parent or eligible student; or
 - B. Unless required by statute or court order and the party provides a notice of the disclosure to the County, District Board of Education, or institution that provided the information no later than the time the information is disclosed, unless providing notice of the disclosure is expressly prohibited by the statute or court order;
 - v. Maintain reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of personally identifiable student information in its custody; and

- vi. Use encryption to protect data while in motion or in its custody from unauthorized disclosure using a technology or methodology specified by the Secretary of the United States Department of Health and Human Services in guidance issued under Section 13402(H)(2) of Public Law 111-5.
- c. The Parents' Bill of Rights and the attachment to the Parents' Bill of Rights are annexed to this Agreement as Addenda A-1 and A-2, respectively, the terms of which are incorporated herein by reference.

9. NOTIFICATIONS:

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

10. AMENDMENT:

This Agreement may not be amended or any of its provisions waived without the prior written consent of both the County and the School District.

11. 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, Addenda A-1, Addenda A-2, and Exhibit A (Standard Oneida County Contract Clauses). 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.

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

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

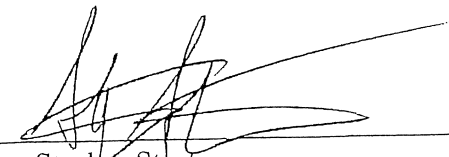
ONEIDA COUNTY

DATE: _____

BY: _____
Anthony J. Picente, Jr.
Oneida County Executive

WATERVILLE CENTRAL SCHOOL DISTRICT

DATE: June 22, 2021

BY:  _____
Stephen Stanton
Board of Education President

APPROVED
ONEIDA COUNTY ATTORNEY

BY _____
Alison Stanulevich, Esq.
Assistant County Attorney

ADDENDA A-1

PARENTS' BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY

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

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

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

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

Parents' rights under FERPA include:

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

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

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

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

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

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

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

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

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

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

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

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

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

- (f) Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
- (g) Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

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

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

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

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

- (A) A student's PII cannot be sold or released by the educational agency for any commercial or marketing purposes.
 - PII may be used for purposes of a contract that provides payment to a vendor for providing services to an educational agency as permitted by law.
 - However, sale of PII to a third party solely for commercial purposes or receipt of payment by an educational agency, or disclosure of PII that is not related to a service being provided to the educational agency, is strictly prohibited.
- (B) Parents have the right to inspect and review the complete contents of their child's education record including any student data stored or maintained by an educational agency.
 - This right of inspection is consistent with the requirements of FERPA. In addition to the right of inspection of the educational record, Education Law §2-d provides a specific right for parents to inspect or receive copies of any data in the student's educational record.
 - NYSED will develop policies for annual notification by educational agencies to parents regarding the right to request student data. Such policies will specify a reasonable time for the educational agency to comply with such requests.

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

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

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

superintendents, school board members, principals, and other persons or entities may request information pertaining to student data or teacher or principal APPR data in a timely and efficient manner.

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

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

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

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

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

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

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

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

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

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

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

Where there is a breach and unauthorized release of PII by a by a third party contractor or its assignees (e.g., a subcontractor): (i) the third party contractor must notify the educational

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

8. Data Security and Privacy Standards

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

9. No Private Right of Action

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

ADDENDA A-2

Model Notification of Rights under FERPA for Elementary and Secondary Schools

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

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

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

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

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

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

One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. The criteria for determining who constitutes a school official and what constitutes a legitimate educational interest must be set forth in the school's or school district's annual notification for FERPA rights. A school official typically includes a person employed by the school or school district as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel) or a person serving on the school board. A school official also may include a volunteer, contractor, or consultant who, while not employed by the school, performs an institutional service or function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII

from education records, such as an attorney, auditor, medical consultant, or therapist; a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his or her tasks. A school official typically has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

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

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

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

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

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

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

- To other school officials, including teachers, within the educational agency or institution whom the school has determined to have legitimate educational interests. This includes contractors, consultants, volunteers, or other parties to whom the school has outsourced institutional services or functions, provided that the conditions listed in § 99.31(a)(1)(i)(B)(1) - (a)(1)(i)(B)(3) are met. (§ 99.31(a)(1))
- To officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already

enrolled if the disclosure is for purposes related to the student's enrollment or transfer, subject to the requirements of § 99.34. (§ 99.31(a)(2))

- To authorized representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as the State educational agency (SEA) in the parent or eligible student's State. Disclosures under this provision may be made, subject to the requirements of § 99.35, in connection with an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of PII to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf, if applicable requirements are met. (§§ 99.31(a)(3) and 99.35)
- In connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid. (§ 99.31(a)(4))
- To State and local officials or authorities to whom information is specifically allowed to be reported or disclosed by a State statute that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records were released, subject to § 99.38. (§ 99.31(a)(5))
- To organizations conducting studies for, or on behalf of, the school, in order to: (a) develop, validate, or administer predictive tests; (b) administer student aid programs; or (c) improve instruction, if applicable requirements are met. (§ 99.31(a)(6))
- To accrediting organizations to carry out their accrediting functions. (§ 99.31(a)(7))
- To parents of an eligible student if the student is a dependent for IRS tax purposes. (§ 99.31(a)(8))
- To comply with a judicial order or lawfully issued subpoena if applicable requirements are met. (§ 99.31(a)(9))
- To appropriate officials in connection with a health or safety emergency, subject to § 99.36. (§ 99.31(a)(10))
- Information the school has designated as "directory information" if applicable requirements under § 99.37 are met. (§ 99.31(a)(11))
- To an agency caseworker or other representative of a State or local child welfare agency or tribal organization who is authorized to access a student's case plan when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student in foster care placement. (20 U.S.C. § 1232g(b)(1)(L))

- To the Secretary of Agriculture or authorized representatives of the Food and Nutrition Service for purposes of conducting program monitoring, evaluations, and performance measurements of programs authorized under the Richard B. Russell National School Lunch Act or the Child Nutrition Act of 1966, under certain conditions. (20 U.S.C. § 1232g(b)(1)(K))

EXHIBIT A - STANDARD ONEIDA COUNTY CONTRACT CLAUSES

THIS ADDENDUM, entered into on this 22 day of June, 20 21, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

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

i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress,

an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.

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

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

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

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

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

1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

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

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

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

Waterville Central School District

381 Madison Street

Waterville, NY 13480

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

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

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

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

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to

computers and paper files that contain protected health information of the County's clients.

b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or

received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and

ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

d. The Contractor agrees that this contract may be amended if any of the following events occurs:

- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
- ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
- iii. There is a material change in the business practices and procedures of the County.

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

5. NON-ASSIGNMENT CLAUSE.

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

6. WORKER'S COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for

the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

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

8. WAGE AND HOURS PROVISIONS.

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

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its knowledge and belief:

(1) the prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; and (2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) no attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

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

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.

- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

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

13. GOVERNING LAW.

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

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

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

16. GRATUITIES AND KICKBACKS.

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

17. AUDIT

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

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

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

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

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

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

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

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

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

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.

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

20. COMPLIANCE WITH NEWYORK STATE LABOR LAW § 201-G

The Contractor shall comply with the provisions of New York State Labor Law § 201-g.



ONEIDA COUNTY
DEPARTMENT OF PROBATION

Boehlert Center at Union Station
321 Main Street, 2nd Floor, Utica, New York 13501
Utica ~ Phone: (315) 798-5914 Fax: (315) 624-3684
Rome ~ Phone: (315) 356-2900 Fax: (315) 337-5025
E-mail: probation@ocgov.net · Web Site: www.ocgov.net

ANTHONY J. PICENTE, JR.
County Executive

Patrick Cady
DIRECTOR

June 7, 2021

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

FN 20 21-196

PUBLIC SAFETY

Ré: Clinton Central School/IRT Program (2021-2022)

WAYS & MEANS

Dear Mr. Picente:

Enclosed is an agreement between the Probation Department and the Clinton Central School District wherein the school district reimburses the County \$16,466.86 for the services of one Probation Officer, one day a week.

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

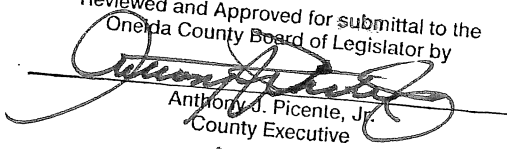
I strongly feel this mutually beneficial program is a cost effective, preventive, and well-received effort worthy of continuing. If you are in agreement, please forward this contract to the Board of Legislators for their approval.

Your support of our programming continues to be most appreciated.

Very truly yours,


PATRICK CADY
PROBATION DIRECTOR

PC:kas
Enclosures

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

Anthony J. Picente, Jr.
County Executive
Date 6-17-21

Oneida Co. Department: Probation

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

Oneida County Board of Legislators
Contract Summary

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

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

Proposed Dates of Operation: 7/1/2021 to 6/30/2022

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

Summary Statements:

- 1.) Narrative Description of Proposed Services: The Oneida County Probation Department provides Initial Response Team (IRT) services to the Clinton Central School District. It is an early intervention strategy where students starting to display attendance and behavior problems are involved in a process wherein the Probation Department works with students, parents, school authorities, and service providers to effect positive outcomes and improvement.
- 2.) Program/Service Objectives and Outcomes: This program is designed to reach 150 students and adjust 80% of those attendance and behavior problems without formal Court intervention. In 2020, we worked with 165 cases and diverted 95% of those cases.
- 3.) Program Design and Staffing: One Probation Officer is stationed one day per week at the Junior and Senior High School buildings. The Officer also services the elementary school as needed.

Total Funding Requested: \$16,466.86 Account#: A3142

Oneida County Department Funding Recommendation: \$16,466.86

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

Cost Per Client Served: In 2020 the cost per client served totaled \$74.00.

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

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

Mandated: _____ Not Mandated: X

This contract does not cover the total County cost of the probation officer. The breakdown is as follows:

This takes into account both 2021-2022 salary and fringe.

Salary:	\$65,271.62
Retirement:	\$12,064.31
Social Security:	\$4,993.28
Worker's Comp:	\$1,827.60
Unemployment Ins:	\$163.18
Health Ins:	N/A
Total Fringe:	\$19,048.37
Total Cost:	\$84,319.99
Minus -	\$16,466.86
<hr/>	
Total County Cost:	\$67,853.13

Clinton Central School District IRT Agreement

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

WITNESSETH

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

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

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

1. TERM:

This Agreement shall be effective from July 1, 2021 until June 30, 2022 (the "Term"), unless earlier terminated as provided hereafter.

2. SCOPE OF SERVICES:

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

- with the conditions set forth in the IRT agreement and addressing any violations of the IRT agreement accordingly;
- C. Counseling and assisting students, in the school setting, with problems relating to compliance;
 - D. Monitoring students' behavior at home, in school, and in the community;
 - E. Preparing progress reports on persons under probation supervision;
 - F. Establishing and maintaining contacts with social service and law enforcement agencies and cooperating therewith in matters of mutual interest.
- vii. Other support services may include, but are not limited to, mentoring and monitoring students referred by the School District; monitoring school hallways before, after, and between classes; assisting with school safety and security; and other services that the School District would reasonably expect from a Probation Officer.
- b. The Probation Department shall provide one (1) full-time Probation Officer, who will provide the above-described Services at any and all School District buildings during the Term of this Agreement, as needed by the School District and as directed by the Probation Department.

3. REIMBURSEMENT FOR SERVICES:

- a. The School District shall reimburse the County a total of sixteen thousand four hundred sixty-six dollars and eighty-six cents (\$16,466.86) for providing the Services. Salary, fringe benefits, and related travel and mileage costs are included in the \$16,466.86 amount.
- b. Reimbursement for the Services shall be made upon the Probation Department's submission of a voucher to the School District, according to the School District's regular policy for payment of its vendors. The Probation Officer shall continue to perform the Services regardless of whether or not school is held in-person or remote due to the COVID-19 pandemic.

4. INDEPENDENT CONTRACTOR STATUS:

- a. The Probation Officer's status shall be that of an independent contractor, and nothing in this Agreement shall be construed to create an employer/employee relationship between the County and the School District.
- b. The Probation Officer assigned under this Agreement shall remain a County employee for the purposes of salary, benefits, employee discipline, time off, sick days, and other terms and conditions of employment. Likewise, the Probation Officer shall not be considered an employee of the School District for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement or health benefits.
- c. The assignment of a particular Probation Officer shall be the sole discretion of the

Probation Department. Probation Officers assigned under this Agreement are subject to being re-assigned and replaced based on the discretion, needs, and policies of the Probation Department.

- d. It is understood by the parties that the County and Probation Department offer the same or similar Services to other school districts. The parties agree that the County and Probation Department are free to continue to offer these Services to other school districts during the Term of this Agreement.

5. TERMINATION:

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

6. INDEMNIFICATION:

To the fullest extent permitted by applicable law, the School District (the "Indemnifying Party") shall indemnify and hold harmless, and at the County's option, defend, Oneida County, and/or its officers, directors, members, agents, employees, contractors and other representatives (each, individually, an "Indemnified Party" and, collectively, the "Indemnified Parties"), from and against any and all liabilities, damages, losses, costs, expenses (including, without limitation, any and all reasonable attorneys' fees and disbursements), causes of action, suits, liens, claims, damages, penalties, obligations, demands or judgments of any nature, including, without limitation, for death, personal injury and property damage, economic damage, and claims brought by third parties 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 arising out of or in connection with the exercise by the School District 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.

7. CONFIDENTIALITY AND DISCLOSURE OF RECORDS:

- a. The County and the School District agree that all information exchanged is considered confidential and subject to provisions of Federal and New York State Law, and shall be used only for the purposes outlined in this Agreement.
- b. The County and the School District shall comply with the requirements set forth in the Family Education Rights to Privacy Act (FERPA), New York State Education Law Section 2-d, as well as any regulations promulgated under those laws, as the same may be amended from time-to-time. Attached hereto and made a part of this Agreement in Addenda A-2 are the terms required by New York State Education Law Section 2-d concerning the disclosure of protected identifiable student, principal, and teacher information from disclosure.

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

8. **NEW YORK STATE EDUCATION LAW SECTION 2-d:**

- a. The purposes of this Agreement may require the disclosure of certain personally identifiable student information (hereinafter referred to as "PII"), as defined by Education Law Section 2-d (1), (d) and (j). Accordingly, it is anticipated that this Agreement will involve disclosure of such data to the Probation Department. The exclusive purpose for which the referenced PII will be used is the delivery of IRT services provided under the Agreement. Upon expiration of this Agreement, the Probation Department must securely destroy or return all PII to the District that remains in the Probation Department's possession.
- b. If PII is disclosed to the Probation Department by the School District for purposes of providing Services to the School District, the Probation Department and County must additionally comply with the following express requirements of New York State Education Law Section 2-d(5), (e) & (f) (Chapter 56, Subpart L of the Laws of 2014), as well as any implementing regulations and/or any data privacy policy adopted by the School District:
 - i. Any officers or employees of the third party contractor and its assignees who have access to student data or teacher or principal data have received or will receive training on Federal and State law governing confidentiality of such data prior to receiving access;
 - ii. Limit internal access to education records to those individuals that are determined to have legitimate educational interests;
 - iii. Not use the education records for any other purposes than those explicitly authorized in this Agreement;
 - iv. Except for authorized representatives of the third party contractor to the extent they are carrying out the Agreement, not disclose any PII to any other party:
 - A. Without prior written consent of the parent or eligible student; or
 - B. Unless required by statute or court order and the party provides a notice of the disclosure to the County, District Board of Education, or institution that provided the information no later than the time the information is disclosed, unless providing notice of the disclosure is expressly prohibited by the statute or court order;

- v. Maintain reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of personally identifiable student information in its custody; and
 - vi. Use encryption to protect data while in motion or in its custody from unauthorized disclosure using a technology or methodology specified by the Secretary of the United States Department of Health and Human Services in guidance issued under Section 13402(H)(2) of Public Law 111-5.
- c. The Parents' Bill of Rights and the attachment to the Parents' Bill of Rights are annexed to this Agreement as Addenda A-1 and A-2, respectively, the terms of which are incorporated herein by reference.

9. **NOTIFICATIONS:**

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

10. **AMENDMENT:**

This Agreement may not be amended or any of its provisions waived without the prior written consent of both the County and the School District.

11. **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, Addenda A-1, Addenda A-2, and Exhibit A (Standard Oneida County Contract Clauses). 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.

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

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

ONEIDA COUNTY

DATE: _____

BY: _____

Anthony J. Picente, Jr.
Oneida County Executive

CLINTON CENTRAL SCHOOL DISTRICT

DATE: 6/16/21

BY: Mary Lou Lauchert

Mary Lou Lauchert
Board of Education President

APPROVED
ONEIDA COUNTY ATTORNEY

BY _____
Alison Stanulevich, Esq.
Assistant County Attorney

ADDENDA A-1

PARENTS' BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY

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

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

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

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

Parents' rights under FERPA include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

superintendents, school board members, principals, and other persons or entities may request information pertaining to student data or teacher or principal APPR data in a timely and efficient manner.

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

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

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

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

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

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

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

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

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

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

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

Where there is a breach and unauthorized release of PII by a by a third party contractor or its assignees (e.g., a subcontractor): (i) the third party contractor must notify the educational

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

8. Data Security and Privacy Standards

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

9. No Private Right of Action

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

ADDENDA A-2

Model Notification of Rights under FERPA for Elementary and Secondary Schools

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

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

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

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

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

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

One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. The criteria for determining who constitutes a school official and what constitutes a legitimate educational interest must be set forth in the school's or school district's annual notification for FERPA rights. A school official typically includes a person employed by the school or school district as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel) or a person serving on the school board. A school official also may include a volunteer, contractor, or consultant who, while not employed by the school, performs an institutional service or function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII

from education records, such as an attorney, auditor, medical consultant, or therapist; a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his or her tasks. A school official typically has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

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

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

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

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

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

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

- To other school officials, including teachers, within the educational agency or institution whom the school has determined to have legitimate educational interests. This includes contractors, consultants, volunteers, or other parties to whom the school has outsourced institutional services or functions, provided that the conditions listed in § 99.31(a)(1)(i)(B)(1) - (a)(1)(i)(B)(3) are met. (§ 99.31(a)(1))
- To officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already

enrolled if the disclosure is for purposes related to the student's enrollment or transfer, subject to the requirements of § 99.34. (§ 99.31(a)(2))

- To authorized representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as the State educational agency (SEA) in the parent or eligible student's State. Disclosures under this provision may be made, subject to the requirements of § 99.35, in connection with an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of PII to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf, if applicable requirements are met. (§§ 99.31(a)(3) and 99.35)
- In connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid. (§ 99.31(a)(4))
- To State and local officials or authorities to whom information is specifically allowed to be reported or disclosed by a State statute that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records were released, subject to § 99.38. (§ 99.31(a)(5))
- To organizations conducting studies for, or on behalf of, the school, in order to: (a) develop, validate, or administer predictive tests; (b) administer student aid programs; or (c) improve instruction, if applicable requirements are met. (§ 99.31(a)(6))
- To accrediting organizations to carry out their accrediting functions. (§ 99.31(a)(7))
- To parents of an eligible student if the student is a dependent for IRS tax purposes. (§ 99.31(a)(8))
- To comply with a judicial order or lawfully issued subpoena if applicable requirements are met. (§ 99.31(a)(9))
- To appropriate officials in connection with a health or safety emergency, subject to § 99.36. (§ 99.31(a)(10))
- Information the school has designated as "directory information" if applicable requirements under § 99.37 are met. (§ 99.31(a)(11))
- To an agency caseworker or other representative of a State or local child welfare agency or tribal organization who is authorized to access a student's case plan when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student in foster care placement. (20 U.S.C. § 1232g(b)(1)(L))

- To the Secretary of Agriculture or authorized representatives of the Food and Nutrition Service for purposes of conducting program monitoring, evaluations, and performance measurements of programs authorized under the Richard B. Russell National School Lunch Act or the Child Nutrition Act of 1966, under certain conditions. (20 U.S.C. § 1232g(b)(1)(K))

EXHIBIT A - STANDARD ONEIDA COUNTY CONTRACT CLAUSES

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

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

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

i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress,

an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.

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

- D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;
- ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
 - i. The Contractor will or will continue to provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - B. Establishing an ongoing drug-free awareness program to inform employees about:
 - 1) The dangers of drug abuse in the workplace;
 - 2) The Contractor's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, and employee assistance program; and
 - 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
 - C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;
 - D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:
 - 1) Abide by the terms of the statement; and

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

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

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

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

1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

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

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

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

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

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

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

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

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to

computers and paper files that contain protected health information of the County's clients.

- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:
 - i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
 - ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

- c. The Contractor shall:
 - i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
 - ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
 - iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
 - iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
 - v. Make available protected health information in accordance with 45 CFR §164.524;
 - vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
 - vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
 - viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or

received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and

- ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

d. The Contractor agrees that this contract may be amended if any of the following events occurs:

- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
- ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
- iii. There is a material change in the business practices and procedures of the County.

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

5. NON-ASSIGNMENT CLAUSE.

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

6. WORKER'S COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for

the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

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

8. WAGE AND HOURS PROVISIONS.

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

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its knowledge and belief:

(1) the prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; and (2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) no attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

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

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.

- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

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

13. GOVERNING LAW.

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

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

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

16. GRATUITIES AND KICKBACKS.

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

17. AUDIT

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

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

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

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

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

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

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

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

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

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.

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

20. COMPLIANCE WITH NEWYORK STATE LABOR LAW § 201-G

The Contractor shall comply with the provisions of New York State Labor Law § 201-g.



County of Oneida

Undersheriff Joseph Lisi
Chief Deputy Lisa Zurek

Chief Deputy Jonathan Owens
Chief Deputy Derrick O'Meara

Sheriff Robert M. Maciol

June 22, 2021

FN 20 21 - 197

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

PUBLIC SAFETY

WAYS & MEANS

Dear County Executive Picente:

The Sheriff's Office would like to request a Supplemental Appropriation of Funds of \$15000 to be used to purchase Live Scan Equipment. The Sheriff's Office has been provided funds thru the New York State Division of Criminal Justice Services in the amount of \$15,000.

I respectfully request that this matter be acted on at the next Board of Legislator's meeting.

<u>Expense Account</u>	<u>Amount</u>
A3120.295 Equipment	\$15,000

The Supplemental Appropriation will be fully supported by:

<u>Revenue Account</u>	<u>Amount</u>
A3384 DCJS Reimbursements	\$15,000

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

Sincerely,

Robert M. Maciol,
Oneida County Sheriff

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

Anthony J. Picente, Jr.
County Executive
Date 6-28-21

Cc: Tom Keeler, Budget Director

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

Office of the Sheriff

County of Oneida

Undersheriff Joseph Lisi
Chief Deputy Lisa Zurek

Chief Deputy Jonathan Owens
Chief Deputy Derrick O'Meara



Sheriff Robert M. Maciol

June 22, 2021

FN 20 21 - 198

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

PUBLIC SAFETY

WAYS & MEANS

Dear County Executive Picente:

The Sheriff's Office would like to request a Supplemental Appropriation of Funds of \$1,100 to be used to purchase Child Safety Seats and related supplies. The Sheriff's Office has been provided funds thru New York State Governor's Traffic Safety Committee. No County dollars will used for this project.

I respectfully request that this matter be acted on at the next Board of Legislators meeting.

<u>Expense Account</u>	<u>Amount</u>
A3120.491 Other Materials and Supplies	\$1,100.00

The Supplemental Appropriation will be fully supported by:

<u>Revenue Account</u>	<u>Amount</u>
A3387 State Traffic Safety Grants	\$1,100.00

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

Sincerely,

Robert M. Maciol,
Oneida County Sheriff



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

Anthony J. Picente, Jr.
County Executive

Date 6-28-21

Cc: Tom Keeler, Budget Director

Administrative Office
6065 Judd Road Oriskany, NY 13424
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Fax (315) 765-2327

Civil Division
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Voice (315) 798-5862
Fax (315) 798-6495

Office of the Sheriff

County of Oneida

Undersheriff Joseph Lisi
Chief Deputy Lisa Zurek

Chief Deputy Jonathan Owens
Chief Deputy Derrick O'Meara



Sheriff Robert M. Maciol

June 15, 2021

FN 20 21-199

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

PUBLIC SAFETY

WAYS & MEANS

Dear County Executive Picente:

The Sheriff's Office would like request a supplemental appropriation for the use of forfeiture funds. These funds are received when assets are acquired as part of a law enforcement seizure. These funds are placed in restrictive accounts (A889-889/22 & A889-889/8) with sufficient funds available in the accounts. Within the limitations set for the use of these funds, I am requesting that money be transferred to our equipment expense account for a 3D Laser Scanner for CID Investigators. I respectfully request that this matter be acted on at the next Board of Legislator's meeting.

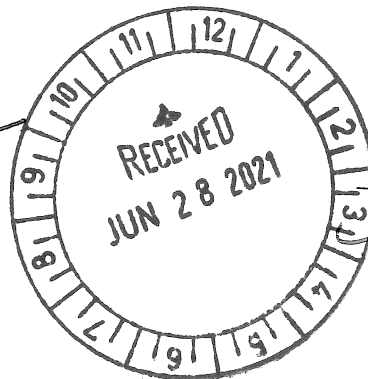
I am requesting the following 2021 supplemental appropriation:

To Account:	A3120.295	Other Equipment	\$27,500
From Account:	A889-889/22	Sheriff's Forfeiture Restricted (Federal)	\$23,400
	A889-889/8	Sheriff's Forfeiture Restricted (Local)	\$ 4,100

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

Sincerely,

Robert M. Maciol, Sheriff



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

Anthony J. Picente, Jr.
County Executive

Date 6-28-21

Cc: Tom Keeler, Budget Director
Sheryl Brown, Audit and Control



ONEIDA COUNTY
DEPARTMENT OF PUBLIC WORKS
 George E. Carle Complex
 5999 Judd Road, Oriskany, NY 13424
 Phone: (315) 793-6200 Fax: (315) 768-6299

ANTHONY J. PICENTE, JR.
 County Executive

MARK E. LARAMIE, P.E.
 Commissioner

June 21, 2021

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

FN 20 21-200

PUBLIC WORKS

WAYS & MEANS

Dear County Executive Picente,

Enclosed is the contract for construction inspection services for the reconstruction of the Oneida Street Bridge over Sauquoit Creek in the Town of Paris.

In accordance with the NYSDOT Procedures for Locally Administered Federal Aid Projects, Oneida County solicited an Expression of Interest (EOI) from each firm on the NYSDOT Region 2 LDSA County List. Each EOI was reviewed and it was decided that C&S Engineers is the most qualified consultant for this project.

On April 21, 2021, the Board of Acquisition & Contract awarded the contract to C&S Engineers, Inc. to provide construction phase services on the Oneida Street Bridge over Sauquoit Cr. (PIN 2754.45, BIN 2263310), Town of Paris, New York in the amount of \$232,000.00.

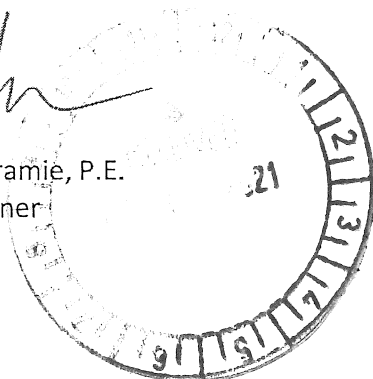
This project will be funded by the Bridge New York program (Federal aid), and the Town of Paris. Oneida County has agreed to be the project sponsor, will fund project expenses through Capital Project H-569, and request reimbursement from New York State and the Town of Paris as expenditures are made.

If acceptable, please forward the above contract to the Oneida County Board of Legislators for consideration and approval.

Thank you for your continued support.

Sincerely,

Mark E. Laramie, P.E.
 Commissioner



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

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

Date 7-8-21

Oneida County Department: Public Works

Competing Proposal Only Respondent _____ Sole Source RFP _____ Other _____

ONEIDA COUNTY BOARD OF LEGISLATORS

Name & Address of Vendor:	C&S Engineers, Inc. 499 Col. Eileen Collins Blvd. Syracuse, NY 13212
Title of Activity of Service:	Oneida Street Bridge (BIN2263310) over Sauquoit Creek, Town of Paris
Proposed Dates of Operation:	Start on Execution – 10/31/2022
Client Population/Number to be Served:	N/A

Summary Statements

1) Narrative Description of Proposed Services:

Attached is the contract for construction inspection services to replace the Oneida Street Bridge over Sauquoit Creek in the Town of Paris. This project will be funded by the Bridge New York program (Federal aid), and the Town of Paris. Oneida County has agreed to be the project sponsor, and so will fund project expenses and request reimbursement from New York State and the Town of Paris as expenditures are made.

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

3) Program Design and Staffing: N/A

4)Funding

Account #:	H-569
Total Funding Requested:	\$ 232,000.00
Oneida County Dept. Funding Recommendation:	\$232,000.00
Proposed Funding Sources	
Federal:	\$ 185,600.00
State:	\$0.00
County:	\$0.00
Town of Paris:	\$ 46,400.00

Past Performance Data: N/A

O.C. Department Staff Comments: None

Mandated / Not Mandated: Not Mandated

ENGINEERING SERVICES AGREEMENT

THIS AGREEMENT (the "Agreement"), made this 21st day of April 2021, by and between the COUNTY OF ONEIDA (hereinafter called "County"), a municipal corporation organized and existing under the laws of the State of New York, with its principal office located at 800 Park Avenue, Utica, New York 13501, and C&S Engineers, Inc., (hereinafter called "Consultant"), a domestic corporation, organized and existing under the laws of the State of New York with its place of business located at 499 Col. Eileen Blvd., Syracuse, New York 13212 (each a "Party" and collectively, the "Parties").

WITNESSETH:

WHEREAS, County requires construction inspection services associated with the following project:

Rehabilitation of BIN 2263310, Oneida Street Bridge over Sauquoit Creek, Town of Paris

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

WHEREAS, The Oneida County Board of Acquisition & Contract has authorized this Agreement; and

NOW, THEREFORE, it is mutually agreed that for the consideration hereinafter set forth, Consultant shall provide certain services identified in the Scope of Services, attached hereto as **Attachment B**, and the Consultant Fee Proposal, attached hereto as **Attachment C** (both collectively hereinafter "the Services").

1. TERM

1.1. The term of this Agreement shall commence upon a written Notice to Proceed (the "Notice to Proceed") and shall terminate upon completion of all work on all projects, but no later than December 31, 2022.

2. NOTICE TO PROCEED

2.1. The Notice to Proceed shall be in the form of a letter signed by County's Project Manager, authorizing the Services described herein. No Services shall commence until the Notice to Proceed is issued.

3. COMPENSATION

3.1. Consultant will be paid a not-to-exceed fee of **two hundred and thirty-two thousand dollars (\$232,000.00)**, for the Services identified in **Attachment B and Attachment C**.

3.2. Payment shall be made monthly on a basis of work completed and billed in accordance with the hourly rates established in **Attachment C**.

3.3. There shall be no separate payments for reimbursable expenses. Compensation for all reimbursable expenses is included in the lump sum fixed fee and not-to-exceed fee.

3.4. In case of changes affecting project scope resulting from new findings, unanticipated conditions, or other conflicts or discrepancies, Consultant shall promptly notify County of the identified changes and advise County of the recommended solution. Services shall not be performed on such changes without the prior written authorization of County. Payments for additional Services performed shall be agreed upon in writing prior to commencement of such additional Services and payment for such additional Services shall be made based on the percentage of Services completed and/or on completion of major tasks.

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

3.6. Additional compensation, at a mutually agreed-upon rate, will be paid if Consultant's services are required to defend claims or litigation resulting from this project, that are not the fault of Consultant.

3.7. It is understood and agreed that Consultant shall not be entitled to payment for any costs incurred prior to the effective date or following the termination date of this Agreement.

4. **EXECUTORY OR NON-APPROPRIATION CLAUSE**

4.1. The obligations of the Parties are conditioned upon the continued availability of government funds for the purposes set forth in this Agreement. Should funds become unavailable or should appropriate officials fail to approve sufficient funds for completion of the Services set forth in this Agreement, County shall have the option to immediately terminate this Agreement upon providing written notice to Consultant by certified mail. In such an event, Consultant shall receive payment for costs actually incurred prior to

termination, and shall not receive actual or consequential damages as a result of termination.

5. SCOPE OF SERVICES

5.1. This Agreement represents the entire and integrated agreement between the Parties hereto and supersedes prior negotiations, representations or agreements, either written or oral.

5.2. Consultant agrees to provide Services in accordance with the project description and scope of services, defined in **Attachments B & C**.

5.3. Consultant shall furnish any equipment, materials, and/or supplies necessary for the performance of its Services under this Agreement, and shall be responsible for providing its employees, agents and servants with all equipment necessary to comply with all applicable federal and state safety standards.

6. PERFORMANCE OF SERVICES

6.1. Consultant affirms that it does not have any financial interest or conflict of interest that would prevent Consultant from providing unbiased, impartial service under this Agreement.

6.2. Consultant's Services shall be completed and submitted in accordance with industry standards.

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

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

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

6.6. Consultant shall be solely responsible for determining the method, details and means of performing the Services, except where federal, state or local laws and regulations impose specific requirements on performance of the same.

6.7. Consultant is solely responsible for paying all of its business expenses related to

furnishing the Services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating expenses.

6.8. Consultant acknowledges and agrees that it and its employees and sub-consultants have no authority to enter into contracts that bind County, or create obligations on the part of County, without the County's prior written authorization.

6.9. Consultant understands that prompt and ready completion of the Services is required. Completion dates, if specified herein, may only be modified by mutual written agreement of the Parties. Consultant agrees to diligently perform the Services to be provided under this Agreement.

6.10. Consultant shall immediately notify County in writing of any difficulty in complying with requirements of this Agreement.

7. NON-ASSIGNMENT

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

8. SUBCONTRACTS

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

8.2. Consultant agrees to furnish to County, prior to the execution of this Agreement, a list of names of sub-consultants to whom it proposes to award any portion of the Services.

8.3. Agreements between Consultant and the sub-consultants shall be in accordance with the terms of this Agreement and shall include the conditions of this Agreement, including all Attachments, Addenda, or Appendixes. Consultant shall be solely responsible and shall remain liable for the performance of the Services.

9. CHANGE IN SERVICES

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

10. PROJECT MANAGERS

10.1. County designates the Commissioner of Public Works as their Project Manager, who shall be responsible for administering and interpreting the terms and conditions of this Agreement, for matters relating to Consultant's performance under this Agreement, and for liaison and coordination between the Parties. In the event County wishes to change its Project Manager, Consultant will be notified in writing.

10.2. Consultant designates James F. Morrissey, 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 Consultant-designated personnel or sub-consultant(s) shall be subject to approval by the Project Manager for County.

11. NOTICES

11.1. Any notice to County may be delivered personally or sent by United States Mail, postage prepaid, to the Commissioner of Public Works, 5999 Judd Road, Oriskany, NY 13424, or at such other address last furnished in writing.

11.2. Any notice to Consultant may be delivered personally or sent by United States Mail, postage prepaid, to Consultant's Project Manager at the address listed above, or at such other address last furnished in writing.

12. INDEPENDENT CONTRACTOR STATUS

12.1. For the purposes of this paragraph only, the term "Independent Contractor" shall be broadly construed to include Consultant and its sub-consultant(s), and all of their collective employees, agents, officers, servants and any of their other personnel. The relationship of the Independent Contractor to County shall be that of an independent contractor. The Independent Contractor shall not be deemed an employee of County and therefore shall not make any claim, demand or application for any employee benefit including, but not limited to, unemployment insurance, workers' compensation, retirement, paid absence, or health insurance. The Independent Contractor covenants and agrees that it will conduct itself in accordance with its status as an independent contractor, and shall not hold itself out as, nor claim to be, officers or employees of County. County and the Independent Contractor shall have the right to participate in any conference, discussion or negotiation

with any governmental agency regarding the Independent Contractor's status as an independent contractor.

12.2. Payments to Consultant shall be reported on IRS Form 1099, and County shall not make any withholding for taxes or any other obligations. Consultant shall be solely responsible for all applicable taxes, payroll deductions, workers' compensation insurance, and provision of health insurance where required. Consultant shall indemnify and hold County harmless from all loss or liability incurred by Consultant as a result of County not making such payments or withholdings.

13. ASSUMPTION OF RISK

13.1. Consultant solely assumes the following risks. The risk of unforeseen obstacles and difficulties in the performing of the Services, whether such risks are within or beyond the control of Consultant and whether such risks involve a legal duty, primary or otherwise, imposed upon County.

13.2. To the fullest extent permitted by law, Consultant shall indemnify, defend, and hold County, its officers, agents and employees (collectively, the "Indemnitees"), harmless against any and all claims (including, but not limited to, claims asserted by any employee of Consultant) and costs and expenses of whatever kind (including, but not limited to, payment or reimbursement of attorneys' fees and disbursements) allegedly arising out of or in any way related to the risks it assumes under this Section, operations of Consultant in the performance of this Agreement or from Consultant's failure to comply with any of the provisions of this Agreement or of the law. Such costs and expenses shall include all those incurred in defending the underlying claim and those incurred in connection with the enforcement of this Section by way of cross-claim, third-party claim, declaratory action or otherwise.

13.3. Neither the termination of this Agreement nor the making of the final payment shall release Consultant from its obligations under this Section. The enumeration elsewhere in this Agreement of particular risks assumed by Consultant or of particular claims for which it is responsible shall not be deemed to limit the effect of the provision of this Section or to imply that it assumes or is responsible for only risks or claims of the type enumerated.

13.4. This assumption of risk by Consultant is absolute, excepting only reckless or

intentional acts of County or its officers, agents or employees.

14. INSURANCE REQUIREMENTS

14.1. Consultant shall purchase and maintain insurance of the following types of coverage and limits of liability with an insurance carrier qualified and admitted to do business in the State of New York. The insurance carrier must have at least an A- (excellent) rating by A. M. Best.

14.2. Commercial General Liability (“CGL”) coverage with limits of not less than one million dollars (\$1,000,000) each occurrence, and two million dollars (\$2,000,000) annual aggregate. CGL coverage shall be written on ISO Occurrence form CG 00 01 1001 or a substitute form providing equivalent coverage, and shall cover liability arising from premises, operations, independent contracts, products, completed operations and personal and advertising injury. County shall be included as an additional insured, on a primary and non-contributing basis before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by or provided to the additional insureds. Consultant shall maintain said CGL coverage for itself and the additional insured(s) for the duration of this Agreement, and maintain completed operations coverage for itself and the additional insured(s) for at least three (3) years after completion.

14.3. Workers’ Compensation and Employer’s Liability, pursuant to statutory limits.

14.4. Business Automobile Liability with limits of at least one million dollars (\$1,000,000) each accident. Coverage must include liability arising out of all owned, leased, hired and non-owned automobiles. County shall be included as an additional insured on a primary and non-contributing basis.

14.5. Excess/Commercial Umbrella coverage with limits of at least five million dollars (\$5,000,000) per occurrence. County shall be included as an additional insured. Excess/Commercial 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 insured(s).

14.6. Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than one million dollars (\$1,000,000) per claim.

14.7. Waiver of Subrogation: Consultant waives all rights against County and its agents, officers, and employees for recovery of damages to the extent these damages are covered by insurance maintained per requirements stated above.

14.8. County shall not issue a Notice to Proceed until certificates evidencing the insurance required by this Section have been provided to County. The certificates shall be on forms approved by County, and shall contain a provision that coverage afforded under the policies will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to County. Acceptance of the certificates shall not relieve Consultant of any of the insurance requirements, nor decrease the liability of Consultant. County reserves the right to require Consultant to provide insurance policies for review by County. Consultant grants County a limited power of attorney to communicate with Consultant's insurance provider and/or agent for the express purpose of confirming the coverages required hereunder.

15. REQUIRED PROVISIONS OF LAW

15.1. In performing under this Agreement, all applicable governmental laws, regulations, orders, ordinances and other rules of duly constituted authority will be followed and complied with in all respects by all Parties.

15.2. Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been incorporated herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either Party, this Agreement shall be amended in writing, and signed by both Parties to make such insertion.

15.3. Consultant agrees that there shall be no discrimination against any person or group of persons, on account of race, color, religious creed, national origin, ancestry, gender including gender identity or expression, age, marital or domestic partnership status, mental or physical disability, medical condition, genetic information, or sexual orientation in the performance of this Agreement. Consultant shall not establish or permit any such practice(s) of discrimination with reference to this Agreement or any part thereof. Consultants determined to be in violation of this section shall be deemed to be in breach of this Agreement.

16. BREACH

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

16.1.1. If any insurance or bonds required to be maintained pursuant to this Agreement shall fail to be obtained or shall be cancelled or revoked at any time or if Consultant shall fail to deliver any required insurance certificate or bond.

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

16.1.3. If Consultant shall file a voluntary petition in Bankruptcy Court, or shall be the subject of an involuntary petition in Bankruptcy Court, or shall be adjudged as bankrupt or insolvent, or shall file any petition seeking any reorganization, liquidation, dissolution or similar relief under the present or any future statute, or shall seek or acquiesce in the appointment of any trustee, receiver or liquidator of Consultant.

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

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

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

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

16.3. In the event of a breach or threatened breach by either Party of its obligations under this Agreement, the other Party shall have the right to seek and obtain an injunction or

other equitable relief, in addition to any other remedies provided by this Agreement, or by law.

17. TERMINATION

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

17.2. If this Agreement is terminated, Consultant shall be entitled to compensation for Services satisfactorily performed to the effective date of termination; provided however, that County may condition payment of such compensation upon Consultant's delivery to County of any and all documents, photographs, computer software, videotapes, and other materials provided to Consultant or prepared by Consultant for County in connection with this Agreement. Payment by County for the Services satisfactorily performed to the effective date of termination shall be the sole and exclusive remedy to which Consultant is entitled in the event of termination of this Agreement and Consultant shall be entitled to no other compensation or damages and expressly waives same.

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

18. DOCUMENT PRINTING/OWNERSHIP OF ORIGINAL DRAWINGS AND MANUSCRIPTS

18.1. Copies of computer diskettes, removable media, drawings and specification manuscripts in the possession of the County are to remain the property of County whether or not the project is completed. The Consultant shall provide additional copies to the County upon request. Consultant may retain copies for reference. These documents shall not be used by Consultant for other projects without prior written approval of County. County's use of this data for purposes other than originally intended without written verification or adoption by Consultant shall be at County's sole risk.

19. ADDENDUM

19.1. Consultant shall comply with **Attachment A**, Addendum - Standard Oneida County Conditions, attached hereto and hereby incorporated by reference.

20. NON WAIVER

20.1. No provision of this Agreement shall be deemed to have been waived by either Party,

unless such waiver shall be set forth in a written instrument executed by such Party. Any waiver by any of the Parties to any of the provisions of this Agreement shall not imply preceding or subsequent waiver of that or any other provision.

21. CHOICE OF LAW/FORUM

21.1. This Agreement shall be construed and enforced in accordance with the laws of the State of New York, exclusive of its choice of laws, rules and principles.

21.2. Any litigation relating to or arising out of this Agreement shall be heard in a New York State Court of competent jurisdiction sitting in Oneida County, New York or in the United States District Court for the Northern District of New York.

22. ORDER OF PRECEDENCE

22.1. In case of conflicts between the provisions of this Agreement and the Attachments, or between the Attachments, the following order of precedence shall control:

22.1.1. **Attachment A – Addendum**

22.1.2. **Attachment D – Change Order**, in reverse chronological order, if applicable

22.1.3. **This Agreement**

22.1.4. **Attachment B – Scope of Services**

22.1.5. **Attachment C – Consultant Fee Proposal**

23. SUCCESSORS AND ASSIGNS

23.1. This Agreement shall be binding on and inure to the benefit of the Parties hereto and their respective heirs, legal or personal representatives, successors, and assigns.

24. SEVERABILITY

24.1. If any provision of this Agreement, or any part thereof, is or becomes void or unenforceable by force or operation of law, the Parties agree that this Agreement shall be reformed with a valid and enforceable provision that comes as close as possible to expressing the original intention. Further, the Parties agree that all other provisions shall remain valid and enforceable.

25. ENTIRE AGREEMENT

25.1. This Agreement is the final, binding agreement of the Parties and supersedes all previous negotiations and representations, written or oral, on the subject matter.

26. COUNTERPARTS

26.1. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall be deemed one and the same instrument.

27. AUTHORITY TO ACT/SIGN

27.1. Consultant's signatory hereby represents and certifies that they have the power and authority to execute and deliver this Agreement and to carry out the obligations hereunder. The execution and delivery by Consultant's signatory of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by Consultant; no other action on the part of Consultant or any other person or entity, or by law or otherwise, are necessary to authorize this Agreement or to enter into this Agreement, or to consummate the transactions contemplated herein.

28. ADVICE OF COUNSEL

28.1. 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.

29. AMENDMENTS

29.1. Amendments to this Agreement, if needed, shall be in the form of the Charge Order attached hereto as **Attachment D**.

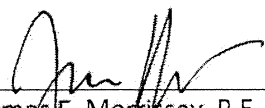
(Remainder of page intentionally left blank.)

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

COUNTY OF ONEIDA

Anthony J. Picente, Jr.
Oneida County Executive

C&S ENGINEERS, INC.



James F. Morrissey, P.E.
Transportation Group Manager

APPROVED BY

Robert E. Pronteau, Esq.
Assistant County Attorney

EXHIBIT A

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

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

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
 - i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

- B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and
 - D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;
 - ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
 - c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
 - i. The Contractor will or will continue to provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - B. Establishing an ongoing drug-free awareness program to inform employees about:

- 1) The dangers of drug abuse in the workplace;
 - 2) The Contractor's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, and employee assistance program; and
 - 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
- C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;
- D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:
- 1) Abide by the terms of the statement; and
 - 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:
- Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.

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

1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

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

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

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

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

i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

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

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

When applicable to the services provided pursuant to the Contract:

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

County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;

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

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so

are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKERS' COMPENSATION BENEFITS.

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

7. NON-DISCRIMINATION REQUIREMENTS.

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

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set

forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its knowledge and belief:

(1) the prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; and (2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) no attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from

public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

12. CONFLICTING TERMS.

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

13. GOVERNING LAW.

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

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

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from

another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application; request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT.

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

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

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

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

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

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

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

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

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

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including:

chewing; holding in the mouth; or expectoration of chewing tobacco.

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

20. COMPLIANCE WITH NEW YORK STATE LABOR LAW § 201-G

The Contractor shall comply with the provisions of New York State Labor Law § 201-g.

Attachment "B" SCOPE OF SERVICES

C&S ENGINEERS, INC. & ONEIDA COUNTY

This Consultant Agreement covers construction inspection services for construction of the Project set forth in the design documents Inc., for the County of Oneida, New York.

Section 1 - General

1.01 Project Description and Location

Project Name: ONEIDA STREET OVER SAUQUOIT CREEK
PIN: 2754.45

1.04 Categorization of Work

Project work is generally divided into the following sections:

Section 1	General
Section 9	Construction Inspection
Section 10	Estimating & Technical Assumptions

When specifically authorized in writing to begin work the **Consultant** will render all services and furnish all materials and equipment necessary to provide the **Sponsor** with reports, plans, estimates, and other data specifically described in Sections 1, 9 and 10.

1.05 Project Familiarization

The **Consultant** will become familiar with the project before starting any work. This includes a thorough review of all supplied project information and a site visit to become familiar with field conditions.

1.06 Meetings

The **Consultant** will prepare for and attend all meetings as directed by the **Sponsor's Project Manager**. Meetings may be held to:

- Present, discuss, and receive direction on the progress and scheduling of work in this contract.
- Present, discuss, and receive direction on project specifics.
- Discuss and resolve comments resulting from review of project documents, advisory agency review, and coordination with other agencies.
- Preview visual aids for public meetings.
- Manage subconsultants and subcontractors.

The **Consultant** will be responsible for the preparation of all meeting minutes; the minutes will be submitted to meeting attendees within one (1) week of the meeting date.

1.07 Cost and Progress Reporting

For the duration of this contract, the **Consultant** will prepare and submit to the **Sponsor** on a monthly basis a Progress Report in a format approved by the **Sponsor**. The Progress Report must contain the *Cost Control Report*. The beginning and ending dates defining the reporting period must correspond to the beginning and ending dates for billing periods, so that this reporting process can also serve to explain billing charges. (In cases where all work under this contract is officially suspended by the **Sponsor**, this task will not be performed during the suspension period.)

1.08 Policy and Procedures

- The tasks defined for the construction phase of this project will be progressed in accordance with the current version of the *NYS DOT Procedures for Locally Administered Federal Aid Projects (PLAFAP) Manual* including the latest updates.
- If there are conflicts between local policies and procedures and those listed in the *PLAFAP* those listed in the *PLAFAP* take precedence.

Compliance with documents

All services must conform to current versions of the following documents, as applicable. Where necessary, the Consultant will obtain either the full document or guidance extracted from it.

- The approved Design Approval Document, and the Bid Documents
- NYSDOT Construction Manuals, approved lists, and approved materials.

Compliance with Environmental Laws, Regulations, and Permits

All services must comply with the requirements of applicable state and federal environmental laws, regulations, and policy. Applicable laws, regulations, and policies are per the Bid Documents for the Project.

1.09 Standards & Specifications

The project will be designed and constructed in accordance with the current edition of the NYSDOT Standard Specifications for Construction and Materials, including all applicable revisions.

1.10 Subconsultants

The **Consultant** will be responsible for:

- Coordinating and scheduling work, including work to be performed by subconsultants.
- Technical compatibility of a subconsultant's work with the prime consultant's and other subconsultants' work.

1.11 Subcontractors

Procurement of subcontractors must be in accordance with the requirements set forth in the *NYSDOT PLAFAP Manual*.

Section 9 - Construction Inspection

9.01 Equipment

The **Contractor** will furnish office space and basic office furnishings for the **Consultant**, as part of the contract.

The **Consultant** will furnish all other office, field and field laboratory supplies and equipment required to properly perform the inspection services listed below.

9.02 Inspection

The **Consultant** must provide, to the satisfaction of the **Sponsor**, contract administration and construction observation services from such time as directed to proceed until the completion of the final agreement and issuance of final payment for the contract. The **Consultant** must assume responsibility, as appropriate, for the administration of the contract including maintaining complete project records, processing payments, performing detailed inspection work and on-site field tests of all materials and items of work incorporated into the contract consistent with federal policies and the specifications and plans applicable to the project.

9.03 Sponsor Project Manager

This Project Manager will be the **Sponsor's** official representative on the contract and the **Consultant** must report to and be directly responsible to said Project Manager.

9.04 Ethics

Prior to the start of work, the **Consultant** will submit to the **Sponsor** a statement regarding conflicts of interest.

9.05 Health and Safety Requirements

The **Consultant** must provide all necessary health and safety related training, supervision, equipment and programs for their inspection staff assigned to the project.

9.06 Staff Qualifications and Training

The **Consultant** must provide sufficient trained personnel to adequately and competently perform the requirements of this agreement.

For all construction inspection agreements, all technician personnel shall be identified by the corresponding National Institute for Certification in Engineering Technologies (NICET) certification levels in the staffing tables. In lieu of the NICET certification requirements, the Sponsor may accept evidence that the person proposed for employment (1) has satisfactorily performed similar duties as a former NYS Department of Transportation

(NYSDOT) employee or (2) has a combination of education and appropriate experience commensurate with the scope of the position in question.

Technicians employed by the **Consultant** that perform field inspection of Portland cement concrete shall possess a current certification from the American Concrete Institute (ACI) as a Concrete field-testing Technician-Grade 1, or have completed all of the following NICET work elements, which are equivalent to the ACI certification:

<u>NICET LEVEL</u>	<u>NICET CODE</u>	<u>NICET WORK ELEMENT</u>
I	82019	Sample Fresh Concrete
I	82020	Slump Test
II	84068	Air Content, Pressure
II	84069	Air Content, Gravimetric
II	84070	Air Content, Volumetric
II	84076	Field Prepared Test Specimens

9.07 Scope of Services/Performance Requirements

A. Quality

The **Consultant** will enforce the specifications and identify in a timely manner to the **Sponsor** local conditions, methods of construction, errors on the plans or defects in the work or materials which would conflict with the quality of work, and conflict with the successful completion of the project.

B. Record Keeping & Payments to the **Contractor**

- 1) All records must be kept in accordance with the directions of the **Sponsor and must be consistent with the requirements of the NYSDOT Manual of Uniform Recordkeeping (MURK)**. The **Consultant** must take all measurements and collect all other pertinent information necessary to prepare daily inspection reports, monthly and final estimates, survey notes, record plans showing all changes from contract plans, photographs of various phases of construction, and other pertinent data, records and reports for proper completion of records of the contract.
- 2) Any record plans, engineering data, survey notes or other data provided by the **Sponsor** should be returned to the **Sponsor** at the completion of the contract. Original tracings of record plans, maps, engineering data, the final estimate and any other engineering data produced by the **Consultant** will bear the endorsement of the **Consultant**. Any documents that require an appropriate review and approval of a Professional Engineer (P.E.) licensed and registered to practice in New York State must be signed by the P.E.
- 3) The **Consultant** will check, and when acceptable, approve all structural shop drawings.
- 4) The **Consultant** must submit the final estimate of the contract to the **Sponsor** after the date of acceptance of the contract. All project records must be cataloged, indexed, packaged, and delivered to the **Sponsor** after the date of the acceptance of the contract.

Health & Safety/Work Zone Traffic Control

- 1) The **Consultant** must ensure that all inspection staff assigned to the project are knowledgeable concerning the health and safety requirements of the contract per **Sponsor** policy, procedures and specifications and adhere to all standards. Individual inspectors must be instructed relative to the safety concerns for construction operations they are assigned to inspect to protect their personal safety, and to ensure they are prepared to recognize and address any **Contractor** oversight or disregard of project safety requirements.
- 2) The **Consultant** is responsible for monitoring the **Contractor's** and Subcontractor's efforts to maintain traffic and protect the public from damage to person and property within the limits of, and for the duration of the contract.

Monitoring Equal Opportunity/Labor Requirements

The **Consultant** must assign to one individual the responsibility of monitoring the **Contractor's** adherence to Equal Opportunity and Labor requirements contained in the contract. When monitoring the **Contractor's** Equal Opportunity and Labor compliance, the **Consultant** will utilize the guidance contained in the contract, standard specifications and the **Sponsor's** policies. The **Consultant** is also to input required disadvantaged business enterprise (DBE) information into the NYSDOT maintained Equitable Business Opportunities (EBO) database.

Section 10 - Estimating and Technical Assumptions

[NOTE: Use this section to list all pertinent information to help define the work to be performed by the Consultant. A list of assumptions has been included, but this list should not be viewed as an all-inclusive list or as a limit as to what can/should be included. Once the Scope of Services is prepared, and agreed upon and understood by both the Consultant and the Sponsor, effort (hours) and cost negotiations can be completed.]

10.01 Estimating Assumptions

The following assumptions have been made for estimating purposes:

Section 1 Estimate Four (4) meetings during the life of this Agreement, in addition to routine progress meetings held on-site and attended by the Resident Engineer.

Estimate Five (5) cost and progress reporting periods will occur during the life of this agreement.

Section 9 Construction Inspection will include but not be limited to:

- Providing on-site construction inspection and oversight to ensure the quality of construction and conformity with the final plans and specifications.
- Preparation of as-built plans.

Materials testing costs and plant inspection costs are estimated. Should costs exceed those as estimated, and cannot be contained within the existing Agreement, a Supplemental Agreement will be executed to address these costs.

It is assumed that the following inspections/tests will be performed by NYSDOT:

- Concrete In-Plant
- Asphalt In-Plant
- Bridge Bearings

No costs have been included for these services. Should they become necessary, a Supplemental Agreement will be executed to address these costs.

It is assumed that the bridge will be configured as a prestressed concrete superstructure on integral abutments and steel piles.

Assume that construction will be progressed with staged construction and an on-site WZTC scheme.

Assume that in-plant inspection of prestressed beams will be required.

Assume that a dynamic pile analysis of two piles will be required.

Estimate construction will begin on May 1, 2022 and will be completed by October 31, 2022.

10.02 Technical Assumptions

- Construction duration will be 184 calendar days with no allowance for project shutdown.

Staffing during active construction will be based on the following averages:

Title	Regular Hours	OT Hours	Duration/Notes
Resident Engineer	176/mo	22/mo	Two (2) months

Costs for Construction Inspection Services during actual construction that are outside the above noted window will be borne by the **Contractor** and be paid through liquidated damages and engineering charges and/or agreement amendment supported by the **Sponsor**.

- ALL record keeping will be according to MURK with the use of Appia Construction Administration Software, including materials approvals.
- The Construction Inspection Services will be performed to determine general conformity with the Contract Documents. The **Contractor** is ultimately and solely responsible for the quality and the timeliness of the constructed Project.
- A full-time Resident Engineer will be assigned by the **Consultant** for the duration of the Project.
- **Contractor** hours are estimated at 9 hours per day/ average.

**Attachment C, Page 1
Summary**

C&S Engineers, Inc. ONEIDA STREET OVER SAUQUOIT CREEK ONEIDA COUNTY DEPARTMENT OF PUBLIC WORKS PIN 2754.45	CONST. SUPPORT SECTION 1 SECTION 8	CONST. INSPECTION SECTION 9	Total
Item IA, Specific Hourly Rates Straight Time (estimated) Hours Subject to Audit	\$ 5,824.73	\$ 186,075.07	\$ 191,899.80
Item IA, Specific Hourly Rates Overtime (estimated) Hours Subject to Audit	\$ -	\$ 16,435.15	\$ 16,435.15
Item II, Direct Non-Salary Cost (estimated) Subject to Audit	\$ -	\$ 2,956.80	\$ 2,956.80
Item II, Direct Non-Salary Cost (estimated) Subject to Audit (Sub-Contractor Cost)	\$ -	\$ 5,700.00	\$ 5,700.00
Item II, Direct Non-Salary Cost (estimated) Subject to Audit (Sub-Consultant Cost)	\$ -	\$ 15,000.00	\$ 15,000.00
Item III, Goods Purchased Under this Project to Become Property of Municipality	\$ -	\$ -	\$ -
	=====	=====	=====
ITEM IV Total Estimated Cost	\$ 5,824.73	\$ 226,167.02	\$ 231,991.75
	TOTAL COST NOT TO EXCEED		\$ 232,000.00

ATTACHMENT C, PAGE 2
 SPECIFIC HOURLY RATES
 C&S ENGINEERS, INC.
 January 1, 2021 - December 31, 2021 (Firm's first fiscal year)

JOB TITLES	ASCE (A) OR NICET (N) GRADE	AVERAGE HOURLY RATES				STRAIGHT TIME	OVERTIME RATE	NIGHT WORK RATE	OVERTIME CATEGORY
		PRESENT (Jul/2020)	PROJECTED (Jul/2021)	OVERHEAD	FEE				
TITLES AT OFFICE OVERHEAD RATE OF 167 %									
Service Group Manager	VIII (A)	82.80	85.28	142.42	25.05	252.75	0.00	N/A	A
Department Manager	VII (A)	63.50	65.41	109.23	19.21	193.85	0.00	N/A	A
Managing Engineer	VI (A)	55.54	57.21	95.54	16.80	169.55	0.00	N/A	A
Chief Engineer	IV (A)	55.48	57.14	95.42	16.78	169.34	169.34	N/A	B
Senior Project Engineer	V (A)	46.63	48.03	80.21	14.11	142.35	142.35	N/A	B
Project Engineer	IV (A)	38.78	39.94	66.70	11.73	118.37	118.37	N/A	B
Engineer	III (A)	33.92	34.94	58.35	10.26	103.55	103.55	N/A	B
Staff Engineer	II/I (A)	30.32	31.23	52.15	9.17	92.55	109.88	N/A	C
Senior Project Designer	III (N)	39.42	40.60	67.80	11.92	120.32	142.86	N/A	C
Senior Designer	III (N)	33.02	34.01	56.80	9.99	100.80	119.67	N/A	C
Design Technician	III (N)	28.58	29.44	49.16	8.65	87.25	103.59	N/A	C
Designer	III (N)	26.90	27.71	46.28	8.14	82.13	97.51	N/A	C
CADD Operator	III (N)	24.00	24.72	41.28	7.26	73.26	0.00	N/A	A
Senior Construction Supervisor	IV (N)	68.75	70.81	118.25	20.80	209.86	0.00	N/A	A
Construction Supervisor	IV (N)	50.00	51.50	86.01	15.13	152.64	0.00	N/A	A
Project Manager	IV (N)	45.00	46.35	77.40	13.61	137.36	0.00	N/A	A
CPM Scheduler	IV (N)	50.00	51.50	86.01	15.13	152.64	152.64	N/A	B
Resident Engineer	IV (N)	45.77	47.14	78.72	13.84	139.70	139.70	N/A	B
Office Engineer	IV (N)	46.40	47.79	79.81	14.04	141.64	141.64	N/A	B
Chief Inspector	IV (N)	40.13	41.33	69.02	12.14	122.49	122.49	N/A	B
Senior Inspector	III (N)	40.62	41.84	69.87	12.29	124.00	147.22	N/A	C
Inspector	II (N)	33.07	34.06	56.88	10.00	100.94	119.85	N/A	C
Junior Inspector	I (N)	21.00	21.63	36.12	6.35	64.10	76.11	N/A	C
Student Technician II	N/A	19.00	19.57	32.68	5.75	58.00	68.86	N/A	C
Student Technician I	N/A	16.53	17.03	28.44	5.00	50.47	59.92	N/A	C
Senior Technical Admin	N/A	30.75	31.67	52.89	9.30	93.86	111.44	N/A	C
TITLES AT FIELD OVERHEAD RATE OF 131 %									
Service Group Manager	VIII (A)	82.80	85.28	111.72	21.67	218.67	0.00	N/A	A
Department Manager	VII (A)	63.50	65.41	85.69	16.62	167.72	0.00	N/A	A
Managing Engineer	VI (A)	55.54	57.21	74.95	14.54	146.70	0.00	N/A	A
Chief Engineer	IV (A)	55.48	57.14	74.85	14.52	146.51	146.51	N/A	B
Senior Project Engineer	V (A)	46.63	48.03	62.92	12.20	123.15	123.15	N/A	B
Project Engineer	IV (A)	38.78	39.94	52.32	10.15	102.41	102.41	N/A	B
Engineer	III (A)	33.92	34.94	45.77	8.88	89.59	89.59	N/A	B
Staff Engineer	II/I (A)	30.32	31.23	40.91	7.94	80.08	97.41	N/A	C
Senior Project Designer	III (N)	39.42	40.60	53.19	10.32	104.11	126.64	N/A	C
Senior Designer	III (N)	33.02	34.01	44.55	8.64	87.20	106.08	N/A	C
Design Technician	III (N)	28.58	29.44	38.57	7.48	75.49	91.83	N/A	C
Designer	III (N)	26.90	27.71	36.30	7.04	71.05	86.43	N/A	C
CADD Operator	III (N)	24.00	24.72	32.38	6.28	63.38	0.00	N/A	A
Senior Construction Supervisor	IV (N)	68.75	70.81	92.76	17.99	181.56	0.00	N/A	A
Construction Supervisor	IV (N)	50.00	51.50	67.47	13.09	132.06	0.00	N/A	A
Project Manager	IV (N)	45.00	46.35	60.72	11.78	118.85	0.00	N/A	A
CPM Scheduler	IV (N)	50.00	51.50	67.47	13.09	132.06	132.06	N/A	B
Resident Engineer	IV (N)	45.77	47.14	51.75	11.98	120.87	120.87	N/A	B
Office Engineer	IV (N)	46.40	47.79	62.60	12.14	122.53	122.53	N/A	B
Chief Inspector	IV (N)	40.13	41.33	54.14	10.50	105.97	105.97	N/A	B
Senior Inspector	III (N)	40.62	41.84	54.81	10.63	107.29	130.50	N/A	C
Inspector	II (N)	33.07	34.06	44.62	8.65	87.33	106.24	N/A	C
Junior Inspector	I (N)	21.00	21.63	28.34	5.50	55.47	67.47	N/A	C
Student Technician II	N/A	19.00	19.57	25.64	4.97	50.18	61.04	N/A	C
Student Technician I	N/A	16.53	17.03	22.31	4.33	43.67	53.12	N/A	C
Senior Technical Admin	N/A	30.75	31.67	41.49	8.05	81.21	98.78	N/A	C

NOTES:
 OVERTIME POLICY: Time and a half for excess of 8 hours in a work day.
 Overtime is reimbursable by the categories below only if the firm has a policy to pay overtime compensation.
 Category A - No overtime compensation.
 Category B - overtime compensated at straight time
 Category C - overtime compensated at straight time rate x 1.50
 Overtime applies to hours worked in excess of the 40 hours per week
 NIGHT WORK POLICY:
 Night shift work will be compensated at 10% above regular pay for the hours worked in a night shift. Night shift work is defined as any hours worked after 8:00pm and before 6:00am. For any work performed in an overtime capacity, compensation will be paid at either the overtime rate or at the night shift work differential, whichever is higher, but not at any combination of both rates. Night differential is reimbursable at a maximum of 10% only if the firm has a policy to pay a night shift differential.
 RATES:
 Specific Hourly rates and all components of those rates are not subject to audit. The number of hours charged are subject to audit.

ATTACHMENT C, PAGE 3
 SPECIFIC HOURLY RATES
 C&S ENGINEERS, INC.

January 1, 2022 - December 31, 2022 (Firm's second fiscal year)

JOB TITLES	ASCE (A) OR NICET (N) GRADE	AVERAGE HOURLY RATES				STRAIGHT TIME	OVERTIME RATE	NIGHT WORK RATE	OVERTIME CATEGORY
		PRESENT (Jul/2020)	PROJECTED (Jul/2022)	OVERHEAD	FEE				
TITLES AT OFFICE OVERHEAD RATE OF 167 %									
Service Group Manager	VIII (A)	82.80	87.84	146.69	25.80	260.33	0.00	N/A	A
Department Manager	VII (A)	63.50	67.37	112.51	19.79	199.67	0.00	N/A	A
Managing Engineer	VI (A)	55.54	58.92	98.40	17.31	174.63	0.00	N/A	A
Chief Engineer	IV (A)	55.48	58.86	98.30	17.29	174.45	174.45	N/A	B
Senior Project Engineer	V (A)	46.63	49.47	82.61	14.53	146.61	146.61	N/A	B
Project Engineer	IV (A)	38.78	41.14	68.70	12.08	121.92	121.92	N/A	B
Engineer	III (A)	33.92	35.99	60.10	10.57	106.66	106.66	N/A	B
Staff Engineer	II/I (A)	30.32	32.17	53.72	9.45	95.34	113.19	N/A	C
Senior Project Designer	III (N)	39.42	41.82	69.84	12.28	123.94	147.15	N/A	C
Senior Designer	III (N)	33.02	35.03	58.50	10.29	103.82	123.26	N/A	C
Design Technician	III (N)	28.58	30.32	50.63	8.90	89.85	106.68	N/A	C
Designer	III (N)	26.90	28.54	47.66	8.38	84.58	100.42	N/A	C
CADD Operator	III (N)	24.00	25.46	42.52	7.48	75.46	0.00	N/A	A
Senior Construction Supervisor	IV (N)	68.75	72.94	121.81	21.42	216.17	0.00	N/A	A
Construction Supervisor	IV (N)	50.00	53.05	88.59	15.58	157.22	0.00	N/A	A
Project Manager	IV (N)	45.00	47.74	79.73	14.02	141.49	0.00	N/A	A
CPM Scheduler	IV (N)	50.00	53.05	88.59	15.58	157.22	157.22	N/A	B
Resident Engineer	IV (N)	45.77	48.56	81.10	14.26	143.92	143.92	N/A	B
Office Engineer	IV (N)	46.40	49.23	82.21	14.46	145.90	145.90	N/A	B
Chief Inspector	IV (N)	40.13	42.57	71.09	12.50	126.16	126.16	N/A	B
Senior Inspector	III (N)	40.62	43.09	71.96	12.66	127.71	151.62	N/A	C
Inspector	II (N)	33.07	35.08	58.58	10.30	103.96	123.43	N/A	C
Junior Inspector	I (N)	21.00	22.28	37.21	6.54	66.03	78.40	N/A	C
Student Technician II	N/A	19.00	20.16	33.67	5.92	59.75	70.94	N/A	C
Student Technician I	N/A	16.53	17.54	29.29	5.15	51.98	61.72	N/A	C
Senior Technical Admin	N/A	30.75	32.62	54.48	9.58	96.68	114.79	N/A	C
TITLES AT FIELD OVERHEAD RATE OF 131 %									
Service Group Manager	VIII (A)	82.80	87.84	115.07	22.32	225.23	0.00	N/A	A
Department Manager	VII (A)	63.50	67.37	88.25	17.12	172.74	0.00	N/A	A
Managing Engineer	VI (A)	55.54	58.92	77.19	14.97	151.08	0.00	N/A	A
Chief Engineer	IV (A)	55.48	58.86	77.11	14.96	150.93	150.93	N/A	B
Senior Project Engineer	V (A)	46.63	49.47	64.81	12.57	126.85	126.85	N/A	B
Project Engineer	IV (A)	38.78	41.14	53.89	10.45	105.48	105.48	N/A	B
Engineer	III (A)	33.92	35.99	47.15	9.15	92.29	92.29	N/A	B
Staff Engineer	II/I (A)	30.32	32.17	42.14	8.17	82.48	100.34	N/A	C
Senior Project Designer	III (N)	39.42	41.82	54.78	10.63	107.23	130.44	N/A	C
Senior Designer	III (N)	33.02	35.03	45.89	8.90	89.82	109.26	N/A	C
Design Technician	III (N)	28.58	30.32	39.72	7.70	77.74	94.57	N/A	C
Designer	III (N)	26.90	28.54	37.39	7.25	73.18	89.02	N/A	C
CADD Operator	III (N)	24.00	25.46	33.35	6.47	65.28	0.00	N/A	A
Senior Construction Supervisor	IV (N)	68.75	72.94	95.55	18.53	187.02	0.00	N/A	A
Construction Supervisor	IV (N)	50.00	53.05	69.50	13.48	136.03	0.00	N/A	A
Project Manager	IV (N)	45.00	47.74	62.54	12.13	122.41	0.00	N/A	A
CPM Scheduler	IV (N)	50.00	53.05	69.50	13.48	136.03	136.03	N/A	B
Resident Engineer	IV (N)	45.77	48.56	63.61	12.34	124.51	124.51	N/A	B
Office Engineer	IV (N)	46.40	49.23	64.49	12.51	126.23	126.23	N/A	B
Chief Inspector	IV (N)	40.13	42.57	55.77	10.82	109.16	109.16	N/A	B
Senior Inspector	III (N)	40.62	43.09	56.45	10.95	110.49	134.40	N/A	C
Inspector	II (N)	33.07	35.08	45.95	8.91	89.94	109.41	N/A	C
Junior Inspector	I (N)	21.00	22.28	29.19	5.66	57.13	69.50	N/A	C
Student Technician II	N/A	19.00	20.16	26.41	5.12	51.69	62.88	N/A	C
Student Technician I	N/A	16.53	17.54	22.98	4.46	44.98	54.71	N/A	C
Senior Technical Admin	N/A	30.75	32.62	42.73	8.29	83.64	101.74	N/A	C
NOTES:									
OVERTIME POLICY: Time and a half for excess of 8 hours in a work day.									
Overtime is reimbursable by the categories below only if the firm has a policy to pay overtime compensation.									
Category A - No overtime compensation.									
Category B - overtime compensated at straight time									
Category C - overtime compensated at straight time rate x 1.50									
Overtime applies to hours worked in excess of the 40 hours per week									
NIGHT WORK POLICY:									
Night shift work will be compensated at 10% above regular pay for the hours worked in a night shift. Night shift work is defined as any hours worked after 8:00pm and before 6:00am. For any work performed in an overtime capacity, compensation will be paid at either the overtime rate or at the night shift work differential, whichever is higher, but not at any combination of both rates. Night differential is reimbursable at a maximum of 10% only if the firm has a policy to pay a night shift differential.									
RATES:									
Specific Hourly rates and all components of those rates are not subject to audit. The number of hours charged are subject to audit.									

LABOR DETAIL
SECTION 1 - GENERAL / SECTION 8 - CONSTRUCTION SUPPORT



C&S Engineers, Inc.
ONEIDA STREET OVER SAUQUOIT CREEK
ONEIDA COUNTY DEPARTMENT OF PUBLIC WORKS
PIN 2754-95

ASCE (A) OR NICEET (N) GRADE	1A PROJECT FAMILIARIZATION	1B COST & PROG REPORTING	2022 1C SUBCONTRACTORS	(1)	(2)	(3)	(4)	(5)	(6)
Service Group Manager	VIII (A)			0		\$ 260.33		\$	
Department Manager	VII (A)			0		\$ 199.67		\$	
Managing Engineer	VI (A)			0		\$ 174.63		\$	
Chief Engineer	IV (A)			0		\$ 174.45		\$	
Senior Project Engineer	V (A)			0		\$ 146.61		\$	
Project Engineer	IV (A)			0		\$ 121.92		\$	
Engineer	III (A)			0		\$ 106.66		\$	
Staff Engineer	II/1 (A)			0		\$ 95.34		\$	
Senior Project Designer	III (N)			0		\$ 123.94		\$	
Senior Designer	III (N)			0		\$ 103.82		\$	
Design Technician	III (N)			0		\$ 89.85		\$	
Designer	III (N)			0		\$ 84.58		\$	
CADD Operator	III (N)			0		\$ 75.46		\$	
Senior Construction Supervisor	IV (N)	12	6	18		\$ 216.17		\$ 3,891.11	
Construction Supervisor	IV (N)			0		\$ 157.22		\$	
Project Manager	IV (N)			0		\$ 141.49		\$	
CPM Scheduler	IV (N)			0		\$ 157.22		\$	
Resident Engineer	IV (N)			0		\$ 143.92		\$	
Office Engineer	IV (N)			0		\$ 145.90		\$	
Chief Inspector	IV (N)			0		\$ 126.16		\$	
Senior Inspector	III (N)			0		\$ 127.71		\$	
Inspector	II (N)			0		\$ 103.96		\$	
Junior Inspector	I (N)			0		\$ 66.03		\$	
Student Technician II	N/A			0		\$ 59.75		\$	
Student Technician I	N/A			0		\$ 51.98		\$	
Senior Technical Admin	N/A			20		\$ 96.68		\$ 1,933.62	
TOTALS				38	0			\$5,824.73	\$0.00

NOTES:
 * Assume four events that require major effort
 ** Overtime Hours
 (1) Total Hours (straight time)
 (2) Total Hours (overtime)
 (3) Projected Specific Hourly Rate (straight time rate)
 (4) Projected Specific Hourly Rate (overtime rate)
 (5) Specific Hourly Rates (straight time)
 (6) Specific Hourly Rates (overtime)

TOTAL SALARIES - OVERTIME (2022)	\$0.00
TOTAL SALARIES - STRAIGHT TIME (2022)	\$5,824.73
TOTAL SALARIES - OVERTIME	\$0.00
TOTAL SALARIES - STRAIGHT TIME	\$5,824.73

LABOR DETAIL
SECTION 9 - CONSTRUCTION INSPECTION



C&S Engineers, Inc.
ONEIDA STREET OVER SAUCOIT CREEK
ONEIDA COUNTY DEPARTMENT OF PUBLIC WORKS
PIN 2754.45

JOB TITLES	ASCE (A) OR NICET (N) GRADE	2022												(5)	(6)	
		31 JAN	28 FEB	31 MAR	30 APR	31 MAY	30 JUN	31 JUL	30 AUG	31 SEP	30 OCT	31 NOV	31 DEC			
<i>Assume 6 months of staged construction with time for startup and shutdown.</i>																
Service Group Manager	VIII (A)													0	\$ 225.23	
Department Manager	VII (A)													0	\$ 172.74	
Managing Engineer	VI (A)													0	\$ 151.08	
CADD Operator	III (N)													0	\$ 65.28	
Senior Construction Supervisor	IV (N)		8	32	24	24	24	24	24	24	16			176	\$ 187.02	\$ 32,916.21
Construction Supervisor	IV (N)													0	\$ 136.03	
Project Manager	IV (N)													0	\$ 122.41	
CPM Scheduler	IV (N)													0	\$ 136.03	
CPM Scheduler **	IV (N)													0	\$ 136.03	
Resident Engineer	IV (N)		12	176	176	176	176	176	176	176	60			1,128	\$ 124.51	\$ 140,445.81
Resident Engineer **	IV (N)		22	22	22	22	22	22	22	22	22			132	\$ 126.23	\$ 16,435.15
Office Engineer	IV (N)													0	\$ 124.51	
Office Engineer **	IV (N)													0	\$ 109.16	
Chief Inspector	III (N)													0	\$ 110.49	
Chief Inspector **	III (N)													0	\$ 89.94	
Senior Inspector	II (N)													0	\$ 109.41	
Senior Inspector **	II (N)													0	\$ 69.50	
Inspector	I (N)													0	\$ 51.69	
Inspector **	I (N)													0	\$ 44.98	
Junior Inspector	N/A													0	\$ 83.64	
Junior Inspector **	N/A													0	\$ 54.71	
Student Technician II	N/A													0	\$ 101.74	
Student Technician II **	N/A													0		
Student Technician I	N/A													0		
Student Technician I **	N/A													0		
Senior Technical Admin	N/A		8	32	16	16	16	16	16	16	32			152	\$ 12,713.05	
Senior Technical Admin **	N/A													0		
TOTALS														1,456	\$ 186,075.07	\$ 16,435.15

NOTES:
 ** Overtime Hours
 (1) Total Hours (straight time)
 (2) Total Hours (overtime)
 (3) Projected Specific Hourly Rate (straight time rate)
 (4) Projected Specific Hourly Rate (overtime rate)
 (5) Specific Hourly Rates (straight time)
 (6) Specific Hourly Rates (overtime)

TOTAL SALARIES - OVERTIME (2022) \$16,435.15
 TOTAL SALARIES - STRAIGHT TIME (2022) \$186,075.07
 TOTAL SALARIES - OVERTIME \$16,435.15
 TOTAL SALARIES - STRAIGHT TIME \$186,075.07

Contract No. #####
 Project No. PIN #####
 Change Order No. 1
 Effective Date Month, Day, Year

CHANGE ORDER

This Change Order modifies the Agreement entered into the X day of Month, Year, between Oneida County ("COUNTY") and C&S Engineers, Inc. ("CONSULTANT") as follows:

- 1. **Change in Services:**
 - 1.1. CONSULTANT shall provide additional construction inspection services as defined in Exhibit A, attached hereto and incorporated herein.
- 2. **Change in time of Performance** (attach schedule if appropriate):
 - 2.1. No Change.
- 3. **Change in CONSULTANT's Compensation:**
 - 3.1. CONSULTANT shall be compensated an additional fee in the amount of \$XXXX.00 as defined in Exhibit A, attached hereto and incorporated herein.

All other terms and conditions, not inconsistent hereto, remain unchanged.

COUNTY

CONSULTANT

Signature

Anthony J. Picente, Jr.
Oneida County Executive

Date:

Signature

James F Morrissey, P.E.
Transportation Group Manager

Date:

Approved

Signature

Robert E. Pronteau
Assistant County Attorney



ONEIDA COUNTY
 DEPARTMENT OF PUBLIC WORKS
 George E. Carle Complex
 5999 Judd Road, Oriskany, NY 13424
 Phone: (315) 793-6200 Fax: (315) 768-6299

ANTHONY J. PICENTE JR.
 County Executive

MARK E. LARAMIE, P.E.
 Commissioner

June 21, 2021

FN 20 21-201

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

PUBLIC WORKS

WAYS & MEANS

Dear County Executive Picente,

Oneida County has completed the solicitation process for available office space located on the first floor of Union Station. A Request for Proposal (RFP), #2021-297 was advertised publicly and one proposal was received. Upon review of this proposal, Oneida County wishes to award the lease to Leo and Grant Gilman for operation of a Barber Shop.

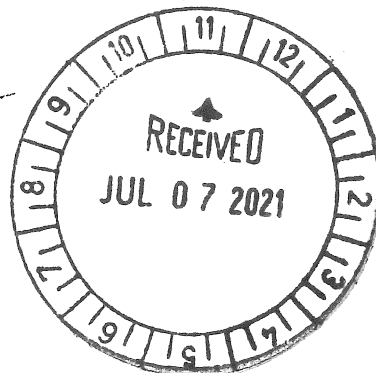
Enclosed is a new Lease Agreement for the above mentioned office space. Lease terms include an annual rate increase of 1.82% for a five-year term beginning June 1, 2021. Mr. Gilman will be a co-lessee with his son, Grant Gilman for this lease agreement.

Please consider the enclosed lease agreement for the aforementioned space in Union Station. If it meets with your satisfaction, please forward to the Board of Legislators for consideration and approval at their next meeting.

Thank you for your continued support.

Sincerely,

Mark E. Laramie, P.E.
 Commissioner



cc: File

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

Anthony J. Picente, Jr.
 County Executive

Date 7-6-21

Oneida Co. Department: Public Works

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

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: Leo E. Gilman, 2836 Mohawk St., Sauquoit, NY 13456
And Grant D. Gilman, 2723 Church St., Sauquoit, NY 13456

Title of Activity or Service: Lease Agreement

Proposed Dates of Operation: June 1, 2021 to May 31, 2026

Client Population/Number to be Served: Barber Shop Customers

Mandated or non-mandated: Non-mandated, revenue-generation

Summary Statements

- 1) **Narrative Description of Proposed Services:** This lease will be for a period of five (5) years for the purposes of operating a Barber Shop in Union Station. The current lease expired at the end of 2020 and this new lease will add his son to the agreement. Lease terms include a rent increase of 1.82% each year for the term.
- 2) **Program/Service Objectives and Outcomes:** N/A
- 3) **Program Design and Staffing:** N/A

Total Funding Requested: \$17,834.00

Rev. Account #A1740

Oneida County Dept. Funding Recommendation: \$17,834.00

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

Cost Per Client Served: N/A

Past Performance Data: Leo Gilman has leased the Barber Shop space for the past five (5) years.

O.C. Department Staff Comments: None

LEASE AGREEMENT

This Lease Agreement (the "Lease Agreement") is made the 1st day of June, 2021 between the **County of Oneida**, (hereinafter called "Lessor"), , a municipal corporation organized and existing under the laws of the State of New York, with its primary offices located at 800 Park Avenue, Utica, NY 13501, and **Leo E. Gilman**, 2836 Mohawk Street, Sauquoit, NY 13456, and **Grant D. Gilman**, 2723 Church Street, Sauquoit, NY 13456 hereinafter collectively called the **Lessees**, (each a "Party," and collectively, the "Parties") in consideration of the covenants and agreements hereinafter mentioned on the part of Lessees to be kept and performed at the following described premises:

Approximately three hundred and seventy (370) square feet of space on the first floor, in the premises owned by the Lessor and located at 321 Main Street, Utica, NY 13501 (hereinafter the "Demised Premises"), as shown as "Area Leased to Creaco's Barber Shop" on **Exhibit A**, attached hereto and made a part hereof.

1. TERM/RENT AND ADJUSTMENTS

- a. Lessees shall hold the Demised Premises for a term of **Five (5)** years commencing on **June 1, 2021** and ending **May 31, 2026** unless sooner terminated as hereinafter provided.
- b. Lessees shall pay rent to the Lessor during the initial term as follows.

Period	Annual Rent	Quarterly Payment
June 1, 2021 - May 31, 2022	\$3,566.80	\$891.70
June 1, 2022 - May 31, 2023	\$3,631.72	\$907.93
June 1, 2023 - May 31, 2024	\$3,697.82	\$924.46
June 1, 2024 - May 31, 2025	\$3,765.12	\$941.28
June 1, 2025 - May 31, 2026	\$3,833.65	\$958.41

- c. Such rents shall be payable to the Lessor in quarterly payments the first of which is due **June 1, 2021** with the remaining quarterly payments due on the first day of each subsequent quarter, **October 1, January 1, and April 1**, thereafter.
 - d. In the event that Lessees gain the status of holdover tenant pursuant to New York State Real Property Law, it shall be on a month-to-month basis and upon the terms and conditions contained herein, except that either the Lessor or Lessees may terminate the tenancy upon written notice of thirty (30) days to the other Party.
- ### 2. ASSIGNMENT

- a. The Lessees shall not assign this Lease Agreement, or sublet the Demised Premises or any part thereof, or make any alterations therein, or any additions thereto without the express written consent of the Lessor. All additions, permanent fixtures or improvements including lighting, moldings, and signage which may be made by the Lessees, except movable office furniture or other easily removable fixtures, shall become the property of the Lessor and remain upon the Demised Premises as a part thereof and be surrendered with the Demised Premises at the

termination of this Lease Agreement.

3. OPERATIONS

- a. The Lessees shall peaceably and quietly have, hold and enjoy the Demised Premises for use as a barber shop and its facility for furthering its purposes as set forth in law.
- b. No other unrelated activities shall be permitted without the prior written consent of the Lessor.
- c. The Lessees shall be responsible for securing and maintaining all required operating permits, licenses and certificates. Copies of all permits, licenses and certificates and copies of any renewals thereto shall be provided to the Lessor within thirty (30) days of the Lessor's written request.

4. HOURS OF OPERATION

- a. Allowable hours of operation shall be: **Monday through Sunday, 6:00 am to 11:00 pm, Eastern Time.**

5. MAINTENANCE

- a. The Lessees shall be responsible for providing all janitorial cleaning services and maintaining the Demised Premises during the term of this Lease Agreement in a neat and sanitary condition. The Lessees agree to dispose of all solid waste and recyclable waste from the Demised Premises.

6. SECURITY

- a. The Lessees shall be responsible for securing said premises. The Lessor may provide additional security measures at their discretion. The Lessor shall not be responsible for any losses resulting from theft or vandalism on said premises.

7. COMMON AREAS

- a. The Lessees shall have the right to use, in common with the Lessor and others legally entitled thereto, public restroom, the lobby, hallways, elevators, stairways and surrounding grounds located at 321 Main Street, Utica, NY 13501.
- b. The Lessor makes no representations as to condition, fitness or utility of said common areas, except that such areas shall be neat, sanitary and regularly cleaned. The Lessees' liability arising out of use of said areas shall be as if same were included within the Demised Premises.

8. JOINT USE

- a. The Lessor hereby reserves unto itself, its employees, tenants, invitees and licensees, at any time and at all times, the right to use jointly the common areas,

which right shall be superior to, and supersede, the Lessees' use thereof in the event of any conflicting uses.

9. LESSOR'S FACILITIES

- a. The Lessor hereby reserves unto itself and its licensees the right and easement to construct, use, operate, maintain, repair and review any pipe, conduit or tunnel and any electric communication or signal transmission lines, together with poles and guys therefore, and any other facilities of like character, as may now exist or may hereafter be placed upon, within, under or over the Demised Premises, it being agreed that this Lease Agreement is subject and subordinate to any and all such rights, easements and uses. The Lessees shall occupy and use the Demised Premises in a careful, safe and orderly manner so as not to interfere in any way with the maintenance activities or the operations of the Lessor regarding any structures or facilities appurtenant.

10. UTILITIES/SERVICES

- a. The Lessor agrees to furnish the Lessees with heat, electricity, water, and sewer service. The Lessor also will provide janitorial services and maintenance of public areas, public bathrooms, hallways and entrances. The Lessor further agrees to provide snowplowing and sidewalk clearing, sanding and salting of sidewalks and solid waste removal from dumpster containers.
- b. The Lessees shall not utilize electricity supplied to the Demised Premises for electrical space heaters or air conditioning units or any additional electrical connections without the prior written consent of the Lessor.
- c. The Lessor shall not be responsible for any loss of income or suspension of the Lessees' service due to a delay or loss of heat, electricity, water or sewer service to the Demised Premises.

11. TELEPHONE AND DATA SERVICE

- a. The Lessees shall have the right to have telephone and data service installed at the Lessees' own expense. The Lessees, upon termination of this Lease Agreement, shall have the right to remove from the Demised Premises any telephones or equipment which are the Lessees' property. Establishment of telephone and data service must first be approved by the Lessor to assure proper installation and location thereof, and such approval shall not be unreasonably delayed, withheld or conditioned.

12. MACHINERY AND EQUIPMENT

- a. The Lessees are hereby authorized to install all machinery and equipment for their operation on/at such Demised Premises; such machinery and equipment installed by the Lessees shall at all times remain the property of the Lessees, notwithstanding the terms of Section 2, ASSIGNMENT, and at no time will such items be considered a fixture or appurtenance of the Lessor's property. At the

termination of this Lease Agreement or any renewal period thereof, the Lessees agree to remove all items installed, and the Lessor agrees that the Lessees are so entitled. The Lessees shall be responsible for any and all damages caused by the removal of any items so removed. If such removal is not completed by the Lessees within a reasonable period of time, then the Lessor shall have the authority to so remove, charging the expense of such removal, including costs of repairs for any damages appurtenant thereto, as well as reasonable storage fee, to the Lessees. The Lessor shall have the option of pursuing its appropriate legal remedies to collect such expenses, or, following one hundred and twenty (120) days after such removal by the Lessor, the Lessor may sell any of such items in storage in order to pay for such expenses, forwarding the surplus, if any, to the Lessees, providing the Lessor must give the Lessees at least thirty (30) days written notice thereof and an opportunity to remove said items within that thirty-day period. In the event that any items attached to the realty are allowed to be removed, the Lessees shall repair any damage caused by such removal.

13. ACCEPTANCE OF PREMISES/DUTY TO REPAIR

- a. The Lessees hereby accept the Demised Premises in the condition they are in at the beginning of this Lease Agreement, and agree to maintain the said premises in the same condition, order and repair as they are at the commencement of said term excepting only reasonable wear and tear arising from the use thereof under this agreement, and excepting such change in condition, order and repair as may be incident to the rehabilitation of the property, and to make reparations to the Lessor immediately upon demand, any damage to water apparatus, or electrical lights or any fixtures, appliances or appurtenances of said premises, or damages to the structure of the building caused by any act of neglect of the Lessees, or of any person or persons in the employ of the Lessees or persons acting on the authority or at the direction of the Lessees.

14. RENOVATIONS

- a. It is agreed between the parties that if the Demised Premises leased under this Lease Agreement are renovated to suit the Lessees' needs, the cost of such renovations will be borne fully by the Lessees. Such renovations may only be made by the Lessees with the Lessor's prior written consent, such approval shall not be unreasonably delayed, withheld or conditioned, and the Parties hereby acknowledge that this approval may be subject to further approval by the New York State Office of Parks, Recreation and Historic Preservation. If, during such renovations, existing hazardous materials (i.e. asbestos or lead) are discovered, then abatement of such condition shall be made at the Lessees' expense in accordance with any applicable statutes, laws, ordinances, and permits.

15. SIGN AND SUPPORT INFORMATION

- a. The Lessees shall secure written approval from the Lessor prior to posting or installing permanent signage, notices, or any item on or in the facility.

16. ACCESS TO PREMISES BY LESSOR

- a. The Lessees agree that the Lessor, its agents and/or employees, shall have the right to enter into and upon the Demised Premises or any part thereof, at all reasonable hours for the purpose of examining the same or making emergency repairs or alteration as may be necessary for the safety and preservation thereof. Further, the Lessees agree that the Lessor, its agents and/or employees shall have the right to enter into or upon the Demised Premises or any part thereof as necessary in order to effectuate any rehabilitation of the premises, to the extent that such right does not interfere with the Lessees' use and enjoyment of the premises.

17. DAMAGES TO LESSEES' PROPERTY

- a. All personal property placed or moved into the Demised Premises shall be at the risk of the Lessees or owner thereof, and the Lessor shall not be liable for any damage to said personal property, or to the Lessees' employees arising from any cause or from any act of negligence, wrongdoing, malfeasance, or any act or failure to act of any co-tenant or occupants of the building or of any other person whosoever, as well as from any act of theft, vandalism, malicious mischief or similar occurrence.

18. DAMAGE TO LESSOR'S PROPERTY

- a. The Lessees shall be responsible for all damages to the Demised Premises subject to this Lease Agreement caused by the negligence, wrongdoing, malfeasance or any act or failure to act on the part of the Lessees or any of their agents, employees, servants or invitees in the normal operation of the Demised Premises subject to this Lease Agreement; and shall further be responsible for all damage caused to the said Demised Premises through the negligence, wrongdoing, malfeasance or any act or failure to act on the part of the Lessees or any of their agents, employees, servants or invitees; and shall be further responsible for all damages caused to the Demised Premises by the malfunctioning of any equipment or other property used by or in the possession of the Lessee, and due to the Lessee's negligence and not the property of or in the care and custody of the Lessor. The Lessees shall report to the Lessor any damages to said Demised Premises no later than ten (10) working days following the day upon which such damage was discovered.

19. RIGHT TO REPAIR

- a. The Lessees reserve the right and agree to repair said Demised Premises within a reasonable period of time through the use of their employees or to hire any party to repair any defects or damage to said Demised Premises. Repairs to said Demised Premises shall not be made without the prior approval of the Lessor unless (i.) the total cost for each repair is less than Five Hundred Dollars (\$500.00), and (ii.) it is impractical to immediately secure such approval, and (iii.) additional damages would result to the Demised Premises if not immediately repaired.

20. DESTRUCTION OF PREMISES

- a. In the event the Demised Premises shall be destroyed or so damaged or injured by

fire or other casualty during the term of this Lease Agreement, whereby said Demised Premises shall be rendered non-tenantable, then the Lessor shall have the right to render said Demised Premises tenantable by repairs to be completed within ninety (90) days therefrom.

- b. If said Demised Premises are not rendered tenantable within said time, it shall be optional with either Party hereto to cancel this Lease Agreement. The cancellation herein mentioned shall be submitted in writing by either Party hereto to the other at least fifteen (15) days from the actual cancellation date. If the Demised Premises is rendered non-tenantable by fire or other disaster or casualty during the term of this Lease Agreement or any subsequent renewal thereof, then the Lessees' obligation to pay rent hereunder shall be suspended as of the date that the Demised Premises became non-tenantable. The determination of what is tenantable or non-tenantable shall be made by the fire or building code inspector of the State of New York.

21. INSURANCE

- a. The Lessees agree that they will, at their own expense, at all times during the term of this Lease Agreement and any extension or renewal thereof, 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 within or about the Demised Premises. The liability and property damage coverage of such insurance shall not be less than one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) general aggregate. The Lessees agree to have the Lessor (for the purposes of this paragraph, named as "Oneida County") added to said insurance policies as a named additional insured, as its interest may appear, and to provide the Lessor with a certificate from said insurance company, or companies, showing coverage as herein before required, such certificate to show Lessor as an additional insured and to provide that such coverage shall not be terminated without written prior notice to the Lessor of at least thirty (30) days.
- b. In the event that the activities and operations of the Lessees shall change in such a substantial fashion as to pose an additional risk of liability, then the Lessor shall have the right to request from the Lessees an increase in the type and amount of liability coverage on their insurance policy.

22. LIABILITY OF LESSOR/INDEMNIFICATION OF LESSOR

- a. The Lessees agree that they shall defend, indemnify and hold harmless the Lessor from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the operations of the Lessees and their agents, employees, servants or invitees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default, negligence or malfeasance by the Lessees and/or their agents, employees, servants or invitees, or failure on the part of the Lessees and their agents, employees, servants or invitees to comply with any of the covenants, terms or conditions of this Lease Agreement.

23. DEFAULT OF LESSEES

- a. In the event that the Lessees default in the performance of any of the material covenants herein, after reasonable notice from the Lessor and opportunity to cure such default, it is mutually understood and agreed that the Lessor may terminate this Lease Agreement and re-enter said Demised Premises without resort to judicial process, or resort to any other legal remedy available to the Lessor.

24. NOTICES

- a. All notices to be served upon the Lessees by the Lessor or upon the Lessor by the Lessees shall be in writing, and delivered by registered or certified mail.
- b. Notices to the Lessor shall be addressed to **Commissioner, Oneida County Department of Public Works, 6000 Airport Road, Oriskany, New York 13424.**
- c. Notices to the Lessees shall be addressed to: **Leo Gilman, 2836 Mohawk Street, Sauquoit, NY 13456** and separately to **Grant Gilman, 2723 Church Street, Sauquoit, NY 13456.**

25. WAIVER LIMITED

- a. No waiver of any breach or breaches of any provision or condition of this Lease Agreement shall be construed to be a waiver of any preceding or succeeding provision or condition of this Lease Agreement or breach of same.

26. AMENDMENTS AND MODIFICATIONS

- a. This Lease Agreement may be modified or amended only in writing, duly authorized and executed by the Lessor and the Lessees. It may not be modified or amended by oral agreements or understandings between the parties.

27. SEVERABILITY

- a. If any part of this Lease Agreement is invalid or illegal, then only that part shall be void and have no effect. All other parts of this Lease Agreement shall remain in full force and effect.

28. CAPTIONS

- a. The captions of the various paragraphs of this lease are for convenience and reference purposes only. They are of no other effect.

29. ADVICE OF COUNSEL

- a. Each Party acknowledges that, in executing this Lease 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 Lease Agreement.

30. ENTIRE AGREEMENT

- a. The terms of this Lease 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 Lease 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 Lease Agreement shall be binding unless in writing and signed by the duly authorized representative of the Parties sought to be bound.

IN WITNESS WHEREOF, the parties hereto have hereunto executed this instrument for the purposes herein expressed, the day and year above first written.

LESSOR (County of Oneida):

LESSEES:

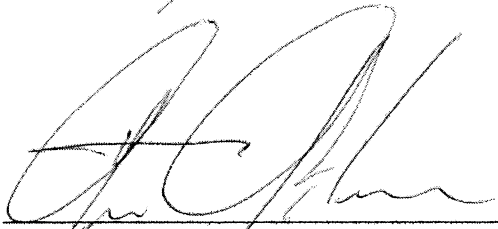
Anthony J. Picente, Jr.
Oneida County Executive



Leo E. Gilman

Approved

Robert E. Pronteau
Assistant County Attorney



Grant D. Gilman

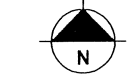
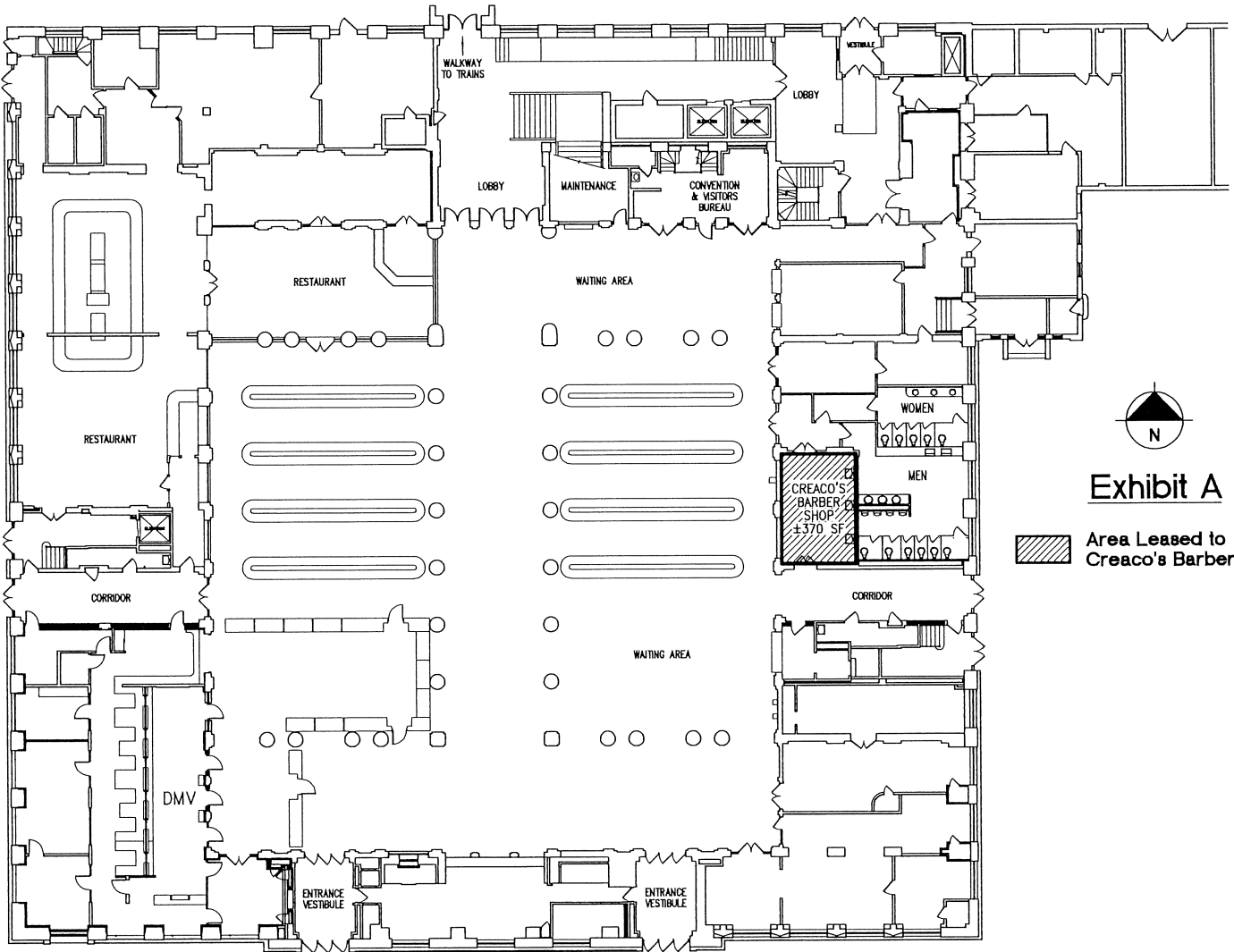



Exhibit A

 Area Leased to Creaco's Barber Shop

UNION STATION • UTICA, NEW YORK • FIRST FLOOR PLAN

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

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

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative

agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:

- i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
- i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a

criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and

D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;

ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.

c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. The Contractor will or will continue to provide a drug-free workplace by:

A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

B. Establishing an ongoing drug-free awareness program to inform employees about:

1) The dangers of drug abuse in the workplace;

- 2) The Contractor's policy of maintaining a drug-free workplace;
- 3) Any available drug counseling, rehabilitation, and employee assistance program; and
- 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;

C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;

D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:

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

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

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

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

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

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

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

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

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

- i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the

Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

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

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

When applicable to the services provided pursuant to the Contract:

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

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County

available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and

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

5. NON-ASSIGNMENT CLAUSE.

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

6. WORKER'S COMPENSATION BENEFITS.

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

7. NON-DISCRIMINATION REQUIREMENTS.

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

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as

determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its knowledge and belief:

(1) the prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; and (2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) no attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records

shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

12. CONFLICTING TERMS.

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

13. GOVERNING LAW.

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

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

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application;

request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

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

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

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services

(hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

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

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

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

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

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

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.
- b. For the purposes of this provision, "e-cigarette" shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that

delivers vapor which is inhaled by an individual user as he or she simulates smoking.

- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida;
and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.

- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.



ONEIDA COUNTY
 DEPARTMENT OF PUBLIC WORKS
 George E. Carle Complex
 5999 Judd Road, Oriskany, NY 13424
 Phone: (315) 793-6213 Fax: (315) 768-6299

ANTHONY J. PICENTE JR.
 County Executive

MARK E. LARAMIE, P.E.
 Commissioner

June 30, 2021

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

FN 20 21 - 202

PUBLIC WORKS

RE: Master Template Agreement for Inter-municipal Shared Services **WAYS & MEANS**

Dear County Executive Picente:

The County has been sharing services and equipment with its sister municipalities through a cooperative agreement for many years now. The current Shared Services Agreement expired recently and the attached master template will allow renewal of what has been a very successful program helping to reduce costs for all participants. Once the master template is approved, Oneida County will forward this agreement to all municipalities, to be used for sharing services with the County.

Each of the municipalities whose governing boards accept and sign this agreement will be bound by the terms and conditions thereof.

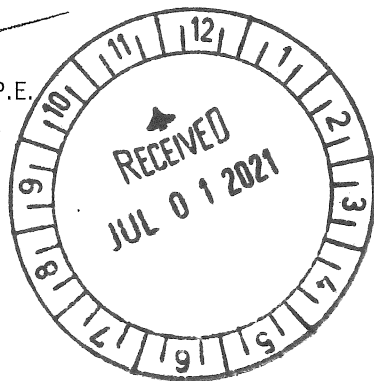
If you concur with this agreement, please forward to the Public Works and Ways & Means Committees for approval, to be followed by presentation to the full Board of Legislators at their earliest convenience.

Thank you in advance for your consideration.

Sincerely,

Mark E. Laramie, P.E.
 Commissioner

Enclosure(s)



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

Anthony J. Picente, Jr.
 County Executive

Date 7-1-21

INTER-MUNICIPAL SHARED SERVICES AND EQUIPMENT AGREEMENT

THIS AGREEMENT (the "Agreement") entered into the ____ day of _____ 2021, by and between the County of Oneida, a municipal corporation organized and existing pursuant to the laws of the State of New York, and having its principal offices located at 800 Park Avenue, Utica New York (hereinafter the "County") and the Town of _____, a municipal corporation organized and existing pursuant to the laws of the State of New York, with its principal offices located at _____ (hereinafter the "Town"), each a "Party," and collectively, the "Parties."

WITNESSETH

WHEREAS, the Town wishes to join with the County and other municipalities in sharing certain highway machinery, tools and equipment and services related to same; and

WHEREAS, the sharing of such equipment and services will promote and assist with the maintenance of county, city, town and village roads and highways and transportation infrastructure, and provide a cost savings for both the County's and the Town's respective taxpayers; and

WHEREAS, General Municipal Law, Article 5-G, provides broad authority for municipal corporations and districts to enter into cooperative efforts with each other. Under Article 5-G, municipal corporations and districts are authorized to, among other things, enter into intermunicipal cooperation agreements in which one municipal corporation or district provides a service to another (a "Sharing Agreement"), or in which two or more municipal corporations or districts perform a joint service (a "Joint Service Agreement"); and

WHEREAS, the governing board of the Town has adopted a resolution authorizing the Town to enter into this Agreement; and

WHEREAS, the Oneida County Board of Legislators has adopted a resolution approving this Agreement;

NOW THEREFORE, in consideration of the mutual promises made by each of the Parties herein, the County and the Town agree as follows:

1. DEFINITIONS

For the purposes of this Agreement, the following terms shall be defined as follows:

- a. "Municipality" (including the plural) shall mean the County, as well as any town, village or city, which has agreed to be bound by the terms of this

Agreement for shared services or equipment and has filed a fully executed copy of said Agreement with its respective clerk.

- b. "Shared Services" shall mean any service provided by one municipality to another municipality that is consistent with the purposes and intent of this Agreement and shall include, but not be limited to, the following:
 - i. the renting, exchanging or lending of highway machinery, tools and equipment, with or without operators;
 - ii. the borrowing or lending of supplies between municipalities on a temporary basis, conditioned upon the replacement of such supplies or conditioned upon the obtaining of equal value from the borrower through the provision of a service by the borrower or by the borrower's lending of its own equipment, the value of such being equal to the value of the borrowed supplies;
 - iii. the providing of a specific service for another municipality, conditioned on such other municipality providing a similar service or a service of equal use and value, in exchange;
 - iv. the maintenance of machinery and equipment by a municipality for other municipalities.
 - c. "Superintendent" shall mean, in the case of the County, the Deputy Commissioner of Public Works, Division of Highways and Bridges or his/her designee; in the case of a town, the Town's Superintendent of Highways; in the case of a village or city, the Superintendent or Commissioner of Public Works.
2. Either Party, by signing this Agreement, grants the authority to its Superintendent to enter into any shared services or equipment arrangements with the other subject to the following terms and conditions:
- a. The Parties mutually agree to rent, exchange or borrow any and all materials, machinery or equipment, with or without operators, which either may have need for the purposes of sharing services under the terms of this Agreement. The determination as to whether such machinery can be provided or is needed, with or without operators, shall be made by each Party's respective Superintendent. The value of materials or supplies borrowed by one Party from another under this Agreement may be returned in the form of similar types and amounts of materials and supplies or by the supplying of equipment or the giving of services of equal value, to be determined by mutual agreement of the Parties' respective Superintendents.

- b. The undersigned Parties agree to rent, exchange or lend any and all materials, machinery and equipment, with or without operators, which either Party may need for its public purposes. The determination as to whether such machinery or material is available for renting, exchanging or lending shall be made by the Parties' respective Superintendents. In the event that a Party's Superintendent determines that it would be in the best interests of that Party to lend machinery or equipment to the other Party, then the lending Superintendent is hereby authorized to lend such machinery or equipment. The value of supplies or materials loaned to a Party may be returned to the lending Party in the form of similar types and amounts of materials or supplies, or by the use of equipment or rendering of services of equal value, such value to be determined by the Parties' respective Superintendents.
- c. Each borrowing Party agrees to repair and maintain the machinery and equipment of the lending Party under terms that shall be agreed upon by the respective Superintendents.
- d. An operator of equipment or machinery to be rented or loaned by one Party to the other shall be subject to the direction and control of the Superintendent of the borrowing Party in relation to the manner in which the work is to be completed. The manner in which the machinery or equipment is operated shall be determined by the properly trained, licensed and qualified operator of the lending Party's machinery or equipment.
- e. When receiving the services of a lending Party's operator of such machinery or equipment, the borrowing Superintendent shall make no request of the operator which would be inconsistent with any labor agreements of the operator's employer-Party. For the purposes of Workers' Compensation, liability and any other relationships with third parties, all machinery, equipment, as well as the operators themselves, shall be deemed to be the machinery, equipment and employees of the lending Party.
- f. The lending Party shall be liable for any negligent acts resulting from the operation of its machinery or equipment by a lending Party's operator. The borrowing Party shall indemnify, hold harmless and defend the lending Party from all damages and injuries arising out of the borrowing Party's operation of the machinery or equipment loaned herein.

8. Both Parties shall maintain records setting forth the details of all rentals, exchanges, borrowing, repairs and maintenance and other shared services. Such records shall be made available for inspection by any municipality sharing services with the County.
9. This Agreement shall be construed and enforced in accordance with the laws of the State of New York, exclusive of its choice of laws, rules and principles. Any litigation relating to or arising out of this Agreement shall be heard in a New York State Court of competent jurisdiction sitting in Oneida County, New York or in the United States District Court for the Northern District of New York.
10. Either Party may revoke this Agreement at any time by filing a notice of such revocation with the other Party. Upon revocation, any outstanding obligations of the Parties must be satisfied within thirty (30) days of the date of such revocation.
11. Any action taken by the Superintendents pursuant to the provisions of this Agreement shall be consistent with the public duties of such officials, and any expenditure incurred shall not exceed the amounts set forth in the Parties' respective budgets for highway purposes.
12. A record of the borrowing Party's participation in the shared services provided for under this Agreement shall be kept by the respective Superintendents and a statement thereof, prepared in a manner satisfactory to the governing board of each participating municipality, and shall be submitted to the lending and borrowing Superintendents upon request.
13. If any provision of this Agreement is deemed to be invalid or inoperative for any reason, that part may be modified, in writing, by the Parties to the extent necessary to make the provision valid and operative or, if it cannot be so modified, then severed, and the remainder of the Agreement shall continue in full force and effect.
14. 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.

15. 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.
16. Copies of this Agreement shall be sent to each Parties' Superintendents. No shared service shall be conducted by and between the Parties unless the respective Superintendents of each Party have signed this Shared Services and Equipment Agreement, and sent a copy of same to his or her respective municipal clerk and governing board.
17. Each of the undersigned Parties, with the consent of their respective governing boards, agrees to conduct their shared services and equipment activities in compliance with the terms and conditions set forth in this Shared Services and Equipment Agreement.
18. 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.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, each of the undersigned municipalities within the County of Oneida has, by authority granted by its governing board, caused the signature of its Chief Executive Officer and Superintendent to appear hereon and the seal of such municipality to be affixed hereto.

Town of _____:

County of Oneida County:

Chief Executive Officer

Chief Executive Officer

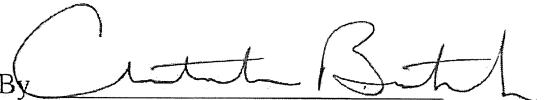
By _____
Name:
Title:

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

Superintendent

Superintendent

By _____
Name:
Title:

By 
Christopher Burtch
Deputy Commissioner of Public Works –
Highways and Bridges

Approved

Robert E. Pronteau, Esq.,
Assistant County Attorney



ONEIDA COUNTY
DEPARTMENT OF PUBLIC WORKS
 George E. Carle Complex
 5999 Judd Road, Oriskany, NY 13424
 Phone: (315) 793-6235 Fax: (315) 768-6299

ANTHONY J. PICENTE JR.
 County Executive

MARK E. LARAMIE, P.E.
 Commissioner

FN 20 21 - 203

June 21, 2021

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

PUBLIC WORKS

WAYS & MEANS

Dear County Executive Picente,

New York State has awarded Oneida County a Multi-Modal Capital Project grant in the amount of \$250,000.00 for improvements to Union Station. Proposed improvements include shore power extension for Adirondack Scenic Railroad locomotives and coaches, structural concrete repairs, lighting upgrades, and window repairs.

An extension of the project end date is required due to unanticipated complications and delays caused by the COVID-19 pandemic. When the enclosed Supplemental Agreement No. 2 is fully executed, the project end date will be extended to December 31, 2022. All other terms and conditions remain the same.

If acceptable, please forward the enclosed agreement to the Oneida County Board of Legislators for consideration.

Thank you for your continued support.

Sincerely,

Mark E. Laramie, P.E.
 Commissioner



cc: File

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

 Anthony J. Picente, Jr.
 County Executive
 Date 6-28-21

Oneida County Department: Public Works

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

ONEIDA COUNTY BOARD OF LEGISLATORS

Name & Address of Vendor: New York State Department of Transportation
Freight & Passenger Rail Bureau
50 Wolf Road
Albany, NY 12232

Title of Activity of Service: Multi-Modal Program Capital Project Agreement

Proposed Dates of Operation: Start on Execution – 12/31/2022

Client Population/Number to be Served: N/A

Summary Statements

1) Narrative Description of Proposed Services:

New York State has awarded Oneida County a Multi-Modal Capital Project grant for improvements to Union Station. Proposed improvements include shore power extension for Adirondack Scenic Railroad locomotives and coaches, structural concrete repairs, lighting upgrades, and window repairs.

An extension of the project end date is required due to unanticipated complications and delays caused by the COVID-19 pandemic. When the enclosed Supplemental Agreement No. 2 is approved, the project end date will be extended to December 31, 2022. All other terms and conditions remain the same.

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

3) Program Design and Staffing: N/A

4)Funding

Account #:	H-473
Total Funding Requested:	\$250,000.00
Oneida County Dept. Funding Recommendation:	\$250,000.00

Proposed Funding Sources	Federal:	\$0.00
	State:	\$250,000.00
	County:	\$0.00
	Other:	\$0.00

Past Performance Data: N/A

O.C. Department Staff Comments: None

Mandated / Not Mandated: Mandated

SUPPLEMENTAL AGREEMENT No. 2 to D027624

This Supplemental Agreement is by and between:

the New York State Department of Transportation ("**NYSDOT**"), having its principal office at
50 Wolf Road, Albany, NY 12232, on behalf of New York State ("State");

and

the Oneida County DPW

with its office at 5999 Judd Road, Oriskany, NY 13424.

This Supplemental Agreement amends the existing Agreement between the parties in the following respects only (*check applicable categories*):

- X Amends a previously adopted Schedule A by (check applicable categories):
 - Amending a project description
 - X Amending the contract end date
 - Amending the scheduled funding by:
 - Adding additional funding
 - Adding a pin extension
 - Removing/reducing funding for a project phase(s)
 - Other (_____)
- Amends the previously adopted Schedule "B" (Phases, Sub-phase/Tasks, and Allocation of Responsibility).
- Amends the previously adopted Agreement by replacing the "Appendix A" dated January 2014 with the "Appendix A" dated October 2019.
- Amends the text of the previously adopted Agreement as described below (*insert text below*):

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly

authorized officials.

MUNICIPALITY/SPONSOR:

By: _____

Print Name: _____

Title: _____

DATE: _____

STATE OF NEW YORK)

)ss.:

COUNTY OF)

On this _____ day of _____ in the year 20____, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, acknowledged to me that he is the _____ of the _____, executed such instrument in his capacity pursuant to authority duly vested in him by the _____ and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.

Notary Public

APPROVED FOR NYSDOT:

By: _____
For Commissioner of Transportation

Agency Certification: 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.

Date: _____

**APPROVED AS TO FORM:
STATE OF NEW YORK ATTORNEY GENERAL**

By: _____
Assistant Attorney General

Date: _____

COMPTROLLER'S APPROVAL:

By: _____
For the New York State Comptroller
Pursuant to State Finance Law §112

Date: _____

PIN:
Date:

**Multi-Modal Program
Project Information Sheet (PIS)**

PIN # 2MA319.30A

1.) Name of Municipality or Organization Initiating Project:

Oneida County Department of Public Works

2.) Project Title: Union Station Improvements

3.) Maximum MM #4 Reimbursement: \$250,000.00

4.) Project Owner Name: Oneida County

5.) Municipal or Organization Contact:

Name\Title: Mark Laramie, Commissioner

State Comptroller CFO Payee of Record:

Organization: Oneida County Department of Public Works

Organization Name

Address: 5999 Judd Road

Title

Street Address

City, State & Zip

City\State\Zip: Oriskany, NY 13424

E-mail Address (if any): mlaramie@ocgov.net

6.) Project Location: 321 Main Street, Utica, NY 13501

Route\Name (if applicable): _____

(Beginning at) From: _____

(Ending at) To: _____

7.) Project Description\Scope: Improvements including structural concrete repairs, exterior window replacement

passenger platform lighting upgrades, shore power extension for ASR, and passenger boarding improvements

8.) Project Schedule by Project Phase:

PROJECT PHASE	COST SUMMARY ESTIMATES				Beginning Date MM/YY	Ending Date MM/YY
	Federal Aid	State MM 4 Funds	Other State Funds	Local Funds		
Preliminary Engineering	0.00	0.00	0.00	0.00		
Right Of Way Acquisition	0.00	0.00	0.00	0.00		
Construction	0.00	250,000.00	0.00	0.00	1/1/2019	12/31/2022
Construction Supervision\Inspection	0.00	0.00	0.00	0.00		
Other	0.00	0.00	0.00	0.00		
TOTAL:	0.00	250,000.00	0.00	0.00		

9.) Eligible Project Type (Please check one): Aviation (Is this project consistent with an approved Airport Layout Plan? Yes No)

Highway Resurfacing

Bridge Rehabilitation

New Highway Const.

New Bridge Const.

Highway Reconstruction

Bridge Replacement

Interchange Const./Reconst.

Intersection Improvement

Port Storage Authority

Port Mat'l Equip

Berth Improvements

Rail Crossing Improvements

Rail Rehabilitation

Rail Bridge Rehabilitation

Rail Signalization

Rolling Stock

New Rail Const.

Rail Equipment

Fixed Ferry Facility

Other (Please explain): Rail Station Improvemnets

Signature of responsible Local Official: _____

Please print name and title: Mark E. Laramie, P.E.

NAME

Commissioner

TITLE

(315-793-6236

TELEPHONE



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

Karl E. Schrantz, P.E. Commissioner

June 15, 2021

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

FN 20 21-204

PUBLIC WORKS

WAYS & MEANS

Re: Oneida County Water Pollution Control Plant Upgrades Acquisition of Real Property from Genesee Valley Transportation Railroad

Dear County Executive Picente:

On October 6, 2016 Oneida County entered into an Agreement with the Mohawk Adirondack & Northern Railroad Company by which the County is leasing from the railroad 8.54 acres of land on Leland Avenue Extension at a cost of \$15,000/year in support of construction staging for the upgrades at the Water Pollution Control Plant. With the major construction beginning to approach completion, the Department of Water Quality and Water Pollution Control, through the Department of Law, has subsequently engaged in discussions with the railroad regarding acquisition of a portion of this property. Specifically, 2.12 acres immediately adjacent to the Water Pollution Control Plant (WPCP) has been identified for acquisition to be used for the remainder of construction staging and future use by the Department. A purchase offer of \$6,000 has been negotiated that will include the termination of the balance of the land lease and its annual rental payments.

The current construction program has maximized the use of available County-owned property. Acquisition of this 2.12 acre parcel will provide much needed additional space for the WPCP.

I respectfully request consideration by the Board of Legislators at its July 14 meeting for approval of this purchase offer and to enter into a sale with the railroad (n/k/a Genesee & Mohawk Valley Railroad Co., Inc.) in the amount of \$6,000 plus related closing costs. Please feel free to contact me if you have any questions.

Sincerely,

Karl E. Schrantz (handwritten signature)

Karl E. Schrantz, P.E. Commissioner

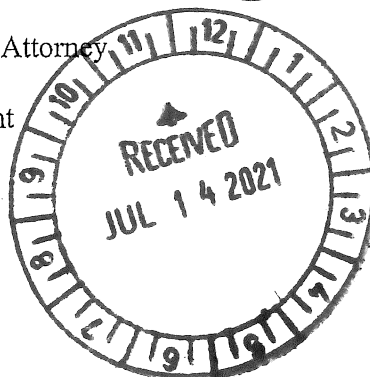
Reviewed and Approved for submittal to the Oneida County Board of Legislator by

Anthony J. Picente, Jr. County Executive (handwritten signature)

Date 7-14-21

cc: Peter Rayhill, Esq. - Oneida County Attorney

Attachments: Proposed Purchase Agreement Subject property map Contract Summary Sheet



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

**ONEIDA COUNTY BOARD OF LEGISLATORS
CONTRACT SUMMARY**

Name & Address of Vendor: Genesee & Mohawk Valley Railroad Co., Inc.
One Mill Street
Suite 101
Batavia, NY 14020

Title of Activity or Service: Real Property Acquisition
2.12 Acres – Leland Avenue Extension

Proposed Dates of Operation: 2021 - perpetuity

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

Summary Statements

1) Narrative Description of Proposed Services: The acquisition of real property (2.12 acres) immediately adjacent to the westerly boundary of the Water Pollution Control Plant.

2) Program/Service Objectives and Outcomes: Acquired property will be used for short-term construction staging while providing long-term space for future growth of the facility.

Total Funding Requested: \$6,000 **Account #:** G8110

Oneida County Dept. Funding Recommendation: \$6,000

Proposed Funding Sources (Federal \$/ State \$/County \$): Funding will come from borrowing money from the New York State Environmental Facilities Corporation.

Cost Per Client Served: \$0.05

Past Performance Data: n/a.

O.C. Department Staff Comments: This property acquisition will provide needed space for future growth while eliminating the lease costs.

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT is entered into this ___ day of June 2021 by and between:

GENESEE & MOHAWK VALLEY RAILROAD CO., INC. (G&MV), a corporation organized and existing under the laws of New York State and having a principal place of business at One Mill St., Suite 101, Batavia, New York 14020; and

County of Oneida, a New York State municipal corporation having its principal office at 800 Park Avenue, Utica, New York 13501 (BUYER).

WHEREAS G&MV, pursuant to the FIRST AMENDED AND RESTATED LEASE AGREEMENT with the Agency dated April 15, 2012 (the "Lease"), leases from Oneida County Industrial Development Agency (OCIDA) certain railroad property which includes the real property described and shown in Attachment 1 hereto (the "Premises"); and

WHEREAS G&MV has the right under the Lease to acquire the Premises from OCIDA; and

WHEREAS BUYER wishes to acquire the Premises for expansion of its sewage treatment facility:

NOW, THEREFORE, G&MV and BUYER agree as follows:

1. G&MV agrees to sell to BUYER, and BUYER agrees to buy from G&MV, the Premises.
2. Title to the Premises will be conveyed by quitclaim deed, in the form attached hereto as Exhibit A.
3. The purchase price (the "Purchase Price") for the Premises is the sum of SIX THOUSAND AND 00/100 DOLLARS (\$6,000.00), payable at the Closing by certified check to the order of GENESEE & MOHAWK VALLEY RAILROAD CO., INC. As additional consideration, BUYER shall pay to G&MV any and all costs incurred by G&MV for the transfer of title to G&MV from OCIDA, including but not limited to recording fees, filing fees, transfer taxes, abstract costs and costs and fees payable by G&MV under the Lease as a result of this transaction.
4. BUYER acknowledges and agrees that
 - (a) except as expressly set forth in this Contract or in any other document executed by G&MV and delivered to BUYER at Closing, neither G&MV nor any agent, member, officer, partner, employee, representative, broker or third party consultant of G&MV has made any representation whatsoever regarding the subject matter of this Contract; and

(b) except as expressly set forth in this Contract or in any other document executed by G&MV and delivered to BUYER at Closing, BUYER, in executing, delivering and performing this Contract, does not rely upon any oral or written statement or report made by any person, firm or corporation except as expressly set forth herein.

Without limiting the foregoing, G&MV shall deliver, and BUYER shall take, the Premises in its "as is" "where as" condition and with all faults on the Closing Date, including without limitation, any notes or notices or violations of law or municipal ordinances, orders or requirements imposed or issued by any governmental or quasi-governmental authority having or asserting jurisdiction, against or affecting the Premises and any conditions which may result in violations (collectively, "Violations"). The provisions of this Section shall survive the Closing or the earlier termination of this Contract.

5. Environmental.

5.1 Definitions.

The following defined terms used in this contract shall have the following meanings:

(a) "Hazardous Materials" shall mean any pollutant, contaminant, chemical or substance, the presence of which creates or could create a hazard to health or the environment or a violation of any Environmental Law, including but not limited to an Environmental Liability resulting from an Enforcement Action and requiring Remedial Action.

(b) "Enforcement Action" shall mean any step taken by a governmental entity to enforce compliance with any Environmental Law.

(c) "Environmental Liability" shall mean any and all liabilities, claims, demands, obligations, causes of action, accusations, allegations, orders, violations, damages, losses, costs, expenses, fees (including reasonable attorneys', accountants', engineers', and consultants' fees and disbursements), injuries, judgments, penalties, or fines, including interest at the standard market rate, arising out of, relating to, attributable to or resulting from, directly or indirectly, in whole or in part, the presence, generation, transport, disposal, treatment, storage or Release of Hazardous Materials, on, at, under or from the Premises (including but not limited to those requiring Remedial Action) in violation of any Environmental Law.

(d) "Environmental Law" shall mean all applicable laws whether now existing or hereinafter enacted, promulgated or issued, with respect to (i) any Hazardous

Materials (as defined herein); (ii) drinking water, groundwater, wetlands, landfills, open dumps, storage tanks, underground storage tanks, solid waste, waste water, storm water runoff, waste emissions or wells; and (iii) the protection of the environment (including land, air, water or any combination thereof and any other aspect of nature) and human health. Without limiting the generality of the foregoing, the term shall encompass each of the following statutes, and regulations now or hereafter promulgated thereunder, and any amendments thereto as may be enacted and promulgated from time to time: (a) the Comprehensive Environmental Response, Compensation and Liability Act (codified in 26 U.S.C., 33 U.S.C., 42 U.S.C. and 42 U.S.C. Section 9601 et seq.) ("CERCLA"); (b) the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.) ("RCRA"); (c) the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.); (d) the Toxic Substances Control Act (15 U.S.C. Section 2061 et seq.); (e) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (f) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (g) the Safe Drinking Water Act (21 U.S.C. Section 349, 42 U.S.C. Section 201 and Section 300f et seq.); (h) the National Environmental Policy Act (42 U.S.C. Section 4321 et seq.); (i) the Superfund Amendments and Reauthorization Act of 1986 (codified in scattered sections of 10 U.S.C., 29 U.S.C., 33 U.S.C. and 42 U.S.C.); (j) Title III of the Superfund Amendment and Reauthorization Act (40 U.S.C. Section 1101 et seq.); (k) the Uranium Mill Tailings Radiation Control Act (42 U.S.C. Section 7901 et seq.); (l) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); and (m) the New York State Navigation Law, Article 12.

(e) "Release" shall mean any and all releasing, spilling, leaking, migrating (from or to), pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, dumping, and any other means by which any Hazardous Material may be introduced into the environment in contravention of Environmental Law.

(f) "Remedial Action" shall mean any step taken by BUYER or G&MV to investigate, clean up, remove, or otherwise remediate Hazardous Materials at the Premises, pursuant to an enforceable requirement established under an applicable Environmental Law.

5.2 BUYER's Environmental Due Diligence.

(a) Prior to the Closing, BUYER will have performed such Phase I desktop assessment of the Premises as it deems necessary.

5.3 G&MV's Environmental Representations.

G&MV represents that as of the date of this Agreement it has not received any written notice of Enforcement Action with respect to the Premises. Other than the

foregoing sentence, G&MV makes no express or implied representation and/or warranty with respect to any environmental matters arising under any Environmental Laws.

5.4 BUYER Taking The Premises In "As-Is" Environmental Condition:

BUYER fully understands that the Premises have previously been used in connection with G&MV's rail operations. BUYER has consulted with legal counsel, and is buying the Premises in "AS IS" environmental condition, without reliance on any environmental representations or warranties either express or implied.

5.5 BUYER's Environmental Release, Defense and Indemnification of G&MV

(a) BUYER shall, on behalf of itself, its agents, representatives, insurers, successors in interest, heirs and assigns, fully and finally and forever release, defend, indemnify and hold harmless G&MV and its related entities and affiliates, successors, assigns, officers, directors, owners, partners, attorneys, representatives, agents and employees, past, present and future, and all other persons and entities for whose acts or omissions G&MVs could be held legally responsible, from and against any and all losses, damages, liabilities, demands, claims, suits, and causes of action of whatever nature and kind, including without limitation all claims for personal injury, property damage, trespass, nuisance, negligence, investigation, remediation, response, and/or corrective action costs, and/or economic loss, diminution in real property value, any claims for attorneys' or consultants' fees, all obligations related to the environmental condition (including but not limited to the presence of Hazardous Materials in contravention of Environmental Laws) of the Premises, and any other losses, damages, liabilities, demands, claims, suits, and causes of action of whatever nature and kind, arising from or related to any past, current or future environmental and/or physical condition at, under, or emanating or migrating to or from the Premises, whether known or unknown. The provisions of this paragraph shall survive the closing of the transaction contemplated by this contract in perpetuity.

6. Representations.

6.1 G&MV's Representations. G&MV represents with respect to the Premises being sold by it that as of the date of Closing:

(a) The execution, delivery and performance of this Contract in accordance with its terms, do not violate the bylaws of G&MV, or any contract, agreement, commitment, order, judgment or decree to which G&MV is a party or by which it is bound.

(b) This Contract is a valid and binding obligation of G&MV enforceable against G&MV in accordance with its terms.

(c) G&MV is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended.

(d) G&MV has not received any written notice of any pending condemnation proceeding against the Premises or any portion thereof.

(e) G&MV has not received any written notice that it may be in violation of any law, ordinance, rule, regulation or code or condition in any approval or permit pursuant thereto (including without limitation, any zoning, sign, environmental, labor, safety, health ordinance, rule, regulation or order) applicable to the ownership, development, operation or maintenance of the Premises.

6.2 BUYER's Representations. BUYER represents that:

(a) BUYER has the right, power and authority to make and perform its obligations under this Contract; and

(b) This Contract is a valid and binding obligation of BUYER enforceable against BUYER in accordance with its terms. BUYER covenants and warrants that the representations in the preceding sentences of this Section 6.2 will be true on the Closing with respect to BUYER or any permitted assignee of BUYER.

7. Prior to the Closing, BUYER shall, at its own expense, have prepared such abstracts of title as it deems necessary.

8. Closing.

8.1 Closing Location and Date. The Closing shall take place at the office of BUYER, Utica, New York. The closing of title (the "Closing") shall take place on the date which is within thirty (30) days following the satisfaction of the following conditions: (i) New York State Department of Transportation shall have released New York State's preferential right to acquire the Premises; and (ii) OCIDA shall have transferred title to the Premises to G&MV.

8.2 Closing Expenses.

(a) With respect to G&MV's acquisition of the Premises from OCIDA, BUYER shall pay: (i) all expenses incurred by G&MV; and (ii) all real property and personal property transfer, conveyance and recording taxes imposed by the applicable governmental authority by reason of the transfer of the Premises ("Transfer Tax"); and the cost of filing same.

(b) With respect to G&MV's sale of the Premises to BUYER, BUYER shall pay (i) all real property and personal property transfer, conveyance and recording taxes, including without limitation, any recording charges imposed by the applicable governmental authority by reason of the transfer of the Premises; (ii) all expenses relating to its inspection of the Premises including, but not limited to, engineering, environmental and property condition surveys whether or not BUYER closes title to the Premises; (iii) all costs of the premiums for title policy coverage and the costs of any endorsements; and (iv) any cost incurred in connection with any financing obtained by BUYER including, without limitation, mortgage recording tax and title insurance premiums. G&MV and BUYER shall each execute (and swear to where required) any returns and statements required in connection with the Transfer Tax. BUYER shall be solely responsible for obtaining subdivision of the Premises from the underlying tax parcel.

(c) The provisions of this Section 8.2 shall survive the Closing or earlier termination of this Contract.

8.3 Closing Deliveries.

(a) At Closing G&MV shall deliver to BUYER, and BUYER shall be responsible for filing:

(i) the Quitclaim Deed transferring title to the Premises from OCIDA to G&MV, together with forms TP 584 and RP 5217 signed on behalf of OCIDA and G&MV; and

(ii) the Quitclaim Deed transferring title to the Premises from G&MV and BUYER, together with forms TP 584 and RP 5217 signed on behalf of G&MV.

(b) At Closing BUYER shall deliver to G&MV the Purchase Price as provided in Section 3 hereof.

9. Risk of Loss. In the event that the Premises, or any part thereof, shall be damaged or destroyed by fire or any other casualty ("Casualty") prior to the Closing Date, G&MV shall give BUYER prompt written notice of such event together with an estimate of the cost and time to restore prepared by an independent insurance examiner or engineer selected by G&MV. BUYER may cancel this Contract with respect to the damaged or destroyed Premises by notice to G&MV within ten (10) days after receipt of notice from G&MV specifying the Casualty, in which event this Contract with respect to the damaged or destroyed Premises shall be deemed terminated and of no force and effect and neither party shall have any further rights or liabilities against or to the other except for those provisions expressly stated to survive the termination of this Contract. If BUYER does not elect to cancel the Contract with respect to the damaged or destroyed Premises in the event of a Casualty, this Contract shall remain in full force and effect and BUYER shall be entitled to all insurance proceeds payable to G&MV on

account of such Casualty, less such sums, if any, as shall have been actually and reasonably incurred by G&MV or expended by G&MV in connection with the repair or restoration of such Casualty or the prosecution of such claim.

10. *INTENTIONALLY LEFT BLANK*

11. Contingencies. This agreement is contingent upon: (a) the approval of the Oneida County Board of Legislators; (b) the results of the Phase I desktop environmental assessment (if any) being acceptable to BUYER; (c) agreement by Oneida County Industrial Development Agency to transfer title to the Premises to G&MV; and (d) approval by the City of Utica of the sub-division of the Premises from the underlying tax parcel.

12. Miscellaneous.

12.1 Broker. G&MV and BUYER represent to each other that neither party has dealt with any broker or real estate consultant in connection with the transaction contemplated by this Contract, and that there is no brokerage or other commission owed to anyone in connection with this transaction. The provisions of this Section shall survive the Closing or termination of this Contract.

12.2 Notices. All notices hereunder to G&MV or BUYER shall be sent by certified or registered mail, return receipt requested, or may be sent by Federal Express or other overnight courier which obtains a signature upon delivery, or may be delivered by hand delivery addressed to such party at the address of such party set forth below or at such other address as such party shall designate from time to time by notice:

G&MV:

GENESEE & MOHAWK VALLEY RAILROAD CO., INC.
One Mill Street, Suite 101
Batavia, New York 14020
Attention: Michael D. Thomas, President

with a copy to:

GENESEE VALLEY TRANSPORTATION CO., INC.
One Mill Street, Suite 101
Batavia, New York 14020
Attention: John S. Herbrand, Secretary & General Counsel

BUYER:

ONEIDA COUNTY, acting through its DEPARTMENT OF WATER QUALITY AND WATER
POLLUTION CONTROL
51 Leland Avenue,
Utica, NY 13502
Attention: Commissioner

with a copy to:

Oneida County Attorney, ,
800 Park Avenue
Utica, NY 13501

12.3 Entire Agreement. This Contract constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and all understandings and agreements heretofore or simultaneously had between the parties hereto are merged in and are contained in this Contract.

12.4 Waiver and Modifications. The provisions of this Contract may not be waived, changed, modified or discharged orally, but only by an agreement in writing signed by the party against which any waiver, change, modification or discharge is sought.

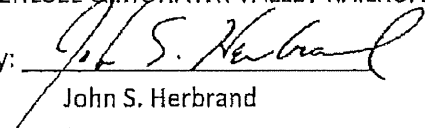
12.5 Governing Law and Jurisdiction. This Contract is to be governed and construed in accordance with the laws of the State of New York. BUYER and G&MV hereby submit to the jurisdiction of the State and United States District courts located within the Northern District of New York in respect of any suit or other proceeding brought in connection with or arising out of this Contract. The provisions of this subsection shall survive the Closing or earlier termination of this Contract.

12.6 Counterparts. This Contract may be executed in two or more counterparts and each of such counterparts, for all purposes, shall be deemed to be an original but all of such counterparts together shall constitute but one and the same instrument, binding upon all parties hereto, notwithstanding that all of such parties may not have executed the same counterpart. Photostatic, electronic or facsimile signatures of the original signatures of this Contract, and photostatic, electronic or facsimile copies of this Contract fully executed, shall be deemed originals for all purposes, and the parties hereto and/or beneficiaries hereof

waive the "best evidence" rule or any similar law or rule in any proceeding in which this Contract shall be presented as evidence or for enforcement.

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

GENESEE & MOHAWK VALLEY RAILROAD CO., INC.

By: 
John S. Herbrand
Secretary

ONEIDA COUNTY

By: _____

ATTACHMENT 1

METES & BOUNDS DESCRIPTION OF PREMISES

ALL THAT TRACT, PIECE OR PARCEL OF LAND situate within the City of Utica, County of Oneida and State of New York, as shown on the map entitled "Property Map showing lands belonging to Oneida County Industrial Agency to be conveyed ...", dated December 24, 2019, prepared by D. L. Mowers Land Surveyors & Associates, being filed concurrently herewith, said parcel more particularly described as follows:

BEGINNING at an iron pin located at the intersection of the division line between the property of Oneida County Sewer District (reputed owner) on the east and the property of the Oneida County Industrial Development Agency (reputed owner) on the west with the division line between the property of Oneida County Sewer District (reputed owner) on the north and the property of the Oneida County Industrial Development Agency (reputed owner) on the south; said pin being 30.0 feet distant, measure along the aforesaid division line, extended northerly to a southerly boundary of Schuler Memorial Highway a/k/a Leland Ave. Extension (private road);

Thence South $03^{\circ} 11' 30''$ East, along the aforesaid division line, a distance of 346.72 feet to an iron pin; said pin located at the intersection of the last mentioned division line with the division between the herein described property on the north and the property of CSX Transportation, Inc. (reputed owner) on the south: said pin being at the southeasterly corner of the herein described parcel;

Thence North $72^{\circ} 57' 25''$ West, along the last mentioned division line, a distance of 410.34 feet to an iron pin located on the southeasterly right-of-way of an existing overhead transmission line of National Grid;

Thence North $36^{\circ} 55' 00''$ East, through the property of Oneida County Industrial Development Agency and along said right-of-way, a distance of 303.18 feet to an iron pin located on the aforesaid southerly curved boundary of Schuler Memorial Highway a/k/a Leland Ave. Extension; said pin being at the northwesterly corner of the herein described parcel;

Thence easterly, along said southerly boundary of Schuler Memorial Highway a/k/a Leland Ave. Extension, on a curve having a radius of 1,881.0 feet, curving to the left, a distance of 35.58 feet to a point of tangency;

Thence North $85^{\circ} 49' 35''$ East, continuing along said southerly boundary of Schuler Memorial Highway a/k/a Leland Ave. Extension, a distance of 30.28 feet to an iron pin; said pin located at the intersection of said southerly highway boundary with the aforesaid division line between Oneida County Sewer District (reputed owner) on the north and the property of Oneida County Industrial Development Agency (reputed owner) on the south;

Thence South $80^{\circ} 30' 20''$ East, along the last mentioned division line, a distance of 126.94 feet to the point of beginning, containing, 92,345± square feet or 2.120 acres, more or less.

RESERVING the right to the railroad of a strip of land, having a maximum width of ten (10) feet, measured northerly of, adjacent to and parallel with the southerly aforementioned boundary designated as "North 72° 57' 25" West, a distance of 410.34 feet, with rights and easement of immediate and unimpeded ingress and egress on, across and over said ten (10) foot strip of land, its successors and/or assigns.

DONATO REAL ESTATE APPRAISAL & CONSULTING

REAL ESTATE APPRAISERS - NEGOTIATIONS - RELOCATIONS

641 James Street, Utica, New York 13501

Telephone
(315)798-1010

Fax
(315)798-1105

SUMMARY APPRAISAL REPORT

PREPARED FOR

D.L. Mowers Land Surveyors & Associates
141 Mowers Lane
Mohawk, NY 13407

PROPERTY ADDRESS

Leland Ave Extension
City of Utica
State of New York
Part of County Tax Map Number - 319.14-1-17

DATE OF INSPECTION: February 19, 2019

DATE OF VALUATION: February 19, 2019

DATE OF REPORT: June 25, 2019

PREPARED BY

Frank Donato
NYS Certified General Real Estate Appraiser
License #46-22996

DONATO REAL ESTATE APPRAISAL & CONSULTING

**641 James Street
Utica, New York 13501
(315) 798-1010**

February 19, 2019

D.L. Mowers Land Surveyors & Associates
141 Mowers Lane
Mohawk, NY 13407

&

Oneida County Department of Law

Re: Appraisal Report - Leland Avenue Extension
Utica, New York
Part of County Tax Map Number 319.14-1-17
Owner: NYC & HRRR Co

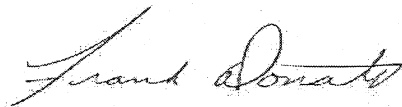
Dear Sirs:

At your request, I have inspected and appraised the above real estate. The purpose of the appraisal is to estimate the fee simple market value as of February 19, 2019. The function of the appraisal is to assist the client, D.L. Mowers and Oneida County law Department in evaluating the subject property to establish value for portion of property being purchased by Oneida County.

It is my opinion and conclusion that the as is fee simple market value of the herein described "as is" property as of February 19, 2019 is **\$ 6,000 -as is.**

This transmittal letter is followed by the certification of the appraiser and a summary appraisal report further describing the subject property and containing the reasoning and conclusions leading to the final estimate of value.

Respectfully,



Frank Donato
NYS Certified General Real Estate Appraiser
Certification # 46-22996

CERTIFICATION AND STATEMENT OF LIMITING CONDITIONS

CERTIFICATION I Certify that, to the best of my knowledge and belief:

-the statements of fact contained in this report are true and accurate.

-the report analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal , impartial, and unbiased professional analyses, opinions, and conclusions.

-I have no present or prospective interest in the property that is the subject of this report and no personal interest with the parties involved.

-I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment

-my engagement in this assignment was not contingent upon developing or reporting predetermined results.

-my compensation or completion of this assignment is not contingent upon the development or reporting of a predetermined value or direction in the value that favors the cause of the client, the amount of the value opinion , the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

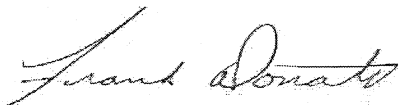
-my analyses, opinions, and conclusions were developed , and this report has been prepared, in conformation with the *Uniform Standards of Professional Appraisal Practices*

-I have made a personal inspection of the property that is the subject of this report.

-no one provided significant real property appraisal assistance to the person(s) signing this certification.

-I have not performed any services on the subject property within the last 36 months. .

It is my opinion that the market value estimated of the herein described property as of February 19, 2019 is \$ 6,000.



June 25, 2019

Frank Donato
N. Y. S. Certified General Real Estate Appraiser Cert # 46-22996

Date

SUMMARY OF SALIENT FACTS

Property Location:	Portion of property Known as Leland Avenue Extension, Utica, N.Y.
Property Rights Appraised:	Fee Simple
Date of Inspection:	February 19, 2019
Date of Valuation:	February 19, 2019
Tax Map Number:	Part of 319.14-1-17
Site Description:	Area that measures 126.94 x 346.72 x 410.34 x 303.18 x 35.58 x 30.28 or 92,345 +/- square feet, 2.12 acres.
Zoning:	LC- Land Conservation
Improvement Description:	None
Final Estimate of Value:	\$ 6,000 - As Is at effective date of appraisal

UNDERLYING ASSUMPTIONS AND LIMITING CONDITIONS

The appraisal report has been made with the following assumptions and limiting conditions:

1. It is assumed that the legal description as obtained from public records is correct. No responsibility is assumed for matters legal in nature, and title to the property is assumed to be good and marketable unless otherwise stated.
2. Unless otherwise stated, the property is appraised free and clear of any or all liens or encumbrances.
3. Information, estimates and opinions furnished to the Appraiser, and contained in the report, were obtained from sources considered reliable and believed to be true and correct. However, no responsibility for accuracy of such items furnished the Appraiser can be assumed by the Appraiser.
4. The plot plans and exhibits in this report are included only to assist the reader in visualizing the property. I have made no engineering survey of the property.
5. Possession of this report or a copy thereof does not carry with it the right of publication nor may it be used for any purpose by any but the client without the previous consent of the appraiser and then only with proper qualifications.
6. The appraiser herein by reason of this appraisal is not required to give future consultation, testimony, or be in attendance in court with reference to the property in question unless arrangements have been previously made.
7. The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separate valuations for land and buildings must not be used in conjunction with any other appraisal and are invalid if so used.
8. Unless otherwise stated, personal property has not been included in this report.
9. Disclosure of the contents of this report is governed by the Bylaws and Regulations of the Appraisal Foundation. Neither all nor any part of the contents of this report shall be disseminated to the public without the written approval of the author.
10. I assume that after a visual inspection, there are no hidden or unapparent conditions of the property, including the mechanical equipment, subsoil or structures which would render the property more or less valuable. I assume no responsibility for such conditions or for engineering which might be required to discover such factor.

11. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials may affect the value of the property. The value estimate is predicted on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

12. Neither all, nor any part of the content of the report, or copy thereof (including conclusions as to the property value, the identity of the Appraiser, professional designations, reference to any professional appraisal organizations, or the firm with which the Appraiser is connected), shall be used for any purpose by anyone but the client specified in the report, the borrower if appraisal fee paid by same, the mortgage or its successors and assigns, mortgage insurers, consultants, professional appraisal organizations, any state or federally approved financial institution, any department, agency, or instrumentality of United States or any state or the District of Columbia, without the previous written consent of the Appraiser; nor shall it be conveyed by anyone to the public through advertising, public relations, news, sales, or other media, without the written consent and approval of the Appraiser.

13 The area described in this report will contains purchase of the area described in this report. This report may be subject to change based on changes to the subject size or changes in the parcel.

14 The subject is located along Leland Avenue Extension, a private road. The appraisal is being completed under the assumption that the subject would have deeded, transferable, permanent access.

SCOPE OF APPRAISAL

The scope of work section of the report is intended to clarify the appraisal issues and summarize the amount and type of information researched and the analysis applied in the assignment.

The following are the steps and procedures used to complete this report.

The first step in the valuation process is to identify the property being appraised. The client provided tax map information to determine that the area being appraised is part Oneida County Tax map 319.14-1-17. See attached map provided by client. The property was inspected on February 19, 2019. The property is currently owned by N Y C & H R R R Co.

The appraisal is being prepared to assist the client to determine the estimated market value at effective date of appraisal February 19, 2019. The next step in the valuation process is to determine the purpose of the appraisal, the type of value being determine, the interest being valued and the intended users of the report. The purpose of the appraisal is to determine the market value of the subject property at effective date.

I have not performed any services on the subject property within the last 36 months.

The public records with regard to the subject property were then obtained. These public records include but are not limited to the tax map, assessment information, zoning information, legal ownership, etc. The subject parcel was then inspected.

Any changes to the subject size or use or restrictions could effect this report and the values indicated in this report.

An extraordinary assumption is also used with regard to environmental contamination. No environmental surveys were provided to the appraiser or are known to exist with regard to the subject site or improvements. The appraisers lack the knowledge and experience with regard to the detection and measurement of hazardous substances. Therefore, this assignment utilizes an extraordinary assumption that the subject is free and clear of any environmental contamination. Should there be any questions regarding the presence of any environmental contamination, weather it be air born, soil or sub soil, insulation related or building material related, a qualified environmental expert with specialized testing materials should be consulted. The results of this report may be subject to change based on inspection and testing by a qualified environmental specialist.

The subject neighborhood and similar neighborhoods in the subject marketing area were considered in the collection of potential comparable sales and confirmed with persons familiar with the properties and transactions.

The sales comparison approach, income capitalization approach, cost approach, and vacant land value were all considered in the preparation of this report.

The appraisal process is set forth to conform with the Uniform Standards of Professional Appraisal Practice guidelines for report writing as outlined in Standard Rule 2-2. This is a summary appraisal report to be used for preliminary negotiations. A summary report sets forth the data considered, the appraisal procedure followed, the reasoning employed in the appraisal, addressing each item in the depth and detail required by its significance to the appraisal and providing sufficient information so that the client and the users of the report will understand the appraisal and not be misled or confused.

The appraisal is not authorized for use by persons other than client and listed users or for any other function. The appraiser is not responsible for any unauthorized use of this report. The depth of discussion in this report is specific to this report and the needs of the client to fulfill the purpose and function of this report, while not resulting in a misleading or erroneous appraisal report.

The users of this report are D.L Mowers and Oneida County Law Department.

The appraiser is a New York State Certified General Real Estate Appraiser (Certification number 46000022996), with more than 25 years of experience appraising all types of residential and commercial real estate. The general certification is the highest appraisal certification available from New York State and allows the holder to appraise any type of property within the state regardless of use or value. The certification ensures that the holder has completed extensive course work and training along with a variety of different types of appraisals and a state qualifying exam.

The appraiser is familiar with the subject's marketing area and has completed appraisals of a large scope of commercial properties including properties similar to the subject. A list of appraisers' qualifications is attached in the addendum of this report.

PURPOSE OF APPRAISAL

The purpose of the appraisal is to estimate the fee simple market value of the herein described subject property as of February 19, 2019, date of inspection. The appraisal is being prepared to assist the client in estimating the market value of an area 126.94 x 346.72 x 410.34 x 303.18 x 35.58 x 30.28 or 92,345 +/- square feet, 2.12 acres. The users of the report are the clients only.

TYPE OF VALUE ESTIMATED

The type of value requested by the client is market value for the real estate.

MARKET VALUE DEFINITION

Market value is defined as follows: “the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised, and acting in what they consider their own best interests;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.”

PROPERTY RIGHTS APPRAISED

At effective date of appraisal, the subject area is currently leased by the client. A copy of the lease is attached in the addendum section of this report. The lease is for a larger parcel which contains the subject parcel. The lease started in 2016 for one year and renews automatically if leasee and lessor agree to extension. Since the property was not leased long term, per client and property owner, the subject will be appraised under fee simple ownership interest.

The property rights being appraised are those of a fee simple estate. Fee simple estate or interest is absolute ownership unencumbered by any other interest or estate subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat. (The Dictionary of Real Estate Appraisal, 3rd edition, by Appraisal Institute, 1993).

SUMMARY OF APPRAISAL PROBLEM

The subject is value is for an area 126.94 x 346.72 x 410.34 x 303.18 x 35.58 x 30.28 or 92,345 +/- square feet, 2.12 acres of vacant land. Th appraisal analysis is performed to appropriately estimate the market value of the subject as of February 19, 2019, including all encumbrances that effect the property.

FACTUAL DATA

Legal Description

The following map is a survey map of the subject parcel (part of parcel 319.14-1-17, see attached highlighted area). The area is part of a larger parcel. The subject tax parcel is described in deed book 2070 on page 116. The subject area contains 2.12 acres of parcel 39.14-1-17 (see attached map). No adverse easements or encroachments were observed.

LOCATION AND IDENTIFICATION OF SUBJECT PROPERTY

The subject is located in the City of Utica in the County of Oneida. Oneida County is the geographic center of New York State within a four-hour drive of 25% of the population of the nation. The area is also within 750 miles of 50% of the population of the United States and Canada. The county has a population of approximately 230,000 people with well defined urban, suburban, and rural areas. Major employment is mostly smaller locally owned companies with employment ranging from 5 to 75 employees. The largest employer in the county is the Oneida Indian Nation (Turning Stone Casino) with 4,200 employees, located in the western section of the county.

The City of Utica is a medium size metropolitan area with approximately 55,000+/- people. The city offers major employment and conveniences normally associated with cities of this size. Major growth in the city occurred in the 1900 to 1930 with a flourishing textile industry built around the areas strong work force and transportation capabilities (railroads and waterways). The central section and western, southern, and eastern sections realized the greatest development during these decades.

The area had a large affluent population that developed arts and recreation facilities not normally associated with cities of this size (Val Bialis skiing and tennis facility, Stanley Performing Arts Center, Proctor Park, Valley View Golf Course, Munson-Williams-Proctor Institute, and the Utica zoo, all located within the city limits).

The city offers a number of housing options including large older single and multi-family housing, smaller single family homes of fair to average quality, and moderate aged single and two story one family homes of average quality. As is typical of many cities in the area, many of the multi-family homes in the central section of the city have absentee landlords and display signs of neglect. The city has recently taken steps to combat this with stricter codes enforcement and razing many abandoned or neglected properties. These actions have resulted in a number of vacant parcels, which is the first step to neighborhood revitalization and re-development.

Commercial development within the city is mostly office or older large industrial or manufacturing structures. The downtown section of the city has many of the original attached row buildings remaining with retail or service commercial uses on the first level and offices on the upper levels. The original structures that were razed have been replaced with multi-story office buildings or service properties (state building, Radisson Hotel, etc). As is typical of older downtown districts, the area lacks adequate off-street parking. The city is easily accessed by State Route 5 which runs east to west and State Route 8 and 12 which run north and south and Genesee Street running north to south which separates the eastern and western section of the city . New York State Thruway exit 31 is located in the northern section of the city.

The subject is located in the northern section of the City of Utica along Leland Avenue Extension, a private road, off of Lenand Avenue and adjacent to North Genesee Street. Genesee Street bisects the city dividing East Utica and West Utica. The cities downtown district is also located along Genesee Street. The subject immediate area is an older industrial area with no residential development in the immediate area. Thruway exit 31 (the only Thruway exit and the major access allowing access to the Adirondack Mountains and Fulton Chain of Lakes) is located in the immediate area.

The general area is also undergoing a change with the development of the Harbor Area. The city has recently approved a group to submit plans for development of a Harbor offshoot of the Mohawk River. Preliminary plans include development of retail/ some type of housing (loft apartments or condominiums) and some type of recreational offerings. The area also contains the Utica Memorial Auditorium, which is undergoing an expansion and a proposed community area adjacent to the auditorium. Since the final developments plans have not been disclosed or approved, and a timetable for development has not been established, the impact on the subject area can not be determined or speculated on.

The economic forecast for the area is to remain relatively stable with no major local changes anticipated. The subject immediate area is predominately residential in nature, developed by single family homes and 2-4 family dwellings. The homes in the area appear to range in age from 40 years to 100 + years. There are some service commercial properties and highway commercial properties in the general area. The subject is commonly known as the part of county tax map number 39.14-1-17.

**PROPERTY DATA
SITE DATA**

The subject area is the northern section of tax parcel 319.14-1-17. The subject area is an area 126.94 x 346.72 x 410.34 x 303.18 x 35.58 x 30.28 or 92,345 +/- square feet, 2.12 acres of vacant land. See attached map provided by client.

A review of the appropriate flood hazard map shows that the subject appears to be located within a designated flood zone, in community number 36065, panel 0751F, ,dated September 27, 2013. Any questions related to the designated flood zoning should be referred to FEMA, whose maps are more detailed.

IMPROVEMENTS

None

FIXTURES

None

USE

At effective date of appraisal, the subject area is vacant land.

SALES HISTORY

The subject property is currently owned by NYC & H R R R Co.. No transfers have occurred within the last 60 months and the subject is not publicly offered for sale. .

RENTAL HISTORY

At effective date of appraisal, the subject is vacant land. There is a lease for 8.54 acres of land which contains the subject area. The lease commenced in 2016 and renews annual, the lease price is \$ 15,000 per year or \$ 1,756/acre per year. A copy of the lease is attached in the addendum section of this report.

Subject Photos



Subject Property



Street Scene

ASSESSED VALUE AND ANNUAL TAX LOAD

It must be noted that the subject area is part of Oneida County Tax Parcel 319.14-1-17. There is not an assessment for the subject area only. The below assessment and tax information reflect the entire tax parcel.

Year	Tax map #	Assessment		Equalization Rate	Tax Burden
		Land	Total		
2019	319.14-1-17	\$ 66,000	\$ 66,000	68.0% -\$ 97,777	\$ 4,624+/-

As stated above, this assessment and tax burden reflect the entire tax parcel, not just the subject area.

LAND USE REGULATIONS

The subject area is zoned Land Conservation by the City of Utica.

The subject area is vacant land.

vistas of (or from) the Mohawk River or Erie Canal as listed in the City's Local Waterfront Revitalization Program (LWRP).

- b. The proposed design and arrangement of the building, structure or use shall provide for pedestrian access to and along the waterfront.
- (h) Additional regulations. The applicable sign regulations (Article V), off-street parking and loading requirements (Article VI), landscaping and screening requirements (Article VII), accessory uses and accessory service uses (Article IX) and supplemental regulations (Article XII) in this chapter shall apply to all uses in the A-O District.

Sec. 2-29-234. through Sec. 2-29-250. (Reserved)

DIVISION 6. Land Conservation District

Sec. 2-29-251. Purpose and establishment.

[Ord. No. 313, §§ 9-101 — 9-104, 12-7-1994]

- (a) Purposes. The Land Conservation District is established for the following purposes:
 - (1) To protect the public health, safety and welfare.
 - (2) To minimize public and private property damage.
 - (3) To minimize public expenditure for costly flood control projects.
 - (4) To minimize the need for rescue and relief efforts at public expense.
 - (5) To protect the ecosystem of the floodplain.
 - (6) To preserve and protect artifacts of archeological significance.
 - (7) To minimize prolonged interruption of business and governmental services.
 - (8) To put potential home buyers, property owners, and tenants on notice that a particular piece of property is in a flood-prone area.
 - (9) To protect the public and private water supply from contamination.
- (b) Establishment. A Land Conservation District is hereby established to accomplish the purposes of this section. The Land Conservation District identified as the one-hundred-year floodplain in a report entitled "Flood Insurance Study, City of Utica, New York, Oneida County" (Federal Emergency Management Agency August 1, 1983) and Floodway - Flood Boundary and Flooding Maps (Panels 360558-0001, 0002, 0003, 0004, 0005, and 0006, FEMA, February 1, 1984) are hereby adopted by reference and declared to be part of this chapter.
- (c) Disclaimer. This chapter does not imply that land outside of the Land Conservation District or uses permitted within such areas will be free from flooding or flood damage.
- (d) Precedence. The provisions of the Land Conservation District, shall take precedence over any other zoning article, ordinance or code to the extent that these provisions are inconsistent with such other provisions.

Sec. 2-29-252. Permitted uses.

[Ord. No. 313, §§ 9-201, 9-202, 12-7-1994]

- (a) Principal permitted uses. The following uses which have low flood damage potential and which do not obstruct flood flows may be permitted within the Land Conservation District to the extent that these uses do not constitute development within the floodplain and are not otherwise prohibited by other provisions of this chapter or any other rules, regulations or ordinances: agricultural uses such as pasture or grazing as long as they do not require development within the floodplain. No uses shall diminish or constrict the capacity of the channel or floodway or any watercourse, or any tributary to the mainstream, or any other watercourse, drainage ditch or any other facility or system to discharge the waters from the base flood or cause significant adverse impacts to the ecosystem of the floodplain. This exemption does not include agricultural structures.
- (b) Special permit uses.
 - (1) The following development and uses may be allowed within the designated floodplain only after review and approval of the proposal by the Planning Board and the issuance of a special permit as provided for by this chapter. Note: The floodplain permit administrator is the Codes Commissioner.
 - a. Private and public recreational areas as long as they do not require development within the floodplain.
 - b. Boathouses and docks are regulated under the local law for flood prevention. They must meet elevation and floodproofing and floodway standards (i.e. no structures of any kind in the floodway).
 - c. Essential services as defined in Article I certified by a professional engineer or an architect. Anything in the floodplain must be certified as floodproofed or elevated above the one-hundred-year flood elevation.
 - (2) Special permit issuance shall be determined by the nature and location of the applicant's proposed use. Therefore:
 - a. The applicant shall submit a site development plan as specified in Section 2-29-256.
 - b. The Planning Board shall determine whether the proposed special permit use is located within the Land Conservation District. Such determination shall be made from the maps prepared by the U.S. Corps of Engineers, June 1974.
 - (3) If it is determined that the proposed use is located within the designated floodplain, the provisions of Section 2-29-253, Floodplain utilization requirements and restrictions, shall apply. The City local law for flood damage prevention supersedes all other local ordinances and laws.
 - (4) The granting of a permit under the provisions herein shall in no way affect the owner's responsibility to obtain the approval required by any other statute, ordinance, or regulations of any county, state or other agency.

Sec. 2-29-253. Floodplain utilization requirements and restrictions.

Part III DATA ANALYSIS AND CONCLUSIONS

HIGHEST AND BEST USE

DEFINITION OF HIGHEST AND BEST USE

This definition applies to highest and best use of land as vacant and improved. Where the site has been improved, the highest and best use may very well be concluded to be different from the existing use. The existing use will continue; however, unless and until land value exceeds the total value of the property in its existing use, which relates to a change in demand or deterioration of improvements.

The highest and best use of both land as though vacant and property as improved must meet four criteria. The highest and best use must be (1) physically possible, (2) legally permissible, (3) financially feasible, and (4) maximally productive. These criteria are usually considered sequentially; a use may be legally permitted but this is irrelevant if it is physically impossible to develop the site.

Only when there is a reasonable possibility that one of the prior, unacceptable conditions can be changed, the proposed use can be considered on that basis. A full analysis may be included in the report when the conclusions are based on techniques applied to identify the highest and best use among two or more potential users. (The Appraisal of Real Estate, 10th edition by Appraisal Institute, 1992)

HIGHEST AND BEST USE - AS VACANT

The subject tax parcel is vacant land which contains 2.12 acres. The parcel is being appraised based on the assumption of deeded, permanent, transferable access (subject road, Leland Avenue Extension is a private municipal road). Based on this, the highest and best use is considered as vacant land.

MARKETABILITY AND EXPOSURE TIME

The exposure time of the subject, based on sales of similar properties, is considered to be 8 - 10 months. The exposure time is based on professional marketing and reasonable asking price. The marketing time is adversely effected by the subject size, which does not meet the minimum site size requirements.

LAND VALUATION

The vacant land value for the subject will be determined using residential vacant land sales from the subject marketing area. . Using the standard approach when valuing partial parcels of land. The subject entire tax parcel will be valued, with road frontage. The unit land value will then be determined for the tax parcel, this unit price will then be applied to the subject area to determine the subject unit value. The following comparable sales will be used to determine the subject vacant land value.

SALES COMPARISON APPROACH

The sales comparison approach or market approach is based upon a comparison of prices for similar competitive properties in the same market representing arm's length transactions. This approach works best in an active market where these prices serve as good indicators of the most probable selling price of the subject property as of valuation date. Comparable sales are analyzed and adjusted based on property rights conveyed, market conditions, terms of financing, conditions of sale, differences in physical characteristics, and location. The adjusted sales price should be what the comparable property would have sold for if it has possessed similar characteristics of the subject at the time of the sale.

All comparables used are closed sales which are located within the subject's marketing area. Sale conditions, as well as other pertinent data, is confirmed with listing or selling agents or other persons directly involved in the transfer.

All adjustments are market derived and based on contribution.

The subject is located in LC - land Conservation district. Development within this area is restricted with approval by zoning and planning boards prior to development.

		Comp 1	Comp 2	Comp 3
	Leland Ave Ext Utica	Whitesboro St Utica	Mohawk St Whitestown	Whitesboro St Yorkville
Sale Price	N/A	\$ 5,000	\$ 25,000	\$ 15,000
Sale Price/Ac	N/A	\$ 906/Ac	\$ 5,555/Ac	\$ 1,995/Ac
Tax Map #	Part of 319.14-1-17	318.8-1-52./1	305.000-1-8	305.020-2-36.1
Property Rights	Fee Simple	Fee Simple	Fee Simple	Fee Simple
Valuation Date	2/19/19	10/19/15	10/2/15	6/7/16
Cond Of Sale	Normal	Normal	Normal	Normal
Financing	Market	Market	Market	Market
Adj. Price	N/A	\$ 906/Ac	\$ 5,555/Ac	\$ 1,995/ Ac
Location/ Zoning	Average / LC- Land Con	Similar	Similar	Similar
Site size	2.12 Acres	5.52 Acres	4.50 Acres	7.52 Acres
View	Street View	Street View	Street view	Street View
Exposure/ Access	Typical/ Limited	Similar	Similar	Similar
Other	Flood Zone	Flood Zone	Flood Zone	Flood Zone
Net Adjustment		- 0 %	- 0 %	- 0 %
Indicated Parcel Value		\$ 906/Ac	\$ 5,555/Ac	\$ 1,995/Ac

EXPLANATION OF ADJUSTMENT

After a thorough search of the market, a number of sales were analyzed. The majority of the sales were found to be non-arms-length, involved creative financing or multiple parcels or terms and conditions of sale could not be confirmed. The above comparable sales were the best available at time of appraisal.

A narrative discussion of the comparable sales is given below. All sales are considered arms-length.

The subject is located along Leland Avenue with limited access, zoning which restricts development and located within a flood zone.

All comparable properties are located in commercial districts

Comparable One

Comparable one is a generally level parcel located in a flood zone.

Comparable Two

Comparable two is a generally level irregular parcel located in a flood zone.

Comparable Three

Comparable three is a generally level with limited access.

RECONCILIATION OF COMPARABLE SALE

When the comparable sales are reasonably adjusted, a unit value of \$ 906/acre to \$ 5,555/acre. The comparable sales have a mean indicated value of \$ 2,800/Acre. Based on the above, the subject has an indicated unit value of \$ 3,000/acre , resulting in a market value of \$ 6,000 (\$ 3,000/ac x 2.12 ac = \$ 6,360 or 6,000)

VALUE ESTIMATE BY COST APPROACH

The cost approach is vacant land, the cost approach is not applicable.

VALUE ESTIMATED BY THE SALES COMPARISON APPROACH

The subject is vacant land, the value via the sales comparison approach has been determined earlier in this report

VALUE ESTIMATED BY THE INCOME APPROACH

The subject is vacant land, the income approach is not applicable since vacant land is not typically leased. The subject property is leased by the client for this report. If the client were not leasing the subject land, the market for lease by typical investor would be extremely limited, therefore the income approach is not developed.

FRANK DONATO

641 James Street, Utica, New York 13501

PHONE: 315-798-1010 FAX: 315-798-1105 E-MAIL: f.donato3@verizon.net

Employment: DONATO REAL ESTATE APPRAISAL & CONSULTING

New York State Certified General Appraiser, January 1, 2008 - Present # 46000022996

ROEFARO, DICKINSON & DONATO APPRAISAL SERVICE

New York State Certified General Appraiser, November 1996 - Jan1, 2008t #46000022996

ROEFARO APPRAISAL SERVICE, UTICA, NY

Real Estate Appraiser Associate, November 1991 - November 1996

Education:

MOHAWK VALLEY COMMUNITY COLLEGE, UTICA, NY

Associate Degree in Electrical Engineering Technology - May 1988

STATE UNIVERSITY OF TECHNOLOGY AT UTICA-ROME

Bachelor of Science in Electrical Engineering Technology - May 1990

UTICA-ROME EDUCATIONAL CENTER, UTICA, NY

Completion of Introduction to Real Estate Appraisal Course R-I - November 1991

Completion of Valuation Principles & Procedures Course R-II - December 1991

Completion of Applied Property Valuation R-III - April 1993

Completion of Ethics & Standards of Professional Practice - May 1993

Completion of R-IV - December 1995

Completion of A/Q 1- November 2002

UTICA, NY

Appraisal Institute Ethics & Standards of Professional Practice - January 1997

Mass Appraisal- Office Real Property Services- August 2000

SYRACUSE, NY

Eminent Domain Procedure- MAY 2004

Appraisal Institute Course 400-USPAP 7 Hour Update - September 2009

Appraisal Institute Seminar on Issue of Federal Bank Regulation - January 1993

N.Y.S.S. of R.E.A. Seminar on the New URAR Form - 1993

N.Y.S.S. of R.E.A. Seminar on the New FHA Guidelines - January 2000

Successfully passed the FHA Appraisal Examination - January 2000

ALBANY, NY

G-I Introduction to Income Property Valuation - October 1996

G-II Principles of Income Property Appraising - April 1997

G-III Applied Income Property Valuation - May 1997

Manfred Real Estate Learning Center, Inc. - Tax Assessment Grievance Process - 1997

Affiliations:

Former chairman City of Utica Board of Assessment Review

New York State Society of Real Estate Appraisers (NYSSREA)

Member East Utica Optimist Club

National Association of Real Estate Appraisers

Board of Directors Member, Neighborhood Center

Board of Directors Member, Boys And Girls Club

Consultant- City of Utica Assessor Office and Board of Assessment Review

UNIQUE ID NUMBER
46000022996

State of New York
Department of State

DIVISION OF LICENSING SERVICES

FOR OFFICE USE ONLY
Control
No. 102734

PURSUANT TO THE PROVISIONS OF ARTICLE 6E OF THE
EXECUTIVE LAW AS IT RELATES TO R. E. APPRAISERS.

EFFECTIVE DATE
MO. DAY YR.
09 30 17

DONATO FRANK A
C/O DONATO REAL ESTATE APPRAIS
641 JAMES ST
UTICA, NY 13501

EXPIRATION DATE
MO. DAY YR.
09 29 19

HAS BEEN DULY CERTIFIED TO TRANSACT BUSINESS AS A
R. E. GENERAL APPRAISER

In Witness Whereof, The Department of State has caused
the official seal to be hereunto affixed.

ROSSANA ROSADO
SECRETARY OF STATE

DOS-1088 (Rev. 3/01)



**ONEIDA COUNTY
DEPARTMENT OF PLANNING**

Boehlert Center at Union Station
321 Main St., Utica NY 13501
Phone: (315) 798-5710 Fax: (315) 798-5852

ANTHONY J. PICENTE, JR.
County Executive

James J. Genovese II
Commissioner

July 9, 2021

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

FN 20 21-205
HEALTH & HUMAN SERVICES
WAYS & MEANS

Re: Purchase of Services Agreement with Prizeout Corporation

Dear County Executive Picente:

In a continuing effort to assist vaccination endeavors throughout Oneida County, we are proposing to enter into an agreement with Prizeout Corp. The purpose of this agreement is to establish an incentive program that rewards eligible COVID-19-vaccinated individuals in Oneida County through the services provided by Prizeout Corp. The exact amount of this contract is undetermined at this time, as it will depend upon the number of vaccinated persons determined to be eligible for the program, but it is estimated to exceed fifty thousand dollars (\$50,000) over the duration of the program.

Therefore, I respectfully request that you submit to the Oneida County Board of Legislators a request to authorize you to enter into an agreement between Oneida County, through the Department of Planning, and Prizeout Corp. The term of this agreement will commence on July 15, 2021, and run through July 15, 2022, unless terminated by either party through written notice. Included in this resolution is the authorization to execute all documents and certifications.

Should you have any questions regarding this matter please contact me.

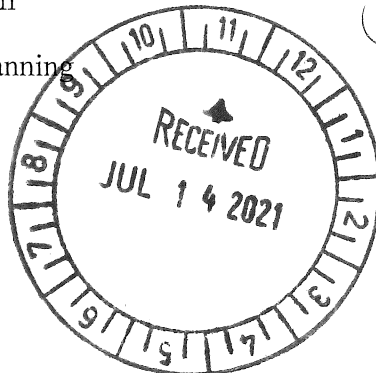
Sincerely,

James J. Genovese II
Commissioner
Department of Planning

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

Anthony J. Picente, Jr.
County Executive

Date 7-13-21



Oneida Co. Department: Planning

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

ONEIDA COUNTY BOARD
OF LEGISLATORS

Name & Address of Vendor:

Prizeout Corp.
33 West 17th Street, 8th Floor
New York, NY 10011

Title of Activity or Service: Purchase of Services agreement between Oneida County through the Department of Planning and Prizeout Corp.

Proposed Dates of Operation: July 15, 2021 through July 15, 2021

Client Population/Number to be Served: Eligible COVID-19 vaccinated individuals in Oneida County

Summary Statements

1) Narrative Description of Proposed Services

The goal of the Program is to reward eligible COVID-19 vaccinated Oneida County individuals as well incentivize eligible Oneida County individuals to receive the COVID-19 vaccine through the services provided by Prizeout Corp.

The exact amount of this contract is undetermined at this time, as it will depend upon the number of vaccinated persons determined to be eligible for the program, but it is estimated to exceed fifty thousand dollars (\$50,000) over the duration of the program.

2) Program/Service Objectives and Outcomes: Increase the vaccination rate in Oneida County

3) Program Design and Staffing: N/A

Total Funding Requested: \$50,000.00 or more Account# A6446.495

Oneida County Dept. Funding Recommendation: \$50,000.00 or more

Proposed Funding Sources (Federal\$/ State \$/County\$): County \$50,000.00 or more

Cost Per Client Served: N/A

Past Performance Data: N/A

O.C. Department Staff Comments: Covid-19 Vaccination Initiative proposed by the County Executive.

Prizeout

Partner Agreement

This Partner Agreement, effective as of _____ (the "Effective Date"), is entered into by and between Prizeout Corp., a Delaware corporation ("Prizeout"), and Oneida County, a New York State Municipality, on behalf of itself and its affiliates ("Partner") (each a "Party" and collectively, the "Parties"). As used herein, this "Agreement" means this Partner Agreement and all order forms (each, an "Order Form"), schedules, statements of work and exhibits hereto, which are incorporated herein by reference.

WHEREAS, Prizeout offers certain software products, Application Programming Interfaces ("APIs") and services through its proprietary online platform (the "Service"), as described in the applicable Order Form(s); and

WHEREAS, Partner desires to obtain from Prizeout, the right for itself, its authorized employees and consultants (collectively, "Partner Users") to use portals described in the applicable Order Form, and Partner's end users ("End Users", together with Partner Users, "Users") to access and use the Service via Partner's software, mobile application and/or website (collectively, the "Partner Platform") or as may be otherwise set forth on the applicable Order Form.

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and upon the terms and conditions hereof, Prizeout and Partner agree as follows:

1. Access to the Service.

a. Grant of Rights. Prizeout grants to Partner and Users the non-exclusive, non-transferable (except as may be permitted herein) right to access and use the Service in accordance with this Agreement, the applicable Order Form and API documentation. Prizeout grants only the licenses and rights specified in this Agreement. No other licenses or rights (including, without limitation, licenses or rights under patents) are granted either directly, by implication, or otherwise.

b. Use Restrictions. In Partner's use of the Service, Partner agrees not to (i) distribute, sell, lease, loan, sublicense, encumber or otherwise provide access to the Service to any person or entity other than Users as contemplated hereunder; (ii) modify, adapt, or hack the Service or otherwise attempt to gain unauthorized access to the Service or related systems or networks; (iii) create derivative works of or otherwise modify the Service or make any copies of the Service, in any form; (iv) remove or alter any legal, copyright, trademark, watermark, or other proprietary rights notice contained in or on the Service; (v) attempt to bypass or break any security mechanism on the Service or use the Service in any manner that interferes with or disrupts the integrity, security or performance of the Service and its components; (vi) attempt to decipher, decompile, reverse engineer or otherwise discover the source code of any software making up the Service; or (vii) launch or facilitate a denial of service attack on the Service or any other conduct that materially and adversely impacts the availability, reliability, or stability of the Service.

c. Data Access and Use: Prizeout shall provide Partner with a number of unique, one-time use only "PIN" codes, along with an email link, that End Users can use to access Prizeout services through the Prizeout app or website. Partner shall then transmit these links and PIN codes to End Users that it has selected to be eligible for the Service. The End Users will thereafter, if they so choose, contact Prizeout to enroll in the Service. If the End Users so choose, they may then provide Prizeout directly with such End User data required by Prizeout to perform the Service, which may include email address, mobile phone number, first and last name and such other information as may be identified and agreed by the parties ("End User Data"). Prizeout may use such End User Data to provide the Service pursuant to this Agreement, and in accordance with its privacy policy and terms of use (together, the "Prizeout Terms"), when consented to by End Users. The Parties acknowledge and agree that Prizeout may use End User Data (as well as data generated by Partner or any User's use of the Service) to allow End Users to access the Service, and to improve the Service, including customization and personalization of the algorithm for End Users. Each Party will employ industry standard administrative, physical, and technical safeguards to protect the security, confidentiality and integrity of the End User Data.

d. Temporary Suspension: Prizeout reserves the right to restrict functionalities or suspend the Service (or any part thereof), or Partner or any Users' right to access and use the Service, and remove, disable or quarantine any data if (i) Prizeout reasonably believes that Partner or any User has violated this Agreement or the Prizeout Terms

(as applicable) or is using the Service in a manner that poses a security risk to the Service or any other clients or users of the Service; (ii) Prizeout suspects or detects any malicious software connected to Partner's account or use of the Service by Partner or any User; or (iii) Partner fails to make any payments or transfers of funds to Prizeout in accordance with the applicable Order Form. Prizeout will use commercially reasonable efforts to notify Partner via email when taking any of the foregoing actions. Prizeout shall not be liable to Partner, any User or any other third party for any such modification, suspension or discontinuation of any rights to access or use the Service.

e. Prizeout acknowledges and agrees that Partner may require access to any and all information required pursuant to the American Rescue Plan Act of 2021 and unconditionally agrees to provide Partner access to such information. All data shall be made available for Partner to download in .csv, .xml or similar format.

2. Payments. Partner shall not be required to pay any fees for the Services rendered hereunder

3. Representations and Warranties; Disclaimers.

a. Authority; No Conflicts. Each Party represents and warrants that: (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, and has the full right and legal authority to enter into, and fully perform, this Agreement in accordance with its terms; and (ii) the execution, delivery and performance of this Agreement by such Party: (A) is within such Party's corporate power; (B) has been duly authorized by all necessary corporate action on such Party's part; (C) does not and shall not contravene or constitute a default under, and is not and shall not be inconsistent with, any judgment decree or order, or any contract, agreement, or other undertaking, applicable to such Party, and no approval or other action by any governmental authority or agency is required in connection herewith; and (D) shall constitute a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms.

b. Compliance with Laws. Each Party hereby represents, warrants, and covenants that in performing its obligations and exercising its rights hereunder, it will comply in all material respects with all applicable international, federal, state and local laws (including applicable tax, privacy and data protection laws) ("Applicable Laws") relating to the Service provided hereunder, and will obtain and maintain all permits, licenses, and consents required in connection therewith.

c. Acts, Errors, or Omissions. Each Party hereby represents, warrants, and covenants that it shall be solely responsible for any and all its acts, errors, or omissions and the acts, errors, and omissions of its third party service providers (or any other person or entity acting on its behalf) utilized to satisfy its obligations associated with this Agreement.

d. Limited Warranty. Prizeout warrants that the Service will materially comply with the terms and conditions set forth herein and with the applicable Order Form and the API documentation. Partner's sole and exclusive remedy and Prizeout's sole and exclusive liability for breach of the foregoing warranty shall be for Prizeout to repair or replace the defective component of the Service, or, if repair or replacement cannot be provided within a reasonable time, terminate the applicable component of the Service.

e. DISCLAIMERS. EXCEPT AS SPECIFICALLY SET FORTH IN SECTION 3(D), THE SERVICE, INCLUDING ALL SERVER AND NETWORK COMPONENTS, ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND TO THE FULLEST EXTENT PERMITTED BY LAW, AND PRIZEOUT EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. PARTNER ACKNOWLEDGES THAT PRIZEOUT DOES NOT WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, ERROR-FREE OR FREE FROM VIRUSES OR OTHER MALICIOUS SOFTWARE, AND NO INFORMATION OR ADVICE OBTAINED BY PARTNER FROM PRIZEOUT OR THROUGH THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.

4. Intellectual Property.

a. Limited Trademark License. During the Term, each Party hereby grants to the other Party a limited, revocable, non-exclusive and non-transferable right to use its name, trademarks and logos (collectively, "Marks") on the Partner Platform or in the Service (as applicable) in connection with providing the Service to Users, as well as on customer/vendor lists. Each Party represents and warrants that the use of its Marks or any other materials it supplies,

by the other Party, as permitted hereunder, does not infringe upon or violate the Intellectual Property Rights of any third party. "Intellectual Property Rights" means ownership of all right, title and interest in and to any kind of intellectual property, including copyrights, patents, Marks, trade secrets, rule sets, and all other proprietary rights therein, and the right to apply for, register, obtain, hold, extend and renew any of the foregoing.

b. Prizeout Ownership. Prizeout and its third party vendors and licensors (as applicable) own all Intellectual Property Rights in and to the Service and any other products or services (and any portion thereof) used to provide the Service hereunder, along with source code, object code or underlying structure, ideas or algorithms, documentation, data, updates or derivative works related to any of the foregoing.

c. License to Feedback. By submitting ideas, suggestions or feedback to Prizeout, Partner agrees that items submitted do not contain confidential or proprietary information; and Partner grants Prizeout an irrevocable, unlimited, royalty-free and fully-paid perpetual license to use such items for any business purpose.

5. Confidentiality.

a. Treatment of Confidential Information. During and after the Term, Recipient shall: (i) protect and keep strictly confidential Disclosing Party's Confidential Information and use it solely for the purpose for which it is provided and as permitted hereunder; (ii) only disclose or provide access to Disclosing Party's Confidential Information to directors, members, partners, trustees, officers, employees, agents, consultants, affiliates, advisors, counsel, stakeholders, vendors or other representatives (collectively, "Representatives") who are under confidentiality obligations at least as restrictive as those contained herein, on a need-to-know basis or as otherwise permitted hereunder; (iii) protect Disclosing Party's Confidential Information using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use or disclosure of such Confidential Information, as Recipient uses to protect its own confidential information of a similar nature; (iv) make copies of Disclosing Party's Confidential Information only to the extent permitted hereunder; and (v) not to develop any other materials, products, or services using Disclosing Party's Confidential Information. "Confidential Information" as used herein, shall mean any information and/or documentation with respect to a Party ("Disclosing Party"), and its affiliates, employees, agents, customers or vendors, disclosed to the other Party ("Recipient") (whether transmitted orally, in writing, or through any electronic medium), including, but not limited to: (A) trade secrets, work product, know-how, ideas, inventions, programs, algorithms, formulas, hardware, devices, designs, schematics, drawings, technical or engineering information, data systems processes or techniques, vendor and customer lists; (B) information relating to business plans, sales, pricing, product information, services, personnel, financial data, forecasts, strategies, marketing plans or methods, or security procedures and measures; (C) API's, software, applications, programs and systems, including source code, object code, and documentation and commentary related thereto; (D) End User Data; (E) confidential information of third parties in Disclosing Party's possession; (F) any information that is of value to its owner and is treated as confidential, or that gives Disclosing Party some competitive business advantage or the opportunity of obtaining such advantage or the disclosure of which could be detrimental to its interests; and (G) all information generally understood to be confidential, and all information which is maintained in confidence by Disclosing Party. "Confidential Information" shall be deemed to include: (y) any notes, analyses, compilations, studies, interpretations, memoranda or other documents prepared by Recipient or its Representatives which contain, reflect or are based upon, in whole or in part, any of Disclosing Party's Confidential Information furnished to Recipient or its Representatives pursuant hereto; and (z) the terms and conditions of this Agreement (except for any terms and conditions of use required to be accepted by Users hereunder). Prizeout acknowledges that as a New York State municipality, Partner is subject to the provisions of New York State's Public Officers Law, Article 6, the Freedom of Information Law ("FOIL"). Information deemed to be Confidential Information by Prizeout shall be identified as such by Prizeout in accordance with the provisions of Section 87 of New York Public Officers Law and, if so identified as Confidential Information, shall be withheld by Partner from any disclosure under FOIL, except where an administrative or Court order is issued compelling disclosure.

b. Exceptions. "Confidential Information" does not include information that: (i) is known to Recipient, as evidenced by its written records, before receipt thereof under this Agreement; (ii) is disclosed to Recipient by a third party who is under no known obligation of confidentiality to Disclosing Party with respect to such information; (iii) is or becomes generally known to the public through no fault of Recipient; or (iv) is independently developed by the Recipient, as evidenced by its written records, without use of any of Disclosing Party's Confidential Information. The burden of proving any exception is on Recipient. Notwithstanding the foregoing, Recipient may disclose Disclosing Party's Confidential Information pursuant to a requirement under applicable law, a subpoena or other validly issued administrative or judicial notice requesting the disclosure of Disclosing Party's Confidential Information; *provided, however*, that Disclosing Party is given prompt written notice, an opportunity to object to such disclosure, seek

protective treatment (for which Recipient will provide reasonable cooperation), and the scope of each such disclosure is limited to the greatest extent possible and made in accordance with the advice of legal counsel.

c. Freedom of Information Law. Prizeout acknowledges and agrees that Partner is subject to FOIL. Prizeout shall mark any Confidential Information it wishes to have Partner withhold upon a request received pursuant to FOIL as follows: "Proprietary. Not subject to disclosure under Public Officers Law Section 87(2)(d)", and, if so identified as Confidential Information, shall be withheld by Partner from any disclosure under FOIL, except where an administrative or Court order is issued compelling disclosure.

d. Return/Destruction of Information. Upon termination or expiration of this Agreement, upon Disclosing Party's direction, Recipient shall promptly return to Disclosing Party or destroy all of Disclosing Party's Confidential Information; *provided, however*, that, Recipient may retain copies of such Confidential Information as required by Applicable Laws, its internal protocols and procedures, or as may be electronically preserved or recorded automatically to standard back-up or archival systems, and, *provided, further*, that, with respect to such Confidential Information, Recipient will comply with its applicable policies and procedures, Applicable Laws and the obligations set forth herein.

e. Equitable Relief. The Parties acknowledge and agree that there can be no adequate remedy at law for any breach of a Party's obligations under this Section 5. Therefore, upon any such breach or threatened breach, the non-breaching Party will be entitled to seek appropriate equitable relief (without the necessity of proving actual damages or posting a bond), in addition to whatever remedies it may have at law.

6. Indemnification.

a. Indemnification Obligations of Prizeout. Prizeout shall indemnify, defend and hold harmless Partner and its directors, officers, employees and agents from and against any claims, liabilities, losses, damages and costs (including reasonable attorneys' fees) (collectively, "Losses") arising out of or relating to a third party claim, inquiry or investigation alleging that the use of the Service as permitted under this Agreement, infringes or misappropriates such third party's valid United States patent, copyright, trademark or trade secret ("Prizeout IP Claim"). In no event shall Prizeout have any obligations or liability under this Section 6(a) arising from the use of the Service (or any portion thereof) in a modified form or in combination with materials not furnished by Prizeout; or any content, information, or data provided by Partner, Users, or any other third parties.

b. Indemnification Obligations of Partner. Partner shall indemnify, defend and hold harmless Prizeout, its affiliates and each of their respective directors, officers, employees and agents from and against any and all Losses arising out of or relating to a third party claim, inquiry or investigation regarding the use of the Service by Partner or any User in violation of this Agreement or Applicable Laws.

c. Conditions to Indemnification. An indemnitor's obligations to indemnify an indemnitee hereunder are conditioned upon (i) prompt notification of any Loss; *provided, however*, that failure by indemnitee to provide such notice shall not relieve indemnitor of any liability hereunder if no prejudice occurs; and (ii) indemnitee's full cooperation in the defense of such Loss.

d. Infringement Remedy. If the Service, or any portion thereof, becomes, or in Prizeout's opinion is likely to become, the subject of a Prizeout IP Claim, then Prizeout may, in its sole discretion and at its expense: (i) obtain for Partner the right to use the allegedly/potentially infringing portions of the Service; (ii) modify the allegedly/potentially infringing portions of the Service so as to render them non-infringing without substantially diminishing or impairing their functionality; or (iii) replace the allegedly/potentially infringing portions of the Service with non-infringing items of substantially similar functionality. If Prizeout determines that the foregoing remedies are not commercially reasonable, then Prizeout may terminate the Order Form(s) relating to the infringing portions of the Service and repay to Partner any pre-paid or pre-funded amounts relating thereto. The provisions of Sections 6(a) and 6(d) state the sole, exclusive and entire liability of Prizeout to Partner and constitute Partner's sole and exclusive remedy with respect to a Prizeout IP Claim brought by reason of access to or use of the Service by Partner or Users.

7. LIMITATION OF LIABILITY. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY FOR INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND, WHETHER UNDER THIS AGREEMENT OR OTHERWISE, FOR BUSINESS INTERRUPTION, OR LOSS OF REVENUE, PROFITS, DATA, GOODWILL, USE OR OTHER INTANGIBLE LOSSES, REGARDLESS OF THE FORM OF ACTION IN WHICH SUCH DAMAGES ARE

ASSERTED, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EVEN IF SUCH PARTY HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY. NEITHER PARTY'S TOTAL AGGREGATE LIABILITY UNDER THIS AGREEMENT (INCLUDING ALL ORDER FORMS AND OTHER SCHEDULES, STATEMENTS OF WORK AND EXHIBITS HERETO) TO THE OTHER PARTY, WHETHER FOR CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL IN ANY EVENT EXCEED ONE HUNDRED THOUSAND DOLLARS (\$100,000) UNLESS AN AMOUNT IS CLAIMED PURSUANT TO PARAGRAPH 3(a) OF THE ORDER FORM, IN WHICH CASE, THE AMOUNT CLAIMED SHALL NOT BE LIMITED HEREUNDER .

8. Term and Termination.

a. Term. The term (the "Term") of this Agreement will commence on the Effective Date and continue for a period of one (1) year thereafter, unless terminated by either Party pursuant to this Section 8. Notwithstanding anything to the contrary herein, the Term shall not expire so long as any Order Form is in effect.

b. Termination for Cause. Either Party may terminate this Agreement or the applicable Order Form upon written notice if the other Party materially breaches any term or condition of this Agreement or the applicable Order Form and (i) such breach is not cured by the breaching Party within thirty (30) days of receipt of written notice of such breach (the "Cure Period"), or (ii) the breaching Party does not submit a corrective action plan reasonably satisfactory to the non-breaching Party during the Cure Period if such breach cannot be cured within the Cure Period.

c. Termination at Will. Either Party may terminate this Agreement or the applicable Order Form upon sixty (60) days prior written notice to the other Party.

d. Effect of Termination. Upon the termination or expiration of this Agreement: (i) all rights and licenses granted by the Parties hereunder and all obligations of Prizeout with respect to the Service provided to Partner will immediately cease; and (ii) the Parties shall make any payments to one another in accordance with the applicable Order Form that are due through the effective date of termination.

9. General Provisions.

a. Assignment. Neither Party may assign or delegate any of its rights or obligations under this Agreement without the other Party's prior written consent; *provided, however*, that Prizeout may assign this Agreement in connection with an acquisition, merger, corporate reorganization, or sale, license or transfer of all, or substantially all, of its assets without obtaining the consent of Partner. This Agreement shall inure to the benefit of, and shall be binding upon, the Parties' successors and permitted assigns.

b. Notices. All notices hereunder shall be in writing and deemed to be properly given (i) upon personal delivery; (ii) if sent by electronic mail, upon confirmation of receipt; or (iii) if provided via overnight courier or registered or certified mail, upon confirmation of receipt. All notices shall be sent to the address set forth on the signature pages hereto or to such other address as may be designated by the Parties.

c. Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to its provisions governing conflicts of law. The Parties hereby consent to the exclusive jurisdiction of the state and federal courts located in Oneida County in the State of New York in connection with any dispute based on or arising out of this Agreement.

d. Independent Contractors. The relationship of the Parties is that of independent contractors. Nothing in this Agreement will be deemed to create an association, partnership, joint venture, agency or employer and employee relationship between the Parties. Neither Party shall have any authority to act for or to bind the other Party in any manner.

e. Severability; Remedies. If any part of this Agreement is found to be invalid, illegal or unenforceable for any reason, then all other parts nevertheless remain valid, legal and enforceable. To the extent permitted by law, the rights and remedies in this Agreement are cumulative and not exclusive of any other right or remedy that might be available under the law. If either Party fails to require the other Party to perform any provision of this Agreement, such failure does not prevent such Party from later enforcing such provision.

f. Waiver. The waiver by either Party of a breach of, or a default under, any provision of this Agreement, shall

be in writing and shall not be construed as a waiver of any subsequent breach of, or default under, the same or any other provision of this Agreement, nor shall any delay or omission on the part of either Party to exercise or avail itself of any right or remedy that it has or may have hereunder operate as a waiver of any right or remedy.

g. Force Majeure. Neither Party will be liable for the failure to perform any obligation hereunder if such failure is caused by a "Force Majeure Event", which shall mean causes that are beyond a Party's reasonable control, including, but not limited to, acts of God, natural disasters, pandemics, war, civil disturbance, action by governmental entity and strike. The Party affected by a Force Majeure Event will provide prompt notice to the other Party and resume performance as soon as reasonably possible when such Force Majeure Event concludes.

h. Survival. Termination or expiration of this Agreement does not release either Party from obligations that, either expressly, or by their nature, survive termination or expiration hereof. Sections 2, 3, 4(b), 4(c) and 5 through 9 shall survive the termination or expiration of this Agreement.

i. Entire Agreement; Amendment; Counterparts. This Agreement, including any and all Order Forms and other schedules, statements of work and exhibits hereto, supersede all prior or contemporaneous discussions, proposals, negotiations, agreements and communications, between the Parties regarding the subject matter hereof, and constitutes the entire agreement between the Parties concerning the subject matter hereof. No amendment of this Agreement shall be valid unless in writing and duly executed by both Parties. This Agreement may be executed in one or more counterparts, with the same effect as if the Parties had signed the same document. Each counterpart so executed shall be deemed to be an original, and all such counterparts shall be construed together and shall constitute one Agreement.

[signature page follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

PRIZEOUT CORP.

ONEIDA COUNTY

By: _____
Name: David Metz
Title: Chief Executive Officer

By: _____
Name: Anthony J. Picente, Jr.
Title: Oneida County Executive

Prizeout Corp.
Attn: Legal Department
Address:
33 West 17th Street, 8th Floor
New York, NY 10011
email: notices@prizeout.com

Oneida County
Attn: Anthony J. Picente, Jr.
Address:
800 Park Avenue
Utica, New York 13501
email: apicente@ocgov.net

Approved:

Robert E. Pronteau, Assistant County Attorney

Prizeout

Order Form: Disbursements

This Order Form (this "Order Form"), dated as of _____, entered into by and between Prizeout Corp., a Delaware corporation ("Prizeout"), and Oneida County, a New York State Municipality ("Partner"), is made in accordance with, and subject to the terms of the Partner Agreement (the "Agreement"), dated on even date herewith, by and between Prizeout and Partner. All capitalized terms used in this Order Form but not otherwise defined will have the meanings assigned to them in the Agreement.

1. Description of the Service.

a. Prizeout will provide Partner with a program under which gift cards, vouchers, and/or other mechanisms to provide stored value (e.g., account credits etc.) delivered electronically with unique, digital codes ("Gift Cards") offered by approved merchants ("Merchants") are issued to End Users of the Service, in accordance with Partner's instructions ("Disbursements").

b. The Service selects Merchants on the basis of proprietary algorithms. Prizeout may update its list of approved Merchants, which may result in the adjustment of available Gift Cards and/or Merchants.

c. Prizeout will grant Partner access to its proprietary partner portal (the "Partner Portal"), providing Partner with the ability to: (i) view the Subaccount Balance (defined below); (ii) view Gift Card issuances; and (iii) open tickets and submit requests to Prizeout.

2. Partner Responsibilities.

a. Partner shall be liable to Prizeout for the total cash amounts distributed to End Users in the form of Gift Cards, which shall not include any bonus amounts ("Disbursement Amounts"). Any bonus amounts on Gift Cards redeemed by End Users are the sole liability of the applicable Merchant.

b. Partner is solely responsible for complying with any applicable federal, state, local and any other tax laws, rules or regulations, including any withholding or reporting requirements relating to Disbursement Amounts.

c. To use the Partner Portal, each Partner User needs to create an individual account ("Account"), and must provide accurate, complete and updated information for each such Account. Partner is responsible for all activity on all Accounts and for ensuring that each Partner User maintains the confidentiality and security of his/her password. Prizeout is not liable for any acts or omissions by any Partner User in connection with his/her Account. Each Partner User must immediately notify Prizeout at techsupport@prizeout.com if any such Partner User knows or has any reason to suspect that his/her Account or password has been stolen, misappropriated or otherwise compromised, or in case of any actual or suspected unauthorized use of any Account.

3. Payments; Transfers of Funds.

a. During the Order Form Term, Partner shall pay Prizeout for each "PIN" code (as defined in the Agreement) by the submission of prescribed voucher forms to Partner, after audit and approval by the Partner's Comptroller, which amount shall be funded to a subaccount owned by Prizeout at a bank selected by Prizeout (the "Subaccount") via ACH or wire transfer. The Subaccount shall be funded prior to any Disbursements being made by Prizeout hereunder. Once purchased, each PIN code shall become property of the Partner. Upon the termination of the Agreement, the Partner shall have the option to return any unissued or unused PIN codes for the amount paid, in which case Prizeout shall refund to Partner an amount equal to the total amount of any such unissued or unused PIN codes.

b. Prizeout shall, upon receipt of any and all the payments from Partner, deposit said payments in the Subaccount, so that the local use of the funds may be identified and evaluated.

c. Prizeout agrees to submit and/or allow Partner access to, a financial report, on a monthly basis, identifying all payments received from Partner and all payments made by Prizeout, as a result of the Agreement, including the first and last name of each End User that used a "PIN" code to purchase a Gift Card during such period. Prizeout

shall also provide Partner with a list of Merchants who issued Gift Cards to End Users during such period and the aggregate amount of such Gift Cards issued by each such Merchant; provided, that such list shall not include the identity of End Users that purchased Gift Cards from such Merchants. Prizeout shall maintain any records that Partner does not have access to for a period of seven (7) years from the date of termination of this Order Form and/or Agreement.

d. Partner's performance of this Agreement is expressly conditioned upon sufficient funds being appropriated and available at the time of its performance, which may be modified and/or delayed at the sole discretion of Partner due to an increase in expenses and/or decrease in revenues caused by an Act of God, State of Emergency, outbreak of disease, declared epidemic and/or pandemic, and/or any Order of the applicable state and/or federal government.

e. Prizeout acknowledges and understands that Partner is subject to the New York State Freedom of Information Law ("FOIL"). In the event that Partner is required to disclose records relating to the subject matter of this Agreement, as determined by Partner, Prizeout shall hold Partner and its officers, directors, members, agents, employees, contractors and other representatives, harmless; provided, that Partner shall withhold any Confidential Information Prizeout has identified as such in accordance with the Agreement from any disclosure under FOIL, except where an administrative or Court order is issued compelling disclosure.

4. Term and Termination. The term (the "Order Form Term") of this Order Form will commence on the Effective Date and continue for a period of one (1) year thereafter, unless terminated by either Party pursuant to the Agreement.

The Parties' acceptance and agreement is indicated by signing below:

PRIZEOUT CORP.

ONEIDA COUNTY

By: _____
Name: David Metz
Title: Chief Executive Officer

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

Prizeout Corp.
Attn: Legal Department
Address:
33 West 17th Street, 8th Floor
New York, NY 10011
email: notices@prizeout.com

Oneida County
Attn: Anthony J. Picente, Jr.
Address:
800 Park Avenue
Utica, NY 13501
email: apicente@ocgov.net

Approved:

Robert E. Pronteau, Assistant County Attorney

Anthony J. Picente Jr.
County Executive

Colleen Fahy-Box
Commissioner



ONEIDA COUNTY DEPARTMENT OF FAMILY AND COMMUNITY SERVICES

Contract Administration, 4th Floor
County Office Building, 800 Park Avenue, Utica, NY 13501
Phone (315) 798-5073 Fax (315) 793-6044

June 21, 2021

FN 20 21-206

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

HEALTH & HUMAN SERVICES
WAYS & MEANS

Dear Mr. Picente:

I am submitting the following Contract Agreement between the Oneida County Department of Family and Community Services, and U.S. Care Systems, Inc., for your review and approval.

This Agreement is for the provision of Personal Care Services. This Agreement will continue to provide in-home care services to the frail and elderly, and assist older consumers to delay or divert nursing home placement. The total amount of this Agreement is \$237,518.00, with 75% State (\$178,135.50) and 25% (\$59,379.50) County funds. This contract commences April 1, 2021 and terminates March 31, 2022.

If this Agreement meets with your approval, please forward to the Board of Legislators for further consideration.

I am available at your convenience to answer any questions you may have regarding this Agreement.

Sincerely,

Michael J. Romano
Deputy Commissioner

MJR/md

Enclosure



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

Anthony J. Picente, Jr.
County Executive
Date 7-6-21

Oneida Co. Department: OFA/OCC

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

ONEIDA COUNTY BOARD
OF LEGISLATORS

Name & Address of Vendor: U.S. Care Systems, Inc.
2416 Genesee Street
Utica, New York 13502

Title of Activity or Service: Home Health Care Agency (Personal Care Services)

Proposed Dates of Operation: April 1, 2021 through March 31, 2022

Client Population/Number to be Served: Approximately 117 clients, age 60 or older.

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 Activity 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: \$ 237,518.00 Account #: A6774.49599

Oneida County Dept. Funding Recommendation: \$237,518.00

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

Federal: 0% (\$0) State: 75% (\$178,138.50) County: 25% (\$59,379.50)

Cost Per Client Served: \$23.00 per hour for homemaker/personal care (PCA Level II)
\$22.50 per hour for housekeeper/chore (PCA Level I)

Is this service mandated? Yes

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 the **U.S. CARE SYSTEMS, INC.**, a domestic business corporation organized and existing under the laws of the State of New York, located at 2614 Genesee Street, Utica, New York 13502, hereinafter referred to as the "**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 **FAMILY AND COMMUNITY SERVICES**, located at 120 Airline Street, Suite 201, Oriskany, NY 13424, hereinafter referred to 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, 2021** and terminate **March 31, 2022**.

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**

A. The **PROVIDER** 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) and older who are functionally impaired in at least one (1) Activity of Daily Living (i.e., bathing, dressing, toileting) or two (2) Instrumental Activity 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) and older 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 Activity of Daily Living.

B. The **PROVIDER** and **COUNTY** agree that all EISEP/III-E funded homemaker/personal care (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 **PROVIDER** shall be pre-approved and authorized by the client's Case Manager as defined in the client's Home Care Plan.

C. The **PROVIDER** 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.

D. The **COUNTY** and **PROVIDER** 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.

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) and
- 21) assistance with changing of simple dressings. (Level II)

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.

E. The **PROVIDER** shall assign a designated person who shall have the responsibility for coordinating the assignments of aides/associates.

F. The **COUNTY** and **PROVIDER** 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.

G. The **PROVIDER** 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 privacy with the client/authorized representative the service being provided.

H. When a service promised by the **PROVIDER** 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 **PROVIDER** must notify the **COUNTY** immediately via the approved fax form.

I. Any unusual incident that occurs during an agency workers' presence must be reported immediately in writing to the **COUNTY** on the specified fax form.

J. The **PROVIDER** shall 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.

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 **PROVIDER's** agency; and
- 3) the rights of clients as set forth in the EISEP standards and regulations.

3. **PERFORMANCE OF SERVICES**

A. The **CONTRACTOR** represents that **CONTRACTOR** 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 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** will 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 shall reimburse the CONTRACTOR the rates of **\$23.00 per hour** for homemaker/personal care (PCA Level II), and **\$22.50 per hour** for housekeeper/chore (PCA Level I).

C. The total payments for this contract will not exceed Two Hundred Thirty-Seven Thousand Five Hundred Eighteen Dollars (**\$237,518.00**).

D. 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**.

E. The CONTRACTOR shall make no claim for damages for delay of reimbursement due to an act or omission by the COUNTY.

F. The COUNTY shall not be liable for any late fees or any interest in late payments.

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 reasons 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. CONTRACTOR shall not be required to attend or undergo any training by the COUNTY, other than those trainings mandated by the Federal, State or Local Law and

Regulations necessary to perform the services described herein. Except for those trainings mandated by Federal, State or Local Law or Regulation necessary to perform the services described herein, **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, workers' 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 shall 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 has an agreement with the CONTRACTOR to perform any of the services stated herein.

B. The CONTRACTOR shall 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 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 individual with a disability as defined in section 705(20) of this title, shall, solely by reason of his or her disability..., 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 or under any program or activity conducted by any Executive agency...." (29 U.S.C.A §794)

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 produced in connection with the services provided in this contract will give due recognition to the New York State Office for the Aging and the Oneida County Office for the Aging and Continuing Care. Such recognition shall include a statement to be in a 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. **NYSOFA TERMS AND CONDITIONS**

A. The CONTRACTOR agrees that all its activities under this Agreement, shall conform with all applicable federal, state, and local laws, and with federal and state regulations, and Program Standards and Program Instructions of the NYSOFA that apply to such activities, including, but not limited to:

- 1) Rehabilitation Act of 1973, Sec. 504 Nondiscrimination (29 U.S.C. 794)
- 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 (42 U.S.C 3001, et seq.)
- 5) Executive Order 13166 Improving Access to Services for Persons with Limited English Proficiency (65 FR 50121)
- 6) Federal Executive Order 11246 (30 FR 12319), as Amended by Executive Order 11375 (32 FR 14303, Affirmative Action); as Amended by Executive Order 12086 (43 FR 46501, Consolidation of Compliance Functions); and as Amended by Executive Order 13279 (67 FR 77141, Equal Protection for Faith-Based and Community Organizations.)
- 7) Article 15 of the Executive Law of the State of New York, Human Rights Law: prohibiting discrimination based on age, race, creed, color, national origin, sexual orientation, military status, sex, marital status, or disability (N.Y. Exec. Law §290, et seq.)
- 8) Article 15A of the Executive Law of New York State regarding participation by minority group members and women with respect to state contracts (N.Y. Exec. Law §310, et seq.)
- 9) The NYSOFA's Equal Access to Services and Targeting Policy Program Instructions (12-PI-08)
- 10) 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 Clients 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 Clients residing in rural areas, in accordance with their need for such Services, and to meet specific objectives established by the COUNTY for providing Services to the above groups within Oneida County. The CONTRACTOR shall concentrate the Services on Clients in the targeted populations

identified by the COUNTY following the methods the AAA¹ 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. Oneida County is the Area Agency on Aging (AAA) for purposes of this contract.

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 shall 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.

¹ AAA is a term that means Area Agency on Aging which is a public or private not-for-profit agency designated by the State to address the needs and concerns of older persons at the regional and local level. An AAA is responsible for a specific geographic area. This is a generic term and the actual agency may have another name. AAAs coordinate and offer services that help older adults to remain in their homes.

12. FISCAL REQUIREMENTS/RESPONSIBILITIES

- A. The **CONTRACTOR** shall keep CSEP/III-E² 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** shall be responsible for sending monthly donation letters and collecting client contributions for all clients who receive Office for the Aging and Continuing Care funded personal care services. Any contributions received by the **CONTRACTOR** for Office for the Aging and Continuing Care funded by a client, directly, will be reported and deducted on monthly vouchers by the **CONTRACTOR**.
- D. The **CONTRACTOR** shall report to the **COUNTY** all additional moneys or program income (contributions, donations,) given to the CSEP/III-E supported programs. **CONTRACTOR** will comply with all pertinent Department of Health and Human Services regulations and Program Instructions (PI's) regarding income received by the **CONTRACTOR** or any subcontractors where such income is directly generated by a **COUNTY** grant supported activity, or earned as a result of the **COUNTY** grant agreement during the grant period.
- 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 45 CFR 75-386 (2014).

² Caregiver Support for Elderly Program - Title III-E

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 County shall have the right to allow Contractor to commence Services prior to its approval of insurance documents and insurance coverage. In doing so, the County is not relieving the Contractor of any of its insurance requirements pursuant to this Contract nor is the County relieving the Contractor of any of its potential liability for any of the risks that Contractor is required to insure under the terms of this Contract.

The insurance 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 Employer's 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 **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 10th 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.

B. The **CONTRACTOR** shall maintain appropriate client records on each EISEP (Expanded In-home Support for Elderly Program) 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.

C. 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.

D. 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. This Agreement may be terminated 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 terminate the Agreement upon thirty (30) day written notice to the other Party.

C. The **CONTRACTOR** agrees that in the event of termination, the **CONTRACTOR** 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** shall 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.

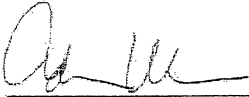
26. ADVICE OF COUNSEL

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.

[The remainder of this page has been intentionally left blank]

IN WITNESS WHEREOF, the Parties have here unto set their hand on the date respectively stated.

CONTRACTOR



~~Christopher Emerson~~, Executive Vice President
U.S. Care Systems, Inc.

Adam Hillman

7/2/2021
Date

COUNTY OF ONEIDA

Anthony J. Picente, Jr., County Executive

Date

ONEIDA COUNTY DEPARTMENT OF FAMILY AND COMMUNITY SERVICES



Michael J. Romano, Deputy Commissioner

7/1/21
Date

Approved:

Richard P. Ferris, 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
2018-2019

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 10th 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.

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

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

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

20. COMPLIANCE WITH NEW YORK STATE LABOR LAW § 201-G

The Contractor shall comply with the provisions of New York State Labor Law § 201-g.

Anthony J. Picente Jr.
County Executive

Colleen Fahy-Box
Commissioner



ONEIDA COUNTY DEPARTMENT OF FAMILY AND COMMUNITY SERVICES

Contract Administration, 4th Floor
County Office Building, 800 Park Avenue, Utica, NY 13501
Phone (315) 798-5073 Fax (315) 793-6044

June 7, 2021

FN 20 21-207

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

HEALTH & HUMAN SERVICES
WAYS & MEANS

Re: Agreement with Homemakers of the Mohawk Valley, Inc. d/b/a Caregivers (138145)

Dear Mr. Picente:

I am submitting the following Purchase of Service Agreement between the Oneida County Department of Family and Community Services, and the Homemakers of the Mohawk Valley, Inc., for your review and approval.

Under this Purchase of Service Agreement, Caregivers will provide homecare services for elderly and homebound individuals. Homecare is provided as part of a New York State program that provides personal care to frail seniors through the Expanded In-Home Services for the Elderly Program (EISEP). Caregivers are one of four home care agencies to provide these services. The total amount of this Agreement is \$204,954.00, which consists of 75% State (\$153,715.50) and 25% County (\$51,238.50) funds. This contract commences April 1, 2021 and terminates March 31, 2022.

If this Agreement meets with your approval, please forward to the Board of Legislators for further consideration.

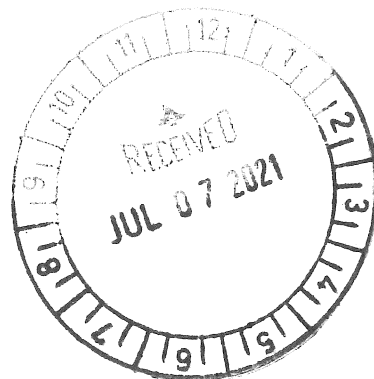
Sincerely,

Michael J. Romano

Michael J. Romano
Deputy Commissioner

MJR/md

Enclosure



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

Anthony J. Picente, Jr.

Anthony J. Picente, Jr.
County Executive

Date 7-6-21

Oneida Co. Department: OFA/OCC

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

ONEIDA COUNTY BOARD
OF LEGISLATORS

Name & Address of Vendor: Homemakers of the Mohawk Valley, Inc. d/b/a
Caregivers
2465 Sheridan Drive
Tonawanda, New York 14150

Title of Activity or Service: Home Health Care Agency

Proposed Dates of Operation: April 1, 2021 through March 31, 2022

Client Population/Number to be Served: Approximately 92 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: \$ 204,954.00 Account #: A6774.49599

Oneida County Dept. Funding Recommendation: \$204,954.00

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

Federal: 0% (\$0) State: 75% (\$153,715.50) County: 25% (\$51,238.50)

Cost Per Client Served: \$22.47 per hour for housekeeper/chore worker (PCA Level I)
\$23.35 per hour for homemaker/personal care worker (PCA Level II)

Past Performance Data: Current provider of personal care services for OFA EISEP clients.

O.C. Department Staff Comments: N/A

Mandated Service: Yes

AGREEMENT

This is an Agreement made by and between the Homemakers of the Mohawk Valley, Inc., d/b/a Caregivers, a domestic business corporation organized and existing under the laws of the State of New York, located at 2465 Sheridan Drive, Tonawanda, New York 14150, with service locations at 1900 Genesee Street, Utica, New York 13502, and 111 East Chestnut Street, Suite 205, Rome, New York 13440, hereinafter referred to as the "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 Office of the Aging and Continuing Care of its Department of Family and Community Services, located at 120 Airline Street, Suite 201, Oriskany, NY 13424, hereinafter referred to as the "County." All parties to the Agreement are hereinafter collectively known as the "Parties."

WITNESSETH:

WHEREAS, the County has the primary responsibility for the overall planning and coordination of County funds including the Federal Older Americans Act (OAA) (Title III); New York State Office For the Aging (NYSOFA), Expanded In-Home Services for the Elderly Program (EISEP), Community Services for the Elderly (CSE), Congregate Services Initiative (CSI), Supplemental Nutrition Assistance Program (SNAP), Health Insurance Information Counseling and Assistance (HIICAP), Medicare Improvements for Patients and Providers Act (MIPPA)/Senior Health Insurance Program (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, the Parties agree as follows:

1. **TERM OF AGREEMENT**

A. This Agreement shall commence April 1, 2021 and terminate March 31, 2022.

B. The Parties may negotiate this Agreement annually. The County is not obligated to renew this Agreement with Contractor. The County reserves the right to seek the same or similar services from third parties.

2. **SCOPE OF SERVICES**

A. The Contractor shall provide the following services (hereinafter, the “Services”):

- a. Non-medical homemaker/personal care (PCA Level II),
- b. Housekeeper/chore (PCA Level I), and
- c. III-E in-home community-based PCA Level II respite services through the County's EISEP/III-E Programs;

B. PCA Level II and PCA Level I services shall be 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 (e.g., bathing, dressing, toileting) or two (2) Instrumental Activities of Daily Living (e.g., housekeeping, shopping, preparing meals);

C. EISEP/III-E respite services shall be 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.

D. Residents who are eligible for services shall be referred to as “clients.”

E. The Parties agree that:

a. All EISEP/III-E funded 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.

b. 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.

c. 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.

F. The tasks that may be performed by a homemaker/personal care (PCA Level II) and a housekeeper/chore (PCA Level I) worker are enumerated in the New York State regulations at 18 NYCRR 505.14(5)(i)(a) and (ii)(a).

- 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 laundry; 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 shall assign a designated person to coordinate the assignments of workers.

I. The Contractor shall assign a designated qualified supervisor(s) who insures the maintenance of quality care and provides the necessary support, understanding and consultation to the worker as s/he carries out the duties and responsibilities. The Contractor shall ensure that the supervisor(s):

- a. 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 provides services to the client;

- b. Demonstrate and instruct the worker and the client concerning specific tasks to be performed in accordance with the care plan;
 - c. Provide information about the Contractor;
 - d. Clarify the roles and responsibilities of the worker, the client, and the supervisor in relation to the Care Plan;
 - e. Conduct scheduled visits to the client's home at least every six (6) months;
 - f. Conduct unscheduled visits to the client's home at least one (1) time a year;
 - g. Evaluate the worker's performance of the required tasks;
 - h. Provide to the worker appropriate information, consultation, instruction and demonstration as needed;
 - i. Determine the extent to which client needs are appropriately and adequately being met;
 - j. Follow-up, as directed by the case manager, to report the findings of the supervisory visit; and
- J. Provide the client and/or authorized representative an opportunity to talk in private about the service being provided.
- K. When a service promised by the Contractor for a scheduled assignment cannot be provided, the client is not at home, or there is a change in the client's condition, including death or hospitalization, the Contractor shall notify the County immediately via the approved fax form.
- L. Any incident that occurs in the presence of Contractor's workers must be reported immediately in writing to the County on the specified fax form.
- M. The Contractor shall 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.
- a. The Contractor shall instruct each worker how to work with the elderly. Each worker shall receive an orientation prior to delivering any in-home services.
 - b. Training shall include:
 - 1) The housekeeping chores and/or personal care tasks which the worker may and may not perform;

- 2) The Contractor's policies and procedures; and
- 3) The rights of clients as set forth in the EISEP standards and regulations.

N. MEDICAID PROCEDURES:

The Contractor shall not provide non-medical homemaker/personal care (PCA Level II), housekeeper/chore (PCA Level I), and respite services 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 clients in adult residential care facilities which had previously been provided by such facility.

a. The County shall collect the cost-share fees and donations for EISEP/III-E Program's in-home services received by the clients.

b. The Contractor shall 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. The County will process prior approvals for Medicaid billing for services provided in this section.

- 1) The County shall notify the Contractor of client approval for Medicaid.
- 2) The Contractor shall credit the County for Medicaid payments received.
- 3) The Parties shall endeavor to hold periodic coordinating meetings that shall be responsive to each other's needs.
- 4) The County shall process prior approvals for Medicaid billing for services provided in this section.
- 5) The Contractor shall cooperate with the County to develop a comprehensive service delivery system for the EISEP/III-E Program.

O. Notwithstanding any other provisions in this Agreement, the Contractor and the County remain responsible for:

a. Ensuring that any service provided pursuant to this Agreement complies with all pertinent provisions of federal, state and local statutes, rules and regulations;

b. Planning, coordination and ensuring the quality of all services provided; and

c. Ensuring adherence by both Contractor and County staff to the Home Care Plan established for the clients.

P. The County shall provide the Contractor with a care plan, confirmation of documentation, and a PCA approval form at the time of referral and every six months thereafter. It is the County's responsibility to develop the care plan according to the regulations and to obtain required physician(s) orders related to the services being provided

by the Contractor. 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 new physician orders, the County shall develop a revised care plan and send a copy the Contractor.

3. PERFORMANCE OF SERVICES

The Contractor represents that Contractor is duly licensed and has the qualifications, the specialized skill(s), the experience and the ability to properly perform the services. The Contractor shall use the Contractor's best efforts to perform the services such that the results are satisfactory to the County. The 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.

4. REIMBURSEMENT FOR SERVICES

A. The County shall reimburse the Contractor for EISEP/III-E services that 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 shall reimburse the Contractor \$22.47 per hour for housekeeper/chore (PCA Level I) and \$23.35 per hour for homemaker/personal care (PCA Level II).

C. The total payments under this Agreement shall not exceed Two Hundred Four Thousand Nine Hundred Fifty Four (\$204,954.00).

D. Reimbursement is payable in twelve (12) monthly vouchers as specified in the Voucher Instructions, attached hereto as APPENDIX C.

E. The County shall not be liable for any late fees for any interest in late payments.

F. The obligations of the Parties are conditioned upon the continued availability of State and County funds. Should funds become unavailable or should appropriate 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 terminate this Agreement immediately 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 the Contractor's failure to properly perform its obligations under this Agreement. The County may withhold payment for including but not limited to:

- a. defective services;
- b. third party claims;

- c. failure of the Contractor to pay its subcontractors, if any;
- d. damage to the County; or
- e. failure to carry out the services in accordance with this Agreement.

H. 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

The Contractor shall not be required to attend or undergo any training by the County, other than those trainings mandated by the federal, state or local law and regulations necessary to perform the Services described herein. Except for those mandated trainings, the Contractor shall be fully responsible for training required 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. The relationship of the Contractor and its employees, subcontractors and/or partners to the County is be that of Independent Contractors. The Contractor's employees, subcontractors and/or partners are not and shall not be deemed to be employees of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Contractor, in accordance with its status as an independent contractor, covenants and agrees that and its employees, subcontractors, and/or partners, 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 and that they will not 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 Services to other entities and/or the public as a regular course of business. The Parties agree that the Contractor is free to undertake other work arrangements during the term of this Agreement, and may continue to make its services available to the public.

C. The Contractor's 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 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 form of business organization, and with respect to the employees, subcontractors and/or partners, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for state or federal income tax, unemployment insurance, worker's compensation, disability

insurance or social security insurance (FICA). The Contractor shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Agreement.

E. 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.

F. The Contractor acknowledges and agrees that the 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.

G. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's Independent Contractor status, the Parties agree 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 shall comply with federal and state laws as supplemented in the Department of Labor regulations and any other regulations of the federal and state entities relating to such employment and Civil Rights requirements.

7. SUBCONTRACTS

A. A subcontractor is a person and/or entity who has an agreement with the Contractor to perform any of the services stated herein.

B. The Contractor may, at the Contractor's own expense, employ or engage the services of such employees, subcontractors and/or partners as Contractor deems necessary to perform the services. The employees, subcontractors and/or partners are not and shall not be deemed to be employees of the County, and the County shall have no obligation to provide employees, subcontractors and/or partners with any salary or benefits. The Contractor is responsible and liable for the performance of its employees, subcontractors and/or partners and shall ensure that they perform in a manner satisfactory to the County, in compliance with all applicable Federal, State or Local Laws and Regulations.

C. Prior to the execution of this Agreement, the Contractor shall furnish the County a list of names of subcontractors to whom the Contractor proposes to award any portion of the services. The Contractor shall provide the County with a copy of 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.

D. 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

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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 section 504 of the Rehabilitation Act of 1973 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."

B. 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).

C. 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."

D. 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 that 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. (e.g., "*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 shall forward copies of all materials to the County at the end of each month.

E. 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. NYSOFA TERMS AND CONDITIONS

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 NYSOFA, and the County of Oneida, more fully described in APPENDIX A.

B. The Contractor, to the extent it has discretion regarding to whom it will provide services, shall 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, frail persons and 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 shall 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 who 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. 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. The Contractor shall, 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. The Contractor shall 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

The Contractor shall implement the County's grievance procedures as required by NYSOFA. 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, attached as APPENDIX C.

C. The County shall be responsible for sending monthly donation letters and collecting client contributions for all clients who receive Office for the Aging and Continuing Care funded personal care services. Any contributions received by the Contractor for Office for the Aging and Continuing Care funded by the client, directly, will be reported and deducted on monthly vouchers by the Contractor.

D. The Contractor shall report to the County any additional moneys or program income (contributions, donations, etc.) given to the CSEP/III-E supported programs. Program income means gross income received by the Contractor directly generated by a County grant supported activity, or earned as a result of the County grant agreement during the grant period.

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 that 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. The Contractor shall ensure that a copy of the audit is 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 the County to 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.

11. INDEMNIFICATION and INSURANCE

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 purchase and maintain insurance of the following types of coverage and limits of liability with an insurance carrier qualified and admitted to do business in the State of New York. The insurance carrier must have at least an A- (excellent) rating by A. M. Best.

1. Commercial General Liability (CGL) coverage with limits of Insurance of not less than \$1,000,000 each occurrence and \$3,000,000 annual aggregate.

- a. CGL coverage shall be written on ISO Occurrence form CG 00 01 1001 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contracts, products-completed operations, and personal and advertising injury.

b. Oneida County, and all other parties required by Oneida County, shall be included as additional insureds. Coverage for the additional insureds shall apply as primary and non-contributing insurance before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by or provided to the additional insureds. Coverage for these additional insureds shall include completed operations.

2. Medical Malpractice/Professional Liability coverage with limits of \$1,000,000 each occurrence and \$3,000,000 aggregate.

Coverage for review of medical records and resulting professional assessment.

3. Workers' Compensation and Employer's Liability Insurance. In the event the Contractor engages any employees, leased employees, volunteers or Subcontractors, the Contractor shall be required to obtain such coverage.

Statutory limits apply.

C. Certificates of Insurance: Prior to the start of any work the Contractor shall provide certificates of insurance to the County. Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of the Contractor's CGL policy. The Contractor shall provide full policy documents and any other information regarding its insurance coverages upon request of the County. These certificates and the insurance policies required above shall contain a provision that coverage afforded under the policies will not be canceled or allowed to expire until at least thirty (30) days prior written notice has been given to the County.

D. Waiver of Subrogation: The Contractor waives all rights against the County and the Department and their agents, officers, directors and employees for recovery of damages to the extent these damages are covered by CGL, Medical Malpractice/Professional Liability, Automobile Liability, or Workers' Compensation and Employer's Liability insurance maintained per requirements stated above.

E. The Contractor shall at all times defend, indemnify, and hold the County and Department and their officers and employees harmless and free and clear of any and all liability arising from any act of omission or commission by the Contractor, or its Subcontractors, with respect to this Agreement and any of the terms thereof.

F. 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.

G. 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.

H. 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.

I. Insurance provisions in this Agreement are separate and independent from the indemnity provisions of this section and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this section shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

J. No Representation of Coverage Adequacy: By requiring insurance, the County does not represent that coverage and limits will be adequate to protect the Contractor. The County reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements stated in this Agreement or failure to identify any insurance deficiency will not relieve the Contractor from, nor may it be construed or considered a waiver of the Contractor's obligation to maintain the required insurance at all times during the performance of this Agreement.

K. Claims Made: In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall continue uninterrupted throughout the term of this Agreement by keeping coverage in force using the effective date of this Agreement as the retroactive date on all "claims made" policies. The retroactive date for exclusion of claims must be on or before the effective date of this Agreement, and can never be after the effective date of this Agreement. Upon completion or termination of this Agreement, the "claims made" coverage shall be extended for an additional three (3) years using the original retroactive date, either through purchasing an extended reporting option; or by continued renewal of the original insurance policies. Submission of annual Certificates of Insurance, citing the applicable coverages and provisions specified herein, shall continue for three (3) years past the completion or termination of this Agreement.

L. 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.

M. The County may suspend payment(s) to the Contractor if the Contractor and/or its sub-contractors, if any, fails to provide the required insurance documentation in a timely manner.

13. **REPORTING REQUIREMENTS**

A. All client records and files are owned by the County.

B. The County shall, pursuant to the requirements for 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).

C. 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 10th of every month. The current and revised CAARS Monthly Report Forms and Monthly Summary Form must be submitted as an attachment to the payment voucher on a monthly basis.

D. The Contractor shall maintain appropriate client records on each EISEP client who receives services through this program and shall provide client records to the County upon request.

E. The Contractor shall 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.

F. The Contractor shall timely provide the County with required monthly, periodic, and/or special reports.

14. **COORDINATION REQUIREMENTS**

A. The Parties shall coordinate referrals.

B. The Parties shall work with older persons, who are not eligible for services through this Agreement, 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.

15. **AGREEMENT CANCELLATION**

A. The County may cancel this Agreement for failure of the Contractor to comply with the terms and conditions of this Agreement.

B. The Contractor and the County reserve the right to cancel the Agreement upon a thirty (30) day written notice to the other Party.

C. The Contractor agrees that in the event of termination, the Contractor 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 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.

16. ENTIRE AGREEMENT

The terms of this Agreement, including all attachments, amendments, addendums or appendixes attached hereto, constitute the entire understanding and agreement of the parties and cancel and supersede all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Agreement. No waiver, alterations or modifications of any provisions of this Agreement shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

17. STANDARD ADDENDUM

The Contractor shall 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.

18. 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.

18. SUCCESSORS AND ASSIGNS

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.

19. SEVERABILITY

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.

20. AUTHORITY TO ACT/SIGN

Approved:

Kimberly A. Kolch, Assistant County Attorney

Date

APPENDIX A

Older Americans Act (OAA) of 1965, as amended (42 U.S.C. 3001 et seq.)
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, Subchapter 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)
Rehabilitation Act of 1973, Sec. 504 (29 USC 794) (Nondiscrimination)
Single Audit Act of 1984 (31 USC 7501, et. seq.)
Code of Federal Regulations CFR)
 45 CFR 75 (Administration of Grants)
 45 CFR 84 (Nondiscrimination on the basis of Handicap)
 45 CFR 92 (Nondiscrimination on the Basis of Race, Color, National Origin, Sex, Age, or Disability)
 45 CFR 93 (New Restrictions on Lobbying)
 45 CFR 1321, Subparts A-D (Grants to State and Community Programs on Aging)
 45 CFR 1321.61 (b)(4) (Advocacy responsibilities of the area agency)
 7 C.F.R. Part 250.68 et seq. (Nutrition Services Incentive Program (NSIP))
Office of Management and Budget (OMB)
 OMB Circular A-87 (Cost Principles for State and Local Governments)
 OMB Circular A-95 (Coordination of Federal, State, and Local Programs), also found in 7 CFR § 22.305
 OMB Circular A-102 (Uniform Requirements for Grants and Cooperative Agreements with State and Local Governments)
 OMB Circular A-110 (Uniform 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-133 (Audits of State and Local Government and Non-Profit Organizations)
 Federal Executive Order 11246, as Amended by Executive Order 11375 (Affirmative Action)
Executive Law of New York State
 Article 15 (State Human Rights Law)
 Article 15A (Minority/Women's Business contract Requirements)
 Article 7-A (Solicitation and Collection of Funds for Charitable Purposes)
New York State Executive Orders
 Executive Order No. 6, issued February 18, 1983 (Insuring equal employment opportunity for minorities, women, disabled persons and Vietnam era veterans in State government)
 Executive Order No. 19, issued May 31, 1983 (Policy Statement on Sexual Harassment in the Workplace)
New York State Office for the Aging Rules and Regulations, NYCRR Title 9, Subchapter Y
 9 NYCRR 6651 et seq. (Social and Nutrition Services for the Elderly, EISEP Program Standards)
 9 NYCRR 6654.20 (Social Adult Day Care Programs)
New York State Office for the Aging Program Instructions
 19-PI-26 (Nutrition Program Standards)
 94-PI-52 (Legal Assistance Standards)

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; 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
2018-2019

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. Check numbers, dates paid and amounts paid must be written on each receipt.

8. Timely Submissions:

- ✓ Submit monthly vouchers by the 10th 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, entered into on this _____ day of _____, 20____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
- i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
- i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and

D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;

ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.

c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. The Contractor will or will continue to provide a drug-free workplace by:

A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

B. Establishing an ongoing drug-free awareness program to inform employees about:

- 1) The dangers of drug abuse in the workplace;
- 2) The Contractor's policy of maintaining a drug-free workplace;
- 3) Any available drug counseling, rehabilitation, and employee assistance program; and
- 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;

C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;

D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:

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

E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction.

Employers of convicted employees must provide notice, including position and title, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall

include the identification number(s) of each affected contract.

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

1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

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

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

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

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

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

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

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

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and

illegal access to computers and paper files that contain protected health information of the County's clients.

- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:
 - i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
 - ii. The Contractor may provide data aggregation services relating to the health care operations of the County.
- c. The Contractor shall:
 - i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
 - ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
 - iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
 - iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
 - v. Make available protected health information in accordance with 45 CFR §164.524;

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

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

5. NON-ASSIGNMENT CLAUSE.

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

6. WORKER'S COMPENSATION BENEFITS.

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

7. NON-DISCRIMINATION REQUIREMENTS.

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

finer of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

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

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its knowledge and belief:

(1) the prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; and (2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) no attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter,

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

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee’s identification number. This number includes any or all of the following: (i) the payee’s Federal employer identification number, (ii) the payee’s Federal social security number, and/or (iii) the payee’s Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax

returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

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

13. GOVERNING LAW.

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

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

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

16. GRATUITIES AND KICKBACKS.

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

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is

requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

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

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

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

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

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

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

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

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

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

20. COMPLIANCE WITH NEW YORK STATE LABOR LAW § 201-G

The Contractor shall comply with the provisions of New York State Labor Law § 201-g.

Anthony J. Picente, Jr.
County Executive



Colleen Fahy-Box
Commissioner

ONEIDA COUNTY DEPARTMENT OF FAMILY AND COMMUNITY SERVICES
COUNTY OFFICE BUILDING ~ 800 PARK AVENUE ~ UTICA, NY 13501
PHONE: 315-798-5260 ~ FAX: 315-793-6044

June 1, 2021

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

FN 20 21-208

HEALTH & HUMAN SERVICES
WAYS & MEANS

Re: Agreement with Mohawk Valley Community Action Agency, Inc. (129767)

Dear Mr. Picente:

I am submitting the above Purchase of Services Agreement for review and approval by the Board of Legislators.

The County has contracted with Mohawk Valley Community Action for several years for Parent Aide Services. The Contractor's Strengthening Families Program (SFP) will provide parent aide community-based services to 75-85 families with the goal of decreasing the number of children entering foster care or placement and to hasten the return of children to a permanent living arrangement. This service is a vital element in our Preventive Services Program.

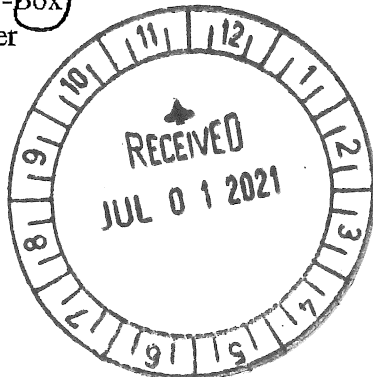
The term of this Agreement is January 1, 2021 through December 31, 2021. The maximum total cost is \$375,000.00 for the duration of this agreement. The local cost is \$101,925.00 (27.18 %).

Please forward this matter to the Board of Legislators for its consideration. Thank you.

Sincerely,

Colleen Fahy-Box
Colleen Fahy-Box
Commissioner

CFB/tms
attachment



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

Anthony J. Picente, Jr.
Anthony J. Picente, Jr.
County Executive
Date 6-7-1-21

14902

Oneida Co. Department Social Services

Competing Proposal X
Only Respondent _____
Sole Source RFP _____

Oneida County Board of Legislators
Contract Summary

Name of Proposing Organization: Mohawk Valley Community Action
9882 River Road
Utica, New York 13502

Title of Activity or Services: Strengthening Families - Parent Aide Services

Proposed Dates of Operations: January 1, 2021 through December 31, 2021 (First Renewal)

Client Population/Number to be Served:

Parent Aides will provide community-based services to 75-85 families at any given time with the goals of preventing foster care and hastening the return of children from foster care. The agency will pursue an aggressive policy regarding permanency planning for children at risk of being placed into care and children already in care.

SUMMARY STATEMENTS

1). Narrative Description of Proposed Services

The Department has contracted with Mohawk Valley Community Action for several years for Parent Aide Services. The Contractor's Strengthening Families Program (SFP) will provide parent aide community-based services to families at any given time in order to prevent foster care, or to return children from foster care. The goal is to provide Preventive Services and re-direct the families to avoid child abuse, neglect and out of home placement.

2). Program/Service Objectives and Outcomes

Parents will demonstrate an improved ability to appropriately parent their children through an increased knowledge of child development, as well as, improved skills in regards to issues related to childcare such as discipline, nurturing and role modeling.

3). Program Design and Staffing Level -

1 Program Manager
6 Family Specialists

Total Funding Requested: \$ 375,000.00

Oneida County Dept. Funding Recommendation: Account # A6070.49547

Mandated or Non-mandated: Preventive Mandated service

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

FEDERAL	38.39 % -	\$ 143,962.50
STATE	34.43 % -	\$ 129,112.50
COUNTY	27.18 % -	\$ 101,925.00

Cost Per Client Served:

Past performance Served: Mohawk Valley Community Action has contracted with Oneida County Department of Social services for Parent Aides since 1985. The total cost of this contract in 2019 - 2020 was \$ 465,337.

O.C. Department Staff Comments:

FIRST RENEWAL AGREEMENT

THIS FIRST RENEWAL AGREEMENT(hereinafter called the "First Renewal") by and between Oneida County, a municipal corporation organized and existing under the laws of the State of New York having its principal offices at 800 Park Avenue, Utica, New York 13501, through its Department of Family and Community Services (hereinafter called the "Department," the Department and Oneida County shall collectively be called the "County"), and Mohawk Valley Community Action Agency, Inc., a not-for-profit corporation as defined in Section 102 (a)(5) of the New York Not-For-Profit Corporation Law having its principal offices at 9882 River Road, Utica, New York 13502 (hereinafter called the "Contractor"). The parties to this First Renewal shall hereinafter be called the "Parties."

WITNESSETH:

WHEREAS, the Commissioner of Social Services of the County of Oneida (hereinafter called the "Commissioner") is charged with the responsibility for the administration of all child welfare services provided in the County of Oneida at public expense; and

WHEREAS, the Commissioner may provide such Preventive Services directly or through an authorized agency or a not-for-profit corporation, or a public agency that receives the prior approval of the New York State office of Children and Family Services; and

WHEREAS, the Contractor has the ability to provide the Preventive Services required herein; and

WHEREAS, the County has determined that the amount of funds to be paid to the Contractor is reasonable and necessary to provide quality Preventive Services in conformance with the Consolidated Services Plan of the County of Oneida and relevant sections of the New York State Law; and

WHEREAS, it is economically and organizationally feasible for the County to contract with the Contractor for the performance of these Preventive Services; and

WHEREAS, the Contractor previously responded to a Request for Proposals (County "RFP 2018-259") by the County and was awarded a County contract no. 88172 (hereinafter, the "Original Agreement") that had a term of July 1, 2019 through June 30, 2020; and

WHEREAS, RFP 2018-259 requested proposals for at least a one (1) year initial contract, with the potential for a three (3) year initial contract, with the ability of the County to renew the contract for an additional two (2) one-year terms; and

WHEREAS, the Original Agreement was for a one (1) year term; and

WHEREAS, based on RFP 2018-259, the County has the right to renew the Original Agreement for an additional two (2) one-year terms; and

WHEREAS, as a result of the COVID-19 pandemic, the County delayed renewal of the Original Agreement for a period of time; and

WHEREAS, the County now wishes to reengage the Contractor in the services by exercising its right of renewal of the Original Agreement for the first one (1) year renewal term pursuant to the terms and conditions contained herein;

NOW, THEREFORE, the parties agree as follows:

SECTION I. DEFINITIONS

Whenever the following terms are used in this First Renewal and schedules attached hereto, they shall have the following meaning unless otherwise clearly noted:

(1) Preventive Services means supportive and rehabilitative services provided to children and their families in accordance with the provisions of 18 NYCRR Part 423 for the purpose of averting a disruption of a Family which will or could result in placement of a child in foster care; enabling a child who has been placed in foster care to return to his or her Family at an earlier time than would otherwise be possible; or reducing the likelihood that a child who has been discharged from foster care would return to such care. The following services, when provided for the above-stated purpose and in conformity with this Part, are considered Preventive Services:

(i). Mandated Preventive Services means Preventive Services provided to a child and his or her Family whom the district is required to serve pursuant to 18 NYCRR Part 430.9.

(ii). Non-Mandated Preventive Services means Preventive Services provided to a child and his or her Family who the district may service pursuant to Section 409-a (2) of the Social Services Law.

(iii). The services set forth in paragraphs (2) through (17) of this First Renewal are considered Preventive Services when they are provided for the above-stated purpose and in conformity with 18 NYCRR Part 423.

(2) Case Management is the responsibility of the Department to authorize the provision of Preventive Services, to approve the child and his or her Family eligibility determination according to the criteria of 18 NYCRR Part 423.3 and to approve, in writing, the service plans as defined in 18 NYCRR Part 428.

(3) Case Planning is defined as assessing the need for, providing or arranging for, coordinating and evaluating the provision of those Preventive Services needed by a child and his or her Family to prevent disruption of the Family or to help a child in foster care return home sooner. Case Planning shall include, but not be limited to, referring such child and his or her Family to other services as needed, including but not limited to: educational counseling and training; vocational diagnosis and training; employment counseling, therapeutic and preventive medical care and treatment; health counseling and health maintenance services; vocational rehabilitation, housing services; speech therapy;

and legal services. Case Planning responsibility shall also include documenting the child's and his or her Family's progress and adherence to the plan by recording in the uniform case record as defined in 18 NYCRR Part 428 and 18 NYCRR Part 430.8 through 430.12 that such services are provided and providing casework contact as defined in paragraph (4) of this First Renewal. Case Planner is the caseworker assigned Case Planning responsibility.

(4) Casework Contacts are:

(i). Individual or group face-to-face counseling sessions between the Case Planner and the child and/or the child's parents, relatives or guardians for the purpose of guiding the child and/or the child's parents or guardians towards a course of action agreed to by the child and/or the child's parents or guardians as the best method of attaining personal objectives or resolving problems or needs of a social, emotional, developmental or economic nature.

(ii). Individual or group activities with the child and/or the child's parents that are planned for the purpose of achieving such course of action as specified in the child and Family's service plan.

(5). Clinical Services are assessment, diagnosis, testing, psychotherapy, and specialized therapies provided by a person who has received a master's degree in social work, a licensed psychologist, a licensed psychiatrist or other recognized therapist in human services. Such services shall be separate and distinct from Casework Contacts as defined in paragraph (4) of this First Renewal.

(6). Day Care Services as defined in the Consolidated Services Plan of the State Department of Social Services prepared pursuant to Section 34-a of the Social Services Law.

(7). Day Services to children are defined in 18 NYCRR Part 425.1.

(8). Emergency Cash or Goods is money or the equivalent, food, clothing or other essential items that are provided to a child and his or her Family in an emergency or acute problem situation in order to avert foster care placement.

(9). Emergency Shelter is providing or arranging for shelter where a child and his or her Family who are in an emergency or acute problem situation reside in a site other than their own home in order to avert foster care placement.

(10). Family is defined, for the purpose of this First Renewal, as the child who is at risk of foster care, his or her parent, or legal guardians, or other caretakers, and siblings. Family may include a woman who is pregnant as specified in 18 NYCRR Part 430.9(c)(6). Family may also include a child who does not live with his or her parents and needs services to prevent return to foster care.

(11). Family Planning Services is defined in the Consolidated Services Plan of the State Department of Social Services prepared pursuant to Section 34-a of the Social Services Law.

(12). Home Management Services is defined in the Consolidated Services Plan of the State Department of Social Services prepared pursuant to Section 34-a of the Social Services Law.

(13). Homemaker Services is defined in the Consolidated Services Plan of the State Department of Social Services prepared pursuant to Section 34-a of the Social Services Law.

(14). Housekeeper/Chore Services is defined in the Consolidated Services Plan of the State Department of Social Services prepared pursuant to Section 34-a of the Social Services Law.

(15). Parent Aide Services are those services provided in the home and community that focus on the need of the parent for instruction and guidance and are designed to maintain and enhance parental functioning and Family/parent role performance. Techniques may include, but not limited to: role modeling, listening skills, Home Management assistance, and education in parenting skills and in personal coping behavior.

(16). Parent Training is group instruction in parent skills development and the developmental needs of the child and adolescent for the purpose of strengthening parental functioning and parent/child relationships in order to avert a disruption in a Family or help a child in foster care return home sooner than otherwise possible. Parent Training may include child-parent interaction groups formed to enhance relationship and communication skills.

(17). Transportation services are providing or arranging for transportation of the child and/or his or her Family to and/or from services arranged as part of the child's service plan and may only be provided if such transportation cannot be arranged or provided by the child's Family. Transportation may not be provided as a Preventive Service for visitation of children in foster care with their parents.

(18). Client is a child and/or his or her Family determined by the Department to be eligible for Preventive Services.

SECTION II. TERM OF FIRST RENEWAL

The term of this First Renewal shall be from January 1, 2021 through December 31, 2021. Pursuant to RFP 2018/-259, the County retains the option to renew this First Renewal in its sole discretion of the County for one (1) additional one-year term, and the County shall provide notice to the Contractor prior to the end of the term of this First Renewal. The Parties understand and agree that the County shall not be obligated to extend or renew the terms of this First Renewal.

SECTION III. SCOPE OF SERVICES

(1). The County and the Contractor agree that the Contractor shall furnish Preventive Services to Clients in accordance with federal and New York State laws and regulations, including 18 NYCRR Parts 404 and 423 and any other standards prescribed by the New York State Office of Children and Family Services ("OCFS").

(2). The Department shall be responsible for determining the eligibility of persons for Preventive Services to be purchased by this First Renewal. The Department shall also be responsible for establishing the policies and procedures for such eligibility determinations in accordance with 18 NYCRR Part 423 and any other standards prescribed by the OCFS.

(3). The Department shall be responsible for Case Management which shall include: authorizing the provision of Preventive Services; approving Client eligibility in accordance with 18 NYCRR Section 423.3; and approving child service plans.

(4). The Contractor shall provide Preventive Services in accordance with the Purchase of Service Specifications Between Oneida County Department of Social Services and Mohawk Valley Community Action Agency, Inc. attached hereto and made part hereof as Appendix C.

(5). The Contractor and the Department shall cooperate in the collection and exchange of data to facilitate service planning and to provide required information to the State's Child Care Review Service.

(6). The Contractor and the Department shall comply with Section 153 of the Social Services Law which requires all social services districts which purchase Preventive Services from other authorized agencies to charge any loss of reimbursement pursuant to this section to such agencies to the extent that such loss is attributable to such agencies.

(7). The Contractor and the Department agree that a determination by the OCFS to deny reimbursement to the Department for the provision of Preventive Services for a Client, pursuant to Sections 153 and 153-a through 153-k of the Social Services Law shall not relieve the Department, or the Contractor from its statutory or contractual obligations to continue to provide Preventive Services for the Client or other children in its care.

(8). Case Planning, along with Casework Contacts, shall be provided by the Contractor in accordance with Appendix C of this First Renewal and as required by individual case plans pursuant to 18 NYCRR Part 428.1 through 428.10.

(9). The Contractor shall review and discuss the service plan with the Department. The Contractor shall submit any changes or significant deviation from the plan to the Department prior to the proposed implementation of the change. The Contractor shall implement the change upon receipt of written approval by the Department.

(10). The Contractor shall comply with the reporting provision of suspected child abuse or maltreatment as set forth in Article 6 of Title 6 of the Social Services Law.

SECTION IV. FAIR HEARINGS

The Department shall notify applicants for or recipients of care and services of their right to a fair hearing to appeal the denial, reduction or termination of a service, or failure to act upon application within 30 days of application. The Department shall also inform applicants for or recipients of Preventive Services how to file a fair hearing request. The Department shall be responsible for establishing fair hearing procedures, holding fair hearings, and taking such steps as may be necessary to enforce its determinations and decisions. The Department shall provide the Contractor with copies of the decision. The Contractor shall participate in appeals and fair hearings as witnesses for a determination of issues upon the Department's request.

SECTION V. REIMBURSEMENT

(1). The County shall reimburse the Contractor for provision of Preventive Services in accordance with applicable State and Federal regulations.

(2). The Department shall monitor the performance of the Preventive Services on a monthly basis, and will impose a fiscal penalty equal to a reduction of two percent (2%) of the monthly installment for each outcome that is not met. The program outcomes are detailed under title "Outcomes/Measurements for Parent Aide First Renewal" of Appendix C.

(3). Reimbursement shall be issued in twelve (12) equal monthly installments of \$31,250.00 each, upon submission of a County voucher and data necessary to allow the Department to determine if a fiscal penalty is to be assessed. Total compensation pursuant to this First Renewal shall not exceed \$375,000.00.

(4). Each voucher shall include this First Renewal number and First Renewal name as provided by the Department and shall have attached:

- i. Statement identifying each Client provided with Preventive Services in said month, listing the days of admittance and discharge from the program;
- ii. Copy for each case of "Itemized Individual Billing for Preventive Services" with case number, Case Manager's name, and case comments;
- iii. Title XX forms as required by the Department; and
- iv. Other data that is mutually agreed upon, such as expenditure documentation.

SECTION VI. GENERAL RESPONSIBILITIES OF PARTIES

(1). The Contractor's governing board shall exercise oversight of Contractor's day-to-day affairs and programs. The Contractor shall have the responsibility for day-to-day provision of Preventive Services for each Client serviced in accordance with this First Renewal and with appropriate OCFS regulations. The Parties recognize that ultimate responsibility for the welfare of each Client rests with the Department.

(2). The Contractor shall maintain sufficient staff, facilities and equipment, in accordance with the regulations of the OCFS, to provide the Preventive Services set forth in Appendix C of this First Renewal.

(3). The Contractor shall provide the Preventive Services described in Appendix C of this First Renewal at the principal location of:

MOHAWK VALLEY COMMUNITY ACTION AGENCY INC.
9882 RIVER ROAD, UTICA, NEW YORK 13502

and shall provide the Department written notification of the location(s) of any additional support services provided in conjunction with the child service plan, outside of the aforementioned address.

(4). The Department shall supply the Contractor with the name of the person assigned to the monitoring responsibility for child protective services for the recipients of Preventive Services from the Contractor.

SECTION VII. BOOKS, RECORDS, AND REPORTS

(1). The Contractor shall keep accurate records (in conformance with State regulations established for utilization review and uniform case recording) for each Client receiving Preventive Services under this First Renewal. Each record shall indicate the Preventive Services provided to the Client, and to others involved with the case, including the dates such services were provided. The Contractor shall report on the status and progress of each recipient of Preventive Services to the Department at intervals required in the OCFS regulations.

(2). All information contained in the Contractor's files shall be held confidential by the Contractor and the Department pursuant to the applicable provisions of the Social Services Law and any State Department Regulations promulgated thereunder, including 18 NYCRR Section 357.5 and 423.7, as well as any applicable federal laws and any regulations promulgated thereunder and shall not be disclosed except as authorized by law.

(3). The records of individual Clients of Preventive Services shall be made available to the Department upon request for consultation or review.

(4). The Contractor shall maintain statistical records as required by the Department and shall furnish such data at times prescribed by and on forms supplied by the Department.

(5). The Contractor shall maintain financial books, records and necessary supporting documents as required by the County. The Contractor shall use accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of the Preventive Services provided under this First Renewal. The Contractor shall collect statistical data of a fiscal nature on a regular basis and make fiscal and statistical reports at times prescribed by and on forms furnished by the County.

(6). The Contractor shall retain all books, records and other documents relevant to this First Renewal for six (6) years after final payment for Preventive Services to which they relate, during which time authorized county, state and/or federal auditors shall have access to and the right to examine the same.

(7). In addition to Paragraph 3, 4, 5 and 6 of this Section, and until the expiration of six (6) years after the furnishing of Preventive Services pursuant to this First Renewal or any subcontract made pursuant to this First Renewal, the Contractor and its subcontractor(s), shall make available, upon written request, to the Secretary of the U.S. Department of Health and Human Services, or upon request, to the Comptroller General, or any of their duly authorized representatives, this First Renewal, and books, documents and records of Contractor or subcontractor(s) that are necessary to certify the nature and extent of such costs.

SECTION VIII. ACCOUNTABILITY

(1). The Department shall establish methods to evaluate the provision of Preventive Services by the Contractor pursuant to this First Renewal. All provisions of this Section shall be interpreted consistent with the New York State law and applicable regulations. The Contractor recognizes that the Commissioner, pursuant to statute, has ultimate responsibility for the protection and preservation of the welfare of all children within her jurisdiction and thus has the duty, ongoing throughout the term of this First Renewal, to monitor the Contractor with regard to the Preventive Services provided to the Clients referred hereunder.

(2). The Contractor understands that a program and facilities review, as pertains to the delivery of Preventive Services under this First Renewal, including meetings with Clients of Preventive Services, review of uniform case records, review of Preventive Service policy and procedural issuances, review of staffing and job description, and meetings with any staff directly or indirectly involved in the provision of Preventive Services, may be conducted at any reasonable time by qualified personnel from those local, state and federal agencies with the required legal powers and statutory authority to conduct such activities.

(3). The Department shall confer with the Contractor at least twice a year to discuss the Contractor's Preventive Services purchased by the Department. This shall include, but not be limited to, such items as frequency of contact and planning with the natural Family and significant others, scope of service plans and of achieving the stated goals, and the extent to which special mental health, remedial, tutorial and vocational services were provided after the Contractor and the Department determined these were necessary. These semi-annual Client reviews shall also assess compliance with First Renewal requirements.

(4). If the Contractor fails to substantially comply with the provisions of this First Renewal after due written notice, the County may take such actions or invoke such sanctions under this First Renewal and any appropriate regulations issued by the OCFS as it deems necessary.

(5). The Contractor shall not make any subcontract for the performance of this First Renewal without prior written approval of the County. The assignment of this First Renewal without prior written approval of the County, in whole or in part, or of any money due or to become due under this First Renewal shall be void.

(6). The Contractor covenants and agrees that neither it nor any of its directors, officers, members, or employees has any interest, nor shall they acquire any interest, directly or indirectly, which would substantially or adversely conflict in any manner or degree with the Contractor's performance of the Preventive Services defined in Section III. The Contractor further covenants that no person having such interest shall be employed in the performance of this First Renewal. The names and addresses of the members of the Board of Directors of the Contractor are annexed to this First Renewal as Appendix D.

SECTION IX. COMPLIANCE WITH LAW

(1). The Contractor shall comply with the requirements of the Civil Rights Act of 1964 as amended, the Age Discrimination Employment Act of 1967 as amended, the Federal Rehabilitation Act of 1973 as amended, and Executive Order No.11375 and as supplemented in Department of Labor Relations, 41 CFR, Part 60. The Contractor also agrees to observe all applicable Federal regulations contained in 45 CFR, Part 84, and 28 CFR, Part 41.

(2). The Contractor shall be bound by the terms and conditions of Appendix A and Appendix B that are attached hereto and made a part hereof.

SECTION X. TERMINATION OF FIRST RENEWAL

(1). The County may terminate this First Renewal for cause upon the Contractor's failure to comply with the terms and conditions of this First Renewal, including the attachments. The County must give the Contractor written notice specifying the Contractor's failure.

(2). The County may terminate this First Renewal, in whole or in part, if the Contractor fails to comply with any Federal, State or local health, safety or fire code regulations; or in the event that any license, approval or certification of the Contractor, required by federal, state or county government is revoked, not renewed, or otherwise not in full force or effect, or in the event that a new such license, approval or certification is required and Contractor fails to secure it during the term of this First Renewal.

(3). The County shall give the Contractor notice of termination in writing specifying the reasons for termination and the effective date of termination. Such written notice shall be delivered via registered mail, certified mail with return receipt requested, or by hand with a receipt from the Contractor. First RenewalFirst RenewalThe effective date of the termination shall not be less than sixty (60) days from the date of notice. However, if substantial breach of this First Renewal is involved, the effective date shall not be less than thirty (30) days from the date of notice. In any event, the effective date of termination shall not be later than the First Renewal expiration date. The Contractor shall not incur new obligations or claim any expenses incurred after receipt of the notification of termination.

(4). Upon expiration of the term of this First Renewal or upon termination First Renewalpursuant to Paragraphs 1 and/or 2 of this section, the Department shall arrange for the transfer to another contractor of all Clients then served by the Contractor. The Parties shall negotiate an extension of this First Renewal prior to the date of termination to reimburse the Contractor for any Clients not transferred by the effective date of termination, First Renewal

(5). The Contractor shall comply with all Department close-out procedures, including but not limited to: accounting for and refunding to the County any overpayments or excess funds paid to the Contractor pursuant to this First Renewal; not incurring or paying any further obligation to be reimbursed to it under this First Renewal beyond the termination date; and transmitting to the County, upon written request, copies of all books, records, documents and materials pertaining to the financial details of any Preventive Services provided under the terms of this First Renewal.

(6). The Contractor agrees that any equipment purchased with funds under this First Renewal is the property of the County and shall revert to the County upon any termination or failure to renew

the First Renewal pursuant to State law.

SECTION XI. PERFORMANCE OF SERVICES

(1). The Contractor warrants that it is not in arrears to the County upon any debt or contract, and that it has not been in default and is not in default as surety, contractor or otherwise.

(2). The Contractor warrants that it and its services staff, when necessary, have all of the licenses, approvals and certifications currently required by the laws of any applicable municipality. The Contractor further shall keep such required documents in full force and effect during the term of this First Renewal, or any extension, and shall comply within the required time to secure any new license so required.

(3). The Contractor represents that the Contractor is duly licensed and has the qualifications, the specialized skill(s), the experience and the ability to properly perform the Preventive Services. The Contractor shall use the Contractor's best efforts to perform the Preventive Services such that the results are satisfactory to the County. The Contractor shall be solely responsible for determining the location, method, details and means of performing the Preventive Services, except where federal, state or local laws and regulations impose specific requirements on performance of the same.

(4). The Contractor may, at the Contractor's own expense, employ or engage the services of such employees, subcontractors and/or partners as Contractor deems necessary to perform the Preventive Services (collectively, the "Assistants"). The Contractor shall be solely responsible and shall remain liable for the performance of the Preventive Services by the Assistants in a manner satisfactory to the County, in compliance with all applicable Federal, State or local laws and regulations. The Contractor shall expressly advise the Assistants of the terms of this First Renewal.

(5). The Contractor acknowledges and agrees that the Contractor and its Assistants have no authority to enter into contracts that bind the County or create obligations on the part of the County without the prior written authorization of the County.

(6). The Contractor is solely responsible for paying all of its business expenses related to furnishing the Preventive Services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating costs.

(7). The Contractor and its Assistants shall not be required to attend or undergo any training by the Department. The Contractor shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the Preventive Services described herein and shall be solely responsible for the cost of the same.

SECTION XII. INDEPENDENT CONTRACTOR STATUS

(1). The Parties expressly agree that the relationship of the Contractor and its Assistants to the County shall be that of Independent Contractors. The Contractor's Assistants shall not be considered employees of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health insurance benefits. The Contractor, in

accordance with its status as an Independent Contractor, covenants and agrees that its Assistants will conduct themselves in accordance with such status, that its Assistants 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.

(2). 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 services to other entities and/or the general public as a regular course of business. The Contractor and the County agree that the Contractor is free to undertake other work arrangements during the term of this First Renewal, and may continue to make its services available to the public.

(3). The Contractor'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.

(4). The Contractor acknowledges and agrees that its Assistants shall not be eligible for any County employee benefits, including retirement membership credits.

(5). The County shall reimburse the Contractor pursuant to IRS Form 1099. The Contractor shall be solely responsible for applicable taxes for all compensation paid to the Contractor or its Assistants under this First Renewal and for compliance with all applicable labor and employment requirements with respect to the Contractor's form of business organization.

(6). The Contractor shall also be solely responsible with respect to the compensation paid to the Assistants, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for State or Federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). The Contractor shall provide proof of workers' compensation insurance, where applicable, prior to execution of this First Renewal. 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.

(7). If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's or its Assistants' Independent Contractor status, the Parties 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.

(8). The Contractor shall comply with federal and state laws as supplemented in the Department of Labor regulations and any other regulations of the Federal and State entities relating to such employment and Civil Rights requirements.

SECTION XIII. INDEMNIFICATION

The Contractor shall at all times defend, indemnify, and hold the County and its officers and employees harmless and free and clear of any and all liability arising from any act or omission or

commission by the Contractor, its officers or employees, with respect to this First Renewal and any of the terms thereof.

SECTION XIV. INSURANCE REQUIREMENTS

(1). The Contractor shall purchase and maintain insurance of the following types of coverage and limits of liability with an insurance carrier qualified and admitted to do business in the State of New York. The insurance carrier must have at least an A- (excellent) rating by A. M. Best.

- i. Commercial General Liability (CGL) coverage with limits of insurance of not less than \$1,000,000 each occurrence and \$3,000,000 annual aggregate.
 - a. CGL coverage shall be written on ISO Occurrence form CG 00 01 1001 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contracts, products-completed operations, and personal and advertising injury.
 - b. Abuse and Molestation coverage must be included.
 - c. Oneida County, and any other parties required by the County, shall be included as additional insureds. Coverage for the additional insureds shall apply as primary and non-contributing insurance before any other insurance or self-insurance, including any deductible or self-insured retention maintained by, or provided to, the additional insureds.
- ii. Workers' Compensation and Employer's Liability
 - a. Statutory limits apply.
- iii. Business Automobile Liability (BAL)
 - a. BAL with limits of at least \$1,000,000 each accident.
 - b. BAL coverage must include coverage for liability arising out of all owned, leased, hired, and non-owned automobiles.
 - c. Oneida County shall be included as an additional insured on the BAL policy. Coverage for the additional insured shall be on a primary and non-contributing basis.
- iv. Commercial Umbrella
 - a. Umbrella limits must be at least \$5,000,000.
 - b. Umbrella coverage must include as additional insureds all entities that are additional insureds on the CGL.

- b. Umbrella coverage for such additional insureds shall apply as primary and non-contributing before any other insurance or self-insurance, including any deductible or self-insured retention maintained by, or provided to, the additional insureds.
- v. Professional Liability coverage with limits of \$1,000,000 each occurrence and \$3,000,000 aggregate.

(2). Waiver of Subrogation: the 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 CGL, BAL, Professional Liability, or Workers' Compensation and Employers Liability insurance maintained per requirements stated above.

(3). Certificates of Insurance: Prior to the start of any performance under this First Renewal, the Contractor shall provide certificates of insurance to the County. Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of the Contractor's CGL policy. These certificates and the insurance policies required above shall contain a provision that coverage afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the County.

SECTION XV. VENUE

If either party elects to commence litigation against the other in connection with any matter relating to or arising out of this First Renewal, 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.

SECTION XVI. ADVICE OF COUNSEL

Each party acknowledges that, in executing this First Renewal, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and conditions of this First Renewal.

SECTION XVII. ENTIRE AGREEMENT

The terms of this First Renewal, including any attachments, amendments, addendums or appendices attached hereto, constitute the entire understanding and agreement of the parties and cancel and supersede all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this First Renewal. No waiver, alterations or modifications of any provisions of this First Renewal shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

IN WITNESS WHEREOF, the Parties hereto have executed this First Renewal on the day and year first written below.

Date: 6/23/2021

Mohawk Valley Community Action Agency, Inc.: *Amy Turner*
Amy Turner, Executive Director

Date: _____

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

Date: 6/24/21

Oneida County Department of
Family and Community Services: *Colleen Fahy-Box*
Colleen Fahy-Box, Commissioner

Approved: _____
Kimberly A. Kolch, Assistant County Attorney

Exhibit A - Program Budget
Agency: Mohawk Valley Community Action

Program: Strengthening Families

Budget Summary Form

✦ The purpose of this form is to document the preliminary budget for the proposed program.

Expense Category	Year One
A. Personal Services	
1. Personnel	\$213,359
2. Fringe Benefits	\$73,374
3. Total (Lines 1 + 2)	\$286,733
B. Non-Personal Services	
4. Contractual/Consultant	\$1,000
5. Staff Travel/Per Diem	\$7,350
6. Equipment	\$3,000
7. Training	\$1,500
8. Supplies	\$2,200
9. Other Expenses	\$73,217
10. Total (Total Lines 4 to 9)	\$88,267
C. Project Total (Lines 3 + 9)	\$375,000

Agency: Mohawk Valley Community Action

Program: Parent Aide

B. BUDGET

Provide a brief explanation for each item as it relates to the project (include computation)

B4. Consultant/Contractual

Item	Year One
Translation services	\$1,000
Total Consultant Costs	\$1,000

B5. Staff Travel/Per Diem

Item	Year One
Local Travel - staff travel for home visits and for case conferencing within Oneida County. MVCAA follows Federal Established Rate is 0.56/mile	\$7,350
Total Staff Travel/Per Diem	\$7,350

B6. Equipment

Item	Year One
Laptops	\$3,000
Total Equipment	\$3,000

Agency: Mohawk Valley Community Action

Program: Parent Aide

B. BUDGET cont'd

B7. Supplies

Item	Year One
Desk Calendars, pen, paper, paper clips etc.	\$2,200
Total Supplies	\$2,200

B8. Other Expenses

Item	Year One
<p>Common Cost Pools: Cost allocations are charged to all Family Resource Programs. Common costs that are not easily identifiable to the different activities performed by grants and contracts. The common cost pools include space rental, printing, internet, postage and telephone charges and central intake (receptionists). The basis for allocation is the total amount of salary charged to each program verses the total salaries charged by the division. Indirect costs are charged directly in the cost pools; therefore they are not included in the total indirect costs.</p>	
Occupancy: \$14,073	
Telephone/Internet: \$9,654	
Central Intake: \$13,000.	\$36,727
Indirect Cost 11.21%: \$36,490.	
	\$36,490
<p>Indirect 11.5% Mohawk Valley Community Action Agency, The agency charges these types of costs to all projects. These indirect costs are allocated to each project using a total modified direct costs base which we feel is the most fair and equitable.</p>	
Staff Training	\$1,500
Total	\$88,267

APPENDIX C

Purchase of Service Specifications – Strengthening Families Program

Preventive Service Goals and Objectives:

Definition: Parent Aide Services is defined as those services provided in the home and community that focus on the need of the parent for instruction and guidance and are designed to enhance parental functioning and family / parent role performance. Improved skill sets and techniques may include, but not be limited to role modeling appropriate behaviors and listening skills, home management (ex. home maintenance, maintaining safe and sanitary residence, budgeting, scheduling appointments and securing transportation, etc.), and child development and parenting skills education and functional coping behavior instruction.

Target Population: The Contractor's Strengthening Families Program (SFP) will provide parent aide community-based services to 75-85 families at any given time in order to prevent foster care, or to return children from foster care. The priority of Preventive Services is to decrease the number of children entering foster care / placement and to return children to a permanent living arrangement. The Contractor will pursue an aggressive policy regarding permanency planning for children at risk of entering care and those returning from care.

Program Goals:

1. Provide family and community based services to children at imminent risk of placement into foster care/placement and their families; with the goal to reduce the number of children entering / reentering foster care in child protective and child preventive services inclusive of Persons in Need of Supervision (PINS) and Juvenile Delinquents (JD) populations. The goal is to have children safely maintained and/or returned successfully to the community and/or a permanent familial placement.
2. To reunify children in foster care with their families as quickly as possible through parental skill building/training, education and family support services designed specifically to strengthen the family unit. SFP intervention services are intended to ensure a safe, nurturing and healthy home environment.
3. To assist children and families in long term planning when a return home from foster care is not possible. This may include identifying a permanency goal or resource other than family reunification.
4. To serve a minimum of 75-85 families at any given time during the Agreement term.

Program Overview/Description:

Mohawk Valley Community Action Agency, Inc. (MVCAA) proposes to provide Parent Aide Services to referred families throughout all of Oneida County, MVCAA operates offices in both the cities of Rome and Utica. A team of seven staff will serve concurrently 75 - 85 families. Participants and their families will work with an assigned Family Specialist to develop an action plan identifying the protective factors and safety/risk factors that need to be addressed and incorporated into a service plan with attainable goals and established time frames. Family Specialists will utilize a family centered approach. A family systems perspective looks at the needs of each family member as unique and contributing to the family functioning as a whole; and attempts to meet the needs of all members based on an inclusive service practice of family engagement and family directed service planning as much as possible. This model moves beyond traditional individual focused outcomes; instead it is a family-led strategy that provides adults and children with the tools to collectively set life goals, create actionable plans, and achieve identified outcomes. When the whole family works together to support each other's goals, long-term change, stability and well-being become a reality. It puts equal priority on the needs of adults and children and enables seamless collaboration among multiple organizations to support a family's plans. The Whole Family Approach consists of a five-step process:

- 1 Stabilize household, enhance living conditions
- 2 Improve family members' physical, social and educational development,
- 3 Increase literacy levels and basic employment skills,
- 4 Coordinate delivery of integrated services, a multi-disciplinary team approach
- 5 Assist in empowering the family toward achieving self-sufficiency.

The SFP will bridge the efforts of early childhood and other systems, through a strong collaborative partnership between SFP/Parent Aide program and MVCAA Head Start / Early Head Start and Universal Pre- Kindergarten programs. MVCAA has provided Head Start programming in Oneida County since 1966 and Early Head Start since 2000 and understands that early childhood programs cannot be expected to address the needs of children without better family engagement. There is a need for a responsive multi-systems infrastructure to support quality services to children while partnering with adult-serving agencies to address parental needs impacting children. This proposed partnership will be able to provide integrated, comprehensive service plans with coordinated, outcome focused services for the families in the community at the highest risk.

MVCAA also provides an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma. Trauma Informed Care practices will be embedded in the SFP programming and policies. Trauma affects the individual, families, and communities by disrupting healthy development, adversely affecting relationships, and contributing to mental

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health issues including substance abuse, domestic violence, and child abuse. Everyone pays the price when a community produces multi-generations of people with untreated trauma by an increase in crime, loss of wages, and threat to the stability of the family. MVCAA infuses trauma awareness, knowledge, and skills into our organizational culture, practice, and policies. .

Two MVCAA staff have been chosen to participate in a cohort of only 25 people to receive the Adverse Childhood Experience Study (ACES) Interface Master Trainer program conducted by Dr. Robert Anda and Laura Porter, both leading experts in the area of ACE's which is related to trauma informed care models. The program is designed to support distribution of accurate information that promotes understanding of how developmental adversity affects health and wellbeing throughout the life course. They in turn, can provide training and support to others who can become qualified to educate, creating trauma-informed organizations and communities. The MVCAA employees employed by FSP will be trained in this model and utilize the ACES model in their work with families and to promote resilience and recovery through self-healing.

Scope of Services;

Case management will be intense during the family's enrollment in the program. There will be a minimum of one home visit per week for one hour and this can be increased if deemed necessary. As the family progresses and consideration to discontinue services is imminent, with departmental approval, the home visits will be gradually reduced to assess family's progress and ability to sustain the identified improvements in family functioning to support a transition from service provision to self-sufficiency. Emphasis will be upon increasing the family's problem-solving capability, enabling them in becoming self-confident and self-sufficient. If child(ren) are not already enrolled in Head Start/Early Head Start or Universal Pre-Kindergarten program the Family Specialist will assist in enrolling child(ren).

Case management will be provided for as long as deemed necessary by the Court or Department of Social Services. Upon successful completion of the Parent Aide Services, MVCAA will offer the family continued case management services through Head Start/Early Head Start and/or other agency programs, dependent upon child's age and family's need. Based upon past program experience, families will average 8 to 15 months in the program.

The Family Specialist (FS) will assist the family in accessing information, services, and assistance required in achieving their self-determined goals. The Family Assessment will be updated every four months and will be used by the family and worker to gauge the family's progress in maintaining or achieving custody of their children and in achieving family-set goals. Together these assessments are entered into our current database that will show the families movement across the crisis to thriving scale.

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Each family will receive training on the rights and responsibilities of tenants and landlords. Topics will include obtaining minor repairs and maintenance, withholding rent, what to do if rent cannot be paid, and eviction proceedings. The worker will discuss budgeting with the family with the use of "Your Money Your Goals Curriculum" helping them set priorities and develop a working budget, if needed. A family with severe budgeting or debt problems will be referred to Consumer Credit Counseling for in-depth assistance. Families will be referred to local agencies to address issues that threaten their housing and self-sufficiency. Integral to the referral process will be supporting and encouraging families' efforts to access needed services and become effective advocates for their own needs. Adults without a high school diploma will be strongly encouraged to pursue a GED, through referral to the local BOCES, or to Even Start for homebound mothers of infants and young children.

Families will be encouraged and assisted in gaining full-time employment. Families will need their own source of income if they are to remain in permanent housing. In Oneida County, Working Solutions is the entry point into government-sponsored training, pre-employment, and placement services and FS will work with families to engage them with these programs. Program participants will be made aware of job openings within the MVCAA programs and services and will receive high consideration for any for which they are qualified.

Childcare is an important issue for single parent families and those in which both parents are employed and child is not of school age. (often an economic necessity for families living in poverty). If the family is above the income guidelines for Head Start/ Early Head Start the family will be referred to Universal Pre-kindergarten in their local school district. Families will also be referred to the Mid-York Child Care Coordinating Council that assists parents in Oneida counties in locating quality childcare by maintaining a list of all state-licensed and certified providers, and by educating parents in selection of appropriate care. Parents will be encouraged and assisted in accessing available childcare subsidies for public assistance recipients and the working poor.

The Oneida County Public Health Nursing Services provide well-child clinics and child immunizations; lead screening, and pre- and post-natal services. MVCAA's many programs maintain relationships with a variety of health, mental health, and substance abuse treatment providers in localities throughout the service area that will accept referrals from Parent Aide Program and other agency programs.

Due to the large geographic area and lack of public services, transportation is a key issue for families attempting to become self-sufficient. It is an issue in selecting an apartment location and in budgeting because of the financial strain of maintaining a vehicle on a limited income. Families will be encouraged to establish family goals to address both issues. Local taxis, volunteer drivers, or ride sharing may offer a solution under some circumstances. In emergency situations, in the absence of other resources, it may become necessary for the program staff to transport a person or family using an agency vehicle.

Families dealing with domestic violence will be referred to the Domestic Violence Programs in Oneida County for counseling and assistance. Health, mental health, and substance abuse problems will be referred to appropriate organizations. Our Head Start/Early Head Start program has a mental health consultant under contract also, if needed.

Some legal issues may be handled by Legal Aid Society of Mid-New York, which maintains offices in Rome and Utica.

The Family Specialist will address the family's parenting issues individually depending on the unique needs of the caretaker and children. There will be a general curriculum that the FS utilizes during one-on-one sessions occurring at the home visits. Everyone learns and retains information differently; therefore, it is a must to provide information in as many mediums as possible. Our 'parenting sessions' incorporate - visual (videos), written (pamphlets, workbooks that follow the videos) and verbal tools. These 'tools' provide standardized information utilized by all Family Specialists.

Nurturing Parent Program Parent Skills curriculum is utilized by the FS and are taught one-on-one or in a group setting by MVCAA staff, once staff are trained, Nurturing Parent skills can be taught one-on-one or in a group setting. The Nurturing Parenting Program is a Competency Based program designed to meet specific parenting needs, such as: short term intensive Home Visitation, Parent Education in Group workshops, Parent Education for Teen parents, and a Nurturing Program for Families in Substance Abuse Treatment. Nurturing Parenting Program uses Adult-Adolescent Parenting Inventory (AAPI) and the Nurturing Skills Competency Scale (NSCS) that assess parenting beliefs, knowledge and skills, as well as measure the impact of the program with a pre- and post-assessment. Competency-based instruction helps parents learn the basic skills of Nurturing Parenting, a proven evidenced based program. There are 80 Nurturing Parenting Skill Lessons to choose from to create a parenting program for families to support individualized needs. Each lesson can be customized to run 60-90 minutes and can be taught in group-based or home-based programs or a combination of both.

The curriculum used includes but not limited to lessons listed below:

1. **Getting Started:** - Welcome, Hopes and Fears; Orientation; Assessing Strengths, Change and Growth, Letting Go, About Me, My Life Script
2. **Nurturing Parenting-** Nurturing as a Lifestyle
3. **Cultural Parenting Traditions** – A Celebration of Culture; My Cultural Values; Cultural Parenting Practices
4. **Developing Spirituality in Parenting-** Spirituality and Family; Ways to Increase Spirituality; Culture
5. **Making Good Choices-** Smoking and My Child's Health; Families and Alcohol; Keeping Kids Drug Free; Our Bodies and Sex; Love, Sex and STD's Dating; Love and Rejection; Touch; Personal Space; Possessive and Violent Relationships

6. **Growth and Development of Children-** Children's Brain Development; The Male and Female Brain; Expectations and Development of Children; Ages and Stages; Nutrition and Mealtime; Keeping Children Safe
7. **The Importance of Touch-** Parent/Child Touch; Infant Massage
8. **Developing Empathy-** Parents and Children's Needs; Spoiling Your Children
9. **Managing and Communicating Feelings-** Recognizing and Understanding Feelings; Helping Children
10. **Learn to Handle Their Feelings;** Criticism and Confrontation; Problem Solving; Decision Making; Negotiation and Compromise

Supervised Visitation:

MVCAA will provide supervised visits for Oneida County Department of Social Services. We will provide this service either at the family's home or at MVCAA locations or at a court ordered/ DSS designated location within Oneida County.

MVCAA will provide various locations for these visits: 1) HeadStart Cornerstone Building located at 1100 Miller Street, Utica and 2) at MVCAA Access Point located at, 203 West Liberty Street, Rome. The spaces provided will have a small colorful area with interactive toys. All visitation areas will create an atmosphere that will promote healthy family-interaction situations. Reports will be submitted following each visit.

MVCAA workers will be available for a total of two visits per week. Supervised visitation time will be above and beyond the weekly scheduled visits with each family. We would encourage these visits at our sites to be scheduled between 4:00pm - 6:00pm but will accommodate a family's schedule.

MVCAA Operating Protocols

- Case opened: Initiated by referral from Department of Social Services (fax or mail)
- Referral reviewed by Family Development Program Manager, checking for completeness and duplication of services and assigned to Family Specialist and notify DSS name of assigned worker. (2 business days)
- Family Specialist will contact the Case Planner /case worker at this time. If a Unified Case Record (UCR) has not been received, one will be requested at this time. (2 business days)
- Family Specialist will contact the family by phone, or by mail; to establish initial visit. (5 Business days)
- Meeting schedule is established, release of information signed, and an assessment is started with the family at the initial visit. The Case Planner is always given the option of accompanying on the first visit (5 business days)

- Housing Inspection completed and submitted to DSS. (10 business days)
- Weekly home visits occur. Minimum of one hour per week. (Direct service time with family does *not* include travel time.) Routine communication with Case Planner occurs after each visit. Minimum weekly. All contacts will be incorporated into service plan reviews.
- Attend court hearings. Provide progress notes, calendars, visit agendas, and prepare affidavits. Testify as requested. Case notes will include where, when and how the contact occurs, who was present, purpose of contact, issues discussed, concerns, update parent's progress towards attaining goals.
- MVCAA staff will utilize The Nurturing Parenting curriculum. Notification of DSS upon completion of Parent training and AAPI Scores.
- MVCAA will notify DSS if after reasonable attempts a family is not cooperating with assigned services. MVCAA staff will participate in service meetings regarding lack of compliance. MVCAA will provide a letter outlining efforts and the reason for closure.
- MVCAA will not reject or close a case without the approval of DSS.
- Monthly reports are completed and submitted by the 5th of the following month.

Performance Targets:

MVCAA utilizes a strategy that focuses on a performance-based model for management called ROMA... Result Orientated Management & Accountability. MVCAA started utilizing a new web-based database that tracks family's demographics, activities, and outcomes. MVCAA is in the implementation phase of our new database, when fully operational (projected timeframe is June 2020) all case files/notes etc. will be electronically stored.

- **Outcome:** Parents will demonstrate a change in beliefs and skills to appropriately parent their children through increased knowledge of child development, as well as, improved skills regarding issues related to childcare such as discipline, nurturing and role modeling.
Performance: Every parent enrolled will successfully complete the Nurturing Parenting Curriculum, which is tailored to meet the parent's needs, within 6 months from initiation of service.
Measurement: 70% of the families referred for parent education will successfully complete the curriculum and impact will be shown using a pre and post-test assessment
- **Outcome:** There will be observable improvement in the parent's ability to provide a safe home and appropriate supervision for their children.
Performance: There will not be any new allegations of abuse or neglect during program participation.

Measurement: 70% of the families assigned to parent aide services, will not have a substantiated abuse or neglect report during program participation.

Measurement: 70% of the families assigned to parent aide services will not have a child placed outside the home during program participation.

- **Outcome:** Parent Aide Services will provide family centered and culturally competent services to the target population.
Performance: Families will remain engaged in services until service plan goals are successfully completed.
Measurement: 70% of the participants will report satisfaction with the series provided as measured by a satisfaction survey given every 30 days from the start of series until services end.

With the guidance of Family Specialists families will complete an ECO-Map/ Crisis to Thriving Assessment. Based on this assessment a written plan of action, including time frames for objective completion, will be developed for each family. All families will be referred as appropriate, to services provided by MVCAA as well as other community providers.

The goal of the project is to stabilize the family or individual and assist them in building the self-sufficiency skills that will enable them to become self-reliant. The principal outcome to be measured is therefore the achievement of family-set goals over time, leading to stability and self-sufficiency.

Verification of a family's progress will be based upon the quarterly up-dates of the MVCAA Data Base made by the entries of the assigned worker. The service, activities and outcomes for each family are captured in the data base system. The worker will provide verification of satisfaction of services by conducting quarterly satisfaction surveys.

Program Staffing:

All employees of MVCAA are required to complete the New York State Central Register Clearance process. All employees are required to sign a Code of Ethics. All MVCAA staff are Mandated reporters of child abuse and neglect per NYS Social Service Law.

Staffing for the program is based upon MVCAA's past experience operating the Parent Aide Program, and is intended to support a realistic caseload, maximizing the number of families assisted while allowing for the intensive, in-depth case management required bringing at-risk families to the point of self-sufficiency.

MVCAA will provide (6) Family Specialists who will have a maximum caseload of 14 cases. MVCAA agrees to provide up to 85 families at any one time.

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The Division Director, Pamela Gardinier, will oversee the project. She has been employed with MVCAA for the last 22 years and for the past 18 years has overseen family services for MVCAA assisting at-risk families. Pam has a master's degree in education and; is a Certified Community Action Professional (CCAP) and; has New York State Family Development Credential through the Family Development program Cornell University; is a past portfolio advisor for the Family Development Credentialing Program.

Kim Ford, Program Manager, will provide direct staff supervision, case assignment, with some case management when needed and submission of monthly reports to DSS. Kim has bachelor's degree (Spring of 2021) in Psychology. She has 19 years of experience in the Human Service field.

MVCAA has experienced staff and the ability to attract and train additional staff, to provide intensive case management to families experiencing multiple problems that threaten their ability to maintain custody of their children and become self-sufficient. The Family Specialists will possess an Associate Degree in Child Care, Education, Nursing, Human Service, Social Services, or a closely related Field: OR high school diploma, AND two (2) years of experience in a child day care center, child education field, with the ability to work with people from a wide variety of backgrounds, and knowledge of referral sources. The current program staff have from one year to nine years' experience working with high-risk families through the Parent Aide program.

MVCAA has several resources and skills to be committed to program. As the recipient of funding from a variety of federal, state, and local sources, the agency has a capacity to administer a wide range of human service programs, both fiscally and programmatically. The agency's automated fiscal system can track and report upon multiple programs and a variety of funding sources. A professional human resources staff assists the program in attracting, selecting, and retaining quality staff. The agency governing board includes strong consumer representation. The Division Director and Family Development Program Director will provide experienced leadership and guidance for the program.

In-House Referrals: Mohawk Valley Community Action programs to assist individuals and families at risk:

- Section 8 Rental Assistance: rent subsidies throughout Oneida and Herkimer Counties
- Home Repairs, Weatherization: for low-income homeowners and landlords renting to low-income households
- Emergency Assistance: Security Deposit assistance with one-time grants to prevent Homelessness
- Summer Youth Program (Martina Vega Ctr, Utica) -

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provides recess and Summer activities for youth in the Cornhill area of Utica.

- Head Start/ Early Head Start; pre-school
- Family Support Services (DDSO) - respite and recreation for families with children with developmental disabilities
- WIC enrollment Assistance
- Facilitated Enrollment for Food Stamps
- Older Youth Work Training Program

Records and Reports:

The Contractor will complete Title XX Eligibility forms for each Family. The forms must be submitted monthly with Oneida County Voucher no later than the 5th day of the following month to ensure payment and include a summary of the month's activity.

All reports required herein are required by federal, state or local law, rule or regulation.

The Contractor shall prepare and provide any and all monthly or quarterly reports required by the County and/or state governments pertaining to the services provided for in this Agreement. Monthly reports shall be completed and submitted by the fifth day of the following month.

The Contractor shall complete a Contract Staffing Report upon completion of a fully executed Agreement. The Contractor agrees to complete a Contract Staff Vacancy Report upon changes.

The Contractor shall complete a listing of current Agreement personnel upon full execution of this Agreement. The Contractor shall notify the Department of staff vacancy and/or staff changes through an approved Staff Modification notice. Both staff data notices shall be sent to the Contract Administrator.

The Contractor shall provide a program "portfolio," as discussed and mutually agreed upon. The Contractor shall participate in program evaluation planning and preparation.

APPENDIX A
NEW YORK STATE CONDITIONS

The parties to the attached contract further agree to be bound by the following, which are hereby made a part of said contract.

- I. This contract may not be assigned by the contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or disposed of without the previous consent, in writing, of the State.
- II. This contract shall be deemed executory only to the extent of money available to the State for the performance of the terms hereof and no liability on account thereof shall be incurred by the State of New York beyond moneys available for the purpose thereof.
- III. The contractor specifically agrees, as required by Labor Law, Sections 220 and 220-d, as amended that:
 - (a) no laborer, workman or mechanic, in the employ of the contractor, subcontractor or other person doing or contracting to do the whole or any part of the work contemplated by the contract shall be permitted or required to work more than eight hours in any one calendar day or more than five days in any one week, except in the emergencies set forth in the Labor Law.
 - (b) The wages paid for a legal day's work shall be not less than the prevailing rate of wages as defined by law.
 - (c) The minimum hourly rate of wages to be paid shall not be less than that stated in the specifications, and any redetermination of the prevailing rate of wages after the contract is approved shall be deemed to be incorporated herein by reference as of the effective date of redetermination and shall form a part of these contract documents.
 - (d) The Labor Law provides that the contract may be forfeited and no sum paid for any work done thereunder on a second conviction for willfully paying less than—
 - (a) the stipulated wage scale as provided in Labor Law, Section 220, subdivision 3, as amended or
 - (b) less than the stipulated minimum hourly wage scale as provided in Labor Law, Section 220-d, as amended.
- IV. The contractor specifically agrees, as required by the provisions of the Labor Law, Section 220-e, as amended, that:
 - (a) in hiring of employees for the performance of work under this contract or any subcontract hereunder, or for the manufacture, sale or distribution of materials, equipment or supplies hereunder, no contractor, subcontractor, shall by reason of race, creed, color, sex or national origin discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates.
 - (b) No contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired

for the performance of work under this contract on the account of race, creed, color, sex or national origin.

- (c) There may be deducted from the amount payable to the contractor by the State under this contract a penalty of fifty dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the contract, and
- (d) This contract may be cancelled or terminated by the State or municipality and all moneys due or to become due hereunder may be forfeited for a second or any subsequent violation of the terms or conditions of this section of the contract, and
- (e) The aforesaid provisions of this section covering every contract for or on behalf of the State or a municipality for the manufacture, sale or distribution of materials, equipment or supplies shall be limited to operations performed within the territorial limits of the State of New York.

V. The contractor specifically agrees, as required by Executive Order # 45, dated Jan. 4, 1977, effective February 4, 1977, that:

- (a) The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake programs of affirmative action to insure that they are afforded equal employment opportunities without discrimination. Such action shall be taken with reference, but not limited to: recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.
- (b) If the contractor is directed to do so by the contracting agency or the Office of State Contract Compliance (hereafter OSCC). The contractor shall request each employment agency, labor union, or authorized representative of workers, with which he has a collective bargaining or other agreement or understanding, to furnish him with a written statement that such employment agency, labor union or representative will not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations hereunder and the purposes of Executive Order # 45 (1977).
- (c) The contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the contractor, that all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
- * (d) The contractor will comply with all the provisions of Executive Order # 45 (1977) and rules, regulations and orders issued

pursuant thereto and will furnish all information and reports required by said Executive Order or such rules, regulations and orders, and will permit access to its books, records, and accounts and to its premises by the contracting agency or the OSCC for the purposes of ascertaining compliance with said Executive Order and such rules, regulations and orders.

*(e) If the contractor does not comply with the equal opportunity provisions of this contract, with Executive Order # 45 (1977), or with such rules, regulations, or orders, this contract or any portion thereof, may be cancelled, terminated or suspended or payments thereon withheld, or the contractor may be declared ineligible for future State or State-assisted contracts, in accordance with procedures authorized in Executive Order #45 (1977), and such other sanctions may be imposed and remedies invoked as are provided in said Executive Order or by rule, regulation or order issued pursuant thereto, or as otherwise provided by law.

*(f) The contractor will include the provisions of clauses (a) through (e) above and all contract provisions promulgated by OSCC pursuant to Section 1.3 (b) of Executive Order # 45 (1977), in every non-exempt subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its work force within the State of New York. The contractor will take such action in enforcing such provisions of such subcontract or purchase order as the contracting agency or the OSCC may direct, including sanctions or remedies for noncompliance. If the contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction, the contractor shall promptly so notify the Attorney General, requesting him to intervene and protect the interests of the State of New York.

VI. The contractor will comply with the provisions of Sections 291-299 of the Executive Law and the Civil Rights Law, will furnish all information and reports deemed necessary by the State Division of Human Rights under the Law, and will permit access to its books, records and accounts by the State Industrial Commissioner for the purposes of investigation to ascertain compliance with the non-discrimination clauses, the Executive Law and Civil Rights Law.

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

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

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

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

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

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

****Note:** Reference to the above Rules and Regulations refer to those Rules and Regulations in effect as of the date of the solicitation of bids relative to this contract.

APPENDIX B

STANDARD CLAUSES FOR ALL ONEIDA COUNTY DEPARTMENT OF COMMUNITY AND FAMILY SERVICES CONTRACTS PERSONNEL

- a. The Contractor agrees to be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries, and management of its project personnel. These functions shall be carried out in accordance with the provisions of this AGREEMENT, and all applicable federal, state and local laws and regulations.
- b. It is the policy of the Department to encourage the employment of qualified applicants or recipients of public assistance by both public organization and private enterprises who are under contractual AGREEMENT to the Department for the provision of goods and services. Contractors will be expected to make best efforts in this area.
- c. The Contractor agrees to identify, in writing, the person(s) who will be responsible for directing the work to be done under this AGREEMENT. No change or substitution of such responsible person(s) will be made without prior approval in writing from the Department, to the degree that such change is within the reasonable control of the Contractor

NOTICES

- a. All notices permitted or required hereunder shall be in writing and shall be transmitted either by:
 1. By certified or registered United States mail, return receipt requested;
 2. By facsimile transmission;
 3. By personal delivery;
 4. By expedited delivery service; or
 5. By e-mail

Notices to the Department shall be addressed to the Commissioner of Social Services at the address, facsimile number or e-mail Address provided to the Contractor during contract development or to such different Program Manager as the Department may from time-to time designate.

- b. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.
- c. The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The Parties agree to mutually designate individuals as their respective representatives for the

purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

OFFICE SERVICES

- a. The Contractor shall be responsible for the provision of necessary equipment and services for Contractor's staff, pursuant to and described in the narratives and budgets contained in the AGREEMENT.
- b. For federally funded contracts, title to real property and non-expendable personal property whose requisition cost is borne in whole or in part by monies proved under this AGREEMENT shall be determined between the Contractor and the Department, pursuant to federal regulations 45 CFR 92 unless such authority is otherwise inappropriate. Title to all equipment, supplies and material purchased with funds under this AGREEMENT under contracts which are not federally funded shall be in the State of New York and the property shall not be transferred, conveyed, or disposed of without written approval of the Department. Upon expiration or termination of this AGREEMENT, all property purchased with funds under this AGREEMENT shall be returned to the Department, unless the Department has given direction for, or approval of, an alternative means of disposition in writing.
- c. Upon written direction by the Department, the Contractor shall maintain an inventory of those properties that are subject to the provisions of sub-paragraph b of this section

GENERAL TERMS AND CONDITIONS

- a. The Contractor agrees to comply in all respects with the provisions of this AGREEMENT and the attachments hereto. The Contractor specifically agrees to perform services according to the objectives, tasks, work plan and staffing plan contained in the AGREEMENT. Any modifications to the tasks or work plan contained in AGREEMENT must be mutually agreed to by both parties in writing before the additional or modified tasks or work plan shall commence.
- b. If any specific event or conjunction of circumstances threatens the successful completion of the project, in whole or in part, including where relevant, timely completion of milestones, the Contractor agrees to submit to the Department within three (3) days of occurrence or perception of such problem, a written description thereof together with a recommended solution thereto.
- c. The Contractor immediately shall notify in writing the Department Program Manager assigned to this contract of any unusual incident, occurrence or event that involves the staff, volunteers or officers of the Contractor, and subcontractor or Program participant funded through this AGREEMENT, including but not limited to the following: death or serious injury; an arrest or possible criminal activity; and destruction of property; significant damage to the physical plant of the Contractor, or other matters of a similarly serious nature.

- d. In providing these services, the Contractor hereby agrees to be responsible for designing and operating these services, and otherwise performing, so as to maximize federal financial participation to the Department under the Federal Social Security Act.
- e. If funds from this AGREEMENT will be used to pay any costs associated with the provision of legal services of any sort, the following shall apply;
1. No litigation shall be brought against the State of New York, the New York State Office of Children and Family Services or against Oneida County or the Department or other local government or local social services district with funds provided under this AGREEMENT. The term "litigation" shall include commencing or threatening to commence a lawsuit, joining or threatening to join as a party to ongoing litigation, or requesting any relief from either the State of New York, the New York State Office of Children and Family Services or Oneida County or other local government or local social services district, based upon any agreement between such agency in litigation with another party and such party, during pendency of the litigation.
 2. Opinions prepared by consultant law firms construing the statutes of Constitution of the State of New York do not constitute the view of the State unless the prior written approval of the Attorney General is obtained. Requests for said approval shall be submitted to the Solicitor General, Division of the Appeals and Opinions Bureau, department of Law, The Capital, Albany, New York 12224
 3. The Contractor shall provide to the Department in a format provided by the Department such additional information concerning the provision of legal services as the Department shall require.
- f. The Department will designate a Contract Manager who shall have authority relating to the technical services and operational functions of this AGREEMENT and activities completed or contemplated there under. The Contract Manager and those individuals designated by him/her in writing shall have the prerogative to make announced or unannounced on-site visits to the project. Project reports and issues of interpretation or direction relating to this AGREEMENT shall be directed to the Contract Manager.
- g. Except where the Department otherwise authorizes or directs in writing, the Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, for the performance of the obligations contained herein until it has received the prior written approval of the Department, which shall have the right to review and approve each and every subcontract prior to giving written approval to the contractor to enter into the subcontract. All agreements between the Contractor and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of this AGREEMENT (2) that nothing contained in the subcontract shall impair the rights of the Department under this AGREEMENT, (3) that nothing contained in the subcontract, nor under this AGREEMENT, shall be deemed to create any contractual relationship between the subcontractor and the Department, and (4) incorporating all provisions regarding the

rights of the Department as set forth in this AGREEMENT, where applicable. The Contractor specifically agrees that the Contractor shall be fully responsible to the Department for the acts and omissions of subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by the Contractor.

- h. The Contractor warrants that it, its staff and any and all subcontractors which must be approved by the Department, have all the necessary licenses, approvals and certifications currently required by the law of any applicable local, state or federal government to perform the services pursuant to this AGREEMENT and/or subcontract entered into under this AGREEMENT. The Contractor further agrees such required licenses, approvals and certificates will be kept in full force and effect during the term of this AGREEMENT, and/or any extension thereof, and to secure any new licenses, approvals or certificates within the required time frames and/or to require its staff and subcontractors to obtain and requisite licenses, approvals or certificates. In the event the Contractor, its staff, and/or subcontractors are notified of a denial or revocation of any license, approval or certification to perform the services under this AGREEMENT, Contractor will immediately notify the Department.
- i. This AGREEMENT cannot be assigned by the Contractor to a subcontractor without obtaining written approval of the Department. Prior to executing a subcontract agreement the Contractor agrees to provide the Department the information the Department needs to determine whether a proposed subcontractor is a responsible vendor. The determination of vendor responsibility will be made in accordance with Section n. of General Terms and Conditions herein.
- j. If the Contractor intends to use materials, equipment or personnel paid for under this AGREEMENT in a revenue generating activity, the Contractor shall report such intentions to the Department forthwith and shall be subject to the direction of the Department as to the disposition of such revenue.
- k. Any interest accrued on funds paid to the Contractor by the Department shall be deemed to be the property of the Department and shall either be credited to the Department at the termination of this AGREEMENT or expended on additional services provided for under this AGREEMENT.
- l. The Contractor ensures that the grounds, structures, building and furnishings at the program site(s) used under this AGREEMENT are maintained in good repair and free from any danger to health or safety and that any building or structure used for program services complies with all applicable zoning, building, health, sanitary, and fire codes.
- m. The Contractor agrees to produce, and retain for the balance of the calendar year in which produced, and for a period of six (6) years thereafter, any and all records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under this AGREEMENT. Such records shall include, but not be limited to,

original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:

1. Payroll Expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, employee personal history folders, and cost allocation plans, if applicable.
2. Payroll Taxes and Fringe Benefits: cancelled checks, copies of related bank statements, reporting forms, and invoices for Fringe Benefit expenses.
3. Non-Personal Services Expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, and cost allocation plans, if applicable.
4. Receipt and Deposit of Advance and Reimbursements: itemized bank stamped deposit slips, and a copy of the related bank statements.
5. The Contractor agrees that any equipment purchased with funds under this AGREEMENT is the property of the Department and will remain with or will be returned to the Department in the event of the termination of this AGREEMENT,

Although not required, the Department recommends that the Contractor retain records directly pertinent to this AGREEMENT for a period of ten (10) years after the end of the calendar year in which they were made, as the statute of limitations for the New York False Claims Act is ten (10) years.

- n. By signing this AGREEMENT, the Contractor certifies that within the past three (3) years the Contractor has engaged in no actions that would establish a basis for a finding by the Department that the Contractor is a non-responsible vendor or, if the Contractor has engaged in any such action or actions, that all such actions have been disclosed to the Department prior to entering into this AGREEMENT. The actions that would potentially establish a basis for a finding by Department that the Contractor is a non-responsible vendor include:
1. The Contractor has had a license or contract suspended, revoked or terminated by a governmental agency.
 2. The Contractor has had a claim, lien, fine, or penalty imposed or secured against the Contractor by a governmental agency.
 3. The Contractor has initiated a bankruptcy proceeding or such a proceeding has been initiated against the Contractor
 4. The Contractor has been issued a citation, notice, or violation order by a governmental agency finding the Contractor to be in violation of any local, state, or federal laws.
 5. The Contractor has been advised by a governmental agency that a determination to issue a citation, notice or violation order finding the Contractor to be in violation of any local, state or federal laws is pending before a governmental agency
 6. The Contractor has not paid all due and owed local, state and federal taxes to the proper authorities
 7. The Contractor has engaged in any other actions of a similarly serious nature.

Where the Contractor has disclosed any of the above to the Department, the Department may require as a condition precedent to entering into this AGREEMENT that the

Contractor agree to such additional conditions as will be necessary to satisfy the Department that the vendor is and will remain a responsible vendor. By signing this AGREEMENT, the Contractor agrees to comply with any such additional conditions that have been made a part of this AGREEMENT.

By signing this AGREEMENT, the Contractor also agrees that during the term of the AGREEMENT, the Contractor will promptly notify the Department if the Contractor engages in any actions that would establish a basis for a finding by Department that the Contractor is a non-responsible vendor, as described above.

- o. By signing this AGREEMENT, the Contractor agrees to comply with State Tax Law section 5-a
- p. The Contractor must maintain Workers' Compensation Insurance in accordance with the Workers' Compensation Law. If the Contractor believes they are exempt from the Workers' Compensation insurance requirement then they must apply for an exemption. Contractors can apply for the exemption online through the New York State Workers' Compensation Board website at:
http://www.wcb.state.ny.us/content/ebiz/wc_db_exemptions/wc_db_exemptions.jsp
- q. All organizations that receive federal financial assistance under social service programs are prohibited from discriminating against beneficiaries or prospective beneficiaries of the social service programs on the basis of religion or religious belief. Accordingly, organizations, in providing services supported in whole or in part with federal financial assistance, and in their outreach activities related to such services, are not allowed to discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

Organizations that engage in explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization) must perform such activities and offer such services outside of programs that are supported with direct federal financial assistance (including through prime awards or sub-awards), separately in time or location from any such programs or services supported with direct federal financial assistance, and participation in any such explicitly religious activities must be voluntary for the beneficiaries of the social service program supported with such federal financial assistance

REPORTS AND DELIVERABLES

The Contractor shall prepare and submit all reports, documents, and projects required by this AGREEMENT to the Department's Contract Manager for review and approval. These reports shall be in such substance, from, and frequency as required by the Department and as necessary to meet state, federal and Oneida County requirements.

The Contractor shall complete Contract Evaluations as required by the Department as

well as Statistical Data as needed by the Department and New York State to meet the reporting requirements.

CONFIDENTIALITY AND PROTECTION OF HUMAN SUBJECTS

- a. The Contractor agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this project. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this AGREEMENT in conformity with the provisions of applicable state, federal, and local laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this AGREEMENT.
- b. Any Contractor who will provide goods and/or services to a residential facility or program operated by Department agrees to require all of its employees and volunteers who will have the potential for regular and substantial contact with youth in the care or custody of the Department to sign an Employee Confidentiality Certification and employee Background Certification before any such employees and volunteers are permitted access to youth in the care or custody of the Department and/or any financial and/or client identifiable information concerning such youth. Additionally, the Department will require a database check of the State wide Central Register of Child Abuse and Maltreatment (SCR) of each employee and volunteer of the Contractor who has the potential for regular and substantial contract with children in the care or custody of the Department. Any Contractor whose employees and volunteers will have access to financial and/or client identifiable information concerning youth in the care or custody of Department agrees to require all such employees and volunteers to sign an Employee Confidentiality Certification before any such employees and volunteers are permitted access to any financial and/or client identifiable information concerning such youth.
- c. The Contractor and any subsequent subcontractor shall not discriminate or refuse assistance to individuals with AIDS or an HIV infection or an HIV - related illness.

The Contractor and any subsequent subcontractor agrees that their staff to whom confidential HIV - related information may be given as a necessity for providing services and in accordance with 403 of Title 18 NYSDSS regulation and Section 2782 of the Public Health Law are fully informed of the penalties and fines for re-disclosure in violations of state law and regulations.

The Contractor and any subsequent subcontractor must include the following written statement when disclosing any confidential HIV - related information.

"This information has been disclosed to you from confidential records which are protected by state law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of state law may result in a fine or jail sentence or both. A general authorization for the

release of medical or other information is not sufficient authorization for further disclosure."

- d. All information contained in the Contractor's, or its subcontractor's files shall be held confidential pursuant to the applicable provisions of the Social Services Law and any State Department Regulations promulgated thereunder, including 18 NY CRR Sec. 357.5 and 423.7, as well as any applicable federal laws and any regulations promulgated thereunder and shall not be disclosed except as authorized by law.
- e. The Contractor and any of the Contractor's staff that are subject to the Oneida County computer systems/databases shall complete the Oneida County Department of Social Services Confidentiality and Non-Disclosure Agreement provided with this AGREEMENT and shall submit forms to the following address:

Oneida County Department of Social Services
Contract Administration Office, 4th Floor
800 Park Ave
Utica, New York, 13501

PUBLICATIONS AND COPYRIGHTS

- a. The results of any activity supported under this AGREEMENT may not be published without prior written approval of the Department, which results (1) shall acknowledge the support of the Department and the County and, if funded with federal funds, the applicable federal funding agency, and (2) shall state that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Contractor and do not necessarily represent the opinions, interpretation or policy of the Department or Oneida County.
- b. The Department and Oneida County expressly reserve the right to a royalty-free, non-exclusive and irrevocable license to reproduce, publish, distribute or otherwise use, in perpetuity, any and all copyrighted or copyrightable material resulting from this AGREEMENT or activity supported by this AGREEMENT. All publications by the Contractor covered by this AGREEMENT shall expressly acknowledge the Department's right to such license.
- c. All of the license rights so reserved to the Department and Oneida County under this paragraph are equally reserved to the United States Department of Health and Human Services and subject to the provisions on copyrights contained in 45 CFR 92 if the AGREEMENT is federally funded
- d. The Contractor agrees that at the completion of any scientific or statistical study, report or analysis prepared pursuant to this AGREEMENT, it will provide to the Department at no additional cost a copy of any and all data supporting the scientific or statistical study, report or analysis, together with the name(s) and business address(es) of the principal(s) producing the scientific or statistical study, report or

analysis. The Contractor agrees and acknowledges the right of the Department, subject to applicable confidentiality restrictions, to release the name(s) and business address(es) producing the scientific or statistical study, report or analysis, together with a copy of the scientific or statistical study, report or analysis and all data supporting the scientific or statistical study, report or analysis.

PATENTS AND INVENTIONS

The Contractor agrees that any all inventions, conceived or first actually reduced to practice in the course of, or under this AGREEMENT, or with monies supplied pursuant to this AGREEMENT, shall be promptly and fully reported to the Department. Determination as to ownership and/or disposition of rights to such inventions, including whether a patent application shall be filed, and if so, the manner of obtaining, administering and disposing of rights under any patent application or patent which may be issued, shall be made pursuant to all applicable law and regulations.

TERMINATION

- a. This AGREEMENT may be terminated by the Department upon thirty (30) days prior written notice to the Contractor. Such notice is to be made by way of registered or certified mail return receipt requested or hand delivered with receipt granted by the Contractor. The date of such notice shall be deemed to be the date the notice is received by the Contractor established by the receipt returned, if delivery by registered or certified mail, or by the receipt granted by the Contractor, if the notice is delivered by hand. The Department agrees to pay the Contractor for reasonable and appropriate expenses incurred in good faith before the date of termination of this AGREEMENT.
- b. If the Contractor fails to use any real property or equipment purchased pursuant to this AGREEMENT or the Contractor ceases to provide the services specified in the AGREEMENT for which the equipment was purchased, the Department may terminate this AGREEMENT upon thirty (30) days written notice to the Contractor, where the Contractor has failed to cure as set forth hereafter, said notice of breach shall be sent by way of registered or certified mail return receipt requested, or shall be delivered by hand, receiving Contractor's receipt therefore. Said notice shall specify the Contractor's breach and shall demand that such breach be cured. Upon failure of the Contractor to comply with such demand within thirty (30) days, or such longer period as may be specified therein, the Department may, upon written notice similarly served, immediately terminate this AGREEMENT, termination to be effective upon the date of receipt of such notice established by the receipt returned to the Department. Upon such termination, the Department may require (a) the repayment to the Department of any monies previously paid to the Contractor, or (b) return of any real property or equipment purchased under the terms of this AGREEMENT or an appropriate combination of (a) and (b), at the Department's option.

- c. To the extent permitted by law, this AGREEMENT shall be deemed in the sole discretion of the Department terminated immediately upon the filing of a petition in bankruptcy or insolvency, by or against the Contractor. Such termination shall be immediate and complete, without termination costs or further obligation by the Department to the Contractor
- d. Should the Department determine that federal, state or County funds are limited or become unavailable for any reason, the Department may reduce that total amount of funds payable to the Contractor, reduce the AGREEMENT period or deem this AGREEMENT terminated immediately. The Department agrees to give notice to the Contractor as soon as it becomes aware that funds are unavailable, in the event of termination under this paragraph. If the initial notice is oral notification, the Department shall follow this up immediately with written notice. The Department will be obligated to pay the Contractor only for the expenditures made and obligations incurred by the Contractor until such time as notice of termination is received either orally or in writing by the Contractor from the Department.
- e. The Contractor shall provide to the Department such information as is required by the Department in order that the Department may determine whether the Contractor is a responsible vendor for purposes of compliance with section 163 of the State Finance Law and requirements of the Department. If there is any change in any of the vendor responsibility information provided to the Department by the Contractor at any time during the term of this AGREEMENT, the Contractor shall be required to immediately notify the Department so that the Department may assess whether the Contractor continues to be a responsible vendor. Should the Contractor fail to notify the Department of any change in the vendor responsibility information or should the Department otherwise determine that the Contractor has ceased to be a responsible vendor for the purposes of this AGREEMENT, the Department may terminate this AGREEMENT upon thirty (30) days written notice to the Contractor. Said notice of termination shall be sent by way of registered or certified mail return receipt requested, or shall be delivered by hand, receiving Contractor's receipt therefore. Said notice shall specify the reason(s) that the Contractor has been found to no longer be a responsible vendor.

Upon determination that the Contractor is no longer a responsible vendor the Department may, in its discretion and as an alternative to termination pursuant to this paragraph, notify the contractor of the determination that the Contractor has ceased to be a responsible vendor and set forth the corrective action that will be required of the Contractor to maintain this AGREEMENT. Should the Contractor fail to comply with the required corrective action within thirty (30) days of the date of notification, or such longer period as may be specified therein, the Department may, upon written notice similarly served, immediately terminate this AGREEMENT, termination to be effective upon the date of receipt of such notice established by the receipt returned to the Department. Upon such termination, the Department may require (a) the repayment to the Department of any monies previously paid to the Contractor, (b) return of any real property or equipment

purchased under the terms of this AGREEMENT, or an appropriate combination of (a) and (b) at the Department's option.

CONTRACTOR COMPLIANCE

The Contractor agrees to provide an Annual Certification pertaining to this AGREEMENT as part of the Contractor's Annual Independent audit.

The Department shall have the right to audit or review the Contractor's performance and operations as related to this AGREEMENT. If the Department should determine that the Contractor has abused or misused funds paid to the Contractor, or if the Contractor has violated or is in non-compliance with any term of any other agreement with the Department, or has abused or misused funds paid to the Contractor under any other agreement with the Department, the rights of the Department shall include, but not be limited to:

1. Recovery of any funds expended in violation of this AGREEMENT;
2. Suspension of Payments;
3. Termination of this AGREEMENT; and/or
4. Employment of another entity to fulfill the requirements of this AGREEMENT.

The Contractor shall be liable for all reasonable costs incurred on account thereof, including payment of any cost differential for employing such entity. The Contractor will assist the Department in transferring the operation of the contracted services to any other entity selected by the Department in a manner that will enable the Department or clients to continue to receive services in an on-going basis, including, but not limited to, notifying clients of the new entity to which the services will be transferred and the effective date of the transfer, providing the new entity promptly and at no charge with a complete copy of the clients' and all other records necessary to continue the provision of the transferred services, and transferring any equipment purchased with funds provided under this AGREEMENT.

Nothing herein shall preclude the Department from taking actions otherwise available to it under law.

The Contractor agrees to cooperate fully with any audit or investigation the Department or any agent of the Department may conduct and to provide access during normal business hours to any and all information necessary to perform its audit or investigation. The Contractor shall also allow the Department, and any representatives specifically directed by the Department to take possession of all books, records and documents relating to this AGREEMENT without prior notice to the Contractor. The Department will return all such books, records and documents to the Contractor upon completion the official purposes for which they were taken.

The Contractor agrees that all agreements between the Contractor and a subcontractor or consultants for the performance of any obligations under this AGREEMENT will be by written contract (subcontract) which will contain provisions including, but not limited to, the above specified rights of the Department.

FISCAL SANCTION

In the sole discretion of the Department, contractors may be placed on Fiscal Sanction when the Department identifies any of the following issues:

1. The Contractor has received an advance, overpayment or other funds under this or another agreement that has not been refunded to the Department within the established timeframe;
2. A Department or other audit identifies significant fiscal irregularities and/or that funds are due to the Department
3. The Contractor has not provided satisfactory services as required under the terms of this or another Department agreement;
4. The Contractor has not provided fiscal or program reports as required under the terms of this or another Department agreement;
5. A Department, County, state or federal prosecutorial or investigative agency identifies possible criminal activity, or significant fiscal or programmatic irregularities on the part of the Contractor;
6. The Contractor is not in compliance with state, federal, or County statutes or regulations, or applicable Department guidelines, policies and/or procedures; or
7. Unsafe physical conditions exist at a program site operated by the Contractor and funded under an agreement with the Department

Once the Contractor has been placed on Fiscal Sanction, payments on all open contracts and any new awards, amendments or contract renewals will not be processed until the issues have been satisfactorily resolved. The Contractor will be notified in advance of any proposed Fiscal Sanction and will be provided a timeframe within which the issues must be resolved in order to avoid Fiscal Sanction. Issues that are not resolved within the timeframe established by the Department may be referred to the Attorney General (AG) for collection of legal action. If a contract is referred to the AG a collection fee will be added to the amount owed. In addition, interest will be due on any amount not paid in accordance with the timeframes established by the AG. The Contractor will remain on Fiscal Sanction until the amount owed, including any collection fee and interest is paid.

ADDITIONAL ASSURANCES

- a. The Department and Contractor agree that the Contractor is an Independent Contractor, and not in any way deemed to be an employee of the Department or County of Oneida for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement or health insurance benefits. The Contractor agrees to defend and indemnify the Department and/or Oneida County for any loss the Department and/or Oneida County may suffer when such losses result from claims of any person or organization injured by the negligent acts or omissions of the Contractor, its officers and/or employees or subcontractors. Furthermore, the Contractor agrees to indemnify, defend, and save harmless the Department and/or Oneida County, and its

officers, agents, and employees from any and all claims and losses occurring or resulting from any and all contractors, subcontractors, and any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this AGREEMENT, and from all claims and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the Contractor in the performance of this AGREEMENT, and against any liability, including costs and expenses, for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, or use, or disposition of any data furnished under this AGREEMENT or based on any libelous or other unlawful matter contained in such data or written materials in any form produced pursuant to this AGREEMENT.

- b. The Contractor further agrees that the Department has the right to take whatever action it deems appropriate, including, but not limited to, the removal of the Contractor from the rotation list, the removal of clients, the cessation of client referrals, and termination of this AGREEMENT, if the Contractor fails to submit a completed and signed Standard Insurance Certificate or its acceptable substitute, which is subsequently approved by the Oneida County Department of Law, prior to the expiration of its insurance coverage.

RENEWAL NOTICE TO CONTRACTORS

Options to renew this AGREEMENT are at the discretion of the Department, which shall supply written notice of such renewal or termination within thirty (30) days of the expiration date. The Commissioner of Social Services reserves the right to evaluate the job performance and availability of funding.

COMPLIANCE WITH LAW

The Contractor represents and agrees to comply with the requirements of the Civil Rights Act of 1964 as amended, the Age Discrimination Employment Act of 1964 as amended, the Federal Rehabilitation Act of 1973 as amended, and Executive Order No. 11246, entitled "Equal Employment Opportunity" as amended by Executive Order No. 11375 and as supplemented in Department of Labor Relations, 41CFR Part 60.

The Contractor also agrees to comply with federal and state laws as supplemented in the Dept. of Labor regulations and any other regulations of the federal and state entities relating to such employment and Civil Rights requirements.

As a mandated reporting agency, all instances of suspected child abuse, neglect and/or maltreatment, will be reported to the Central Registry as required by law. These verbal reports will be followed by submission of completed 2221A to the Department. The family will be informed in advance of the Agency's decision to file a report with the Central Register.

The Contractor attests they have not been debarred by the federal Government from

contracting to provide services funded by any federal money.

The obligations of the parties hereunder are conditioned upon the continued availability of federal and/or New York State Funds for the purposes set forth in this AGREEMENT.

Should funds become unavailable or should appropriate federal or New York State officials fail to approve sufficient funds for completion of the services or programs set forth in this AGREEMENT, the Department shall have the option to immediately terminate this AGREEMENT upon providing written notice to the Contractor. In such an event, the Department 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 Department be responsible for any actual or consequential damages as a result of termination.

This AGREEMENT contains all the terms and conditions agreed upon by the parties. All items incorporated by reference are to be attached. No other understandings, oral or otherwise, regarding the subject matter of this AGREEMENT, shall be deemed to exist or to bind any of the parties hereto. 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.

This AGREEMENT shall be binding upon both parties when fully signed and executed and upon approval of the appropriate legislative bodies where required.

As the duly authorized representative of the Contractor, I hereby certify that the Contractor will comply with the above Standard Clauses.

Mohawk Valley Community Action Agency

NAME OF CONTRACTED AGENCY

Amy Turner, Executive Director

PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

Amy Turner

SIGNATURE

6/23/2021

DATE

**Oneida County Department of Social Services
Contractor and Contract Staff
Confidentiality and Non-Disclosure Agreement**

I, the undersigned, an employee of Mohawk Valley Community Action Agency, (the
Name of Contract Agency

“Service Provider”), hereby state that I understand and agree that all information provided to the Service Provider from the Oneida County Department of Social Services staff by paper copies, computer systems or databases, electronic communication or otherwise obtained pursuant to the Agreement entered between the Oneida County Department of Social Services and the Service Provider indicated above, is CONFIDENTIAL, is to be used only for the purposes of performing services required by the Agreement, and must be safeguarded from unauthorized disclosure.

I further understand that such information includes, but is not limited to, any and all information regarding parents or guardians and their children, and all employment, financial, and personal identifying data, including Protected Health Information (PHI) as set forth in HIPAA regulations.

I agree to maintain all such information as CONFIDENTIAL, and I agree to use such information only in the performance of my official duties to perform the functions required by the Agreement, unless otherwise authorized in writing by the Department of Social Services.

I understand that confidential information maintained in and/or obtained from systems/databases such as, but not limited to the Welfare Management system (WMS), Child Support Management System (CSMS/ASSETS), Benefits Issuance Control System (BICS), COGNOS, and Connections are protected by Federal and State statutes and regulations. Access and disclosure of confidential information is strictly limited to authorized employees and legally designated agents, for authorized purposes only in the delivery of program services.

I understand that service providers may not access their own active, closed or archived records or those involving a relative, friend, acquaintance, neighbor, partner or co-worker or other individuals to whom they have no official assignment.

I understand that if my employment is terminated by resignation, retirement or for other reasons or the Service Provider Contract is not renewed, the terms of this Confidentiality and Non-Disclosure Agreement are still binding.

I understand that if I disclose CONFIDENTIAL information in violation of the requirements stated herein, any individual who incurs damages due to the disclosure may recover such damage in a civil action.

I understand that, in addition to any other penalties provided by law, any person who willfully releases or willfully permits the release of any CONFIDENTIAL information as described herein to persons or agencies not authorized under New York State law to receive it shall be guilty of a class A misdemeanor.

Print Name: Amy Turner
Signature: *Amy Turner*
Title: Executive Director
Date: 6/23/2021
Witness: *Ponca Gardner*

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

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

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative

agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:

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.
 11. 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.
 111. 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 contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and

D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;

11. 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 ongoing drug-free awareness program to inform employees about:

1) The dangers of drug abuse in the workplace;

2) The Contractor's policy of maintaining a drug-free workplace;

3) Any available drug counseling, rehabilitation, and employee assistance program; and

4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;

C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;

D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:

1) Abide by the terms of the statement; and

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

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

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

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

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

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

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

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

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

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

11. 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;
 11. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 111. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

1. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and

11. 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;

11. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;

111. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;

1v. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;

v. Make available protected health information in accordance with 45 CFR §164.524;

v1. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;

v11. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;

v111. 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

- 1x. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
- I. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - II. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - III. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section I09 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section I 09-b of the General Municipal Law.

6. WORKER'S COMPENSATION BENEFITS.

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

7. NON-DISCRIMINATION REQUIREMENTS.

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

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as

determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its knowledge and belief:

(1) the prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; and (2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) no attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records

shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

12. CONFLICTING TERMS.

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

13. GOVERNING LAW.

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

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

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application;

request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

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

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

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services

(hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

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

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

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

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

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

- a. For the purposes of this provision, the "use of tobacco" shall include:
 1. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 11. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.
- b. For the purposes of this provision, "e-cigarette" shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that

delivers vapor which is inhaled by an individual user as he or she simulates smoking.

c. For the purposes of this provision, "on Oneida County property" shall be defined as:

1. Upon all real property owned or leased by the County of Oneida;
and

11. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.

d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

20. COMPLIANCE WITH NEW YORK STATE LABOR LAW § 201-G

The Contractor shall comply with the provisions of New York State Labor Law § 201-g.

Anthony J. Picente Jr.
County Executive

Colleen Fahy-Box
Commissioner



ONEIDA COUNTY DEPARTMENT OF FAMILY AND COMMUNITY SERVICES

Contract Administration, 4th Floor
County Office Building, 800 Park Avenue, Utica, NY 13501
Phone (315) 798-5073 Fax (315) 793-6044

April 16, 2021

FN 20 21-209

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

HEALTH & HUMAN SERVICES

WAYS & MEANS

Dear Mr. Picente:

I am submitting the following Agreement between Oneida County, through its Department of Family and Community Services, and Trinity Services Group, Inc. for your review and approval. If this Agreement meets with your approval, please forward to the Board of Legislators for further consideration.

The total amount of this Agreement is \$1,665,309.00, which consists of federal (\$849,307.59), state (\$482,939.61, and private pay/other (\$333,061.80) funding. The term of this Agreement is from January 1, 2021 through December 31, 2021.

I am available at your convenience to answer any questions you may have regarding this Agreement.

Sincerely,

Colleen Fahy-Box
Colleen Fahy-Box
Commissioner

CFB/md

Enclosures

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

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

Date 6-17-21

Oneida Co. Department: Office for the Aging

Competing Proposal _____
Only Respondent _____
Sole Source RFP _____
Other (Renewal) X

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor:

Trinity Services Group, Inc.
477 Commerce Boulevard
Oldsmar, FL 34677

Title of Activity or Service:

Food Service, Congregate and Home Delivered

Proposed Dates of Operation:

January 1, 2021 – December 31, 2021

Client Population/Number to
be Served:

Approximately 700 clients

Summary Statements:

1) Narrative Description of Proposed Services

Trinity Service Group, Inc. will provide meals at nine (9) congregate dining sites and through home delivery for over 40+ routes throughout the County. Trinity Services Group, Inc. will also provide meals to agencies who contract with OFA for client meals including Senior Network Health.

2) Program/Service Objectives and Outcomes:

Trinity Services Group, Inc. will purchase, warehouse, prepare, deliver and serve at sites and homes high quality noon meals that nutritionally meet one third of the recommended daily allowance of an individual's daily requirement for nutrition.

3) Program Design and Staffing

N/A

Total Funding Requested:

\$ 1,665,309.00

Account #: A6773.495100

Oneida County Dept. Funding Recommendation: \$1,665,309.00

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

Federal: 51% (\$849,307.59)

State: 29% (\$482,939.61)

Private Pay (Other): 20% (\$333,061.80)

Is this service mandated? Yes

Cost Per Client Served: \$8.31 per meal. A total of 173,623 meals per year will be provided to service approximately 700 clients at a cost of \$1,665,309.00 per year.

Past Performance Data: 2021 will be the fifth year for Trinity Services Group, Inc. to provide food services to Oneida County's Office for the Aging. The Department is sending this service out to RFP in 2021 for year 2022.

O.C. Department Staff Comments: Trinity Services Group, Inc. currently provides food service to Oneida County's Jail and the Senior Nutrition Program. They have established a proven track record of high quality service.

SECOND RENEWAL AGREEMENT

This Second Renewal made and entered into by and between **Trinity Services Group, Inc.**, a corporation organized and existing under the laws of the State of Florida and authorized to do business in the State of New York with its principal place of business at 477 Commerce Boulevard Oldsmar, FL 34677, hereinafter known as the "**CONTRACTOR**," and the **COUNTY OF ONEIDA**, a municipal corporation existing and organized under the laws of the State of New York, with its principal place of business and offices located at 800 Park Avenue, Utica, New York 13501, by and through its **DEPARTMENT OF FAMILY AND COMMUNITY SERVICES** under Office for the Aging and Continuing Care, located at 120 Airline Street, Suite 201, Oriskany, NY 13424, hereinafter collectively known as the "**COUNTY**," all parties to the Agreement hereinafter collectively known as the "**PARTIES**."

WITNESSETH:

WHEREAS, the **COUNTY** and the **CONTRACTOR** entered into an agreement whereby the **CONTRACTOR** provides services to Oneida County residents, hereinafter referred to as the "Original Agreement", (County contract number 17775 and amendment number 75425), a copy of which is attached hereto as Exhibit "A." The Original Agreement was in effect from January 1, 2017 through December 31, 2019; and

WHEREAS, the Original Agreement included terms that allow the **COUNTY** to renew this agreement two (2) additional one (1) year terms; and

Whereas, the **PARTIES** previously entered into a First Renewal of the Original Agreement (County Contract No. 91666) for a term of January 1, 2020 through December 31, 2020; and

WHEREAS, the **PARTIES** are desirous of entering into a Second Renewal of the Original Agreement;

NOW THEREFORE, in consideration of the mutual promises made herein, the **PARTIES** hereto agree as follows:

1. This Second Renewal to the Original Agreement (Contract #17775 and amendment #75425) shall commence January 1, 2021 and terminate December 31, 2021.

2. The Total reimbursement from the COUNTY to the CONTRACTOR for the term of this Second Renewal shall not exceed one million six hundred sixty-five thousand three hundred and nine dollars (\$1,665,309.00).
3. All other terms of the Original Agreement remain in effect without change or alteration.

IN WITNESS WHEREOF, the COUNTY and the CONTRACTOR have signed this Agreement on the date shown.

Trinity Services Group, Inc.

By: David M. Miller
David M. Miller
Chief Operating Officer

6/4/21
Dated

Department of Family and Community Services

By: Colleen Fahy-Box
Colleen Fahy-Box
Commissioner

6/10/21
Dated

County of Oneida

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

Dated

Approved:

By: _____
Richard P. Ferris, Esq.
Assistant County Attorney

Dated

AGREEMENT

THIS AGREEMENT (Agreement), is hereby entered into by and between ONEIDA COUNTY, a municipal corporation organized and existing under the laws of the State of New York, with its principal offices located at 800 Park Avenue, Utica, New York 13501, through its ONEIDA COUNTY OFFICE FOR THE AGING AND CONTINUING CARE, with its offices located at 120 Airline Street Suite 102, Oriskany, New York 13424, hereinafter collectively referred to as the "County," and TRINITY SERVICES GROUP, INC., hereinafter referred to as the "Contractor," a Florida corporation authorized to do business in New York and having an address of 477 Commerce Boulevard, Oldsmar Florida 34677 (County and Contractor each being a "party" and together being the "parties").

WHEREAS, the County operates the Nutrition Program for the Elderly (NPE) for the benefit of Oneida County residents age sixty (60) and older; and

WHEREAS, the County has issued a Request for Bid, Bid Ref #1880, for its Senior Nutrition Program ("RFB") and Contractor is willing to provide the necessary Nutrition Services to Qualified Individuals as determined by an assessment by the County and has submitted its proposal to provide the necessary Nutrition Services ("Proposal"); and

WHEREAS, the County desires to accept the Proposal and avail itself of Contractor's Nutrition Services;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto, intending to be legally bound hereby, agree as follows:

1. Definitions:

- A. The term "Nutrition Services" means the provision of home-delivered and congregate meals to Qualified Individuals as determined by County.
- B. The term "Qualified Individual" means an individual who is:
 - 1. age 60 years or older; and
 - 2. eligible for Nutrition Services as determined by the County; and
 - 3. able to be maintained safely in his or her own home environment.
- C. The term "Client" means a Qualified Individual who shall receive meals through the Contractor's Nutrition Services.

2. Scope of Services:

- A. Contractor must provide Nutrition Services to each Qualified Individual, as identified by, and who is referred to Contractor by the County in accordance

with all Federal, State, Local Nutrition Services Regulations, and this Agreement, including all Exhibits.

3. **Performance of Services:**

- A. The Contractor represents that the Contractor is duly licensed (as applicable) and has the qualifications, the specialized skills, the experience, and the ability to properly perform the Nutrition Services.
- B. The Contractor may, at the Contractor's own expense, employ or engage the services of such employees, subcontractors and/or partners as Contractor deems necessary to perform the Nutrition 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 Contractor shall be solely responsible and shall remain liable for the performance of the Nutrition Services by the Assistants. The Contractor shall expressly advise the Assistants of the terms of this Agreement.
- C. The Contractor acknowledges and agrees that the Contractor and its Assistants have no authority to enter into contracts that bind the County or create obligations on the part of the County without the prior written authorization of the County.

4. **Responsibilities of the Contractor:**

- A. **Service Delivery:** Contractor must provide Nutrition Services under this Agreement in accordance with the following:
 - 1. The Contractor agrees to provide the County's NPE, Department of Health's Long Term Home Health Care Program (LTC), Department of Social Services, Senior Network Health, and Managed Long Term Care Plans with Nutrition Services.
 - 2. The Contractor shall conduct all Nutrition Services in accordance with food service standards for both cafe style and home-delivered meals as specified by the New York State Office for the Aging 1990 Nutrition Program Standards (NYSOFA Nutrition Services Standards), and any revisions, Program Instructions or Technical Assistance Memoranda issued thereafter.
 - 3. The Contractor agrees to provide the following Nutrition Services:
 - a. Prepare congregate and home-delivered meals for said programs in accordance with the County's Registered Dietitian's approved menu which:

- i. meets one-third (1/3) of the Recommended Daily Allowance (RDA); and
 - ii. is approved by the Nutrition Program Coordinator of the County; and
 - iii. provides for diet modified meals including NCS (no concentrated sweet), NAS (no added salt), renal, low fat, low cholesterol, low residue, bland, low salt and modified consistency (chopped, ground, pureed); the County may advise substitution of food items in the menu plan; and
 - iv. provides for alternate menus that meet religious needs.
- b. Manage and deliver contracted meals to congregate sites within Oneida County and to Oneida County residents who are homebound participants.
 - c. Provide adequate training for its personnel, both management and non-management. Such training shall include all relevant Federal or State regulations for the sponsorship of a Nutrition Services program for the elderly. Contractor will also implement any County recommended improvements or alterations deemed necessary by the County for compliance with those regulations or policies. The Contractor shall submit annual reports of training conducted and attendees during the preceding year to the County.
 - d. Employ one (1) full-time food service manager; one (1) administrative assistant; one (1) cook dedicated 100% to Nutrition Services; at least thirty (30) delivery drivers; nine (9) congregate site managers; one (1) box truck driver; three (3) van drivers; and one (1) manager with expertise in coordination of delivery services, with background in senior congregate food service, serving and delivery requirements, route planning, and packing and the management of multiple delivery and packing serving sites;
 - i. Each Congregate Site manager shall work at least three (3) hours per day.
- 4. The Contractor shall provide information on the provision of additional Nutrition Services, above and beyond service authorized by the County, contracted for privately by a Client or family, prior to initiation of said service.
 - 5. The Contractor shall be responsible for arranging site agreements for the County program's congregate dining sites and providing copies of said

agreements to the County annually. The County reserves the right to modify the number of dining sites and their locations.

6. The Contractor agrees to manage and serve meals at all congregate dining sites as designated by the County, and will acquire from dining sites appropriate reports for the County program. Congregate dining locations may be found in Exhibit E attached hereto and made part of this Agreement.
7. The Contractor agrees to deliver home-delivered meals within Oneida County using volunteers as often as possible and paid staff, as necessary.
8. The Contractor agrees to provide congregate and home-delivered meals, including frozen weekend meals as deemed necessary by the County, for up to 255 days in a calendar year during the Agreement period with food service provided on the following days: Monday, Tuesday, Wednesday, Thursday, and Friday.
9. The Contractor agrees that service will not be provided on the following holidays: Memorial Day, Independence Day, Labor Day, Thanksgiving Day, day after Thanksgiving, Christmas Day, and New Year's Day.
10. The Contractor agrees to provide Managed Long Term Care (MLTC) home-delivered noon meals as deemed necessary by the County as per the schedules in paragraphs eight (8) and nine (9) above.
11. The Contractor agrees to maintain a reservation system for serving meals to eligible Clients:
 - a. Reservations for congregate meals are made at the congregate dining sites at least twenty-four (24) hours in advance with reservations forwarded to the assigned kitchen, and
 - b. Same day cancellations of meals are to be made to the kitchen no later than 9:00 a.m. on the day of the reservation.
12. The County will monitor the number of meals ordered and the number of meals served at each site and reserves the right to investigate instances where there is a wide discrepancy between the number of meals ordered and the number of meals served.
13. The Contractor shall cooperate with the County to ensure that any break in service to Clients shall not be detrimental to the Client's health or wellbeing by substituting and / or coordinating other Nutrition Services on the Client's behalf.

14. The Contractor agrees that any program, public information or other printed or published materials on the work of or funded by Title III C (42 USC Ch. 35, Subch. III, Part C) and/or Supplemental Nutrition Assistance Program (SNAP) will give due recognition to the Administration on Aging, New York State Office for the Aging and Oneida County Office for the Aging and Continuing Care by including the language: "This program is supported by Oneida County Office for the Aging and Continuing Care, the New York State Office for the Aging, and the Administration on Aging."
15. The Contractor and County must provide Clients an opportunity to voluntarily contribute to the cost of the Older Americans Title III C and SNAP services received through this Agreement. The Contractor will maintain a written contribution policy compliant with NYSOFA Nutrition Services Standards. The Contractor shall notify the County of any changes to the policy.
16. The Contractor will comply with requirements for concentration of Nutrition Services to target populations (minorities, low-income, frail, or vulnerable) which have the greatest economic and social needs as identified by the New York State Office for Aging.
17. The Contractor shall maintain written procedures for accounting and reporting of food production, inventory ordering management and voucher / invoice/ requisition management. The policies will be available for inspection by the County and the Contractor will notify the County of any updates to the policies.
18. The Contractor shall comply with NYSOFA Nutrition Services Standards regarding record retention.

B. Personnel Management:

1. Contractor must, at all times during the term of this Agreement, comply with the policies and procedures of the County, including without limitation, the following:
 - a. Contractor must certify that each Nutrition Services employee is in good health; and
 - b. Contractor must verify character references provided to Contractor by each Nutrition Services employee; and
 - c. When appropriate, the Contractor shall attempt to recruit volunteers into the program to assist staff and Clients.

2. The Contractor shall have sufficient qualified and trained back-up personnel.
3. The Contractor may use inmate labor and will ensure all Federal, State, Local Laws and Regulations, including Oneida County Correctional Facility guidelines, regarding the use of inmates are followed.

C. Compliance with Laws and Service Standards: During the term of this Agreement, Contractor is responsible for:

1. Ensuring that any service provided by it, its employees, its agents, or its other representatives pursuant to this Agreement complies with all pertinent provisions of Federal, State, County, and other government entity statutes, rules and regulations;
2. Ensuring the quality of all Nutrition Services provided by Contractor;
3. Ensuring adherence by Contractor staff to the County's plan of care established for the Client;
4. Providing the County with information needed to meet planning, coordination, evaluation and reporting requirements as requested by the New York State Consolidated Area Agency Reporting System (CAARS), and the National Aging Program Information System (NAPIS) by the fifth (5th) of each month; and
5. Maintaining written policies for quality assurance, food safety and sanitation, kitchen skills, staff-inmate relations, and kitchen safety that meet all applicable Federal, State, County, and other government entity statutes, rules and regulations. The policies shall be available for inspection by the County and the Contractor will notify the County of any updates to the policies.

D. Equipment and Facilities:

1. The Contractor will use the County-owned kitchen facility at no cost to the Contractor.
2. The County will provide the use of the equipment listed in Exhibit G and Exhibit H to the Contractor for the Nutrition Services.
3. The Contractor agrees to repair and replace equipment up to a maximum amount of Fifty Thousand Dollars (\$50,000.00) per year with prior approval from the County.

4. The Contractor may make emergency repairs to equipment without prior approval from the County, but must provide written documentation of said emergency repair(s) to the County.
5. The Contractor will seek prior approval from both the Office for the Aging and Sheriff's Department designees for any general repairs and purchases over the amount of Two Hundred Dollars (\$200.00).
6. The Contractor acknowledges that all equipment purchased for the program with County or grant funds shall remain the property of the County. Equipment purchased with other than County funds, which includes Contractor profits and corporate funds, shall remain property of the Contractor.
7. The Contractor shall arrange for and maintain an alternate emergency preparation site in the Oneida County area for the entire term of this Agreement.

5. **Expenses:**

Contractor is solely responsible for paying all of its business expenses related to furnishing the Nutrition Services described herein, and shall not be reimbursed the cost of travel, equipment, tolls, office space, support services or other general operating costs.

6. **Training:**

Contractor shall not be required to attend or undergo any training by the County. Contractor shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the Nutrition Services described herein, and shall be solely responsible for the cost of the same.

7. **Responsibilities of the County:**

- A. Screening and assessment of individuals for Nutrition Service eligibility;
- B. Authorizing and requesting Nutrition Service delivery and Nutrition Service follow-up;
- C. Client monitoring, reassessment, and discharge from Nutrition Services;
- D. Informing Clients of their rights and responsibilities;
- E. Having grievance procedures in place and made available to each program Client;
- F. Making unannounced on-site visits to monitor Nutrition Services provided to ensure quality of care;

- G. Targeting low-income Clients and low-income minorities for program participation;
- H. Ensuring Contractor is in compliance with the prohibition of using public funds to support sectarian, political and lobbying activities;
- I. Assisting Clients and/or their families in making alternate arrangements for supplemental care when necessary; and
- J. Conducting periodic audits of all meal count and maintenance records, as well as the required annual on-site audit of the program's status to ensure compliance with nutrition standards, accounting practices and customer satisfaction.

8. **Financial Management and Billing; Reimbursement for Services:**

- A. The County funds are contingent upon availability of Federal, State, and County of Oneida funding. The total payments for this Agreement will not exceed \$4,226,964.00.
- B. The Contractor must comply with all vouchering and contribution procedures, and submissions of required reports as described by the County in Exhibit D, attached hereto and made part of this Agreement.
- C. The Contractor agrees to forward to the County all donations and contributions received from Clients of congregate dining and home-delivered meal programs. The County will maintain credible accounting practices and records.
- D. The rates payable by the County to Contractor that are established in this Agreement are contingent upon the approval of the New York State Office for the Aging (NYSOEA).
- E. Contractor shall charge to the County and the County shall pay to Contractor for Nutrition Services provided by Contractor to Qualified Individuals at the rates as follows, but in no event may the amount paid by the County to Contractor exceed the amount approved by NYSOEA:
 \$7.95 per hot noon meal (congregate and home-delivered meals); and
 \$7.95 per frozen weekend meal.

Monthly donations and contributions for the Oneida County program will be collected by the Contractor and deducted from the monthly Nutrition Services payment. Client donations and contributions will be made payable to the Oneida County Office for the Aging and Continuing Care, and mailed to 120 Airline Drive, Oriskany, New York 13424. The Contractor is responsible for depositing monthly Client donations and contributions into the Contractor's bank account and for crediting the County on the monthly invoice by deducting the donation from the total amount due.

- F. Contractor must submit a bill to the County by the fifth (5th) day of the month following the month of service.
- G. Payment must be made to Contractor by the County with the last billing cycle of the month if billing is received by the fifth (5th) of the month.
- H. Contractor must record all transactions made with the County. Contractor must keep all records related to the Nutrition Services provided by the Contractor under this Agreement in accordance with sound accounting practices. Each document maintained by Contractor under this Agreement must be made available to either County or NYSOFA, or both, for inspection or audit upon request by County or NYSOFA.
- I. Contractor may not charge or accept any fee from any Client or any Client's family for Nutrition Services provided under the County plan of service or under this Agreement.
- J. The Contractor agrees to make no claim for damages for reasonable delay of reimbursement due to an act or omission by Oneida County Office for the Aging and Continuing Care.
- K. Meal prices may not exceed the amount approved by the NYSOFA. Subject to such limitation, meal prices may be negotiated annually to reflect material conditions changed due to causes beyond the Contractor's control, including, but not limited to a change in the scope of services or menu changes requested by the County, the availability of inmate labor, changes in Federal, State or Local standards or regulations applicable to the Nutrition Services, changes in the minimum wage and implementing regulations, or other unforeseen conditions beyond the Contractor's control.

9. **Independent Contractor:**

- A. It is expressly agreed that the relationship of the Contractor to the County shall be that of an Independent Contractor. The Contractor and its Assistants shall not be considered employees of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Contractor, in accordance with its status as an Independent Contractor, covenants and agrees that it and its Assistants will conduct itself in accordance with such status, that neither it, nor any of its Assistants, shall hold themselves out as, nor claim to be, officers or employees of the County by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.

- 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 services to other entities as a regular course of business. The Contractor and the County agree that the Contractor is free to undertake other work arrangements during the term of this Agreement, and may continue to make its services available to the public.
- C. The Contractor and its 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 Contractor acknowledges and agrees that neither the Contractor, nor its Assistants, shall be eligible for any County employee benefits, including retirement membership credits.
- E. The Contractor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to the Contractor or its Assistants under this Agreement, and for compliance with all applicable labor and employment requirements with respect to the Contractor's 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 Nutrition Services rendered for State or Federal income tax, unemployment insurance, worker's compensation, disability insurance or social security insurance (FICA). The 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.

10. Indemnification:

- A. The obligations 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. To the fullest extent permitted by applicable law, the Contractor shall indemnify and hold harmless, and at the County's option, defend, the County, and/or its officers, directors, members, agents, employees, contractors and other representatives, from and against any and all liabilities, damages, losses, costs, expenses (including, without limitation, any and all reasonable attorneys' fees and disbursements), causes of action, suits, liens, claims, damages, penalties, obligations, demands or judgments of any nature, including, without limitation, for death, personal injury and property damage, economic damage, and claims brought by third parties for personal injury and/or property damage (collectively, "Damages"), incurred by the County caused by any negligent act or omission, or intentional misconduct of the Contractor, its officers, agents, employees (including the Contractor's Assistants or other authorized personnel) arising out of or in connection with the exercise by the Contractor or any of the Contractor's authorized personnel of the rights and privileges granted by or pursuant to this Agreement, except to the extent such Damages are caused by the sole negligence, unlawful act or omission, or intentional misconduct of the County. This Section 10 survives the termination of this Agreement.

C. The Contractor shall be solely responsible for all physical injuries or death to its agents, servants, volunteers, employees, subcontractors or to any other persons or damage to any property sustained during its operations and Nutrition Services under this Agreement resulting from any omission or act of commission or work 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 subcontractors. The Contractor shall be solely responsible for the safety and protection of all of its employees, volunteers, subcontractors or other agents whether due to the negligence, fault or default of the Contractor or not.

11. Insurance Requirements:

A. As part of its obligation to indemnify, defend and hold harmless the County, its officers, agents, and employees, as set forth above, the Contractor shall 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 must have at least an A- (excellent) rating by A. M. Best:

1. Commercial General Liability (CGL) coverage with limits of insurance of not less than One Million Dollars (\$1,000,000) per occurrence and such insurance shall not be less than Two Million Dollars (\$2,000,000) annual aggregate.

i. 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.

ii. Oneida 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).

iii. CGL coverage shall include a General Aggregate Limit and such General Aggregate Limit shall apply separately to each project.

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

v. 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 three (3) years after the completion of the Work.

2. Workers Compensation and Employers Liability

i. 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 Workers' Compensation Law at statutory New York Limits.

3. Automobile Liability

i. Business Auto Liability Insurance in an amount equal to or greater than One Million Dollars (\$1,000,000) for the term of the Agreement.

- ii. Business Auto coverage must include coverage for liability arising out of all owned, leased, hired and non-owned automobiles.
- iii. Oneida County shall be included as additional insured on the auto policy. Coverage for these additional insured shall be on a primary and non-contributing basis.

4. Commercial Umbrella

- i. Umbrella limits must be at least Three Million Dollars (\$3,000,000) per occurrence and such insurance shall not be less than Three Million Dollars (\$3,000,000) annual aggregate.
- vi. Umbrella coverage must include as additional insureds all entities that are additional insureds on the CGL.
- vii. 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.

C. **Waiver of Subrogation:** The Contractor waives all rights against the County and their agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by Commercial General Liability, Automobile or Workers' Compensation and Employers Liability insurance maintained per requirements state above.

D. Prior to the start of any work, the Contractor shall provide certificates of insurance to the County. Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of the Contractor's 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 cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the County.

E. 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.

- F. Payment(s) to the Contractor may be suspended in the event the Contractor and its sub-contractors, if any, fail to provide the required insurance documentation in a timely manner.

12. Statement of Non-Discrimination:

- A. County and Contractor agree to make available Nutrition Services normally provided by Contractor, without regard to race, age, color, sexual preference, creed, national or ethnic origin, handicap, or source of payment, except for fiscal capability thereof, in accordance with the laws of the State of New York.
- B. County and Contractor may not discriminate against program Clients because of race, age, creed, color, sexual preference, national or ethnic origin.
- C. Contractor must provide equal pay opportunities and conduct business in accordance with the laws of the State of New York.
- D. Contractor must adhere to the following laws:
- i. Title VI of the Civil Rights Act of 1964;
 - ii. Federal Executive Order 13166;
 - iii. Section 504 of the Rehabilitation Act of 1973;
 - iv. Titles II and III of the Americans with Disabilities Act; and
 - v. The New York State Human Rights Law.

13. Term:

- A. The initial term of this Agreement will begin on January 1, 2017 and end on December 31, 2019.
- B. This Agreement may be renewed, at the sole discretion of the County, for up to two (2) additional one-year terms based on a successful completion of the initial term; and notice to the Contractor shall be provided prior to the end of the term of this Agreement.
- C. This Agreement is subject to Federal and New York State allocations, and is contingent upon continuation of Federal and State approval of the program in the County of Oneida.
- D. This Agreement may be terminated with or without cause by the County on ninety (90) days' prior written Notice.

14. Governing Law; Choice of Forum:

This Agreement is governed by the laws of the State of New York without regard to conflict of laws principles. 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.

15. Service of Process:

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. Contractor expressly consents to personal jurisdiction in New York State.

16. Amendment:

This Agreement may be amended only by a writing signed by both the County and Contractor, which writing may be executed in counterpart.

17. Continued Effectiveness; Assignment:

This Agreement is binding upon and will inure to the benefit of and be enforceable by the parties hereto and their respective legal representatives, successors and assigns, except that Contractor may not assign or subcontract its duties or obligations under this Agreement without the prior written consent of the County.

18. Notices:

Any notices required to be given by either party pursuant to this Agreement must be given in writing by reputable overnight courier and will be deemed given on the date such notice is received by the appropriate party at the following address:

If to County:

Oneida County Office for the Aging
And Continuing Care
126 Airline Drive
Oriskany, New York 13424

If to Contractor:

Trinity Services Group, Inc.
477 Commerce Blvd.
Oldsmar, FL 34677

19. Severability:

If any provision of part thereof of this Agreement is deemed by a court of competent jurisdiction to be legally invalid or unenforceable, the validity and enforceability of this Agreement will not be affected and such provision will be deemed modified to the extent necessary to make such provision consistent with applicable law, and in its modified form, such provision and this Agreement will remain in full force and effect.

20. Grievance Procedures:

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 as Exhibit C.

21. Applicable Statutes, Regulations and Policies:

The Contractor agrees that all its activities under this Agreement, 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 (NYSOPA) that apply to such activities, as more fully described in Exhibit A and Exhibit B attached hereto and incorporated herein by this reference.

22. Standard Addendum:

The Contractor agrees to comply with the County's Standard Clauses as set forth in the Addendum, Exhibit F attached hereto and incorporated herein by this reference.

23. Waiver:

No failure of either party to exercise, and no delay by either party in exercising, any right or remedy under this Agreement will constitute a waiver of such right or remedy. No waiver by either party of any right or remedy under this Agreement will be effective unless made in writing.

24. 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.

25. Entire Agreement:

This Agreement, including any attachments, exhibits, amendments, addendums or appendices attached hereto, including, but not limited to, Exhibit A (NYSOFA Regulations for Older Americans), Exhibit B (Applicable Federal and State Laws), Exhibit C (Oneida County Office for the Aging Grievance Procedures), Exhibit D (Oneida County Voucher Procedure), Exhibit E (List of Congregate Meal Sites), Exhibit F (Oneida County Standard Contract Clauses), Exhibit G (Nutrition Services Equipment at Oneida County Jail), Exhibit H (Additional Nutrition Services Equipment), constitutes the entire understanding and agreement of the parties with respect to the subject matter of this Agreement and supersedes any other prior agreements or understandings between the parties, whether written or oral.

Contractor and County have acknowledged their understanding of, and agreement to, the mutual promises written above by executing this Agreement.

ONEIDA COUNTY



Anthony J. Picente, Jr., County Executive

9-25-17
Date

**ONEIDA COUNTY OFFICE FOR THE AGING
AND CONTINUING CARE**



Michael J. Romano, Director OFA/OCC

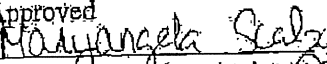
9/19/17
Date

TRINITY SERVICES GROUP, INC.



David M. Miller, Chief Operating Officer

9.15.2017
Date

Approved


Maryangela Scalzo, Assistant County Attorney

EXHIBIT A: NYSOFA Regulations for Older Americans

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)

EXHIBIT B: List of Applicable Federal and State Laws

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 LTCCP 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)
BISEP 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)

EXHIBIT C: 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 Dissatisfaction 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, and 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.

EXHIBIT D: Oneida County Voucher Instructions

Oneida County Office for the Aging
2017

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-B, BISEP, CSEP, 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 employees.
 - 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 D) - Contract BISEP 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 5th 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

EXHIBIT E: Oneida County Nutrition Program for the Elderly

2017 Dining Sites

Ava Dorfman Senior Civic Center
305 Locust Street
Rome, New York 13440

Boonville United Methodist Church
105 Ann Street
Boonville, New York 13309

Forestport Community Center
Woodhull Road
Forestport, New York 13338

New Hartford Dining & Activity Center
1 Sherman Street
New Hartford, New York 13413

North Utica Senior Center
50 Riverside Drive
Utica, New York 13502

Noyes Manor Apartments
600 West Hinds Avenue
Shertill, New York 13461

Peretta Twin Towers
509 Second Street
Utica, New York 13501

Parkway Senior Center
220 Memorial Parkway
Utica, New York 13501

South Rome Senior Center
211 Ridge Street
Rome, New York 13440

Travel Sites

Knoxboro Senior Club - 3rd Tuesday of the month
First Presbyterian Church of
Augusta & Vernon Center
2345 State Route 26
Oriskany Falls, New York 13425

Waterville Senior Club - 1st Wednesday of the month
Waterville Municipal Hall
122 Barten Avenue
Waterville, New York 13480

Whitestown Senior Club - Every Wednesday of each month
Whitestown Community Center
1 Champion Way
Whitesboro, New York 13492

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

3. Certification Regarding Lobbying; Debarment, Suspension and other Responsibility Matters; and Drug-Free Workplace Requirements.

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal Grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.
2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.

b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,

1. The Contractor certifies that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - b. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1(b) of this certification; and
 - d. Have not within a three-year period, preceding this Contract, had one or more public transactions (Federal, State, or local) for cause or default; and
2. Where the Contractor is unable to certify any of the statements in this certification, he or she shall attach an explanation to this Contract.

c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

1. The Contractor will or will continue to provide a drug-free workplace by:
 - a. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - b. Establishing an on-going drug-free awareness program to inform employees about:
 1. The dangers of drug abuse in the workplace;
 2. The Contractor's policy of maintaining a drug-free workplace;
 3. Any available drug counseling, rehabilitation, and employee assistance program; and
 4. The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
 - c. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (a);
 - d. Notifying the employee in the statement required by paragraph (a) that as a condition of employment under the Contract, the employee will:
 1. Abide by the terms of the statement; and
 2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
 - e. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
 - f. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
 1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the Requirements of the Rehabilitation Act of 1973, as amended; or

2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
- g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), (f).

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

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

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

1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

4. Health Insurance Portability and Accountability Act (HIPAA).

When applicable to the services provided pursuant to the Contract

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

1. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
2. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access protected health information electronically; and
3. Utilize an adequate amount of physical hardware, including but not limited to filing cabinets, and locks on drawers, cabinets, and office doors, in order to prevent unwanted and illegal access to computers and paper files that contain protected health information of the County's clients.

b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that

1. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
2. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

1. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;

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

5. Non-Assignment Clause.

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

6. Workers' Compensation Benefits.

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

7. Non-Discrimination Requirements.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the

extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

8. Wage and Hours Provisions.

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

9. Non-Collusive Bidding Certification.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. Records.

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

11. Identifying Information and Privacy Notification.

a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must give the reason or reasons why the payee does not have such number or numbers.

b. Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. Conflicting Terms.

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

13. Governing Law.

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

14. Prohibition on Purchase of Tropical Hardwoods.

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

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

15. Compliance with New York State Information Security Breach and Notification Act.

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

16. Gratuities and Kickbacks.

a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval,

disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. Audit

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to or permit the County to examine or obtain copies of any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

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

18. Certification of compliance with the Iran Divestment Act.

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

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

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

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

Exhibit G

EQUIPMENT AND DESCRIPTION	TAG #	SERIAL #	QNTY
HASKELL FILE CABINET	046		1
FILEX FILE CABINET	047		1
	048		
BROWN COMPUTER TABLE	042		2
	096		
8 FT. STAINLESS STEEL TABLE	077		1
HOBART LARGE MIXER WITH MIXING BOWL, WHIP & PADDLE	8055	11-317-580	1
CLEVELAND STEAMER, 3 DOORS	099A	02218312	1
GROEN BRAISING PAN	081A		1
	098A		
VNIVEX BUFFALO CHOPPER		NON-WORKING	1
SQUARE STAINLESS STEEL TABLE WITH SHELL	085		1
HOBART SLICER, ELECTRIC			1
ROBOT COUPE, ELECTRIC		1 NON-WORKING	2
6 FT. STAINLESS STEEL TABLE			1
WOODEN LARGE STOCK- DOLLY HAND CARTS			3
THERMAL BAGS- HDM'S			40
COOLERS FOR HDM & CONGREGATE			50
CAMBRO CONTAINERS- CONGREGATE			32
CAMBRO CARRIERS (3 PANS)			6-8
CAMBRO CARRIERS (1 PAN)			12
ALTO SHAM HEATER UNIT			2

UTENSILS (SPOONS, WHISKS, ETC...)			12
CUTTING BOARDS		REPLACED	6
FULL PANS WITH LIDS			50
HALF PANS WITH LIDS			25
2" PANS			10
CAN OPENER #1			1
SHEET PANS 2#			

EXHIBIT H

NPE EQUIPMENT AT ROSELAWN

EQUIPMENT AND DESCRIPTION	TAG#	SERIAL #	QNTY
VULCAN OVEN (4 DOORS) DOUBLE STACKED (NEW PURCHASED)			1
CLEVELAND STEAM KETTLES	093 094 095	WT6126-95J-01 WT6126-95J-02 WT6126-95J-03	3
20 X 20 FREEZER (PURCHASED BY PRESTIGE)			1

NPE EQUIPMENT AT CONGREGATE SITES

EQUIPMENT AND DESCRIPTION	TAG #	SERIAL #	SITE LOCATION	QNT
AEROFLOT ELECTRIC STEAM TABLE, 3 BINS	014		SAUQUOIT	1
CHEILWARE STEAMER, SINGLE BIN	125	B069860	SAUQUOIT	1
GE UPRIGHT FREEZER	20		SAUQUOIT	1
HOWARD (APOLLOLINE SINGLE DOOR REFRIGERATOR)	016	89325013	SAUQUOIT	1
HOBART DISHWASHER	017	27-1053-847	SAUQUOIT	1
TABLECRAFT- SINGLE TUBULAR RANGETTE	126	MODEL #111A	SAUQUOIT	1
RUBBERMAID FIBERGLASS UTILITY CARTS	018A 018B 018C		SAUQUOIT	3
LAKESIDE - 3 TIERED METAL UTILITY CART	013	MODEL #444	SAUQUOIT	1

CRES COR- WARM FOOD HOLDER	015	AJE-K1475C	SAUQUOIT	1
BLUE METAL 2 DOOR STORAGE UNIT	019		SAUQUOIT	1
DUKE WATERLESS FOOD WARMER			SAUQUOIT	1
HOBART CONVECTION OVEN			SAUQUOIT	1
REFRIGERATOR (2 DOORS)			SAUQUOIT	1
AEROHOT- DUKE, ELECTRIC STEAMTABLE	024	04185	PTT	1
AEROHOT, ELECTRIC STEAM TABLE	036		WESTSIDE	1
STAR METAL - ELECTRIC STEAMTABLE	029	267192	NORTH UTICA	1
LAKESIDE- 3 TIERED METAL UTILITY CART	028		NORTH UTICA	1
HOBART- DISHWASHER			NORTH UTICA	1
AEROHOT- ELECTRIC STEAMTABLE		OTD98	NOYES MANOR	1
STAR METAL- ELECTRIC STEAMTABLE	002	272919	AVA DOREMAN	1
BUNN COFFEE MAKER, 3 BURNERS	012		FORESTPORT	1
AERO HOT - ELECTRIC STEAMTABLE	123	09F83	FORESTPORT	1
GLENCO- 2 DOOR REFRIGERATOR	008	P198140	BOONVILLE	1
AEROHOT - ELECTRIC STEAMTABLE	009	09E83	BOONVILLE	1

MINUTES
ONEIDA COUNTY BOARD OF ACQUISITION AND CONTRACT

DATE: March 8, 2017, 12:00 noon
LOCATION: County Executive's Conference Room
PRESENT: Anthony J. Picente, Jr., County Executive
Gerald Fiorini, Chairman, Board of Legislators
Dennis S. Davis, Secretary, Board of Acquisition and Contract

Roll Call: Chairman Fiorini, Commissioner Davis, County Executive Picente

Motion to accept previous mtg. minutes: Mr. Davis Second: Mr. Fiorini
Communications: None
Public Speakers: None
Report of Officials: None
Resolutions:

1. Approval of a Consultant Agreement with Passero Associates (H17527CSD01) for the design, construction, observation and administration for the renovations to Nosa Dock 786 at Griffiss International Airport. The 3,300 square feet of Hangar space will be converted into office, conference room and storage space for \$76,500.00. Upon recommendation of Deputy Commissioner Chad Lawrence. H-488

Motion: Mr. Fiorini Second: Mr. Davis

2. Award Bid Reference No. 1880, Senior Nutrition Program, to Trinity Services Group, Inc., as the sole bidder in the amount of \$7.95, total unit cost. Upon recommendation of Michael Romano and Mello Testa.

Motion: Mr. Davis Second: Mr. Fiorini

3. Approval of the rejection of Bid Reference No. 1868, Emergency Communications System Upgrade Project Site Construction, due to delays in the acquisition of property that the towers will be built on. It is anticipated that re-bidding this portion of the radio project will be at a later date. Upon recommendation of Kevin Revere and Mello Testa.

Motion: Mr. Fiorini Second: Mr. Davis

4. Approval of Credit Change Order and Final in the amount of (\$287,709.12) with Riffenburg Construction, Inc. (H15489TWC04) due to the original quantities being estimated and the final quantities are based on actual field measurements for the Taxiway Rehab Phase IV Project at Griffiss International Airport. Original contract amount was \$3,581,592.00 with the proposed final amount being \$3,293,882.88. Upon recommendation of Deputy Commissioner Chad Lawrence. H-489

Motion: Mr. Davis Second: Mr. Fiorini

5. Acceptance of a proposal from Towne Engineering as the lowest proposal received in the amount of \$110,000.00 plus asbestos abatement project monitoring expenses at \$57.00/hr/\$69.00/hr and \$11.00 each PCM on the Comprehensive Building Improvement Program, 2017-2018 Mechanical/Electrical/Plumbing Improvements Project to provide design and inspections services. Upon recommendation of Mark E. Lacombe, P.E. H-473

Motion: Mr. Davis Second: Mr. Fiorini

6. Award Bid Reference No. 1881, Inmate Food Service Program, to Trinity Service Group, Inc. as the sole bidder for a total unit cost of \$1.14. Upon recommendation of Undersheriff Swenszkowski and Mello Testa.

Motion: Mr. Fiorini Second: Mr. Davis

March 8, 2017

7. Award Bid Reference No. 1882, Inmate Commissary Contract, to Trinity Service Group, Inc. as the 2nd lowest bidder.

Bidder	Commission to the County
Trinity Service Group Inc.	33%

The first low bidder Turn Key Corrections failed to meet several necessary requirements listed in the specifications;

1. Turn Key Corrections has no experience interfacing with the Jail Management System currently in use at the correctional facility. The specifications required that vendors supply the County with a list of current facility references, with contact information, regarding their software program interfacing with Black Creek, at the time of the opening. No such list was provided and was only to be made available upon request.
2. Turn Key failed to submit five commissary references from facilities that have an average daily population (ADP) of at least 300 inmates. Turn Key submitted one reference that met the 500 ADP, and two references were for facilities with less than 165 ADP.
3. The RFB requires the use of a portable inmate ordering device, capable of being handed to the inmate for their needs and then returned. Turn Key offers no tablets, saying that they are in development.
4. The prices of Turn Keys commonly purchased items are significantly higher. The price hikes would have a huge impact on inmates' day to day purchases. The purpose of Inmate Commissary is for the benefit of the inmates, and we do not only have to consider their benefit, but of the families as well. It is not the intent of the commissary unit to put profit first and create an economic hardship for inmates and their families. A huge price hike might lead to concerns regarding facility safety and security.
5. Trinity is already in place and there would be no startup and/or transition cost.

Upon recommendation of Undersheriff Swenszkowski and Mello Testa.

Motion: Mr. Fiorini

Second: Mr. Davis

8. Award Bid Reference No. 1821, Sanguibit Creek Pumping Station Upgrades, CO Falter Construction Corp, for General Construction in the amount of \$6,519,101.00; John W. Danforth Construction Co., HVAC Construction, in the amount of \$458,116.00; Ridley Electric Co., Electrical & Instrumentation for \$2,325,000.00 and John W. Danforth Company, Plumbing in the amount of \$88,339.00. Upon recommendation of Steven P. Devan, PE and Mello Testa.

Motion: Mr. Davis

Second: Mr. Fiorini

9. Approval of Change Order #01-05 with Ritter & Paratore Contracting, Inc. (H1542701) in the amount of \$195,509.99 for site restoration and enhancement along the South parking lot and the area where the Academic Building was recently demolished on the MVCC Rome Campus Expansion Project. Also included are upgrades to the entry and exit roads. Original contract amount was \$1,398,997.00 with the proposed amount to-date being \$1,678,315.28. Upon recommendation of Mark E. Laramie, P.E. H-497

Motion: Mr. Fiorini

Second: Mr. Davis

10. Approval of Change Order #08-12 with Huen NY, Inc. (H1542708) in the amount of \$195,190.72 to add site lighting in the area where the Academic Building was demolished on the MVCC Rome Campus Expansion Project. Original contract amount was \$3,220,000.00 with the proposed amount to-date being \$3,654,042.93. Upon recommendation of Mark E. Laramie, P.E. H-497

Motion: Mr. Fiorini

Second: Mr. Davis

Acquisition and Contract

Page 3

March 8, 2017

11. Approval of Change Order #08-13 with Fluor NY, Inc. (H1542708) in the amount of \$20,843.18 to cover various time and material additional work, add beam detectors, power and data to Room 220 and a new cabinet heater on the MVCC Rome Campus Expansion Project. Original contract amount was \$3,220,000.00 with the proposed amount to-date being \$3,674,886.11. Upon recommendation of Mark E. Laramie, P.E.

Motion: Mr. Davis Second: Mr. Fiorini

12. Approval of Credit Change Order #001 with Genesee Environmental (H1644201) in the amount of (\$26,135.00) as the entire allowance was not used for the contract during construction on the Oneida County Office Building 4th Floor Interior Renovations Project. Original contract amount was \$547,000.00 with the proposed amount to-date being \$520,865.00. Upon recommendation of Mark E. Laramie, P.E. H-305

Motion: Mr. Fiorini Second: Mr. Davis

13. Approval of Change Order #1 with HI Brandeles Corp. (H1644202) in the amount of \$13,878.00 to build an attractive enclosure around the generator exhaust for the Oneida County Office Building Chimney Retrofit. Original contract amount was \$331,000.00 with the proposed amount to-date being \$344,878.00. Upon recommendation of Mark E. Laramie, P.E. H-473

Motion: Mr. Davis Second: Mr. Fiorini

14. Approval of Change Order #2 with Putrel Building Enterprises in the amount of \$8,834.50 to furnish and install a security system in the new basement evidence storage area and furnish and install four (4) security screens to the new basement evidence storage area on the Comprehensive Building, Phase 4, construction contract at 120 Airline Street in Oriskany. Original contract was \$386,000.00 with the proposed amount to-date being \$554,834.50. Upon recommendation of Mark E. Laramie, P.E. H-473

Motion: Mr. Fiorini Second: Mr. Davis

15. Award Bid Reference No. 1884, liquid sodium hypochlorite, to JCI Jones Chemical Inc. of Sarasota FL as the lowest qualified bidder in the amount of \$0.70 per gallon. Upon recommendation of Mello Testa and Steven P. Devan PE.

Motion: Mr. Davis Second: Mr. Fiorini

16. Award Bid Reference No. 1883, liquid sodium bisulfite, to JCI Jones Chemical Inc. of Sarasota FL as the lowest qualified bidder in the amount of \$1.05 per gallon. Upon recommendation of Mello Testa and Steven P. Devan PE.

Motion: Mr. Fiorini Second: Mr. Davis

17. Award Bid Reference No. 1890, Unmanned Systems, to the lowest qualified bidders as follows:

Bidder	Item	Price
Lockheed Martin Procerus Tech	Indago 2 Quadrotor	\$46,257.00 per unit
Precision Hawk	PH Landcaster 5	\$31,400.00 per unit
Birdseye View	Firefly Pro-2	\$29,841.00 per unit
AX Enterprises	DJI-S-1000	\$21,156.00 per unit
AX Enterprises	M-100 upgrades	\$5,610.00 per unit
UAVionix	PING 2020 FYXnav-B	\$1,700.00 per unit
UAVionix	Pingstation	\$2,000.00 per unit

Upon recommendation of Deputy Commissioner Chad Lawrence and Mello Testa:

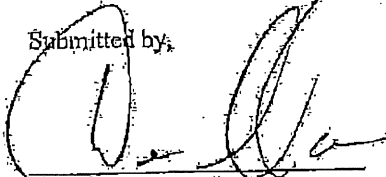
Motion: Mr. Fiorini

Second: Mr. Davis

Motion to Adjourn: Mr. Davis

Second: Mr. Fiorini

Submitted by:



Dennis S. Davis, Secretary
Board of Acquisition and Contract

Anthony J. Picente Jr.
County Executive

Colleen Fahy-Box
Commissioner



ONEIDA COUNTY DEPARTMENT OF FAMILY AND COMMUNITY SERVICES

Contract Administration, 4th Floor
County Office Building, 800 Park Avenue, Utica, NY 13501
Phone (315) 798-5073 Fax (315) 793-6044

June 21, 2021

FN 20 21-211

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

HEALTH & HUMAN SERVICES
WAYS & MEANS

Re: Agreement with Cindy Chan Phillips (contract 138142)

Dear Mr. Picente:

I am submitting an Agreement for consulting services for the Nutrition Program for the Elderly with Cindy Chan Phillips, MS, MBA, R.D., for your review and approval. This Agreement commences March 1, 2021 and terminates on February 28, 2022. The total amount of this contract is \$54,080.00, of which 45% is federal funding (\$24,336.00), 50% is state funding (\$27,040.00), and 5% is County (\$2,704.00) funding

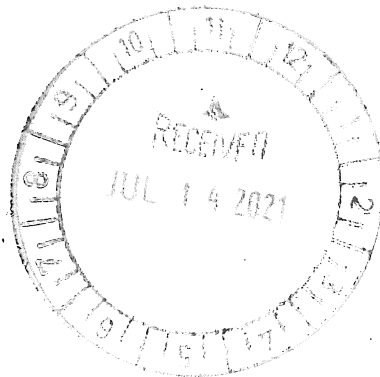
If this Agreement meets with your approval, please forward it to the Board of Legislators for further consideration.

Sincerely,

Michael J. Romano
Deputy Commissioner

MJR/md

Enclosure



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

Anthony J. Picente, Jr.
County Executive

Date 7-13-21

Oneida Co. Department: OFA/OCC

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

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: **Cindy Chan Phillips, MS, MBA, RD.**
102 Danberry Circle,
New Hartford, New York 13413

Title of Activity or Service: Registered Dietitian to Oneida County's
Nutrition Program for the Elderly

Proposed Dates of Operation: **March 1, 2021 through February 28, 2022**

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

Summary Statements:

1) Narrative Description of Proposed Services

To provide the Oneida County's Nutrition Program for the Elderly with consulting nutrition services, to include but not limited to, nutrition education, nutrition counseling, menu analysis, monitoring and technical assistance.

2) Program/Service Objectives and Outcomes:

To provide administrative and technical assistance to the Office for the Aging staff with regard to New York State Office for the Aging's standards and procedures for the Nutrition Program for the Elderly and the 1990 Nutrition Standards

3) Program Design and Staffing

N/A

Total Funding Requested: **\$ 54,080.00** **Account #: A6773.195**

Oneida County Dept. Funding Recommendation: **\$54,080.00**

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

Federal: 45% (\$24,336.00) State: 50% (\$27,040.00) County: 5% (\$2,704.00)

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

Past Performance Data: This is the first year that Cindy Chan Phillips, MS, MBA, RD., will provide these services for Oneida County.

O.C. Department Staff Comments: The reimbursement rate is sixty-five dollars (\$65.00) per hour, not to exceed eight hundred thirty-two (832) hours.

Mandated Service: **Yes**

AGREEMENT

THIS AGREEMENT made and entered into by and between Cindy Chan Phillips, MS, MBA, RD., a sole proprietor with an address of 102 Danberry Circle, New Hartford, New York 13413 (hereinafter referred to as the "Contractor") and the County of Oneida, a municipal corporation existing and organized under the laws of the State of New York with its principal place of business and offices located at 800 Park Avenue, Utica, New York 13501, by and through its Department of Family and Community Services, located at 120 Airline Street, Suite 201, Oriskany, New York, 13424 (hereinafter collectively known as the "County.") All parties to the Agreement are hereinafter collectively be known as the "Parties."

WITNESSETH:

WHEREAS, the County has a need for a contractor to consult with the County's Nutrition Program for the Elderly to provide services including, but not limited to, nutrition education, nutrition counseling, menu analysis, monitoring and technical assistance; and

WHEREAS, the Contractor is licensed and registered in New York State and is able to perform the services required by this Agreement;

NOW, THEREFORE, the Parties agree as follows:

I. TERM OF AGREEMENT

The term of this Agreement shall commence March 1, 2021 and shall terminate on February 28, 2022.

II. SCOPE OF SERVICES

The Contractor's duties (hereinafter, the "Services") shall include, but not be limited to:

- A. Providing administrative and technical assistance to County staff about New York State Office for the Aging's ("NYSOFA") standards and procedures for the Nutrition Program for the Elderly and the 1990 Nutrition Standards.
- B. Monitoring the nutrition services provided by the County's food service contractor, Trinity Services Group, Inc., according to New York State nutrition program standards and procedures.

- C. Providing nutrition education and counseling to participants of the Nutrition Program for the Elderly referred by the County's Nutrition Services Coordinator.
- D. Providing nutritional analysis and approval of menus submitted by Nutrition Program for the Elderly Food Service Contractors.
- E. Providing case management and client team reviews according to the Nutrition Program for the Elderly procedures as required by law.
- F. Meeting with the Nutrition Services Coordinator and the food service contractor at least each month to review home-delivered and congregate programs and to observe operation of the central kitchen and the warehouse.

III. PERFORMANCE OF SERVICES

- A. The Contractor represents that she is duly licensed and has the qualifications, the specialized skills, the experience and the ability to properly perform the Services. The Contractor shall use her best efforts to perform the Services such that the results are satisfactory to the County. The Contractor 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 Contractor shall inform the County within twenty-four (24) hours if she is unable or unwilling to accept an assignment and/or perform Services pursuant to this Agreement. The Contractor maintains the right to decline to accept an assignment at any time. The County maintains the right to enter into agreements with other individuals or entities to perform the same Services.

IV. REIMBURSEMENT FOR SERVICES

- A. The Contractor shall provide the Office for the Aging's Nutrition Services Coordinator with a monthly schedule of her working days and will coordinate with the schedule of activities. The Parties recognize that a typical schedule is two (2) days per week, for a weekly total of sixteen (16) hours per week.
- B. The Contractor shall submit a summary of her activities with her biweekly voucher for payment.

- C. The Contractor will be reimbursed for Services at an hourly rate of sixty five dollars (\$65.00) per hour and for no more than eight hundred thirty-two (832) hours within the term of this Agreement.
- D. The total amount of this Agreement shall not exceed fifty-four thousand eighty dollars (\$54,080.00).
- E. The County shall not be liable for any late fees or any interest on late payments.

V. **AVAILABILITY OF FUNDS**

This Agreement is conditioned upon the continued availability of federal and/or New York State and/or County funds for the purposes set forth in this Agreement. Should funds become unavailable or should appropriate federal, New York State, or County officials fail to approve sufficient funds for completion of the Services set forth in this Agreement, the County will have the option to immediately terminate this Agreement upon providing written notice to the Contractor by certified mail. In such an event, the County will be under no further obligation to the Contractor other than payment for costs actually incurred prior to termination. In no event will the County be responsible for any actual or consequential damages because of termination of this Agreement.

VI. **INDEPENDENT CONTRACTOR STATUS**

- A. The relationship of the Contractor to the County shall be that of an Independent Contractor. The Contractor shall not be deemed an employee of the County for any purpose including, but not limited to, County employee benefits, claims for unemployment insurance, workers' compensation, retirement, or health insurance benefits.
- B. The Contractor warrants and represents that she is in the business of offering the same or similar services detailed herein and does offer the same or similar services to other entities and/or the public as a regular course of business. The Parties agree that Contractor is free to undertake other work arrangements during the term of this Agreement, and may continue to make her services available to the public.

- C. The Contractor shall not be eligible for compensation from the County due to illness, absence due to normal vacation, or absence due to attendance at school or special training or a professional convention or meeting.
- D. The Contractor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to the Contractor under this Agreement, and for compliance with all applicable labor and employment requirements with respect to her sole proprietorship, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for state or federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA).
- E. 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.
- F. The Parties agree that if the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's Independent Contractor status, 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.
- G. The Contractor shall comply with federal and state laws as supplemented in the Department of Labor regulations and any other regulations of the federal and state entities relating to such employment and Civil Rights requirements.
- I. The Contractor shall not engage, contract, or use the services of any independent subcontractor for performance of this Agreement.

VII. STANDARD ASSURANCES

- A. The Contractor agrees that any program, public information materials, or other printed or published materials on the work of or funded by III-C1, III-C2 and WIN, will give due recognition to the NYSOFA and the OFA. The statement shall be in font that is one of the following: italics, at least two font sizes larger than the rest of

the text, bold font, or underlined. (e.g., “*This program is supported by Oneida County Office for the Aging and Continuing Care, New York State Office for the Aging, and the Federal Administration for Community Living.*”). The Contractor shall forward copies of all materials so produced to the County at the end of each month said materials are produced.

- B. 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.

VIII. NYSOFA TERMS AND CONDITIONS

- A. In her activities under this Agreement, the Contractor shall conform with all applicable federal, state, and local laws, federal and state regulations, and Program Standards and Program Instructions of the NYSOFA, including, but not limited to, those listed in APPENDIX A.
- B. To the extent she has discretion regarding to whom she will provide Services, the Contractor 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 County for providing Services to the above groups within Oneida County. The Contractor shall concentrate the Services on older adults in the targeted populations identified by the County following the methods the County has established for complying with the targeting requirements under the Older Americans Act and the Equal Access and Targeting Policy issued by the NYSOFA.
- 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.
- D. To the extent that this Agreement with the County is for a program or a service funded under the Oneida County’s Area Plan, the Contractor agrees that it shall

perform such Services in accordance with the terms of the Area Plan. The County 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, she will specify how she 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.
- F. The Contractor 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 will meet specific objectives established by the County, 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.

IX. GRIEVANCE PROCEDURES

The Contractor shall implement the Oneida County's Office for the Aging Grievance Procedures as required by the NYSOFA. The written procedures are attached in APPENDIX B.

X. FISCAL REQUIREMENTS/RESPONSIBILITIES

- A. The Contractor shall keep III-C1, III-C2 and WIN funds separate.
- B. The Contractor shall comply with all voucher and contribution procedures, and submissions of required reports as described in the OFA's Voucher Instructions, attached as APPENDIX C.
- C. The County is responsible for sending monthly donation letters and collecting contributions for all clients who receive County-funded nutrition programs. The Contractor shall report and deduct on her monthly vouchers any contributions she receives directly from, or on behalf of, a County-funded client directly.
- D. The Contractor shall report to the County any additional moneys or program income (contributions, donations, etc.) given to the III-C1, III-C2 and WIN supported programs. Program income is gross income received by the Contractor directly

generated by a County grant supported activity, or earned as a result of the County grant agreement during the grant period

- 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 her 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 that expenditures are in proportion to the total program budget.
- G. The Contractor shall have an independent audit conducted for the contracted program if she has provided the Services to the County for two (2) years or more. The Contractor shall submit a copy of the audit to the County upon completion by the outside auditor.
- H. The Contractor shall maintain fiscal records for six (6) years and shall make them available for review by the County upon reasonable notice to the Contractor.
- I. The Contractor shall cooperate with the required close-out audit when this Agreement is terminated.
- J. The Contractor shall follow the close-out procedures administered by the County in accordance with 45 C.F.R. §75.381.

XI. INDEMNIFICATION and INSURANCE

- A. The Contractor shall purchase and maintain insurance of the following types of coverage and limits of liability with an insurance carrier qualified and admitted to do business in the State of New York. The insurance carrier must have at least an A- (excellent) rating by A. M. Best.
 - 1. Medical Malpractice/Professional Liability coverage with limits of \$1,000,000 each occurrence and \$3,000,000 aggregate.
 - a. Coverage for review of medical records and resulting professional assessment.
- B. Certificates of Insurance. Prior to the start of any work, the Contractor shall provide a certificate of insurance to the County. The Contractor shall provide full policy documents and any other information regarding her insurance coverage upon request of the County. This

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

- C. Waiver of Subrogation. The Contractor waives all rights against the County and the Department and their agents, officers, directors and employees for recovery of damages to the extent these damages are covered by Medical Malpractice/Professional Liability insurance maintained per requirements stated above.
- D. The Contractor shall at all times defend, indemnify, and hold the County and Department and their officers and employees harmless and free and clear of any and all liability arising from any act of omission or commission by the Contractor, or its Subcontractors, with respect to this Agreement and any of the terms thereof.
- E. Insurance provisions in this Agreement are separate and independent from the indemnity provisions of this section and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this section shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.
- F. No Representation of Coverage Adequacy. By requiring insurance, the County does not represent that coverage and limits will be adequate to protect the Contractor. The County reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements stated in this Agreement or failure to identify any insurance deficiency will not relieve the Contractor from, nor may it be construed or considered a waiver of the Contractor's obligation to maintain the required insurance at all times during the performance of this Agreement.
- G. Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall continue uninterrupted throughout the term of this Agreement by keeping coverage in force using the effective date of this Agreement as the retroactive date on all "claims made" policies. The retroactive date for exclusion of claims must be on or before the effective date of this Agreement, and can never be after the effective date of this Agreement. Upon completion or termination of this Agreement, the "claims made" coverage shall be extended for an additional three (3) years using the original

retroactive date, either through purchasing an extended reporting option; or by continued renewal of the original insurance policies. Submission of annual Certificates of Insurance, citing the applicable coverages and provisions specified herein, shall continue for three (3) years past the completion or termination of this Agreement.

XII. REPORTING REQUIREMENTS

- A. All client records and files are owned by the County.
- B. The County shall, pursuant to the requirements of III-C1, III-C2 and WIN funded programs, comply with the Definition of Services, April 2011, as established by the NYSOFA (96-PI-43).
- C. The Contractor shall provide the County with required information needed to meet planning, coordination, evaluation and reporting requirements as required by the NYSOFA's Consolidated Area Agency Reporting System (CAARS), by the 10th 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.
- D. The Contractor shall maintain appropriate client records on each III-C1, III-C2 and WIN client who receives services through this program and shall provide client records to the County upon request;
- E. The Contractor shall 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 provision of services, pertinent information shall be shared in accordance with federal and state regulations and statutes.
- F. The Contractor shall timely provide the County with required monthly, periodic, and/or special reports.

XIII. COORDINATION REQUIREMENTS

- A. The Parties shall coordinate referrals.
- B. The Parties shall work with older persons who are not eligible for Services under this Agreement 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.

XIV. AGREEMENT CANCELLATION

- A. The County may cancel this Agreement for failure of the Contractor to comply with the terms and conditions of this Agreement.
- 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, she shall make a full and final accounting of all funds received and monies expended under this Agreement within thirty (30) days of the date of termination. Any unexpended funds shall be the property of the County.
- D. 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.
- E. The Contractor shall coordinate with the County and other providers to ensure that any break in Service is not detrimental to a clients' health or well-being. If available and appropriate, other Services shall be substituted and/or coordinated on the clients' behalf.

XV. ENTIRE AGREEMENT

The terms of this Agreement, including all attachments, amendments, addendums or appendixes attached hereto, constitute the entire understanding and agreement of the parties and cancel and supersede all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Agreement. No waiver, alterations or modifications of any provisions of this Agreement shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

XVI. STANDARD ADDENDUM

The Contractor shall comply with the Standard Oneida County Contract Addendum, which is attached as APPENDIX D.

XVII. 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 and 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.

XVIII. SEVERABILITY

If any provision of this Agreement or any part thereof is or becomes void or unenforceable by force or operation of law, the Parties agree that this Agreement shall be reformed 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.

XIX. 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.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year first written below.

CONTRACTOR

Cindy Chan Phillips
Cindy Chan Phillips, MS, MBA, RD.

7/6/21
Date

COUNTY OF ONEIDA

Anthony J. Picente, Jr., County Executive

Date

DEPARTMENT OF FAMILY AND COMMUNITY SERVICES

Michael J. Romano
Michael J. Romano, Deputy Commissioner

7/7/21
Date

Approved:

Kimberly A. Kolch, Assistant County Attorney

Date

APPENDIX A

Older Americans Act (OAA) of 1965, as amended (42 U.S.C. 3001 et seq.)
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, Subchapter 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)
Rehabilitation Act of 1973, Sec. 504 (29 USC 794) (Nondiscrimination)
Single Audit Act of 1984 (31 USC 7501, et. seq.)
Code of Federal Regulations CFR)
 45 CFR 75 (Administration of Grants)
 45 CFR 84 (Nondiscrimination on the basis of Handicap)
45 CFR 92 (Nondiscrimination on the Basis of Race, Color, National Origin, Sex, Age, or Disability)
 45 CFR 93 (New Restrictions on Lobbying)
 45 CFR 1321, Subparts A-D (Grants to State and Community Programs on Aging)
45 CFR 1321.61 (b)(4) (Advocacy responsibilities of the area agency)
7 C.F.R. Part 250.68 et seq. (Nutrition Services Incentive Program (NSIP))
Office of Management and Budget (OMB)
 OMB Circular A-87 (Cost Principles for State and Local Governments)
OMB Circular A-95 (Coordination of Federal, State, and Local Programs), also found in 7 CFR § 22.305
OMB Circular A-102 (Uniform Requirements for Grants and Cooperative Agreements with State and Local Governments)
OMB Circular A-110 (Uniform 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-133 (Audits of State and Local Government and Non-Profit Organizations)
 Federal Executive Order 11246, as Amended by Executive Order 11375 (Affirmative Action)
Executive Law of New York State
 Article 15 (State Human Rights Law)
 Article 15A (Minority/Women's Business contract Requirements)
 Article 7-A (Solicitation and Collection of Funds for Charitable Purposes)
New York State Executive Orders
Executive Order No. 6, issued February 18, 1983 (Insuring equal employment opportunity for minorities, women, disabled persons and Vietnam era veterans in State government)
Executive Order No. 19, issued May 31, 1983 (Policy Statement on Sexual Harassment in the Workplace)
New York State Office for the Aging Rules and Regulations, NYCRR Title 9, Subchapter Y
9 NYCRR 6651 et seq. (Social and Nutrition Services for the Elderly, EISEP Program Standards)
 9 NYCRR 6654.20 (Social Adult Day Care Programs)
New York State Office for the Aging Program Instructions
 19-PI-26 (Nutrition Program Standards)
 94-PI-52 (Legal Assistance Standards)

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 Dissatisfaction 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; 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, III-C1, III-C2, 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 10th 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

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

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

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative

agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:

- i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
- i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a

criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

- C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and
- D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;

ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.

c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. The Contractor will or will continue to provide a drug-free workplace by:

- A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- B. Establishing an ongoing drug-free awareness program to inform employees about:

1) The dangers of drug abuse in the workplace;

- 2) The Contractor's policy of maintaining a drug-free workplace;
- 3) Any available drug counseling, rehabilitation, and employee assistance program; and
- 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;

C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;

D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:

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

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

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

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

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

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

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

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

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

- i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the

Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

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

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)

When applicable to the services provided pursuant to the Contract:

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

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

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

limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

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

6. NON-DISCRIMINATION REQUIREMENTS.

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

this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

7. WAGE AND HOURS PROVISIONS.

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

8. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its knowledge and belief: (1) the prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; and (2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) no attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf

9. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of

the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

10. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

11. 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.

12. GOVERNING LAW.

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

13. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

14. 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).

15. 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.

16. AUDIT

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

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

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

17. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

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

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

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

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

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

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

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

19. COMPLIANCE WITH NEWYORK STATE LABOR LAW§ 201-G

The Contractor shall comply with the provisions of New York State Labor Law § 201-g.

Anthony J. Picente, Jr.
County Executive



Colleen Fahy-Box
Commissioner

ONEIDA COUNTY DEPARTMENT OF FAMILY AND COMMUNITY SERVICES
Commissioner's Office
COUNTY OFFICE BUILDING ~ 800 PARK AVENUE ~ UTICA, NY 13501
PHONE: 315-798-5733 ~ FAX: 315-798-5218

June 29, 2021

FN 20 21-212

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

HEALTH & HUMAN SERVICES
WAYS & MEANS

Re: Utica Safe Schools/Healthy Students Partnership Renewal Agreement

Dear Mr. Picente:

I am submitting the following First Renewal to Purchase of Services Agreement (original contract no. 101333) with Utica Safe Schools/Healthy Students Partnership Inc., d/b/a Safe Schools Mohawk Valley for Initial Response Team (IRT) services for review and approval by the Board of Legislators.

This contract provides Initial Response Team (IRT) with Family Group Conferencing (FGC) in the Utica School District for children who are at risk of out-of-home placement. The premise of the IRT Family Group Conferencing Model is to provide evidenced-based wraparound support to students who are exhibiting pre-PINS (Persons in Need of Supervision) related behaviors such as truancy and incorrigibility.

The term of this First Renewal is July 1, 2021 through June 30, 2022. The maximum cost for the duration of this renewal is \$112,438.00 with a total local cost of 27.18% or \$30,560.65.

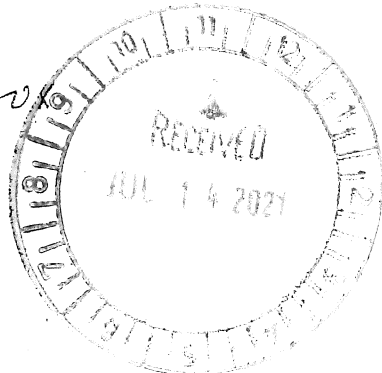
I am respectfully requesting that this matter be forwarded to the Board of Legislators.

Thank you for your consideration.

Sincerely,

Colleen Fahy-Box
Colleen Fahy-Box
Commissioner

CFB/tms
attachment



Reviewed and Approved for submittal to the
Oneida County Board of Legislator by
Anthony J. Picente, Jr.
Anthony J. Picente, Jr.
County Executive
Date 7-13-21

31803

Oneida Co. Department of Family
and Community Services

Competing Proposal X
Only Respondent _____
Sole Source RFP _____

Oneida County Board of Legislators
Contract Summary

Name of Proposing Organization: Utica Safe Schools/Healthy Students Partnership, Inc.
d/b/a Safe Schools Mohawk Valley
106 Memorial Parkway
Utica, New York 13501

Title of Activity or Services: Initial Response Team (IRT)

Proposed Dates of Operations: First Amendment July 1, 2021 – June 30, 2022

Client Population/Number to be Served: Youth at risk of out of home placement in the Utica School District

SUMMARY STATEMENTS

1). Narrative Description of Proposed Services

Contractor will provide Initial Response Team (IRT) with Family Group Conferencing (FGC) in the Utica School District for children who are at risk of out-of-home placement. The premise of the IRT Family Group Conferencing Model is to provide evidenced-based wrap around support to students who are exhibiting pre-PINS (Persons in need of Supervision) related behaviors such as truancy and incorrigibility.

2). Program/Service Objectives and Outcomes -

- Program target and outcomes:
 - families will increase their ability to resolve conflict
 - families will show improvement in effective communication skills
 - families will increase their formal and/or informal support network
 - youth will reduce occurrences of unexcused absences
 - youth will reduce their use of drugs
 - youth will reduce their use of alcohol
 - youth will engage in pro-social activities
 - program graduates will avoid out-of-home care within 12 months from graduating the program

3). Program Design and Staffing Level -

Total Funding Requested: Not to exceed \$112,438.00 for the duration of the agreement.

Oneida County Dept. Funding Recommendation: Account # A6070.49547

Mandated or Non-mandated: Preventive services are mandated

Funding Source (Federal \$ /State \$ / County \$):

Federal	38.39 %	\$ 43,164.95
State	34.43 %	\$ 38,712.40
County	27.18 %	\$ 30,560.65
Total		\$ 112,438.00

Cost Per Client Served:

Past performance Served: This contract was awarded by **BID** and this is the fifth year the Department has contracted with this provider for this service. It should be noted this service will go out to RFP next year.

O.C. Department Staff Comments: This service was sent out for RFP May, 30, 2017, there were two respondents and this provider was awarded the current contract as the lowest bidder.

31803

First Renewal Agreement

This First Renewal, by and between Oneida County, a municipal corporation organized and existing pursuant to 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”), through its Department of Family and Community Services (hereinafter referred to as “the Department”), and Utica Safe Schools/Healthy Students Partnership, Inc. d/b/a Safe Schools Mohawk Valley, a not-for-profit organized and existing under the laws of the State of New York, having its principal office at 106 Memorial Parkway, Utica, New York 13501 (hereinafter referred to as Contractor).

WHEREAS, the County and the Contractor entered into an agreement (County contract no. 101333) whereby the Contractor provides Preventive Services to children and families referred to it by the Department for a term of July 1, 2020 through June 30, 2021, hereinafter called the “Original Agreement;” a copy of which is annexed hereto as “Exhibit A;” and

WHEREAS, the Original Agreement contained a provision that the County could, in its sole discretion, elect to renew the Original Agreement for an additional two (1) one-year terms; and

WHEREAS, the County hereby elects to renew the Original Agreement for the first one-year renewal term;

NOW THEREFORE, it is mutually agreed between the Contractor and the County as follows:

- I. This First Renewal shall be effective commencing July 1, 2021 and shall terminate June 30, 2022.
- II. Section XI(3) of the Original Agreement titled Reimbursement and Service Fees shall remain as written. The payment schedule for the duration of this First Amendment reads as follows for reference:
 - *In the event that the County and the Department elect to renew this Agreement for one additional renewal term pursuant to Section II of this Agreement, monthly payment for such renewal term shall be:*

Total payment by the County to the Contractor from July 1, 2021 through June 30, 2022 shall not exceed \$112,438.00.

i. From July 1, 2021 through May 31, 2022 Monthly payment shall be \$9,369.83.

ii. Monthly payment for the month of June 2022 shall be \$9,369.87.

(1). The Department shall reimburse the Contractor for provision of Preventive Services in accordance with the claiming procedures and prescribed schedule of fees provided to the Department and in accordance with state and federal regulations pertaining to reimbursement of Preventive Services.

(2). The Contractor agrees that reimbursement by the Department shall be contingent upon the Contractor submitting an Oneida County voucher to the Department's Accounting Department documented by sufficient, competent and evidential matter including dates of service, activities performed, hours worked, and setting forth the reimbursement to be made.

III. All other terms of the Original Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Frist Renewal on the day and year first written below.

Date: _____

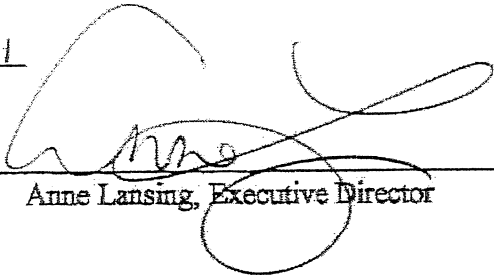
Oneida County: _____
Anthony J. Picente, Jr., County Executive

Approved: _____
Richard P. Ferris, Assistant County Attorney

Date: 7/6/21

Department: Colleen Fahy-Box
Colleen Fahy-Box, Commissioner

Date: 6/30/21

Contractor: 
Anne Lansing, Executive Director

THIS IS AN AGREEMENT, by and between County of Oneida, a municipal corporation organized and existing under the laws of the State of New York, having its principal office at 800 Park Avenue, Utica, New York 13501 (hereinafter referred to as the County), through its Department of Social Services (hereinafter referred to as the Department), and Utica Safe Schools/Healthy Students Partnership, Inc. d/b/a Safe Schools Mohawk Valley, a not-for-profit organized and existing under the laws of the State of New York, having its principal office at 106 Memorial Parkway, Utica, New York 13501 (hereinafter referred to as the Contractor).

WITNESSETH

WHEREAS, the Commissioner of Social Services of the County of Oneida (hereinafter referred to as Commissioner) is charged with the responsibility for the administration of all child welfare services provided in the County of Oneida at public expense pursuant to Article 6 of the Social Services Law including Preventive Services pursuant to Section 409 et seq. of the Social Services Law and the Consolidated Services Plan for New York State; and

WHEREAS, the Commissioner, pursuant to Section 409-a.3 of the Social Services Law and 18 NYCRR Section 405.1 may provide such Preventive Services directly or through an authorized agency as defined in subdivision (a) of Section 371.10 of the Social Services Law, or a not-for-profit corporation as defined in paragraph (5) of subdivision (a) of Section 102 of the Not-for-Profit Corporation Law or a public agency that receives the prior approval of the New York State Department of Social Services; and

WHEREAS, the Contractor, under the terms of its corporate authority, has the power to provide the services required to be performed herein; and

WHEREAS, the County has determined that the amount of funds to be paid to the Contractor is reasonable and necessary to provide quality Preventive Services in conformance with the Consolidated Services Plan of the County of Oneida, Section 409 et seq. of the Social Services Law and 18 NYCRR Parts 405 and 423; and

WHEREAS, it is economically and organizationally feasible for the County to contract with the Contractor for the performance of these services;

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE COUNTY AND THE CONTRACTOR AS FOLLOWS:

SECTION I: DEFINITIONS

Whenever the following terms are used in this Agreement and schedules attached hereto, they shall have the following meaning unless otherwise clearly noted:

Utica Safe Schools/Healthy Students Partnership, Inc. d/b/a Safe Schools Mohawk Valley
Initial Response Team (IRT)

#31803
7/1/20-6/30/21

1. Preventive Services are the supportive and rehabilitative services provided to children and families in accordance with 18 NYCRR Part 423. Services are provided for: averting a disruption of a Family which could result in placement of a child in foster care; enabling a child who has been placed in foster care to return to his or her Family as quickly as possible; and reducing the likelihood that a child who has been discharged from foster care would return to such care.

Mandated Preventive Services are Preventive Services provided to a child and his or her Family who the district is required to serve pursuant to 18 NYCRR Part 430.9. Non-mandated Preventive Services are Preventive Services provided to a child and his or her Family pursuant to Section 409-a (2) of the Social Services Law. The services, set forth in paragraph (2) through (17) of this Agreement, when provided for the above-stated purpose and in conformity with 18 NYCRR Part 423, are considered Preventive Services.

2. Case Management is defined as the responsibility of the local Department of Social Services to authorize the provision of Preventive Services, to approve the client eligibility determination according to the criteria of 18 NYCRR Part 423.3 and to approve in writing the service plans as defined in 18 NYCRR Part 428.
3. Case Planning is defined as assessing the need for; providing or arranging for; coordinating and evaluating the provision of those Preventive Services needed by a child and his or her Family to prevent disruption of the Family; or to help a child in foster care return home sooner. Case Planning includes, but is not limited to, referring such child and his or her Family to other services as needed, including educational counseling and training, vocational diagnosis and training, employment counseling, therapeutic and preventive medical care and treatment, health counseling and health maintenance services, vocational rehabilitation, housing services, speech therapy and legal services. Case Planning also includes documenting both client progress and client adherence to the plan by recording in the uniform case record (as defined in 18 NYCRR Part 428 and 18 NYCRR Part 430.8 through 430.12) that such services are provided and by providing casework contact as defined in paragraph (4) of this Agreement. Case Planner shall be defined as the caseworker assigned Case Planning responsibility.
4. Casework Contacts are defined as individual or group face-to-face counseling sessions between the Case Planner and the child and/or the child's parents, relatives or guardians. These contacts are Preventive Services for the purpose of guiding the child and/or the child's parents or guardians toward a course of action agreed to by the child and/or the child's parents or guardians as the best method of attaining personal objectives or resolving problems or needs of a social, emotional, developmental or economic nature.

Individual or group activities with the child and/or the child's parents that are planned for the purposes of achieving such course of action as specified in the child and Family's service plan are Preventive Services.

5. Clinical Services include assessment, diagnosis, testing, psychotherapy, and specialized therapies provided by a person who has received a master's degree in social work, a licensed psychologist, a licensed psychiatrist, or other recognized therapist in human services. Such services are separate and distinct from Casework Contacts as defined in paragraph (4) of this Agreement.
- 6.

Day Services to Children is as defined in 18 NYCRR Part 425.

7. Emergency Cash or Goods is as money or the equivalent, food, clothing, and other essential items that are provided to a child and his or her Family in an emergency or acute problem situation to avert placing the child into foster care.
8. Emergency Shelter is shelter where a child and his or her Family, who are in an emergency or acute problem situation, reside in a site other than their own home to avert placing the child into foster care.
9. A "Family" consists of the child who is at risk of foster care, his or her parent or legal guardians or other caretakers, and siblings. A Family may include a woman who is pregnant as specified in 18 NYCRR Part 430.9(c)(6). A Family may also include a child who does not live with his or her parents and needs services to prevent a return to foster care.
10. Family Planning Services are defined in the Consolidated Services Plan of the State Department of Social Services pursuant to Section 34-a of the Social Services Law.
11. Home Management Services are defined in the Consolidated Services Plan off the State Department of Social Services prepared pursuant to Section 34-a of the Social Services Law.
12. Homemaker Services are defined in the Consolidated Services Plan of the State Department of Social Services prepared pursuant to Section 34-a of the Social Services Law.
13. Housekeeper/Chore Services are defined in the Consolidated Services Plan of the State Department of Social Services prepared pursuant to Section 34-a of the Social Services Law.
14. Parent Aide Services are as those services provided in the home and community that focus on the need of the parent for instruction and guidance and are designed to maintain and enhance parental functioning and Family/parent role performance. Techniques may include, but not be limited to, role modeling, listening skills, home management assistance, and education in parenting skills and personal coping behavior.
15. Parent Training is group instruction in parental skills development and in the developmental needs of the child and adolescent. Parent Training is intended to improve parental skills and improve parent/child relationships to avert a disruption in a Family or to help a child in foster care return home sooner than otherwise possible. Parent Training may include child-parent interaction groups formed to enhance relationship and communication skills.
16. Transportation Services are the provision or arrangement of transportation of the child and/or his or her Family to and/or from services arranged as part of the child's service plan except that transportation may not be provided as a Preventive Service for visitation of children in foster care with their parents, and may only be provided if such transportation cannot be arranged or provided by the child's Family.

SECTION II: TERM OF AGREEMENT

1. The term of this Agreement shall be from July 1, 2020 through June 30, 2021.
2. The County may, in its sole discretion, elect to renew this Agreement for an additional two (2) one-year terms.
3. If the County elects to renew this Agreement, the Contractor will be notified prior to the termination of this Agreement.

SECTION III: SCOPE OF SERVICES

1. It is mutually agreed between the County and the Contractor that the Contractor shall furnish Preventive Services to recipients in accordance with federal and New York State laws and regulations, including 18 NYCRR Parts 404 and 423 and any other standards prescribed by the New York State Department of Social Services. It is mutually agreed that all that follows in this section shall be viewed in the context of this Paragraph.
2. The Department shall be responsible for determining the eligibility of persons for Preventive Services to be purchased by the Department. The Department shall also be responsible for establishing the policies and procedures for such eligibility determinations in accordance with 18 NYCRR Part 423 and any other standards prescribed by the New York State Department of Social Services.
3. The Department shall be responsible for Case Management, which includes authorizing the provision of Preventive Services, approving client eligibility in accordance with 18 NYCRR Section 423.3, and approving child service plans.
4. The Contractor agrees to provide Preventive Services in accordance with the program narrative, terms, and conditions described in Appendix C of this Agreement.
5. The Contractor and the Department shall cooperate in the collection and exchange of data to facilitate service planning and to provide required information to the State's Child Care Review Service.
6. The Contractor and the Department shall comply with Section 153 of the Social Services Law, which requires all social services districts which purchase Preventive Services from other authorized agencies to charge any loss of reimbursement pursuant to this section to such agencies to the extent that such loss is attributable to such agencies.
7. The Contractor and the County agree that a determination by the State Department of Social Services to deny reimbursement to the Department for the provision of Preventive Services for a child, pursuant to Sections 153 and 153-a through 153-k of the Social Services Law, shall not relieve the Department or the Contractor from its statutory or contractual obligations to continue to provide Preventive Services for that child or any other children in its care.

8. Case Planning, along with Casework Contacts, shall be provided by the Contractor in accordance with Appendix C of this Agreement and as required by individual case plans pursuant to 18 NYCRR Part 428.1 through 428.10.
9. The Contractor shall review and discuss the service plan with the Department. Should the Contractor then wish to change the plan, it shall submit a revised plan to the Department prior to the implementing the change. The Contractor will not implement the change until receipt of written approval by the Department.
10. The Contractor shall comply with the reporting provision of suspected child abuse or maltreatment as set forth in Article 6 of Title 6 of the Social Services Law.

SECTION IV: FAIR HEARINGS

1. The Department shall notify all people who apply for care and services (whether their applications are approved or denied) of the right to a fair hearing to appeal the denial, reduction, or termination of a service, or the failure to act upon an application within 30 days. The Department shall also inform all applicants for Preventive Services (whether their applications are approved or denied) how to file a fair hearing request. The Department shall provide the Contractor with copies of fair hearing decision involving persons served under this contract. The Contractor, upon the request of the Department, shall participate in appeals and fair hearings as witnesses for a determination of issues.

SECTION VI: BOOKS, RECORDS, AND REPORTS

1. The Contractor shall keep accurate records in conformance with State regulations established for utilization review and uniform case recording for each public charge receiving Preventive Services under this Agreement. Each record shall indicate the Preventive Services provided to the child and his or her Family, in addition to other recipients of services involved with the case, including the date such services were provided. The Contractor shall make such reports to the Department on the status and progress of each recipient of Preventive Services at intervals required by the State Department of Social Services regulations.
2. All information contained in the Contractor's files shall be held confidential by the Contractor and the Department pursuant to the applicable provisions of the Social Services Law and any State Department Regulations promulgated thereunder, including 18 NYCRR Section 357.5 and 423.7, as well as any applicable federal Laws and any regulations promulgated thereunder, and shall not be disclosed except as authorized by law.
3. The Contractor shall make the records of individual recipients of Preventive Services available to the Department upon request for consultation or review.
4. The Contractor shall maintain statistical records as required by the Department and shall furnish such data at times prescribed by and on forms supplied by the Department.

5. The Contractor shall maintain financial books, records and necessary supporting documents as required by the Department. The Contractor shall use accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of the Preventive Services provided under this Agreement. The Contractor shall collect statistical data of a fiscal nature on a regular basis and make fiscal and statistical reports at times prescribed by and on forms furnished by the Department.
6. The Contractor shall retain all books, records and other documents relevant to this Agreement for six (6) years after final payment for Preventive Services to which they relate, during which time authorized County, State and/or Federal auditors shall have access to and the right to examine the same.
7. In addition to Paragraphs 3, 4, 5 and 6 of this Section, and until the expiration of six (6) years after the furnishing of services pursuant to this Agreement or any subcontract made pursuant to this Agreement, the Contractor and its subcontractor(s), shall make available, upon written request, to the Secretary of the U.S. Department of Health and Human Services, or upon request, to the Comptroller General, or any of their duly authorized representatives, this Agreement, and books, documents and records of Contractor or subcontractor(s) that are necessary to certify the nature and extent of such costs.

SECTION VII: GENERAL RESPONSIBILITIES OF PARTIES

1. The governing board of the Contractor shall exercise oversight of its day-to-day affairs and programs. The Contractor shall have the responsibility for day-to-day provision of Preventive Services for each child serviced by it in accordance with this Agreement and with appropriate State Department of Social Services Regulations. The parties recognize, however, that ultimate responsibility for the welfare of each child rests with the Department.
2. The Contractor shall maintain sufficient staff, facilities and equipment, in accordance with the Regulations of the State Department of Social Services in order to provide the services set forth in Appendix C of this Agreement.
3. The Contractor shall provide the services described in Appendix C of this Agreement at the principal location of:

Safe Schools Mohawk Valley
106 Memorial Parkway
Utica, New York 13501

The Contractor shall provide the Department with written notification of the location(s) of any additional support services that are provided in conjunction with the child service plan, outside of the aforementioned address.

4. The Department shall notify the Contractor with the person assigned to monitoring responsibility for Child Protective Services for the recipients receiving Preventive Services from the Contractor.

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SECTION VIII: COMPLIANCE WITH LAW

1. The Contractor shall comply with the requirements of the Civil Rights Act of 1964 as amended, the Age Discrimination Employment Act of 1967 as amended, the Federal Rehabilitation Act of 1973 as amended, and Executive Order No. 11375 and as supplemented in Department of Labor Relations, 41 CFR, Part 60. The Contractor shall observe all applicable Federal regulations contained in 45 CFR, Part 84, and 28 CFR, Part 41.
2. The Contractor shall be bound by the terms and conditions of Appendix A, Appendix B, Appendix C, and the Standard Oneida County Conditions Addendum, attached hereto and made a part hereof.

SECTION IX: ACCOUNTABILITY

1. The Department shall establish methods to evaluate the provision of Preventive Services by the Contractor pursuant to this Agreement. All provisions of this Section shall be interpreted consistent with the New York state law and applicable regulations. In implementing the foregoing, the Contractor recognizes that the Commissioner, pursuant to statute, has ultimate responsibility for the protection and preservation of the welfare of all children within her jurisdiction and thus has the duty, to monitor the Contractor with regard to the Preventive Services it provides.
2. The Contractor acknowledges that a program and facilities review, as pertains to the delivery of Preventive Services under this Agreement, including meetings with recipients of Preventive Services, review of uniform case records, review of service policy and procedural issuances, review of staffing and job description and meetings with any staff directly or indirectly involved in the provision of Preventive Services, may be conducted at any reasonable time by qualified personnel from those local, state and federal agencies with the required legal powers and statutory authority to conduct such reviews.
3. The Department shall confer with the Contractor at least twice a year to discuss the Contractor's Preventive Services purchased by the County. This shall include, but not be limited to, such items as frequency of contact and planning with the natural Family and significant others, scope of service plans and of achieving the goals stated therein, and the extent to which special mental health, remedial, tutorial and vocational services were provided after the Contractor and the Department determined these were necessary. These semi-annual client reviews shall include determination of compliance to Agreement requirements.
4. If the Contractor fails to substantially conform to the provisions of this Agreement after due written notice, the County may take such actions or invoke such sanctions available under this Agreement and any appropriate regulations issued by the State Department of Social Services as it deems necessary.
5. The Contractor shall not make any subcontract for the performance of this Agreement without prior written approval of the Department. The assignment of this Agreement, in whole or in part, or of any money due or to become due under this Agreement, shall be void. It should also be noted that where subcontractors are permitted, they are subject to Federal and State requirements governing purchase of services contracts and

the Contractor is responsible for the performance of any subcontractor.

6. The Contractor covenants and agrees that neither it nor any of its directors, officers, members, or employees has any interest, nor shall they acquire any interest, directly or indirectly, which would substantially or adversely conflict in any manner or degree with the Contractor's performance of the Preventive Services defined in Section III. The Contractor further covenants that in the performance of this Agreement, no person having such interest shall be employed. The names and addresses of the members of the Board of Directors of the Contractor are annexed to this Agreement.

SECTION IX: PERFORMANCE OF SERVICES

1. The Contractor 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 Preventive Services. The Contractor shall use its best efforts to perform the Preventive Services such that the results are satisfactory to the County. The Contractor shall be solely responsible for determining the location, method, details and means of performing the Preventive Services, except where federal, state or local laws and regulations impose specific requirements on performance of the same.
2. The Contractor may, at its own expense, employ or engage the services of such employees, partners and/or subcontractors (collectively, the "Assistants") as allowed by Section 9, paragraph 5 of this Agreement, and as the Contractor deems necessary to perform the Preventive Services. The Assistants are not and shall not be deemed employees of the County, and the County shall have no obligation to provide the Assistants with any salary or benefits. The Contractor shall be solely responsible and shall remain liable for the performance of the Preventive Services by the Assistants in a manner satisfactory to the County, in compliance with any and all applicable federal, state or local laws and regulations. The Contractor shall expressly advise the Assistants of the terms of this Agreement.
3. The Contractor acknowledges and agrees that it 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.

SECTION X: INDEPENDENT CONTRACTOR STATUS

1. It is expressly agreed that the relationship of the Contractor and its Assistants to the County shall be that of Independent Contractors. The Contractor's Assistants shall not be considered employees of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Contractor, in accordance with its status as an Independent Contractor, covenants and agrees that its Assistants shall 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.
2. 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 services to other entities and/or the general public as a

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regular course of business. The Contractor and the County agree that the Contractor is free to undertake other work arrangements during the term of this Agreement, and may continue to make its services available to the public.

3. The Contractor'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.
4. The Contractor acknowledges and agrees that its Assistants shall not be eligible for any County employee benefits, including retirement membership credits.
5. The Contractor shall be solely responsible for applicable taxes for all compensation paid to the Contractor and its Assistants under this Agreement, and for compliance with all applicable labor and employment requirements with respect to the Contractor's self-employment, sole proprietorship, or other form of business organization, and with respect to the Assistants, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for state or federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). The Contractor shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Agreement.
6. 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.
7. 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.
8. 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.

SECTION XI: REIMBURSEMENT AND SERVICE FEES

1. The County shall reimburse the Contractor for provision of Preventive Services in accordance with the claiming procedures and prescribed schedule of fees, if applicable, as set forth in Appendix C of this Agreement and in accordance with state and federal regulations pertaining to reimbursement of Preventive Services.
2. The Contractor shall be reimbursed in monthly installments for performance of the Preventive Services detailed in this Agreement, as set forth below upon submission of a County Voucher.

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- a. Total payment by the County to the Contractor from July 1, 2020 through June 30, 2021 shall not exceed \$109,163.00.
 - i. From July 1, 2020 through May 31, 2021, Monthly payment shall be \$9,096.92.
 - ii. Monthly payment for the month of June 2021 shall be \$9,096.83.
3. In the event that the County and the Department elect to renew this Agreement for one additional renewal term pursuant to Section II of this Agreement, monthly payment for such renewal term shall be:
 - a. Total payment by the County to the Contractor from July 1, 2021 through June 30, 2022 shall not exceed \$112,438.00.
 - i. From July 1, 2021 through May 31, 2022 Monthly payment shall be \$9,369.83.
 - ii. Monthly payment for the month of June 2022 shall be \$9,369.87.
4. The total cost of Preventive Services for the duration of this Agreement and any renewal terms elected by the County and the Department shall not exceed \$221,601.00.
5. The Contractor shall bill monthly on vouchers with Contract number and Name provided by the Department. The vouchers shall have attached:
 - a. Listing of "Itemized Individual Billing for Preventive Services," which will include the case name and number, the Case Manager's name, the Casework contacts, and the Preventive Services provided;
 - b. Other data that the Parties agree upon.

SECTION XII: INSURANCE REQUIREMENTS AND INDEMNIFICATION

1. The Contractor shall purchase and maintain insurance of the following types of coverage and limits of liability with an insurance carrier qualified and admitted to do business in the State of New York. The Insurance carrier must have at least an A- (excellent) rating by A. M. Best.
 - a. Commercial General Liability (CGL) coverage with limits of insurance of not less than \$1,000,000 each occurrence and \$3,000,000 Annual Aggregate.
 - i. CGL coverage shall be written on ISO Occurrences 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.
- ii. Oneida County, and all other parties required of the Oneida 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. Coverage for these additional insured's shall include completed operations.
 - iii. Coverage for abuse and molestation.
- b. Professional Liability coverage with limits of \$1,000,000 each occurrence and \$3,00,000 aggregate.
- i. Coverage for review of cases and resulting professional assessment.
- c. Automobile Liability
- i. Business Auto Liability with limits of at least \$1,000,000 each accident.
 - ii. Business Auto coverage must include coverage for liability arising out of all owned, leased, hired and non-owned automobiles.
 - iii. Oneida County shall be included as an additional insured on the auto policy. Coverage for the additional insureds shall be on a primary and non-contributing basis.
- d. 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.
- e. Workers' Compensation and Employers Liability
- i. Statutory limits apply.

2. Waiver of Subrogation: Contractor waives all rights against Oneida County and their agents, officers, directors and employees for recovery of damages to the extent these damages are covered by Commercial General Liability, Professional Liability, Automobile Liability, Umbrella Liability or Workers' Compensation and Employers Liability insurance maintained per requirements stated above.
3. Certificates of Insurance: Prior to the start of any work, the Contractor shall provide certificates of insurance to Oneida County. 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. The Contractor shall provide full policy documents and any other information regarding its insurance coverages upon request by the County. These certificates and the insurance policies 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 Oneida County.
4. Indemnification: The Contractor agrees that it shall defend, indemnify, and hold harmless the County from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the negligent performance of services by the Contractor and its sub-consultants, agents, servants, or employees, and from any loss or damage arising, occurring or resulting from the negligent acts or failure to act or any default or negligence by the Contractor and its sub-consultants or failure on the part of the Contractor and its sub-consultants to comply with any of the covenants, terms or conditions of this agreement.

SECTION XIII: TERMINATION OF AGREEMENT

1. This Agreement may be terminated by mutual written agreement of the contracting parties.
2. This Agreement may be terminated by the County for cause upon the failure of the Contractor to comply with the terms and conditions of this Agreement, including the attachments thereto, provided that the County shall give the Contractor written notice specifying the Contractor's failure. Such written notice shall be delivered via registered or certified mail with return receipt requested or shall be delivered by hand with receipt granted by the Contractor. The Contractor shall not incur new obligations or to claim any expenses incurred after receipt of the notification of termination.
3. In addition to the termination provisions set forth in Paragraph 1 and 2 of this Section, the County shall have the right to terminate this Agreement, in whole or in part, if, at any time the Contractor has failed to comply with any federal, state or local health, safety or fire code regulations; or in the event that any license, approval or certification of the Contractor, required by federal, state or county government is revoked, not renewed, or otherwise not in full force or effect; or in the event that a new such license, approval or certification is required and the Contractor fails to secure it during the term of this Agreement.
4. When the County wishes to terminate this Agreement pursuant to Paragraphs 2 and 3 of this Section, it shall provide the Contractor with written notice of termination specifying the reasons for termination and

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the effective date of termination. The effective date shall not be less than sixty days from the date of notice, unless substantial breach of contract is involved, in which case the effective date shall not be less than thirty days from the date of notice. The effective date of termination shall not be later than the Agreement expiration date.

5. Upon termination or expiration of the term of this Agreement pursuant to Paragraphs 1, 2 or 3 of this Section, the County will arrange for the transfer to another Contractor of all public charges then served by the Contractor. In order to reimburse the Contractor for all public charges not transferred by the effective date of termination, the County and Contractor shall negotiate an extension of this Agreement prior to the date of termination.
6. The Contractor shall comply with all Department close-out procedures, including but not limited to: accounting for and refunding to the County any overpayments or excess funds paid to the Contractor pursuant to this Agreement; not incurring or paying any further obligation to be reimbursed to it under this Agreement beyond the termination date; and transmitting to the Department or its designee on written request copies of all books, records, documents, and materials pertaining to the financial details of any Preventive Services provided under the terms of this Agreement.

SECTION XIV: EXPENSES

1. The Contractor is solely responsible for paying all of its business expenses related to furnishing the Preventive Services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating expenses.

SECTION XV: TRAINING

1. The Contractor shall not be required to attend or undergo any training by the County. The 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.

SECTION XVI: MISCELLANEOUS PROVISIONS

1. The Contractor agrees that the equipment purchased under this Agreement is the property of the County and shall revert to the County upon any termination or failure to renew this Agreement.
2. 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.

SECTION XVII: ADVICE OF COUNSEL

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

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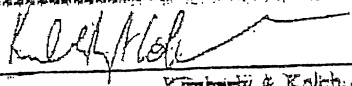
SECTION XVII: ENTIRE AGREEMENT


1. The terms of this Agreement, including any attachments, amendments, addendums or appendices attached hereto, constitute the entire understanding and agreement of the parties and cancel and supersede all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Agreement. No waiver, alterations or modifications of any provisions of this Agreement shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

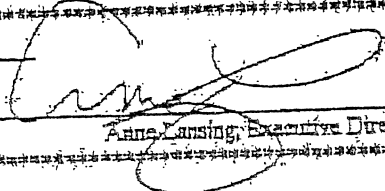
IN WITNESS WHEREOF, the parties herein have executed this agreement on the day and year first above written.

Date: 4/15/20

Oneida County: 
Anthony V. Picente, Jr., County Executive

Approved: 
Kimberly A. Kolch, Assistant County Attorney

Date: 4/15/20
Oneida County Department of Social Services: 
Colleen Fahy-Bony, Commissioner

Date: 4/8/20
Contractor: 
Anne Lansing, Executive Director

APPENDIX A
NEW YORK STATE CONDITIONS

The parties to the attached contract further agree to be bound by the following, which are hereby made a part of said contract.

- I This contract may not be assigned by the contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or disposed of without the previous consent, in writing, of the State.
- II This contract shall be deemed executory only to the extent of money available to the State for the performance of the terms hereof and no liability on account thereof shall be incurred by the State of New York beyond moneys available for the purpose thereof.
- III The contractor specifically agrees, as required by Labor Law, Sections 220 and 220-d, as amended that:
 - (a) no laborer, workman or mechanic, in the employ of the contractor, subcontractor or other person doing or contracting to do the whole or any part of the work contemplated by the contract shall be permitted or required to work more than eight hours in any one calendar day or more than five days in any one week, except in the emergencies set forth in the Labor Law.
 - (b) The wages paid for a legal day's work shall be not less than the prevailing rate of wages as defined by law.
 - (c) The minimum hourly rate of wages to be paid shall not be less than that stated in the specifications, and any redetermination of the prevailing rate of wages after the contract is approved shall be deemed to be incorporated herein by reference as of the effective date of redetermination and shall form a part of these contract documents.
 - (d) The Labor Law provides that the contract may be forfeited and no sum paid for any work done thereunder on a second conviction for willfully paying less than—
 - (a) the stipulated wage scale as provided in Labor Law, Section 220, subdivision 3, as amended or
 - (b) less than the stipulated minimum hourly wage scale as provided in Labor Law, Section 220-d, as amended.
- IV. The contractor specifically agrees, as required by the provisions of the Labor Law, Section 220-e, as amended, that:
 - (a) in hiring of employees for the performance of work under this contract or any subcontract hereunder, or for the manufacture, sale or distribution of materials, equipment or supplies hereunder, no contractor, subcontractor, shall by reason of race, creed, color, sex or national origin discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates.
 - (b) No contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired

for the performance of work under this contract on the account of race, creed, color, sex or national origin.

- (c) There may be deducted from the amount payable to the contractor by the State under this contract a penalty of fifty dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the contract, and
- (d) This contract may be cancelled or terminated by the State or municipality and all moneys due or to become due hereunder may be forfeited for a second or any subsequent violation of the terms or conditions of this section of the contract, and
- (c) The aforesaid provisions of this section covering every contract for or on behalf of the State or a municipality for the manufacture, sale or distribution of materials, equipment or supplies shall be limited to operations performed within the territorial limits of the State of New York.

V. The contractor specifically agrees, as required by Executive Order # 45, dated Jan. 4, 1977, effective February 4, 1977, that:

- (a) The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake programs of affirmative action to insure that they are afforded equal employment opportunities without discrimination. Such action shall be taken with reference, but not limited to: recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.
- (b) If the contractor is directed to do so by the contracting agency or the Office of State Contract Compliance (hereafter OSCC). The contractor shall request each employment agency, labor union, or authorized representative of workers, with which he has a collective bargaining or other agreement or understanding, to furnish him with a written statement that such employment agency, labor union or representative will not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations hereunder and the purposes of Executive Order # 45 (1977).
- (c) The contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the contractor, that all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
- *(d) The contractor will comply with all the provisions of Executive Order # 45 (1977) and rules, regulations and orders issued

pursuant thereto and will furnish all information and reports required by said Executive Order or such rules, regulations and orders, and will permit access to its books, records, and accounts and to its premises by the contracting agency or the OSCC for the purposes of ascertaining compliance with said Executive Order and such rules, regulations and orders.

* (c) If the contractor does not comply with the equal opportunity provisions of this contract, with Executive Order # 45 (1977), or with such rules, regulations, or orders, this contract or any portion thereof, may be cancelled, terminated or suspended or payments thereon withheld, or the contractor may be declared ineligible for future State or State-assisted contracts, in accordance with procedures authorized in Executive Order #45 (1977), and such other sanctions may be imposed and remedies invoked as are provided in said Executive Order or by rule, regulation or order issued pursuant thereto, or as otherwise provided by law.

* (f) The contractor will include the provisions of clauses (a) through (e) above and all contract provisions promulgated by OSCC pursuant to Section 1.3 (b) of Executive Order # 45 (1977), in every non-exempt subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its work force within the State of New York. The contractor will take such action in enforcing such provisions of such subcontract or purchase order as the contracting agency or the OSCC may direct, including sanctions or remedies for noncompliance. If the contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction, the contractor shall promptly so notify the Attorney General, requesting him to intervene and protect the interests of the State of New York.

VI The contractor will comply with the provisions of Sections 291-299 of the Executive Law and the Civil Rights Law, will furnish all information and reports deemed necessary by the State Division of Human Rights under the Law, and will permit access to its books, records and accounts by the State Industrial Commissioner for the purposes of investigation to ascertain compliance with the non-discrimination clauses, the Executive Law and Civil Rights Law.

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

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

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

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

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

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

****Note:** Reference to the above Rules and Regulations refer to those Rules and Regulations in effect as of the date of the solicitation of bids relative to this contract.

APPENDIX B

STANDARD CLAUSES FOR ALL ONEIDA COUNTY DEPARTMENT OF SOCIAL SERVICES CONTRACTS

PERSONNEL

- a. The Contractor agrees to be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries, and management of its project personnel. These functions shall be carried out in accordance with the provisions of this AGREEMENT, and all applicable federal, state and local laws and regulations.
- b. It is the policy of the Department to encourage the employment of qualified applicants or recipients of public assistance by both public organization and private enterprises who are under contractual AGREEMENT to the Department for the provision of goods and services. Contractors will be expected to make best efforts in this area.
- c. The Contractor agrees to identify, in writing, the person(s) who will be responsible for directing the work to be done under this AGREEMENT. No change or substitution of such responsible person(s) will be made without prior approval in writing from the Department, to the degree that such change is within the reasonable control of the Contractor.

NOTICES

- a. All notices permitted or required hereunder shall be in writing and shall be transmitted either by:
 1. By certified or registered United States mail, return receipt requested;
 2. By facsimile transmission;
 3. By personal delivery;
 4. By expedited delivery service; or
 5. By e-mail

Notices to the Department shall be addressed to the Commissioner of Social Services at the address, facsimile number or e-mail Address provided to the Contractor during contract development or to such different Program Manager as the Department may from time-to time designate.

- b. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.
- c. The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The Parties agree to mutually designate individuals as their respective representatives for the

purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

OFFICE SERVICES

- a. The Contractor shall be responsible for the provision of necessary equipment and services for Contractor's staff, pursuant to and described in the narratives and budgets contained in the AGREEMENT.
- b. For federally funded contracts, title to real property and non-expendable personal property whose requisition cost is borne in whole or in part by monies provided under this AGREEMENT shall be determined between the Contractor and the Department, pursuant to federal regulations 45 CFR 92 unless such authority is otherwise inappropriate. Title to all equipment, supplies and material purchased with funds under this AGREEMENT under contracts which are not federally funded shall be in the State of New York and the property shall not be transferred, conveyed, or disposed of without written approval of the Department. Upon expiration or termination of this AGREEMENT, all property purchased with funds under this AGREEMENT shall be returned to the Department, unless the Department has given direction for, or approval of, an alternative means of disposition in writing.
- c. Upon written direction by the Department, the Contractor shall maintain an inventory of those properties that are subject to the provisions of sub-paragraph b of this section.

GENERAL TERMS AND CONDITIONS

- a. The Contractor agrees to comply in all respects with the provisions of this AGREEMENT and the attachments hereto. The Contractor specifically agrees to perform services according to the objectives, tasks, work plan and staffing plan contained in the AGREEMENT. Any modifications to the tasks or work plan contained in AGREEMENT must be mutually agreed to by both parties in writing before the additional or modified tasks or work plan shall commence.
- b. If any specific event or conjunction of circumstances threatens the successful completion of the project, in whole or in part, including where relevant, timely completion of milestones, the Contractor agrees to submit to the Department within three (3) days of occurrence or perception of such problem, a written description thereof together with a recommended solution thereto.
- c. The Contractor immediately shall notify in writing the Department Program Manager assigned to this contract of any unusual incident, occurrence or event that involves the staff, volunteers or officers of the Contractor, and subcontractor or Program participant funded through this AGREEMENT, including but not limited to the following: death or serious injury; an arrest or possible criminal activity; and destruction of property; significant damage to the physical plant of the Contractor, or other matters of a similarly serious nature.

- d. In providing these services, the Contractor hereby agrees to be responsible for designing and operating these services, and otherwise performing, so as to maximize federal financial participation to the Department under the Federal Social Security Act.
- e. If funds from this AGREEMENT will be used to pay any costs associated with the provision of legal services of any sort, the following shall apply;
1. No litigation shall be brought against the State of New York, the New York State Office of Children and Family Services or against Oneida County or the Department or other local government or local social services district with funds provided under this AGREEMENT. The term "litigation" shall include commencing or threatening to commence a lawsuit, joining or threatening to join as a party to ongoing litigation, or requesting any relief from either the State of New York, the New York State Office of Children and Family Services or Oneida County or other local government or local social services district, based upon any agreement between such agency in litigation with another party and such party, during pendency of the litigation.
 2. Opinions prepared by consultant law firms construing the statutes of Constitution of the State of New York do not constitute the view of the State unless the prior written approval of the Attorney General is obtained. Requests for said approval shall be submitted to the Solicitor General, Division of the Appeals and Opinions Bureau, department of Law, The Capital, Albany, New York 12224
 3. The Contractor shall provide to the Department in a format provided by the Department such additional information concerning the provision of legal services as the Department shall require.
- f. The Department will designate a Contract Manager who shall have authority relating to the technical services and operational functions of this AGREEMENT and activities completed or contemplated there under. The Contract Manager and those individuals designated by him/her in writing shall have the prerogative to make announced or unannounced on-site visits to the project. Project reports and issues of interpretation or direction relating to this AGREEMENT shall be directed to the Contract Manager.
- g. Except where the Department otherwise authorizes or directs in writing, the Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, for the performance of the obligations contained herein until it has received the prior written approval of the Department, which shall have the right to review and approve each and every subcontract prior to giving written approval to the contractor to enter into the subcontract. All agreements between the Contractor and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of this AGREEMENT (2) that nothing contained in the subcontract shall impair the rights of the Department under this AGREEMENT, (3) that nothing contained in the subcontract, nor under this AGREEMENT, shall be deemed to create any contractual relationship between the subcontractor and the Department, and (4) incorporating all provisions regarding the

rights of the Department as set forth in this AGREEMENT, where applicable. The Contractor specifically agrees that the Contractor shall be fully responsible to the Department for the acts and omissions of subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by the Contractor.

- h. The Contractor warrants that it, its staff and any and all subcontractors which must be approved by the Department, have all the necessary licenses, approvals and certifications currently required by the law of any applicable local, state or federal government to perform the services pursuant to this AGREEMENT and/or subcontract entered into under this AGREEMENT. The Contractor further agrees such required licenses, approvals and certificates will be kept in full force and effect during the term of this AGREEMENT, and/or any extension thereof, and to secure any new licenses, approvals or certificates within the required time frames and/or to require its staff and subcontractors to obtain and requisite licenses, approvals or certificates. In the event the Contractor, its staff, and/or subcontractors are notified of a denial or revocation of any license, approval or certification to perform the services under this AGREEMENT, Contractor will immediately notify the Department.
- i. This AGREEMENT cannot be assigned by the Contractor to a subcontractor without obtaining written approval of the Department. Prior to executing a subcontract agreement the Contractor agrees to provide the Department the information the Department needs to determine whether a proposed subcontractor is a responsible vendor. The determination of vendor responsibility will be made in accordance with Section n. of General Terms and Conditions herein.
- j. If the Contractor intends to use materials, equipment or personnel paid for under this AGREEMENT in a revenue generating activity, the Contractor shall report such intentions to the Department forthwith and shall be subject to the direction of the Department as to the disposition of such revenue.
- k. Any interest accrued on funds paid to the Contractor by the Department shall be deemed to be the property of the Department and shall either be credited to the Department at the termination of this AGREEMENT or expended on additional services provided for under this AGREEMENT.
- l. The Contractor ensures that the grounds, structures, building and furnishings at the program site(s) used under this AGREEMENT are maintained in good repair and free from any danger to health or safety and that any building or structure used for program services complies with all applicable zoning, building, health, sanitary, and fire codes.
- m. The Contractor agrees to produce, and retain for the balance of the calendar year in which produced, and for a period of six (6) years thereafter, any and all records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under this AGREEMENT. Such records shall include, but not be limited to,

original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:

1. Payroll Expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, employee personal history folders, and cost allocation plans, if applicable.
2. Payroll Taxes and Fringe Benefits: cancelled checks, copies of related bank statements, reporting forms, and invoices for Fringe Benefit expenses.
3. Non-Personal Services Expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, and cost allocation plans, if applicable.
4. Receipt and Deposit of Advance and Reimbursements: itemized bank stamped deposit slips, and a copy of the related bank statements.
5. The Contractor agrees that any equipment purchased with funds under this AGREEMENT is the property of the Department and will remain with or will be returned to the Department in the event of the termination of this AGREEMENT,

Although not required, the Department recommends that the Contractor retain records directly pertinent to this AGREEMENT for a period of ten (10) years after the end of the calendar year in which they were made, as the statute of limitations for the New York False Claims Act is ten (10) years.

- a. By signing this AGREEMENT, the Contractor certifies that within the past three (3) years the Contractor has engaged in no actions that would establish a basis for a finding by the Department that the Contractor is a non-responsible vendor or, if the Contractor has engaged in any such action or actions, that all such actions have been disclosed to the Department prior to entering into this AGREEMENT. The actions that would potentially establish a basis for a finding by Department that the Contractor is a non-responsible vendor include:
 1. The Contractor has had a license or contract suspended, revoked or terminated by a governmental agency.
 2. The Contractor has had a claim, lien, fine, or penalty imposed or secured against the Contractor by a governmental agency.
 3. The Contractor has initiated a bankruptcy proceeding or such a proceeding has been initiated against the Contractor
 4. The Contractor has been issued a citation, notice, or violation order by a governmental agency finding the Contractor to be in violation of any local, state, or federal laws.
 5. The Contractor has been advised by a governmental agency that a determination to issue a citation, notice or violation order finding the Contractor to be in violation of any local, state or federal laws is pending before a governmental agency
 6. The Contractor has not paid all due and owed local, state and federal taxes to the proper authorities
 7. The Contractor has engaged in any other actions of a similarly serious nature.

Where the Contractor has disclosed any of the above to the Department, the Department may require as a condition precedent to entering into this AGREEMENT that the

Contractor agree to such additional conditions as will be necessary to satisfy the Department that the vendor is and will remain a responsible vendor. By signing this AGREEMENT, the Contractor agrees to comply with any such additional conditions that have been made a part of this AGREEMENT.

By signing this AGREEMENT, the Contractor also agrees that during the term of the AGREEMENT, the Contractor will promptly notify the Department if the Contractor engages in any actions that would establish a basis for a finding by Department that the Contractor is a non-responsible vendor, as described above.

- a. By signing this AGREEMENT, the Contractor agrees to comply with State Tax Law section 5-a
- p. The Contractor must maintain Workers' Compensation Insurance in accordance with the Workers' Compensation Law. If the Contractor believes they are exempt from the Workers' Compensation insurance requirement then they must apply for an exemption. Contractors can apply for the exemption online through the New York State Workers' Compensation Board website at:
http://www.wcb.state.ny.us/content/ebiz/wc_db_exemptions/wc_db_exemptions.jsp
- q. All organizations that receive federal financial assistance under social service programs are prohibited from discriminating against beneficiaries or prospective beneficiaries of the social service programs on the basis of religion or religious belief. Accordingly, organizations, in providing services supported in whole or in part with federal financial assistance, and in their outreach activities related to such services, are not allowed to discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

Organizations that engage in explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization) must perform such activities and offer such services outside of programs that are supported with direct federal financial assistance (including through prime awards or sub-awards), separately in time or location from any such programs or services supported with direct federal financial assistance, and participation in any such explicitly religious activities must be voluntary for the beneficiaries of the social service program supported with such federal financial assistance

REPORTS AND DELIVERABLES

The Contractor shall prepare and submit all reports, documents, and projects required by this AGREEMENT to the Department's Contract Manager for review and approval. These reports shall be in such substance, form, and frequency as required by the Department and as necessary to meet state, federal and Oneida County requirements.

The Contractor shall complete Contract Evaluations as required by the Department as

well as Statistical Data as needed by the Department and New York State to meet the reporting requirements.

CONFIDENTIALITY AND PROTECTION OF HUMAN SUBJECTS

- a. The Contractor agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this project. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this AGREEMENT in conformity with the provisions of applicable state, federal, and local laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this AGREEMENT.
- b. Any Contractor who will provide goods and/or services to a residential facility or program operated by Department agrees to require all of its employees and volunteers who will have the potential for regular and substantial contact with youth in the care or custody of the Department to sign an Employee Confidentiality Certification and employee Background Certification before any such employees and volunteers are permitted access to youth in the care or custody of the Department and/or any financial and/or client identifiable information concerning such youth. Additionally, the Department will require a database check of the State wide Central Register of Child Abuse and Maltreatment (SCR) of each employee and volunteer of the Contractor who has the potential for regular and substantial contact with children in the care or custody of the Department. Any Contractor whose employees and volunteers will have access to financial and/or client identifiable information concerning youth in the care or custody of Department agrees to require all such employees and volunteers to sign an Employee Confidentiality Certification before any such employees and volunteers are permitted access to any financial and/or client identifiable information concerning such youth.
- c. The Contractor and any subsequent subcontractor shall not discriminate or refuse assistance to individuals with AIDS or an HIV infection or an HIV - related illness.

The Contractor and any subsequent subcontractor agrees that their staff to whom confidential HIV - related information may be given as a necessity for providing services and in accordance with 403 of Title 18 NYSDSS regulation and Section 2782 of the Public Health Law are fully informed of the penalties and fines for re-disclosure in violations of state law and regulations.

The Contractor and any subsequent subcontractor must include the following written statement when disclosing any confidential HIV - related information.

"This information has been disclosed to you from confidential records which are protected by state law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of state law may result in a fine or jail sentence or both. A general authorization for the

release of medical or other information is not sufficient authorization for further disclosure."

- d. All information contained in the Contractor's, or its subcontractor's files shall be held confidential pursuant to the applicable provisions of the Social Services Law and any State Department Regulations promulgated thereunder, including 18 NY CRR Sec. 357.5 and 423.7, as well as any applicable federal laws and any regulations promulgated thereunder and shall not be disclosed except as authorized by law.
- e. The Contractor and any of the Contractor's staff that are subject to the Oneida County computer systems/databases shall complete the Oneida County Department of Social Services Confidentiality and Non-Disclosure Agreement provided with this AGREEMENT and shall submit forms to the following address:

Oneida County Department of Social Services
Contract Administration Office, 4th Floor
800 Park Ave
Utica, New York, 13501

PUBLICATIONS AND COPYRIGHTS

- a. The results of any activity supported under this AGREEMENT may not be published without prior written approval of the Department, which results (1) shall acknowledge the support of the Department and the County and, if funded with federal funds, the applicable federal funding agency, and (2) shall state that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Contractor and do not necessarily represent the opinions, interpretation or policy of the Department or Oneida County.
- b. The Department and Oneida County expressly reserve the right to a royalty-free, non-exclusive and irrevocable license to reproduce, publish, distribute or otherwise use, in perpetuity, any and all copyrighted or copyrightable material resulting from this AGREEMENT or activity supported by this AGREEMENT. All publications by the Contractor covered by this AGREEMENT shall expressly acknowledge the Department's right to such license.
- c. All of the license rights so reserved to the Department and Oneida County under this paragraph are equally reserved to the United States Department of Health and Human Services and subject to the provisions on copyrights contained in 45 CFR 92 if the AGREEMENT is federally funded.
- d. The Contractor agrees that at the completion of any scientific or statistical study, report or analysis prepared pursuant to this AGREEMENT, it will provide to the Department at no additional cost a copy of any and all data supporting the scientific or statistical study, report or analysis, together with the name(s) and business address(es) of the principal(s) producing the scientific or statistical study, report or

analysis. The Contractor agrees and acknowledges the right of the Department, subject to applicable confidentiality restrictions, to release the name(s) and business address(es) producing the scientific or statistical study, report or analysis, together with a copy of the scientific or statistical study, report or analysis and all data supporting the scientific or statistical study, report or analysis.

PATENTS AND INVENTIONS

The Contractor agrees that any all inventions, conceived or first actually reduced to practice in the course of, or under this AGREEMENT, or with monies supplied pursuant to this AGREEMENT, shall be promptly and fully reported to the Department. Determination as to ownership and/or disposition of rights to such inventions, including whether a patent application shall be filed, and if so, the manner of obtaining, administering and disposing of rights under any patent application or patent which may be issued, shall be made pursuant to all applicable law and regulations.

TERMINATION

- a. This AGREEMENT may be terminated by the Department upon thirty (30) days prior written notice to the Contractor. Such notice is to be made by way of registered or certified mail return receipt requested or hand delivered with receipt granted by the Contractor. The date of such notice shall be deemed to be the date the notice is received by the Contractor established by the receipt returned, if delivery by registered or certified mail, or by the receipt granted by the Contractor, if the notice is delivered by hand. The Department agrees to pay the Contractor for reasonable and appropriate expenses incurred in good faith before the date of termination of this AGREEMENT.
- b. If the Contractor fails to use any real property or equipment purchased pursuant to this AGREEMENT or the Contractor ceases to provide the services specified in the AGREEMENT for which the equipment was purchased, the Department may terminate this AGREEMENT upon thirty (30) days written notice to the Contractor, where the Contractor has failed to cure as set forth hereafter, said notice of breach shall be sent by way of registered or certified mail return receipt requested, or shall be delivered by hand, receiving Contractor's receipt therefore. Said notice shall specify the Contractor's breach and shall demand that such breach be cured. Upon failure of the Contractor to comply with such demand within thirty (30) days, or such longer period as may be specified therein, the Department may, upon written notice similarly served, immediately terminate this AGREEMENT, termination to be effective upon the date of receipt of such notice established by the receipt returned to the Department. Upon such termination, the Department may require (a) the repayment to the Department of any monies previously paid to the Contractor, or (b) return of any real property or equipment purchased under the terms of this AGREEMENT or an appropriate combination of (a) and (b), at the Department's option.

- c. To the extent permitted by law, this AGREEMENT shall be deemed in the sole discretion of the Department terminated immediately upon the filing of a petition in bankruptcy or insolvency, by or against the Contractor. Such termination shall be immediate and complete, without termination costs or further obligation by the Department to the Contractor
- d. Should the Department determine that federal, state or County funds are limited or become unavailable for any reason, the Department may reduce that total amount of funds payable to the Contractor, reduce the AGREEMENT period or deem this AGREEMENT terminated immediately. The Department agrees to give notice to the Contractor as soon as it becomes aware that funds are unavailable, in the event of termination under this paragraph. If the initial notice is oral notification, the Department shall follow this up immediately with written notice. The Department will be obligated to pay the Contractor only for the expenditures made and obligations incurred by the Contractor until such time as notice of termination is received either orally or in writing by the Contractor from the Department.
- e. The Contractor shall provide to the Department such information as is required by the Department in order that the Department may determine whether the Contractor is a responsible vendor for purposes of compliance with section 163 of the State Finance Law and requirements of the Department. If there is any change in any of the vendor responsibility information provided to the Department by the Contractor at any time during the term of this AGREEMENT, the Contractor shall be required to immediately notify the Department so that the Department may assess whether the Contractor continues to be a responsible vendor. Should the Contractor fail to notify the Department of any change in the vendor responsibility information or should the Department otherwise determine that the Contractor has ceased to be a responsible vendor for the purposes of this AGREEMENT, the Department may terminate this AGREEMENT upon thirty (30) days written notice to the Contractor. Said notice of termination shall be sent by way of registered or certified mail return receipt requested, or shall be delivered by hand, receiving Contractor's receipt therefore. Said notice shall specify the reason(s) that the Contractor has been found to no longer be a responsible vendor.

Upon determination that the Contractor is no longer a responsible vendor the Department may, in its discretion and as an alternative to termination pursuant to this paragraph, notify the contractor of the determination that the Contractor has ceased to be a responsible vendor and set forth the corrective action that will be required of the Contractor to maintain this AGREEMENT. Should the Contractor fail to comply with the required corrective action within thirty (30) days of the date of notification, or such longer period as may be specified therein, the Department may, upon written notice similarly served, immediately terminate this AGREEMENT, termination to be effective upon the date of receipt of such notice established by the receipt returned to the Department. Upon such termination, the Department may require (a) the repayment to the Department of any monies previously paid to the Contractor, (b) return of any real property or equipment

purchased under the terms of this AGREEMENT, or an appropriate combination of (a) and (b) at the Department's option.

CONTRACTOR COMPLIANCE

The Contractor agrees to provide an Annual Certification pertaining to this AGREEMENT as part of the Contractor's Annual Independent audit.

The Department shall have the right to audit or review the Contractor's performance and operations as related to this AGREEMENT. If the Department should determine that the Contractor has abused or misused funds paid to the Contractor, or if the Contractor has violated or is in non-compliance with any term of any other agreement with the Department, or has abused or misused funds paid to the Contractor under any other agreement with the Department, the rights of the Department shall include, but not be limited to:

1. Recovery of any funds expended in violation of this AGREEMENT;
2. Suspension of Payments;
3. Termination of this AGREEMENT; and/or
4. Employment of another entity to fulfill the requirements of this AGREEMENT.

The Contractor shall be liable for all reasonable costs incurred on account thereof, including payment of any cost differential for employing such entity. The Contractor will assist the Department in transferring the operation of the contracted services to any other entity selected by the Department in a manner that will enable the Department or clients to continue to receive services in an on-going basis, including, but not limited to, notifying clients of the new entity to which the services will be transferred and the effective date of the transfer, providing the new entity promptly and at no charge with a complete copy of the clients' and all other records necessary to continue the provision of the transferred services, and transferring any equipment purchased with funds provided under this AGREEMENT.

Nothing herein shall preclude the Department from taking actions otherwise available to it under law.

The Contractor agrees to cooperate fully with any audit or investigation the Department or any agent of the Department may conduct and to provide access during normal business hours to any and all information necessary to perform its audit or investigation. The Contractor shall also allow the Department, and any representatives specifically directed by the Department to take possession of all books, records and documents relating to this AGREEMENT without prior notice to the Contractor. The Department will return all such books, records and documents to the Contractor upon completion the official purposes for which they were taken.

The Contractor agrees that all agreements between the Contractor and a subcontractor or consultants for the performance of any obligations under this AGREEMENT will be by written contract (subcontract) which will contain provisions including, but not limited to, the above specified rights of the Department.

FISCAL SANCTION

In the sole discretion of the Department, contractors may be placed on Fiscal Sanction when the Department identifies any of the following issues:

1. The Contractor has received an advance, overpayment or other funds under this or another agreement that has not been refunded to the Department within the established timeframe;
2. A Department or other audit identifies significant fiscal irregularities and/or that funds are due to the Department
3. The Contractor has not provided satisfactory services as required under the terms of this or another Department agreement;
4. The Contractor has not provided fiscal or program reports as required under the terms of this or another Department agreement;
5. A Department, County, state or federal prosecutorial or investigative agency identifies possible criminal activity, or significant fiscal or programmatic irregularities on the part of the Contractor;
6. The Contractor is not in compliance with state, federal, or County statutes or regulations, or applicable Department guidelines, policies and/or procedures; or
7. Unsafe physical conditions exist at a program site operated by the Contractor and funded under an agreement with the Department

Once the Contractor has been placed on Fiscal Sanction, payments on all open contracts and any new awards, amendments or contract renewals will not be processed until the issues have been satisfactorily resolved. The Contractor will be notified in advance of any proposed Fiscal Sanction and will be provided a timeframe within which the issues must be resolved in order to avoid Fiscal Sanction. Issues that are not resolved within the timeframe established by the Department may be referred to the Attorney General (AG) for collection of legal action. If a contract is referred to the AG a collection fee will be added to the amount owed. In addition, interest will be due on any amount not paid in accordance with the timeframes established by the AG. The Contractor will remain on Fiscal Sanction until the amount owed, including any collection fee and interest is paid.

ADDITIONAL ASSURANCES

- a. The Department and Contractor agree that the Contractor is an Independent Contractor, and not in any way deemed to be an employee of the Department or County of Oneida for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement or health insurance benefits. The Contractor agrees to defend and indemnify the Department and/or Oneida County for any loss the Department and/or Oneida County may suffer when such losses result from claims of any person or organization injured by the negligent acts or omissions of the Contractor, its officers and/or employees or subcontractors. Furthermore, the Contractor agrees to indemnify, defend, and save harmless the Department and/or Oneida County, and its

officers, agents, and employees from any and all claims and losses occurring or resulting from any and all contractors, subcontractors, and any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this AGREEMENT, and from all claims and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the Contractor in the performance of this AGREEMENT, and against any liability, including costs and expenses, for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, or use, or disposition of any data furnished under this AGREEMENT or based on any libelous or other unlawful matter contained in such data or written materials in any form produced pursuant to this AGREEMENT.

- b. The Contractor further agrees that the Department has the right to take whatever action it deems appropriate, including, but not limited to, the removal of the Contractor from the rotation list, the removal of clients, the cessation of client referrals, and termination of this AGREEMENT, if the Contractor fails to submit a completed and signed Standard Insurance Certificate or its acceptable substitute, which is subsequently approved by the Oneida County Department of Law, prior to the expiration of its insurance coverage.

RENEWAL NOTICE TO CONTRACTORS

Options to renew this AGREEMENT are at the discretion of the Department, which shall supply written notice of such renewal or termination within thirty (30) days of the expiration date. The Commissioner of Social Services reserves the right to evaluate the job performance and availability of funding.

COMPLIANCE WITH LAW

The Contractor represents and agrees to comply with the requirements of the Civil Rights Act of 1964 as amended, the Age Discrimination Employment Act of 1964 as amended, the Federal Rehabilitation Act of 1973 as amended, and Executive Order No. 11246, entitled "Equal Employment Opportunity" as amended by Executive Order No. 11375 and as supplemented in Department of Labor Relations, 41 CFR Part 60.

The Contractor also agrees to comply with federal and state laws as supplemented in the Dept. of Labor regulations and any other regulations of the federal and state entities relating to such employment and Civil Rights requirements.

As a mandated reporting agency, all instances of suspected child abuse, neglect and/or maltreatment, will be reported to the Central Registry as required by law. These verbal reports will be followed by submission of completed 222.LA to the Department. The family will be informed in advance of the Agency's decision to file a report with the Central Register.

The Contractor attests they have not been debarred by the federal Government from

contracting to provide services funded by any federal money.

The obligations of the parties hereunder are conditioned upon the continued availability of federal and/or New York State Funds for the purposes set forth in this AGREEMENT.

Should funds become unavailable or should appropriate federal or New York State officials fail to approve sufficient funds for completion of the services or programs set forth in this AGREEMENT, the Department shall have the option to immediately terminate this AGREEMENT upon providing written notice to the Contractor. In such an event, the Department 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 Department be responsible for any actual or consequential damages as a result of termination.

This AGREEMENT contains all the terms and conditions agreed upon by the parties. All items incorporated by reference are to be attached. No other understandings, oral or otherwise, regarding the subject matter of this AGREEMENT, shall be deemed to exist or to bind any of the parties hereto. No waiver, alterations or modifications of any provisions of this AGREEMENT shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

This AGREEMENT shall be binding upon both parties when fully signed and executed and upon approval of the appropriate legislative bodies where required.

As the duly authorized representative of the Contractor, I hereby certify that the Contractor will comply with the above Standard Clauses.

Sep Schools Malawi Valley
NAME OF CONTRACTED AGENCY

ANNE LARSON, CEO
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

[Signature] 4/8/20
SIGNATURE DATE

APPENDIX C

PROGRAM NARRATIVE, TERMS AND CONDITIONS and REIMBURSEMENT RATES

Initial Response Team (IRT)

Utica Safe Schools/Healthy Students Partnership, Inc. d/b/a Safe Schools Mohawk Valley

SECTION E PROGRAM NARRATIVE

1. The Contractor shall provide Initial Response Team (IRT) with Family Group Conferencing (FGC) in the Utica School District for children who are at risk of out-of-home placement. The premise of the IRT FGC Model is to provide evidenced-based wraparound support to students who are exhibiting pre-PINS (Persons in Need of Supervision) related behaviors such as truancy and incorrigibility.
2. The Contractor has expertise and a thorough understanding of the IRT Model and a thorough understanding of the Social Services system and resources in the community. IRT has been used as a means to facilitate permanency outcomes for youth who are at risk of placement outside of the home and to reduce recidivism for youth involved in the child welfare system.
3. IRT is voluntary, strengths-based approach where the student and his/her family are empowered to take ownership of the service plan. Students and their families work with team members to identify strengths and to determine what supports are needed for the student to be successful. After a plan is developed, the IRT specialist and/or Probation Officer will monitor the student's progress, ensure follow-through and fidelity to the Service Plan goals and objectives, and will provide direct services to the student as needed.
4. Students enrolled in IRT have demonstrated improvements in three key areas that indicate academic success and affect graduation rates: grades, attendance, and discipline. These improvements are accomplished by working with the student and the family in a supportive manner (rather than in a punitive fashion) while holding the student and team members accountable to follow through on the goals and objectives of the service plan. The student will receive routine follow-up and support both to help him/her identify and overcome challenges in school and at home, and in finding ways to become better engaged in school.
5. The program is for youth who are at risk for delinquency, violence, substance use, or other behavioral problems. The program has been applied in a variety of multiethnic, multicultural contexts to treat a range of youth and their families.

SECTION II: TERMS AND CONDITIONS

1. The program shall service at-risk youth who have an open services case with the Department of Social Services. All referrals to program must be approved by the Department.
2. The Contractor shall not refuse any youth who is referred by the Department.
3. The provision of these services shall not be interrupted by school breaks, such as winter break, spring break, and summer vacation.
4. The Contractor will prepare all reports required by federal, state or local law, rule or regulation.
5. Duties of the IRT Specialist shall include, but are not limited to, the following:
 - a. Receive referrals to IRT program and submit to Department for approval;
 - b. Verify approval with the Department;
 - c. Schedule IRT meeting;
 - d. Complete CANS intake;
 - e. Pre-Conference with Probation;
 - f. Facilitate IRT Meeting;
 - g. Establish an IRT Plan;
 - h. Make copies for school, parent, and the Department;
 - i. Weekly monitoring of Plan Agreement and provision of any services outlined in the plan;
 - j. Weekly communication with the school, the Case Manager, and the student's parents to monitor progress;
 - k. Daily/weekly review of school records;
 - l. Submitting weekly activity logs to the Department;
 - m. Completing monthly principal report detailing program progress;
 - n. Completing Initial Screening survey with parents and school personnel at Intake and again after 90 days in the program.
6. The work activities of program shall include, but are not be limited to:
 - a. All referrals to this program will be made by the Department. Upon receiving the appropriate referral from the Department, the Contractor shall follow the established procedures as agreed upon by both the Department and Contractor.
 - b. The Contractor shall make contact with the youth and families within twenty-four (24) hours of approval of referral, and notify the referring worker when contact has been made.
 - c. IRT Specialists shall maintain the following documentation: intake paperwork, assessments of the youth and family, and weekly summaries after each visit with the family (which note the progress, issues, and concerns). The same shall be submitted to the Department on a weekly basis.
 - d. The Contractor shall immediately contact the Department if the risk of placement escalates based on the behaviors of the youth or the family.
 - e. Upon completion of program, the Contractor shall complete a closing assessment with the youth and family and provide a copy to the Department. The closing assessment shall be similar to the intake assessment to evaluate effectiveness of program.

- f. Upon completion of program IRT, the Contractor shall follow up with the youth and their families by telephone three (3) months after completion, six (6) months after completion, nine (9) months after completion, and twelve (12) months after completion of program.
 - g. The Contractor shall provide trainings to the Department on a regular basis to assure program processes are clear and functioning effectively.
 - h. The Contractor shall provide reporting and assessment forms acceptable to the Department.
 - i. The Contractor shall participate in the Committee on Appropriate Placement (CAP) meetings and other treatment meetings as requested by the Department in order to fulfill its obligations under this Agreement.
 - j. The Contractor shall participate in the case planning/service plan meeting scheduled by the Department to fulfill its obligations under this Agreement.
7. The Contractor shall:
- a. Provide linkage to an integrated system of community-based diversion services;
 - b. Promote the development of community-based services as an alternative to institutionalization.
 - c. Provide monthly reports and a final statistical report of services provided by the Contractor under this program to the Department, as well as any other reports reasonably requested by the Department.
 - d. The Contractor shall keep accurate records for each public charge receiving services under this Agreement. Each record shall indicate the services provided to the child and his or her family, including the date such services were provided. The Contractor shall provide such reports to the Department on the current status and progress of each recipient of services at intervals required.
 - e. Hold all information contained in the Contractor's files pursuant to this Agreement confidential pursuant to the applicable provision of the Social Services Law and any State Department Regulations promulgated thereunder, including 18 NYCRR Sec. 357.5 and 423.7, as well as any applicable Federal Laws and any regulations promulgated thereunder.
 - f. Complete a Contract Staffing Report upon completion of a fully executed Agreement. The Contractor shall maintain program staff for the duration of this agreement and complete a Contract Staff Vacancy Report upon any changes.
8. Program target and outcomes:
- a. 60% of families will increase their ability to resolve conflict;
 - b. 60% of families will show improvement in effective communication skills;
 - c. 60% of families will increase their formal and/or informal support network;
 - d. 60% of youth will reduce occurrences of unexcused absences;
 - e. 60% of youth will reduce their use of drugs;
 - f. 60% of youth will reduce their use of alcohol;
 - g. 60% of youth will engage in pro-social activities;
 - h. 60% of program graduates will avoid out-of-home care within twelve (12) months from graduating the program.

**Oneida County Department of Social Services
Contractor and Contract Staff
Confidentiality and Non-Disclosure Agreement**

I, the undersigned, an employee of _____, (the
Name of Contract Agency

"Service Provider"), hereby state that I understand and agree that all information provided to the Service Provider from the Oneida County Department of Social Services staff by paper copies, computer systems or databases, electronic communication or otherwise obtained pursuant to the Agreement entered between the Oneida County Department of Social Services and the Service Provider indicated above, is CONFIDENTIAL, is to be used only for the purposes of performing services required by the Agreement, and must be safeguarded from unauthorized disclosure.

I further understand that such information includes, but is not limited to, any and all information regarding parents or guardians and their children, and all employment, financial, and personal identifying data, including Protected Health Information (PHI) as set forth in HIPAA regulations.

I agree to maintain all such information as CONFIDENTIAL, and I agree to use such information only in the performance of my official duties to perform the functions required by the Agreement, unless otherwise authorized in writing by the Department of Social Services.

I understand that confidential information maintained in and/or obtained from systems/databases such as, but not limited to the Welfare Management System (WMS), Child Support Management System (CSMS/ASSETS), Benefits Issuance Control System (BICS), COGNOS, and Connections are protected by Federal and State statutes and regulations. Access and disclosure of confidential information is strictly limited to authorized employees and legally designated agents, for authorized purposes only in the delivery of program services.

I understand that service providers may not access their own active, closed or archived records or those involving a relative, friend, acquaintance, neighbor, partner or co-worker or other individuals to whom they have no official assignment.

I understand that if my employment is terminated by resignation, retirement or for other reasons or the Service Provider Contract is not renewed, the terms of this Confidentiality and Non-Disclosure Agreement are still binding.

I understand that if I disclose CONFIDENTIAL information in violation of the requirements stated herein, any individual who incurs damages due to the disclosure may recover such damages in a civil action.

I understand that, in addition to any other penalties provided by law, any person who willfully releases or willfully permits the release of any CONFIDENTIAL information as described herein to persons or agencies not authorized under New York State law to receive it shall be guilty of a class A misdemeanor.

Print Name: _____

Signature: _____

Title: _____

Date: _____

Witness: _____

ANNE L. CARSON
C.O.O.
4/8/20
James Thomas

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

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

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative

agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:

- i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
- i. The Contractor certifies that it and its principals:

A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a

criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and

D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;

ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.

c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. The Contractor will or will continue to provide a drug-free workplace by:

A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

B. Establishing an ongoing drug-free awareness program to inform employees about:

1) The dangers of drug abuse in the workplace;

- 2) The Contractor's policy of maintaining a drug-free workplace;
- 3) Any available drug counseling, rehabilitation, and employee assistance program; and
- 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;

C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;

D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:

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

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

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

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

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

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

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

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

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

- i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the

Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

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

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

When applicable to the services provided pursuant to the Contract:

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

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County

available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and

ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

d. The Contractor agrees that this contract may be amended if any of the following events occurs:

- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
- ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
- iii. There is a material change in the business practices and procedures of the County.

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

5. NON-ASSIGNMENT CLAUSE

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

6. WORKER'S COMPENSATION BENEFITS.

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

7. NON-DISCRIMINATION REQUIREMENTS.

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

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as

determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its knowledge and belief:

(1) the prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; and (2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) no attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records

shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

12. CONFLICTING TERMS.

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

13. GOVERNING LAW.

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

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

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application;

request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

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

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

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services

(hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

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

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

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

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

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

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.
- b. For the purposes of this provision, "e-cigarette" shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that

delivers vapor which is inhaled by an individual user as he or she simulates smoking.

c. For the purposes of this provision, "on Oneida County property" shall be defined as:

i. Upon all real property owned or leased by the County of Oneida;
and

ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.

d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

20. COMPLIANCE WITH NEWYORK STATE LABOR LAW § 201-G

The Contractor shall comply with the provisions of New York State Labor Law § 201-g.



ONEIDA COUNTY HEALTH DEPARTMENT

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE

DANIEL W. GILMORE, PH.D., MPH
DIRECTOR OF HEALTH



"PROMOTING & PROTECTING THE HEALTH OF ONEIDA COUNTY"

OCGOV.NET/HEALTH

July 13, 2021

FN 20 22-213

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

HEALTH & HUMAN SERVICES
WAYS & MEANS

Re: C-34764GG--3450000 Drinking Water Enhancement

Dear Mr. Picente:

Attached is a Master Contract Agreement between Oneida County through its Health Department and the New York State Department of Health for the provision of the Drinking Water Enhancement Program. This funding supports the capacity of the Health Departments drinking water protection initiatives under Public Water System Supervision Program (PWSSP).

This agreement is for the time period of April 1, 2020 through March 31, 2025. This five-year grant provides \$633,910 over five years, 126,782.00 annually, for each of the five years of the grant.

This grant supports a program mandated by Public Health Law.

If this Agreement meets with your approval, please forward to the Board of Legislators.

Sincerely,

Daniel W. Gilmore, Ph.D., MPH
Public Health Director

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

Anthony J. Picente, Jr.
County Executive

Date 7-20-21

Attachments
CM

ADMINISTRATION
ADIRONDACK BANK BLDG., 5TH FL.,
185 GENESEE ST. UTICA, NY 13501
TEL: (315) 798-6400 • FAX: (315) 266-6138

SPECIAL CHILDREN SERVICES
ADIRONDACK BANK BLDG., 5TH FL.,
185 GENESEE ST. UTICA, NY 13501
TEL: (315) 798-5249 • FAX: (315) 731-3491

ENVIRONMENTAL HEALTH
ADIRONDACK BANK BLDG., 4TH FL.,
185 GENESEE ST. UTICA, NY 13501
TEL: (315) 798-5064 • FAX: (315) 798-6486

CLINICAL SERVICES
406 ELIZABETH ST. UTICA, NY 13501
TEL: (315) 798-5748 • FAX: (315) 798-1057

Oneida Co. Department: Public Health

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

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: Lori Ahmed
NYS Department of Health
Bureau of Water Supply Protection
Corning Tower, Room 1110
Albany, NY 12237
(518) 402-7707

Title of Activity or Service: Drinking Water Enhancement Program

Proposed Dates of Operation: April 1, 2020 to March 31, 2025

Client Population/Number to be Served: Users of public and non-public water systems in Oneida County

Summary Statements

- 1) **Narrative Description of Proposed Services:** The Oneida County Health Department provides services necessary to assure the safety of drinking water by assisting operators with water systems and an annual water quality report. Assistance can be provided to homeowners and other non-public water system operators if problems arise or new systems are developed. Guidance and interpretation of well-water and septic system regulations is also provided.
- 2) **Program/Service Objectives and Outcomes:** The goal is to ensure that the public is protected from illness and injury resulting from waterborne disease and contamination that may be naturally occurring or human caused.
- 3) **Program Design and Staffing:** multiple staff are cross trained to assist and provide support in this program under the direction of the Environmental Health Director.

Total Funding Requested: \$633,910.00 **Account #** A4018.101
A3417

Oneida County Dept. Funding Recommendation: \$633,910.00

Proposed Funding Sources (Federal \$/ State \$/County \$): 100% State: \$633,910.00
Cost Per Client Served:

Past Performance Data: NA

Mandated Service: Grant supports mandated service

O.C. Department Staff Comments: This agreement provides \$126,782.00 each year for 5 years

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

<p>STATE AGENCY (Name & Address): Department of Health Corning Tower Empire State Plaza Albany, NY 12237</p>	<p>BUSINESS UNIT/DEPT. ID: DOH01 CONTRACT NUMBER: DOH01-C34764GG-3450000 CONTRACT TYPE: <input checked="" type="checkbox"/> Multi-Year Agreement <input type="checkbox"/> Simplified Renewal Agreement <input type="checkbox"/> Fixed Term Agreement</p>
<p>CONTRACTOR SFS PAYEE NAME: ONEIDA COUNTY OF</p>	<p>TRANSACTION TYPE: <input checked="" type="checkbox"/> New <input type="checkbox"/> Renewal <input type="checkbox"/> Amendment</p>
<p>CONTRACTOR DOS INCORPORATED NAME: Oneida County Public Health Department</p>	<p>PROJECT NAME: Drinking Water Enhancement Grant Program</p>
<p>CONTRACTOR IDENTIFICATION NUMBERS: NYS Vendor ID Number: 1000002595 Federal Tax ID Number: 156000460 DUNS Number (if applicable): 075814186</p>	<p>AGENCY IDENTIFIER: CFDA NUMBER (Federally Funded Grants Only):</p>
<p>CONTRACTOR PRIMARY MAILING ADDRESS: 800 PARK AVE UTICA, NY 13501</p> <p>CONTRACTOR PAYMENT ADDRESS: <input checked="" type="checkbox"/> Check if same as primary mailing address</p> <p>CONTRACT MAILING ADDRESS: <input type="checkbox"/> Check if same as primary mailing address 185 GENESEE ST 4TH FL UTICA, NY 13501</p>	<p>CONTRACTOR STATUS: <input type="checkbox"/> For Profit <input checked="" type="checkbox"/> Municipality, Code: 300100000000 <input type="checkbox"/> Tribal Nation <input type="checkbox"/> Individual <input type="checkbox"/> Not-for-Profit</p> <p>Charities Registration Number:</p> <p>Exemption State/Code:</p> <p><input type="checkbox"/> Sectarian Entity</p>

Contract Number: # DOH01-C34764GG-3450000

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

<p>CURRENT CONTRACT TERM:</p> <p>From: 04/01/2020 To: 03/31/2025</p> <p>CURRENT CONTRACT PERIOD:</p> <p>From: 04/01/2020 To: 03/31/2025</p> <p>AMENDED TERM:</p> <p>From: To:</p> <p>AMENDED PERIOD:</p> <p>From: To:</p>	<p>CONTRACT FUNDING AMOUNT</p> <p>(Multi-year - enter total projected amount of the contract; Fixed Term/Simplified Renewal - enter current period amount):</p> <p>CURRENT: \$633,910.00</p> <p>AMENDED:</p> <p>FUNDING SOURCE(S)</p> <p align="center"> <input checked="" type="checkbox"/> State <input type="checkbox"/> Federal <input type="checkbox"/> Other </p>
---	--

FOR MULTI-YEAR AGREEMENTS ONLY - CONTRACT AND FUNDING AMOUNT:

(Out years represents projected funding amounts)

#	CURRENT PERIOD	CURRENT AMOUNT	AMENDED PERIOD	AMENDED AMOUNT
1	04/01/2020-03/31/2021	\$126,782.00		
2	04/01/2021-03/31/2022	\$126,782.00		
3	04/01/2022-03/31/2023	\$126,782.00		
4	04/01/2023-03/31/2024	\$126,782.00		
5	04/01/2024-03/31/2025	\$126,782.00		

Contract Number: # DOH01-C34764GG-3450000

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

ATTACHMENTS PART OF THIS AGREEMENT:

- Attachment A: A-1 Program Specific Terms and Conditions
 A-2 Federally Funded Grants

- Attachment B: B-1 Expenditure Based Budget
 B-2 Performance Based Budget
 B-3 Capital Budget
 B-4 Net Deficit Budget
 B-1 (A) Expenditure Based Budget (Amendment)
 B-2 (A) Performance Based Budget (Amendment)
 B-3 (A) Capital Budget (Amendment)
 B-4 (A) Net Deficit Budget (Amendment)

Attachment C: Work Plan

Attachment D: Payment and Reporting Schedule

Other: Attachment M

IN WITNESS THEREOF, the parties hereto have electronically executed or approved this Master Contract on the dates below their signature.

In addition, I, acting in the capacity as Contractor, certify that I am the signing authority, or have been delegated or designated formally as the signing authority by the appropriate authority or officials, and as such I do agree, and I have the authority to agree, to all of the terms and conditions set forth in the Master Contract, including all appendices and attachments. I understand that (i) payment of a claim on this Master Contract is conditioned upon the Contractor's compliance with all applicable conditions of participation in this program and (if I am acting in the capacity as a not-for profit Contractor) the accuracy and completeness of information submitted to the State of New York through the Gateway vendor prequalification process and (ii) by electronically indicating my acceptance of the terms and conditions of the Master Contract, I certify that (a) to the extent that the Contractor is required to register and/or file reports with the Office of Attorney General's Charities Bureau ("Charities Bureau"), the Contractor's registration is current, all applicable reports have been filed, and the Contractor has no outstanding requests from the Charities Bureau relating to its filings and (b) all data and responses in the application submitted by the Contractor are true, complete and accurate. I also understand that use of my assigned User ID and Password on the State's contract management system is equivalent to having placed my signature on the Master Contract and that I am responsible for any activity attributable to the use of my User ID and Password. Additionally, any information entered will be considered to have been entered and provided at my direction. I further certify and agree that the Contractor agrees to waive any claim that this electronic record or signature is inadmissible in court, notwithstanding the choice of law provisions.

CONTRACTOR:
ONEIDA COUNTY OF

By: _____

Printed Name

Title: _____

Date: _____

In addition, the party below certifies that it has verified the electronic signature of the Contractor to this Master Contract.

STATE AGENCY:

Department of Health

By: _____

Printed Name

Title: _____

Date: _____

ATTORNEY GENERAL'S SIGNATURE
APPROVED AS TO FORM

By: _____

Printed Name

Title: _____

Date: _____

STATE COMPROLLER'S SIGNATURE

By: _____

Printed Name

Title: _____

Date: _____

**STATE OF NEW YORK
MASTER CONTRACT FOR GRANTS**

This State of New York Master Contract for Grants (Master Contract) is hereby made by and between the State of New York acting by and through the applicable State Agency (State) and the public or private entity (Contractor) identified on the face page hereof (Face Page).

WITNESSETH:

WHEREAS, the State has the authority to regulate and provide funding for the establishment and operation of program services, design or the execution and performance of construction projects, as applicable and desires to contract with skilled parties possessing the necessary resources to provide such services or work, as applicable; and

WHEREAS, the Contractor is ready, willing and able to provide such program services or the execution and performance of construction projects and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services or work, as applicable, required pursuant to the terms of the Master Contract;

NOW THEREFORE, in consideration of the promises, responsibilities, and covenants herein, the State and the Contractor agree as follows:

STANDARD TERMS AND CONDITIONS

I. GENERAL PROVISIONS

A. Executory Clause: In accordance with Section 41 of the State Finance Law, the State shall have no liability under the Master Contract to the Contractor, or to anyone else, beyond funds appropriated and available for the Master Contract.

B. Required Approvals: In accordance with Section 112 of the State Finance Law (or, if the Master Contract is with the State University of New York (SUNY) or City University of New York (CUNY), Section 355 or Section 6218 of the Education Law), if the Master Contract exceeds \$50,000 (or \$85,000 for contracts let by the Office of General Services, or the minimum thresholds agreed to by the Office of the State Comptroller (OSC) for certain SUNY and CUNY contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount including, but not limited to, changes in amount, consideration, scope or contract term identified on the Face Page (Contract Term), it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the New York Attorney General Contract Approval Unit (AG) and OSC. If, by the Master Contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the AG and OSC.

Budget Changes: An amendment that would result in a transfer of funds among program activities or budget cost categories that does not affect the amount, consideration, scope or other terms of such contract may be subject to the approval of the AG and OSC where the amount of such modification is, as a portion of the total value of the contract, equal to or greater than ten percent for contracts of less than five million dollars, or five percent for contracts of more than

five million dollars; and, in addition, such amendment may be subject to prior approval by the applicable State Agency as detailed in Attachment D (Payment and Reporting Schedule).

C. Order of Precedence:

In the event of a conflict among (i) the terms of the Master Contract (including any and all attachments and amendments) or (ii) between the terms of the Master Contract and the original request for proposal, the program application or other attachment that was completed and executed by the Contractor in connection with the Master Contract, the order of precedence is as follows:

1. Standard Terms and Conditions
2. Modifications to the Face Page
3. Modifications to Attachment A-2¹, Attachment B, Attachment C and Attachment D
4. The Face Page
5. Attachment A-2², Attachment B, Attachment C and Attachment D
6. Modification to Attachment A-1
7. Attachment A-1
8. Other attachments, including, but not limited to, the request for proposal or program application

D. Funding: Funding for the term of the Master Contract shall not exceed the amount specified as “Contract Funding Amount” on the Face Page or as subsequently revised to reflect an approved renewal or cost amendment. Funding for the initial and subsequent periods of the Master Contract shall not exceed the applicable amounts specified in the applicable Attachment B form (Budget).

E. Contract Performance: The Contractor shall perform all services or work, as applicable, and comply with all provisions of the Master Contract to the satisfaction of the State. The Contractor shall provide services or work, as applicable, and meet the program objectives summarized in Attachment C (Work Plan) in accordance with the provisions of the Master Contract, relevant laws, rules and regulations, administrative, program and fiscal guidelines, and where applicable, operating certificate for facilities or licenses for an activity or program.

F. Modifications: To modify the Attachments or Face Page, the parties mutually agree to record, in writing, the terms of such modification and to revise or complete the Face Page and all the appropriate attachments in conjunction therewith. In addition, to the extent that such modification meets the criteria set forth in Section I.B herein, it shall be subject to the approval of the AG and

¹ To the extent that the modifications to Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the modifications to Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).

² To the extent that the terms of Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the Federal requirements of Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).

OSC before it shall become valid, effective and binding upon the State. Modifications that are not subject to the AG and OSC approval shall be processed in accordance with the guidelines stated in the Master Contract.

G. Governing Law: The Master Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

H. Severability: Any provision of the Master Contract that is held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof; provided, however, that the parties to the Master Contract shall attempt in good faith to reform the Master Contract in a manner consistent with the intent of any such ineffective provision for the purpose of carrying out such intent. If any provision is held void, invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

I. Interpretation: The headings in the Master Contract are inserted for convenience and reference only and do not modify or restrict any of the provisions herein. All personal pronouns used herein shall be considered to be gender neutral. The Master Contract has been made under the laws of the State of New York, and the venue for resolving any disputes hereunder shall be in a court of competent jurisdiction of the State of New York.

J. Notice:

1. All notices, except for notices of termination, shall be in writing and shall be transmitted either:
 - a) by certified or registered United States mail, return receipt requested;
 - b) by facsimile transmission;
 - c) by personal delivery;
 - d) by expedited delivery service; or
 - e) by e-mail.
2. Notices to the State shall be addressed to the Program Office designated in Attachment A-1 (Program Specific Terms and Conditions).
3. Notices to the Contractor shall be addressed to the Contractor's designee as designated in Attachment A-1 (Program Specific Terms and Conditions).
4. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or e-mail, upon receipt.
5. The parties may, from time to time, specify any new or different e-mail address, facsimile number or address in the United States as their address for purpose of receiving notice under the

Master Contract by giving fifteen (15) calendar days prior written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under the Master Contract. Additional individuals may be designated in writing by the parties for purposes of implementation, administration, billing and resolving issues and/or disputes.

K. Service of Process: In addition to the methods of service allowed by the State Civil Practice Law & Rules (CPLR), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. The Contractor shall have thirty (30) calendar days after service hereunder is complete in which to respond.

L. Set-Off Rights: The State shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold, for the purposes of set-off, any moneys due to the Contractor under the Master Contract up to any amounts due and owing to the State with regard to the Master Contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of the Master Contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State Agency, its representatives, or OSC.

M. Indemnification: The Contractor shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the Contractor or its subcontractors pursuant to this Master Contract. The Contractor shall indemnify and hold harmless the State and its officers and employees from claims, suits, actions, damages and cost of every nature arising out of the provision of services pursuant to the Master Contract.

N. Non-Assignment Clause: In accordance with Section 138 of the State Finance Law, the Master Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet, or otherwise disposed of without the State's previous written consent, and attempts to do so shall be considered to be null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract, let pursuant to Article XI of the State Finance Law, may be waived at the discretion of the State Agency and with the concurrence of OSC, where the original contract was subject to OSC's approval, where the assignment is due to a reorganization, merger, or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that the merged contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless the Master Contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

O. Legal Action: No litigation or regulatory action shall be brought against the State of New York, the State Agency, or against any county or other local government entity with funds provided under the Master Contract. The term "litigation" shall include commencing or threatening to commence a lawsuit, joining or threatening to join as a party to ongoing litigation, or requesting any relief from

any of the State of New York, the State Agency, or any county, or other local government entity. The term “regulatory action” shall include commencing or threatening to commence a regulatory proceeding, or requesting any regulatory relief from any of the State of New York, the State Agency, or any county, or other local government entity.

P. No Arbitration: Disputes involving the Master Contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

Q. Secular Purpose: Services performed pursuant to the Master Contract are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

R. Partisan Political Activity and Lobbying: Funds provided pursuant to the Master Contract shall not be used for any partisan political activity, or for activities that attempt to influence legislation or election or defeat of any candidate for public office.

S. Reciprocity and Sanctions Provisions: The Contractor is hereby notified that if its principal place of business is located in a country, nation, province, state, or political subdivision that penalizes New York State vendors, and if the goods or services it offers shall be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that it be denied contracts which it would otherwise obtain.³

T. Reporting Fraud and Abuse: Contractor acknowledges that it has reviewed information on how to prevent, detect, and report fraud, waste and abuse of public funds, including information about the Federal False Claims Act, the New York State False Claims Act, and whistleblower protections.

U. Non-Collusive Bidding: By submission of this bid, the Contractor and each person signing on behalf of the Contractor certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive binding certification on the Contractor’s behalf.

V. Federally Funded Grants and Requirements Mandated by Federal Laws: All of the Specific Federal requirements that are applicable to the Master Contract are identified in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto. To the extent that the Master Contract is funded in whole or part with Federal funds or mandated by Federal laws, (i) the provisions of the Master Contract that conflict with Federal rules, Federal regulations, or Federal program specific requirements shall not apply and (ii) the Contractor agrees to comply with all applicable Federal rules, regulations and program specific requirements including, but not limited to, those provisions that are set forth in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto.

³As of October 9, 2012, the list of discriminatory jurisdictions subject to this provision includes the states of Alaska, Hawaii, Louisiana, South Carolina, West Virginia and Wyoming. Contact NYS Department of Economic Development for the most current list of jurisdictions subject to this provision.

II. TERM, TERMINATION AND SUSPENSION

A. Term: The term of the Master Contract shall be as specified on the Face Page, unless terminated sooner as provided herein.

B. Renewal:

1. General Renewal: The Master Contract may consist of successive periods on the same terms and conditions, as specified within the Master Contract (a “Simplified Renewal Contract”). Each additional or superseding period shall be on the forms specified by the State and shall be incorporated in the Master Contract.

2. Renewal Notice to Not-for-Profit Contractors:

a) Pursuant to State Finance Law §179-t, if the Master Contract is with a not-for-profit Contractor and provides for a renewal option, the State shall notify the Contractor of the State’s intent to renew or not to renew the Master Contract no later than ninety (90) calendar days prior to the end of the term of the Master Contract, unless funding for the renewal is contingent upon enactment of an appropriation. If funding for the renewal is contingent upon enactment of an appropriation, the State shall notify the Contractor of the State’s intent to renew or not to renew the Master Contract the later of: (1) ninety (90) calendar days prior to the end of the term of the Master Contract, and (2) thirty (30) calendar days after the necessary appropriation becomes law. Notwithstanding the foregoing, in the event that the State is unable to comply with the time frames set forth in this paragraph due to unusual circumstances beyond the control of the State (“Unusual Circumstances”), no payment of interest shall be due to the not-for-profit Contractor. For purposes of State Finance Law §179-t, “Unusual Circumstances” shall not mean the failure by the State to (i) plan for implementation of a program, (ii) assign sufficient staff resources to implement a program, (iii) establish a schedule for the implementation of a program or (iv) anticipate any other reasonably foreseeable circumstance.

b) Notification to the not-for-profit Contractor of the State’s intent to not renew the Master Contract must be in writing in the form of a letter, with the reason(s) for the non-renewal included. If the State does not provide notice to the not-for-profit Contractor of its intent not to renew the Master Contract as required in this Section and State Finance Law §179-t, the Master Contract shall be deemed continued until the date the State provides the necessary notice to the Contractor, in accordance with State Finance Law §179-t. Expenses incurred by the not-for-profit Contractor during such extension shall be reimbursable under the terms of the Master Contract.

C. Termination:

1. Grounds:

- a) Mutual Consent: The Master Contract may be terminated at any time upon mutual written consent of the State and the Contractor.
- b) Cause: The State may terminate the Master Contract immediately, upon written notice of termination to the Contractor, if the Contractor fails to comply with any of the terms and conditions of the Master Contract and/or with any laws, rules, regulations, policies, or procedures that are applicable to the Master Contract.
- c) Non-Responsibility: In accordance with the provisions of Sections IV(N)(6) and (7) herein, the State may make a final determination that the Contractor is non-responsible (Determination of Non-Responsibility). In such event, the State may terminate the Master Contract at the Contractor's expense, complete the contractual requirements in any manner the State deems advisable and pursue available legal or equitable remedies for breach.
- d) Convenience: The State may terminate the Master Contract in its sole discretion upon thirty (30) calendar days prior written notice.
- e) Lack of Funds: If for any reason the State or the Federal government terminates or reduces its appropriation to the applicable State Agency entering into the Master Contract or fails to pay the full amount of the allocation for the operation of one or more programs funded under this Master Contract, the Master Contract may be terminated or reduced at the State Agency's discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to the State Agency for payment of such costs. Upon termination or reduction of the Master Contract, all remaining funds paid to the Contractor that are not subject to allowable costs already incurred by the Contractor shall be returned to the State Agency. In any event, no liability shall be incurred by the State (including the State Agency) beyond monies available for the purposes of the Master Contract. The Contractor acknowledges that any funds due to the State Agency or the State of New York because of disallowed expenditures after audit shall be the Contractor's responsibility.
- f) Force Majeure: The State may terminate or suspend its performance under the Master Contract immediately upon the occurrence of a "force majeure." For purposes of the Master Contract, "Force majeure" shall include, but not be limited to, natural disasters, war, rebellion, insurrection, riot, strikes, lockout and any unforeseen circumstances and acts beyond the control of the State which render the performance of its obligations impossible.

2. Notice of Termination:

- a) Service of notice: Written notice of termination shall be sent by:
 - (i) personal messenger service; or
 - (ii) certified mail, return receipt requested and first class mail.

b) Effective date of termination: The effective date of the termination shall be the later of (i) the date indicated in the notice and (ii) the date the notice is received by the Contractor, and shall be established as follows:

(i) if the notice is delivered by hand, the date of receipt shall be established by the receipt given to the Contractor or by affidavit of the individual making such hand delivery attesting to the date of delivery; or

(ii) if the notice is delivered by registered or certified mail, by the receipt returned from the United States Postal Service, or if no receipt is returned, five (5) business days from the date of mailing of the first class letter, postage prepaid, in a depository under the care and control of the United States Postal Service.

3. *Effect of Notice and Termination on State's Payment Obligations:*

a) Upon receipt of notice of termination, the Contractor agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the State.

b) The State shall be responsible for payment on claims for services or work provided and costs incurred pursuant to the terms of the Master Contract. In no event shall the State be liable for expenses and obligations arising from the requirements of the Master Contract after its termination date.

4. *Effect of Termination Based on Misuse or Conversion of State or Federal Property:*

Where the Master Contract is terminated for cause based on Contractor's failure to use some or all of the real property or equipment purchased pursuant to the Master Contract for the purposes set forth herein, the State may, at its option, require:

a) the repayment to the State of any monies previously paid to the Contractor; or

b) the return of any real property or equipment purchased under the terms of the Master Contract; or

c) an appropriate combination of clauses (a) and (b) of Section II(C)(4) herein.

Nothing herein shall be intended to limit the State's ability to pursue such other legal or equitable remedies as may be available.

D. Suspension: The State may, in its discretion, order the Contractor to suspend performance for a reasonable period of time. In the event of such suspension, the Contractor shall be given a formal written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor shall comply with the particulars of the notice. The State shall have no obligation to reimburse Contractor's expenses during such suspension period. Activities may resume at such time as the State issues a formal written notice authorizing a resumption of performance under the Master Contract.

III. PAYMENT AND REPORTING

A. Terms and Conditions:

1. In full consideration of contract services to be performed, the State Agency agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page.
2. The State has no obligation to make payment until all required approvals, including the approval of the AG and OSC, if required, have been obtained. Contractor obligations or expenditures that precede the start date of the Master Contract shall not be reimbursed.
3. Contractor must provide complete and accurate billing invoices to the State in order to receive payment. Provided, however, the State may, at its discretion, automatically generate a voucher in accordance with an approved contract payment schedule. Billing invoices submitted to the State must contain all information and supporting documentation required by Attachment D (Payment and Reporting Schedule) and Section III(C) herein. The State may require the Contractor to submit billing invoices electronically.
4. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the head of the State Agency, in the sole discretion of the head of such State Agency, due to extenuating circumstances. Such electronic payment shall be made in accordance with OSC's procedures and practices to authorize electronic payments.
5. If travel expenses are an approved expenditure under the Master Contract, travel expenses shall be reimbursed at the lesser of the rates set forth in the written standard travel policy of the Contractor, the OSC guidelines, or United States General Services Administration rates. No out-of-state travel costs shall be permitted unless specifically detailed and pre-approved by the State.
6. Timeliness of advance payments or other claims for reimbursement, and any interest to be paid to Contractor for late payment, shall be governed by Article 11-A of the State Finance Law to the extent required by law.
7. Article 11-B of the State Finance Law sets forth certain time frames for the Full Execution of contracts or renewal contracts with not-for-profit organizations and the implementation of any program plan associated with such contract. For purposes of this section, "Full Execution" shall mean that the contract has been signed by all parties thereto and has obtained the approval of the AG and OSC. Any interest to be paid on a missed payment to the Contractor based on a delay in the Full Execution of the Master Contract shall be governed by Article 11-B of the State Finance Law.

B. Advance Payment and Recoupment:

1. Advance payments, which the State in its sole discretion may make to not-for-profit grant recipients, shall be made and recouped in accordance with State Finance Law Section 179(u), this Section and the provisions of Attachment D (Payment and Reporting Schedule).
2. Initial advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the first day of the Contract Term or, if renewed, in the period identified on the Face Page. Subsequent advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the dates specified in Attachment D (Payment and Reporting Schedule).
3. For subsequent contract years in multi-year contracts, Contractor will be notified of the scheduled advance payments for the upcoming contract year no later than 90 days prior to the commencement of the contract year. For simplified renewals, the payment schedule (Attachment D) will be modified as part of the renewal process.
4. Recoupment of any advance payment(s) shall be recovered by crediting the percentage of subsequent claims listed in Attachment D (Payment and Reporting Schedule) and Section III(C) herein and such claims shall be reduced until the advance is fully recovered within the Contract Term. Any unexpended advance balance at the end of the Contract Term shall be refunded by the Contractor to the State.
5. If for any reason the amount of any claim is not sufficient to cover the proportionate advance amount to be recovered, then subsequent claims may be reduced until the advance is fully recovered.

C. Claims for Reimbursement:

1. The Contractor shall submit claims for the reimbursement of expenses incurred on behalf of the State under the Master Contract in accordance with this Section and the applicable claiming schedule in Attachment D (Payment and Reporting Schedule).

Vouchers submitted for payment shall be deemed to be a certification that the payments requested are for project expenditures made in accordance with the items as contained in the applicable Attachment B form (Budget) and during the Contract Term. When submitting a voucher, such voucher shall also be deemed to certify that: (i) the payments requested do not duplicate reimbursement from other sources of funding; and (ii) the funds provided herein do not replace funds that, in the absence of this grant, would have been made available by the Contractor for this program. Requirement (ii) does not apply to grants funded pursuant to a Community Projects Fund appropriation.

2. Consistent with the selected reimbursement claiming schedule in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the appropriate following provisions:
 - a) Quarterly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency quarterly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

b) Monthly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency monthly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

c) Biannual Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency biannually voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

d) Milestone/Performance Reimbursement:⁴ Requests for payment based upon an event or milestone may be either severable or cumulative. A severable event/milestone is independent of accomplishment of any other event. If the event is cumulative, the successful completion of an event or milestone is dependent on the previous completion of another event.

Milestone payments shall be made to the Contractor when requested in a form approved by the State, and at frequencies and in amounts stated in Attachment D (Payment and Reporting Schedule). The State Agency shall make milestone payments subject to the Contractor's satisfactory performance.

e) Fee for Service Reimbursement:⁵ Payment shall be limited to only those fees specifically agreed upon in the Master Contract and shall be payable no more frequently than monthly upon submission of a voucher by the contractor.

f) Rate Based Reimbursement:⁶ Payment shall be limited to rate(s) established in the Master Contract. Payment may be requested no more frequently than monthly.

g) Scheduled Reimbursement:⁷ The State Agency shall generate vouchers at the frequencies and amounts as set forth in Attachment D (Payment and Reporting Schedule), and service reports shall be used to determine funding levels appropriate to the next annual contract period.

⁴ A milestone/ performance payment schedule identifies mutually agreed-to payment amounts based on meeting contract events or milestones. Events or milestones must represent integral and meaningful aspects of contract performance and should signify true progress in completing the Master Contract effort.

⁵ Fee for Service is a rate established by the Contractor for a service or services rendered.

⁶ Rate based agreements are those agreements in which payment is premised upon a specific established rate per unit.

⁷ Scheduled Reimbursement agreements provide for payments that occur at defined and regular intervals that provide for a specified dollar amount to be paid to the Contractor at the beginning of each payment period (i.e. quarterly, monthly or bi-annually). While these payments are related to the particular services and outcomes defined in the Master Contract, they are not dependent upon particular services or expenses in any one payment period and provide the Contractor with a defined and regular payment over the life of the contract.

- h) Interim Reimbursement: The State Agency shall generate vouchers on an interim basis and at the amounts requested by the Contractor as set forth in Attachment D (Payment and Reporting Schedule).
- i) Fifth Quarter Payments:⁸ Fifth quarter payment shall be paid to the Contractor at the conclusion of the final scheduled payment period of the preceding contract period. The State Agency shall use a written directive for fifth quarter financing. The State Agency shall generate a voucher in the fourth quarter of the current contract year to pay the scheduled payment for the next contract year.
3. The Contractor shall also submit supporting fiscal documentation for the expenses claimed.
4. The State reserves the right to withhold up to fifteen percent (15%) of the total amount of the Master Contract as security for the faithful completion of services or work, as applicable, under the Master Contract. This amount may be withheld in whole or in part from any single payment or combination of payments otherwise due under the Master Contract. In the event that such withheld funds are insufficient to satisfy Contractor's obligations to the State, the State may pursue all available remedies, including the right of setoff and recoupment.
5. The State shall not be liable for payments on the Master Contract if it is made pursuant to a Community Projects Fund appropriation if insufficient monies are available pursuant to Section 99-d of the State Finance Law.
6. All vouchers submitted by the Contractor pursuant to the Master Contract shall be submitted to the State Agency no later than thirty (30) calendar days after the end date of the period for which reimbursement is claimed. In no event shall the amount received by the Contractor exceed the budget amount approved by the State Agency, and, if actual expenditures by the Contractor are less than such sum, the amount payable by the State Agency to the Contractor shall not exceed the amount of actual expenditures.
7. All obligations must be incurred prior to the end date of the contract. Notwithstanding the provisions of Section III(C)(6) above, with respect to the final period for which reimbursement is claimed, so long as the obligations were incurred prior to the end date of the contract, the Contractor shall have up to ninety (90) calendar days after the contract end date to make expenditures; provided, however, that if the Master Contract is funded, in whole or in part, with Federal funds, the Contractor shall have up to sixty (60) calendar days after the contract end date to make expenditures.

D. Identifying Information and Privacy Notification:

1. Every voucher or New York State Claim for Payment submitted to a State Agency by the Contractor, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property, must include the Contractor's Vendor Identification Number assigned by the Statewide Financial System, and any or all of the following identification numbers: (i) the Contractor's Federal employer identification number,

⁸ Fifth Quarter Payments occurs where there are scheduled payments and where there is an expectation that services will be continued through renewals or subsequent contracts. Fifth Quarter Payments allow for the continuation of scheduled payments to a Contractor for the first payment period quarter of an anticipated renewal or new contract.

(ii) the Contractor's Federal social security number, and/or (iii) DUNS number. Failure to include such identification number or numbers may delay payment by the State to the Contractor. Where the Contractor does not have such number or numbers, the Contractor, on its voucher or Claim for Payment, must provide the reason or reasons for why the Contractor does not have such number or numbers.

2. The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. The personal information is requested by the purchasing unit of the State Agency contracting to purchase the goods or services or lease the real or personal property covered by the Master Contract. This information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York, 12236.

E. Refunds:

1. In the event that the Contractor must make a refund to the State for Master Contract-related activities, including repayment of an advance or an audit disallowance, payment must be made payable as set forth in Attachment A-1 (Program Specific Terms and Conditions). The Contractor must reference the contract number with its payment and include a brief explanation of why the refund is being made. Refund payments must be submitted to the Designated Refund Office at the address specified in Attachment A-1 (Program Specific Terms and Conditions).

2. If at the end or termination of the Master Contract, there remains any unexpended balance of the monies advanced under the Master Contract in the possession of the Contractor, the Contractor shall make payment within forty-five (45) calendar days of the end or termination of the Master Contract. In the event that the Contractor fails to refund such balance the State may pursue all available remedies.

F. Outstanding Amounts Owed to the State: Prior period overpayments (including, but not limited to, contract advances in excess of actual expenditures) and/or audit recoveries associated with the Contractor may be recouped against future payments made under this Master Contract to Contractor. The recoupment generally begins with the first payment made to the Contractor following identification of the overpayment and/or audit recovery amount. In the event that there are no payments to apply recoveries against, the Contractor shall make payment as provided in Section III(E) (Refunds) herein.

G. Program and Fiscal Reporting Requirements:

1. The Contractor shall submit required periodic reports in accordance with the applicable schedule provided in Attachment D (Payment and Reporting Schedule). All required reports or other work products developed pursuant to the Master Contract must be completed as provided by the agreed upon work schedule in a manner satisfactory and acceptable to the State Agency in order for the Contractor to be eligible for payment.

2. Consistent with the selected reporting options in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the following applicable provisions:

a) If the Expenditure Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with one or more of the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

- (i) *Narrative/Qualitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a report, in narrative form, summarizing the services rendered during the quarter. This report shall detail how the Contractor has progressed toward attaining the qualitative goals enumerated in Attachment C (Work Plan). This report should address all goals and objectives of the project and include a discussion of problems encountered and steps taken to solve them.
- (ii) *Statistical/Quantitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed report analyzing the quantitative aspects of the program plan, as appropriate (e.g., number of meals served, clients transported, patient/client encounters, procedures performed, training sessions conducted, etc.)
- (iii) *Expenditure Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed expenditure report, by object of expense. This report shall accompany the voucher submitted for such period.
- (iv) *Final Report*: The Contractor shall submit a final report as required by the Master Contract, not later than the time period listed in Attachment D (Payment and Reporting Schedule) which reports on all aspects of the program and detailing how the use of funds were utilized in achieving the goals set forth in Attachment C (Work Plan).
- (v) *Consolidated Fiscal Report (CFR)*: The Contractor shall submit a CFR, which includes a year-end cost report and final claim not later than the time period listed in Attachment D (Payment and Reporting Schedule).

b) If the Performance-Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

- (i) *Progress Report*: The Contractor shall provide the State Agency with a written progress report using the forms and formats as provided by the State Agency, summarizing the work performed during the period. These reports shall detail the Contractor's progress toward attaining the specific goals enumerated in Attachment C (Work Plan). Progress reports shall be submitted in a format prescribed in the Master Contract.

(ii) *Final Progress Report*: Final scheduled payment is due during the time period set forth in Attachment D (Payment and Reporting Schedule). The deadline for submission of the final report shall be the date set forth in Attachment D (Payment and Reporting Schedule). The State Agency shall complete its audit and notify the Contractor of the results no later than the date set forth in Attachment D (Payment and Reporting Schedule). Payment shall be adjusted by the State Agency to reflect only those services/expenditures that were made in accordance with the Master Contract. The Contractor shall submit a detailed comprehensive final progress report not later than the date set forth in Attachment D (Payment and Reporting Schedule), summarizing the work performed during the entire Contract Term (i.e., a cumulative report), in the forms and formats required.

3. In addition to the periodic reports stated above, the Contractor may be required (a) to submit such other reports as are required in Table 1 of Attachment D (Payment and Reporting Schedule), and (b) prior to receipt of final payment under the Master Contract, to submit one or more final reports in accordance with the form, content, and schedule stated in Table 1 of Attachment D (Payment and Reporting Schedule).

H. Notification of Significant Occurrences:

1. If any specific event or conjunction of circumstances threatens the successful completion of this project, in whole or in part, including where relevant, timely completion of milestones or other program requirements, the Contractor agrees to submit to the State Agency within three (3) calendar days of becoming aware of the occurrence or of such problem, a written description thereof together with a recommended solution thereto.

2. The Contractor shall immediately notify in writing the program manager assigned to the Master Contract of any unusual incident, occurrence, or event that involves the staff, volunteers, directors or officers of the Contractor, any subcontractor or program participant funded through the Master Contract, including but not limited to the following: death or serious injury; an arrest or possible criminal activity that could impact the successful completion of this project; any destruction of property; significant damage to the physical plant of the Contractor; or other matters of a similarly serious nature.

IV. ADDITIONAL CONTRACTOR OBLIGATIONS, REPRESENTATIONS AND WARRANTIES

A. Contractor as an Independent Contractor/Employees:

1. The State and the Contractor agree that the Contractor is an independent contractor, and not an employee of the State and may neither hold itself out nor claim to be an officer, employee, or subdivision of the State nor make any claim, demand, or application to or for any right based upon any different status. Notwithstanding the foregoing, the State and the Contractor agree that if the Contractor is a New York State municipality, the Contractor shall be permitted to hold itself out, and claim, to be a subdivision of the State.

The Contractor shall be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries and management of its project personnel. These functions shall be carried out in accordance with the provisions of the Master Contract, and all applicable Federal and State laws and regulations.

2. The Contractor warrants that it, its staff, and any and all subcontractors have all the necessary licenses, approvals, and certifications currently required by the laws of any applicable local, state, or Federal government to perform the services or work, as applicable, pursuant to the Master Contract and/or any subcontract entered into under the Master Contract. The Contractor further agrees that such required licenses, approvals, and certificates shall be kept in full force and effect during the term of the Master Contract, or any extension thereof, and to secure any new licenses, approvals, or certificates within the required time frames and/or to require its staff and subcontractors to obtain the requisite licenses, approvals, or certificates. In the event the Contractor, its staff, and/or subcontractors are notified of a denial or revocation of any license, approval, or certification to perform the services or work, as applicable, under the Master Contract, Contractor shall immediately notify the State.

B. Subcontractors:

1. If the Contractor enters into subcontracts for the performance of work pursuant to the Master Contract, the Contractor shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the State under the Master Contract. No contractual relationship shall be deemed to exist between the subcontractor and the State.

2. If requested by the State, the Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, that are in excess of \$100,000 for the performance of the obligations contained herein until it has received the prior written permission of the State, which shall have the right to review and approve each and every subcontract in excess of \$100,000 prior to giving written permission to the Contractor to enter into the subcontract. All agreements between the Contractor and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of the Master Contract, (2) that nothing contained in the subcontract shall impair the rights of the State under the Master Contract, and (3) that nothing contained in the subcontract, nor under the Master Contract, shall be deemed to create any contractual relationship between the subcontractor and the State. In addition, subcontracts shall contain any other provisions which are required to be included in subcontracts pursuant to the terms herein.

3. If requested by the State, prior to executing a subcontract, the Contractor agrees to require the subcontractor to provide to the State the information the State needs to determine whether a proposed subcontractor is a responsible vendor.

4. If requested by the State, when a subcontract equals or exceeds \$100,000, the subcontractor shall submit a Vendor Responsibility Questionnaire (Questionnaire).

5. If requested by the State, upon the execution of a subcontract, the Contractor shall provide detailed subcontract information (a copy of subcontract will suffice) to the State within fifteen (15) calendar days after execution. The State may request from the Contractor copies of subcontracts between a subcontractor and its subcontractor.

6. The Contractor shall require any and all subcontractors to submit to the Contractor all financial claims for Services or work to the State agency, as applicable, rendered and required supporting documentation and reports as necessary to permit Contractor to meet claim deadlines and documentation requirements as established in Attachment D (Payment and Reporting

Schedule) and Section III. Subcontractors shall be paid by the Contractor on a timely basis after submitting the required reports and vouchers for reimbursement of services or work, as applicable. Subcontractors shall be informed by the Contractor of the possibility of non-payment or rejection by the Contractor of claims that do not contain the required information, and/or are not received by the Contractor by said due date.

C. Use Of Material, Equipment, Or Personnel:

1. The Contractor shall not use materials, equipment, or personnel paid for under the Master Contract for any activity other than those provided for under the Master Contract, except with the State's prior written permission.
2. Any interest accrued on funds paid to the Contractor by the State shall be deemed to be the property of the State and shall either be credited to the State at the close-out of the Master Contract or, upon the written permission of the State, shall be expended on additional services or work, as applicable, provided for under the Master Contract.

D. Property:

1. Property is real property, equipment, or tangible personal property having a useful life of more than one year and an acquisition cost of \$1,000 or more per unit.
 - a) If an item of Property required by the Contractor is available as surplus to the State, the State at its sole discretion, may arrange to provide such Property to the Contractor in lieu of the purchase of such Property.
 - b) If the State consents in writing, the Contractor may retain possession of Property owned by the State, as provided herein, after the termination of the Master Contract to use for similar purposes. Otherwise, the Contractor shall return such Property to the State at the Contractor's cost and expense upon the expiration of the Master Contract.
 - c) In addition, the Contractor agrees to permit the State to inspect the Property and to monitor its use at reasonable intervals during the Contractor's regular business hours.
 - d) The Contractor shall be responsible for maintaining and repairing Property purchased or procured under the Master Contract at its own cost and expense. The Contractor shall procure and maintain insurance at its own cost and expense in an amount satisfactory to the State Agency, naming the State Agency as an additional insured, covering the loss, theft or destruction of such equipment.
 - e) A rental charge to the Master Contract for a piece of Property owned by the Contractor shall not be allowed.
 - f) The State has the right to review and approve in writing any new contract for the purchase of or lease for rental of Property (Purchase/Lease Contract) operated in connection with the provision of the services or work, as applicable, as specified in the Master Contract, if applicable, and any modifications, amendments, or extensions of an existing lease or purchase prior to its execution. If, in its discretion, the State disapproves of any

Purchase/Lease Contract, then the State shall not be obligated to make any payments for such Property.

g) No member, officer, director or employee of the Contractor shall retain or acquire any interest, direct or indirect, in any Property, paid for with funds under the Master Contract, nor retain any interest, direct or indirect, in such, without full and complete prior disclosure of such interest and the date of acquisition thereof, in writing to the Contractor and the State.

2. For non-Federally-funded contracts, unless otherwise provided herein, the State shall have the following rights to Property purchased with funds provided under the Master Contract:

a) For cost-reimbursable contracts, all right, title and interest in such Property shall belong to the State.

b) For performance-based contracts, all right, title and interest in such Property shall belong to the Contractor.

3. For Federally funded contracts, title to Property whose requisition cost is borne in whole or in part by monies provided under the Master Contract shall be governed by the terms and conditions of Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws).

4. Upon written direction by the State, the Contractor shall maintain an inventory of all Property that is owned by the State as provided herein.

5. The Contractor shall execute any documents which the State may reasonably require to effectuate the provisions of this section.

E. Records and Audits:

1. General:

a) The Contractor shall establish and maintain, in paper or electronic format, complete and accurate books, records, documents, receipts, accounts, and other evidence directly pertinent to its performance under the Master Contract (collectively, Records).

b) The Contractor agrees to produce and retain for the balance of the term of the Master Contract, and for a period of six years from the later of the date of (i) the Master Contract and (ii) the most recent renewal of the Master Contract, any and all Records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under the Master Contract. Such Records may include, but not be limited to, original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:

(i) personal service expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, cash and check disbursement records including copies of money orders and the like, vouchers and invoices, records of contract labor, any and all records listing payroll and the money value of non-cash advantages provided to employees, time cards, work schedules and logs, employee personal history folders,

detailed and general ledgers, sales records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

(ii) payroll taxes and fringe benefits: cancelled checks, copies of related bank statements, cash and check disbursement records including copies of money orders and the like, invoices for fringe benefit expenses, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

(iii) non-personal services expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, and cost allocation plans, if applicable.

(iv) receipt and deposit of advance and reimbursements: itemized bank stamped deposit slips, and a copy of the related bank statements.

c) The OSC, AG and any other person or entity authorized to conduct an examination, as well as the State Agency or State Agencies involved in the Master Contract that provided funding, shall have access to the Records during the hours of 9:00 a.m. until 5:00 p.m., Monday through Friday (excluding State recognized holidays), at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.

d) The State shall protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records, as exempt under Section 87 of the Public Officers Law, is reasonable.

e) Nothing contained herein shall diminish, or in any way adversely affect, the State's rights in connection with its audit and investigatory authority or the State's rights in connection with discovery in any pending or future litigation.

2. Cost Allocation:

a) For non-performance based contracts, the proper allocation of the Contractor's costs must be made according to a cost allocation plan that meets the requirements of OMB Circulars A-87, A-122, and/or A-21. Methods used to determine and assign costs shall conform to generally accepted accounting practices and shall be consistent with the method(s) used by the Contractor to determine costs for other operations or programs. Such accounting standards and practices shall be subject to approval of the State.

b) For performance based milestone contracts, or for the portion of the contract amount paid on a performance basis, the Contractor shall maintain documentation demonstrating that milestones were attained.

3. Federal Funds: For records and audit provisions governing Federal funds, please see Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws).

F. Confidentiality: The Contractor agrees that it shall use and maintain personally identifiable information relating to individuals who may receive services, and their families pursuant to the Master Contract, or any other information, data or records marked as, or reasonably deemed, confidential by the State (Confidential Information) only for the limited purposes of the Master Contract and in conformity with applicable provisions of State and Federal law. The Contractor (i) has an affirmative obligation to safeguard any such Confidential Information from unnecessary or unauthorized disclosure and (ii) must comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

G. Publicity:

1. Publicity includes, but is not limited to: news conferences; news releases; public announcements; advertising; brochures; reports; discussions or presentations at conferences or meetings; and/or the inclusion of State materials, the State's name or other such references to the State in any document or forum. Publicity regarding this project may not be released without prior written approval from the State.

2. Any publications, presentations or announcements of conferences, meetings or trainings which are funded in whole or in part through any activity supported under the Master Contract may not be published, presented or announced without prior approval of the State. Any such publication, presentation or announcement shall:

a) Acknowledge the support of the State of New York and, if funded with Federal funds, the applicable Federal funding agency; and

b) State that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Contractor and do not necessarily represent the opinions, interpretations or policy of the State or if funded with Federal funds, the applicable Federal funding agency.

3. Notwithstanding the above, (i) if the Contractor is an educational research institution, the Contractor may, for scholarly or academic purposes, use, present, discuss, report or publish any material, data or analyses, other than Confidential Information, that derives from activity under the Master Contract and the Contractor agrees to use best efforts to provide copies of any manuscripts arising from Contractor's performance under this Master Contract, or if requested by the State, the Contractor shall provide the State with a thirty (30) day period in which to review each manuscript for compliance with Confidential Information requirements; or (ii) if the Contractor is not an educational research institution, the Contractor may submit for publication, scholarly or academic publications that derive from activity under the Master Contract (but are not deliverable under the Master Contract), provided that the Contractor first submits such manuscripts to the State forty-five (45) calendar days prior to submission for consideration by a publisher in order for the State to review the manuscript for compliance with confidentiality requirements and restrictions and to make such other comments as the State deems appropriate. All derivative publications shall follow the same acknowledgments and disclaimer as described in Section IV(G)(2) (Publicity) hereof.

H. Web-Based Applications-Accessibility: Any web-based intranet and Internet information and applications development, or programming delivered pursuant to the Master Contract or procurement shall comply with New York State Enterprise IT Policy NYS-P08-005, Accessibility

Web-Based Information and Applications, and New York State Enterprise IT Standard NYS-S08-005, Accessibility of Web-Based Information Applications, as such policy or standard may be amended, modified or superseded, which requires that State Agency web-based intranet and Internet information and applications are accessible to person with disabilities. Web content must conform to New York State Enterprise IT Standards NYS-S08-005, as determined by quality assurance testing. Such quality assurance testing shall be conducted by the State Agency and the results of such testing must be satisfactory to the State Agency before web content shall be considered a qualified deliverable under the Master Contract or procurement.

I. Non-Discrimination Requirements: Pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that the Master Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Master Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Master Contract. The Contractor shall be subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 of the Labor Law.

J. Equal Opportunities for Minorities and Women; Minority and Women Owned Business Enterprises: In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if the Master Contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting State Agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting State Agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting State Agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the Contractor certifies and affirms that (i) it is subject to Article 15-A of the Executive Law which includes, but is not limited to, those provisions concerning the maximizing of opportunities for the participation of minority and women-owned business enterprises and (ii) the following provisions shall apply and it is Contractor's equal employment opportunity policy that:

1. The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status;

2. The Contractor shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts;
3. The Contractor shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;
4. At the request of the State, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative shall not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative shall affirmatively cooperate in the implementation of the Contractor's obligations herein; and
5. The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants shall be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

The Contractor shall include the provisions of subclauses 1 – 5 of this Section (IV)(J), in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (Work) except where the Work is for the beneficial use of the Contractor. Section 312 of the Executive Law does not apply to: (i) work, goods or services unrelated to the Master Contract; or (ii) employment outside New York State. The State shall consider compliance by the Contractor or a subcontractor with the requirements of any Federal law concerning equal employment opportunity which effectuates the purpose of this section. The State shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such Federal law and if such duplication or conflict exists, the State shall waive the applicability of Section 312 of the Executive Law to the extent of such duplication or conflict. The Contractor shall comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

K. Omnibus Procurement Act of 1992: It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises, as bidders, subcontractors and suppliers on its procurement contracts.

1. If the total dollar amount of the Master Contract is greater than \$1 million, the Omnibus Procurement Act of 1992 requires that by signing the Master Contract, the Contractor certifies the following:
 - a) The Contractor has made reasonable efforts to encourage the participation of State business enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

c) The Contractor agrees to make reasonable efforts to provide notification to State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of the Master Contract and agrees to cooperate with the State in these efforts.

L. Workers' Compensation Benefits:

1. In accordance with Section 142 of the State Finance Law, the Master Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of the Master Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

2. If a Contractor believes they are exempt from the Workers Compensation insurance requirement they must apply for an exemption.

M. Unemployment Insurance Compliance: The Contractor shall remain current in both its quarterly reporting and payment of contributions or payments in lieu of contributions, as applicable, to the State Unemployment Insurance system as a condition of maintaining this grant.

The Contractor hereby authorizes the State Department of Labor to disclose to the State Agency staff only such information as is necessary to determine the Contractor's compliance with the State Unemployment Insurance Law. This includes, but is not limited to, the following:

1. any records of unemployment insurance (UI) contributions, interest, and/or penalty payment arrears or reporting delinquency;
2. any debts owed for UI contributions, interest, and/or penalties;
3. the history and results of any audit or investigation; and
4. copies of wage reporting information.

Such disclosures are protected under Section 537 of the State Labor Law, which makes it a misdemeanor for the recipient of such information to use or disclose the information for any purpose other than the performing due diligence as a part of the approval process for the Master Contract.

N. Vendor Responsibility:

1. If a Contractor is required to complete a Questionnaire, the Contractor covenants and represents that it has, to the best of its knowledge, truthfully, accurately and thoroughly completed such Questionnaire. Although electronic filing is preferred, the Contractor may

obtain a paper form from the OSC prior to execution of the Master Contract. The Contractor further covenants and represents that as of the date of execution of the Master Contract, there are no material events, omissions, changes or corrections to such document requiring an amendment to the Questionnaire.

2. The Contractor shall provide to the State updates to the Questionnaire if any material event(s) occurs requiring an amendment or as new information material to such Questionnaire becomes available.

3. The Contractor shall, in addition, promptly report to the State the initiation of any investigation or audit by a governmental entity with enforcement authority with respect to any alleged violation of Federal or state law by the Contractor, its employees, its officers and/or directors in connection with matters involving, relating to or arising out of the Contractor's business. Such report shall be made within five (5) business days following the Contractor becoming aware of such event, investigation, or audit. Such report may be considered by the State in making a Determination of Vendor Non-Responsibility pursuant to this section.

4. The State reserves the right, in its sole discretion, at any time during the term of the Master Contract:

- a) to require updates or clarifications to the Questionnaire upon written request;
- b) to inquire about information included in or required information omitted from the Questionnaire;
- c) to require the Contractor to provide such information to the State within a reasonable timeframe; and
- d) to require as a condition precedent to entering into the Master Contract that the Contractor agree to such additional conditions as shall be necessary to satisfy the State that the Contractor is, and shall remain, a responsible vendor; and
- e) to require the Contractor to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity. By signing the Master Contract, the Contractor agrees to comply with any such additional conditions that have been made a part of the Master Contract.

5. The State, in its sole discretion, reserves the right to suspend any or all activities under the Master Contract, at any time, when it discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor shall be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the State issues a written notice authorizing a resumption of performance under the Master Contract.

6. The State, in its sole discretion, reserves the right to make a final Determination of Non-Responsibility at any time during the term of the Master Contract based on:

a) any information provided in the Questionnaire and/or in any updates, clarifications or amendments thereof; or

b) the State's discovery of any material information which pertains to the Contractor's responsibility.

7. Prior to making a final Determination of Non-Responsibility, the State shall provide written notice to the Contractor that it has made a preliminary determination of non- responsibility. The State shall detail the reason(s) for the preliminary determination, and shall provide the Contractor with an opportunity to be heard.

O. Charities Registration: If applicable, the Contractor agrees to (i) obtain not-for-profit status, a Federal identification number, and a charitable registration number (or a declaration of exemption) and to furnish the State Agency with this information as soon as it is available, (ii) be in compliance with the OAG charities registration requirements at the time of the awarding of this Master Contract by the State and (iii) remain in compliance with the OAG charities registration requirements throughout the term of the Master Contract.

P. Consultant Disclosure Law:⁹ If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services, then in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

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

⁹ Not applicable to not-for-profit entities.

ATTACHMENT A-1
AGENCY AND PROGRAM SPECIFIC CLAUSES

Part A. Agency Specific Clauses

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

A. International Boycott Prohibition: In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

B. Prohibition on Purchase of Tropical Hardwoods:

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

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

C. MacBride Fair Employment Principles: In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that

the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

D. Omnibus Procurement Act of 1992: It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development

633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbcertification@esd.ny.gov
<http://esd.ny.gov/MWBE/directorySearch.html>

E. Procurement Lobbying: To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

F. Certification of Registration to Collect Sales and Compensating Use Tax by Certain State Contractors, Affiliates, and Subcontractors: To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the

Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

G. The CONTRACTOR certifies that all revenue earned during the budget period as a result of services and related activities performed pursuant to this contract shall be used either to expand those program services funded by this AGREEMENT or to offset expenditures submitted to the STATE for reimbursement.

H. Administrative Rules and Audits:

1. If this contract is funded in whole or in part from federal funds, the CONTRACTOR shall comply with the federal grant requirements regarding administration and allowable costs:

a) For local and Indian tribal governments, non-profit organizations; and educational institutions, use the administrative requirements and cost principles (Subparts A through E) in Office of Management and Budget (OMB), Title 2 Code of Federal Regulations (CFR), Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards.

b) Exceptions: Pursuant to 2 CFR Part 200 Appendix IX, for a hospital, use the cost principles in Department of Health and Human Services, 45 CFR Part 74, Appendix E, "Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals". For hospital administrative requirements, use OMB, 2 CFR, Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

For fixed amount awards, cost principles (Subpart E) do not apply.

2. If this contract is funded entirely from STATE funds, and if there are no specific administration and allowable costs requirements applicable, CONTRACTOR shall adhere to the applicable principles in "1" above.

3. The CONTRACTOR shall comply with the following grant requirements regarding audits.

a) If the contract is funded from federal awards, and the CONTRACTOR expends \$750,000 or more (or the amount per the current federal regulations 2 CFR Part 200 as revised, which is scheduled to be updated every 5 years) in federal awards during their fiscal year, an audit report must be submitted in accordance with Subpart F of OMB, 2 CFR, Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

b) If this contract is funded from other than federal awards or if the contract is funded from a combination of STATE and federal awards but federal awards are less than \$750,000 (or the amount per the current federal regulations 2 CFR Part 200 as revised,

which is scheduled to be updated every 5 years), and if the CONTRACTOR expends \$750,000 or more in total annual payments from the STATE, the CONTRACTOR shall submit to the STATE after the end of the CONTRACTOR's fiscal year an audit report. The audit report shall be submitted to the STATE within thirty days after its completion but no later than nine months after the end of the audit period. The audit report shall summarize the business and financial transactions of the CONTRACTOR. The report shall be prepared and certified by an independent accounting firm or other accounting entity, which is demonstrably independent of the administration of the program being audited. Audits performed of the CONTRACTOR's records shall be conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States covering financial audits. This audit requirement may be met through entity-wide audits, coincident with the CONTRACTOR's fiscal year, as described in OMB, 2 CFR, Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Reports, disclosures, comments and opinions required under these publications should be so noted in the audit report.

4. For audit reports that are not received by the dates due, the following steps shall be taken:

a) If the audit report is one or more days late, voucher payments shall be held until a compliant audit report is received.

b) If the audit report is 180 days or more late, the STATE shall terminate all active contracts, prohibit renewal of those contracts and prohibit the execution of future contracts until all outstanding compliant audit reports have been submitted.

I. The CONTRACTOR shall accept responsibility for compensating the STATE for any exceptions which are revealed on an audit and sustained after completion of the normal audit procedure.

J. The STATE, its employees, representatives and designees, shall have the right at any time during normal business hours to inspect the sites where services are performed and observe the services being performed by the CONTRACTOR. The CONTRACTOR shall render all assistance and cooperation to the STATE in making such inspections. The surveyors shall have the responsibility for determining contract compliance as well as the quality of service being rendered.

K. The CONTRACTOR has an affirmative duty to take prompt, effective, investigative and remedial action where it has actual or constructive notice of discrimination in the terms, conditions or privileges of employment against (including harassment of) any of its employees by any of its other employees, including managerial personnel, based on race, creed, color, sex, national origin, age, disability, sexual orientation or marital status.

L. The CONTRACTOR shall not discriminate on the basis of race, creed, color, sex, national

origin, age, disability, sexual orientation or marital status against any person seeking services for which the CONTRACTOR may receive reimbursement or payment under this AGREEMENT

M. The CONTRACTOR shall comply with all applicable federal, State and local civil rights and human rights laws with reference to equal employment opportunities and the provision of services.

N. Unless the CONTRACTOR is a political sub-division of New York State, the CONTRACTOR shall provide proof, completed by the CONTRACTOR's insurance carrier and/or the Workers' Compensation Board, of coverage for:

1. Workers' Compensation, for which one of the following is incorporated into the Econtract under the Contract Package Tool in the Grants Gateway or as Attachment E-1 in the paper based contract:

a) **CE-200** -- Certificate of Attestation For New York Entities With No Employees And Certain Out Of State Entities, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR

b) **C-105.2** -- Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the **U-26.3**; OR

c) **SI-12** -- Certificate of Workers' Compensation Self-Insurance, OR **GSI-105.2** -- Certificate of Participation in Workers' Compensation Group Self-Insurance

2. Disability Benefits coverage, for which one of the following is incorporated into the Econtract under the Contract Package Tool in the Grants Gateway or as Attachment E-2 in the paper based contract:

a) **CE-200**, Certificate of Attestation For New York Entities With No Employees And Certain Out Of State Entities, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR

b) **DB-120.1** -- Certificate of Disability Benefits Insurance OR

c) **DB-155** -- Certificate of Disability Benefits Self-Insurance

O. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208). Contractor shall be liable for the costs associated with any breach if caused by Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of Contractor's agents, officers, employees or subcontractors.

P. All products supplied pursuant to this agreement shall meet local, state and federal regulations, guidelines and action levels for lead as they exist at the time of the State's acceptance of this contract.

Q. All bidders/contractors agree that all state funds dispersed under this bid/contract will be bound by the terms, conditions, obligations and regulations promulgated or to be promulgated by the Department in accordance with E.O. 38, signed in 2012, governing restrictions on executive compensation.

R. The CONTRACTOR shall submit to the STATE *quarterly* voucher claims and reports of expenditures on such forms and in such detail as the STATE shall require. The CONTRACTOR shall submit vouchers to the State's designated payment office located in the:

Bureau of Water Supply Protection
Corning Tower, Room 1110
Empire State Plaza
Albany, NY 12237

S. If the CONTRACTOR is eligible for an annual cost of living adjustment (COLA), enacted in New York State Law, that is associated with this grant AGREEMENT, payment of such COLA shall be made separate from payments under this AGREEMENT and shall not be applied toward or amend amounts payable under Attachment B of this Agreement.

Before payment of a COLA can be made, the STATE shall notify the CONTRACTOR, in writing, of eligibility for any COLA. The CONTRACTOR shall be required to submit a written certification attesting that all COLA funding will be used to promote the recruitment and retention of staff or respond to other critical non-personal service costs during the State fiscal year for which the cost of living adjustment was allocated, or provide any other such certification as may be required in the enacted legislation authorizing the COLA.

T. Certification Regarding Environmental Tobacco Smoke: Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through State or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a monetary penalty of up to \$1000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing this AGREEMENT, the CONTRACTOR certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The CONTRACTOR agrees that

it will require that the language of this certification be included in any subawards which contain provisions for children's services and that all subrecipients shall certify accordingly.

U. Pursuant to the Master Contract's Standard Terms and Conditions, I. (General Provisions); J. (Notices), such notices shall be addressed as follows or to such different addresses as the parties may from time to time designate:

State of New York Department of Health

Name: Tina Hunt, P.E.

Title: Assistant Director, Bureau of Water Supply Protection

Address: Corning Tower, Rm 1110, Empire State Plaza, Albany, NY 12237

Telephone Number: 518-402-7650

Facsimile Number: 518-402-7599

E-Mail Address: tina.hunt@health.ny.gov

Vendor/Grantee

Vendor/Grantee notices shall be addressed to the Executive Director at the address listed within "Contractor Primary Mailing Address" on Page 1 of 2, Master Grant Contract, Face Page.

V. Executive Order 177 Certification

By entering into this Contract, the Contractor understands the following:

1. The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics;
2. The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices; and
3. Generally, the Human Rights Law applies to:
 - all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment;
 - employers with fewer than four employees in all cases involving sexual harassment; and,
 - any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, the Contractor, by entering into this Contract hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

W. Contractor Assurance of No Conflict of Interest or Detrimental Effect

The CONTRACTOR or Subcontractor, by entering in to this Contract as a contractor, joint venture contractor, subcontractor, or consultant, attests that its performance of the services outlined in this contract or proposal does not and will not create a conflict of interest with nor position the CONTRACTOR to breach any other contract currently in force with the State of New York.

The CONTRACTOR shall disclose any existing or contemplated relationship with any other person or entity, including relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated CONTRACTOR, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the CONTRACTOR or former officers and employees of the STATE and its Affiliates, in connection with your rendering services enumerated in this Contract. If a conflict does or might exist, please describe how you would eliminate or prevent it. Indicate what procedures will be followed to detect, notify the STATE of, and resolve any such conflicts. The STATE will review the nature of any relationships and reserves the right to terminate this Contract for any reason, or for cause, if, in the judgment of the STATE, a real or potential conflict of interest cannot be cured.

The CONTRACTOR shall disclose whether it, or any of its members, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any investigation or disciplinary action by the New York State Joint Commission on Public Ethics or its predecessor State entities (collectively, "Commission"), and if so, a brief description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved. The STATE will review the nature of any relationships and reserves the right to terminate this Contract for any reason, or for cause, if, in the judgment of the STATE, a real or potential conflict of interest cannot be cured.

Furthermore, the CONTRACTOR attests that it will not act in any manner that is detrimental to any New York State contract on which the CONTRACTOR is rendering services. Specifically, the CONTRACTOR attests that:

1. The fulfillment of obligations by the CONTRACTOR, under this contract, does not violate any existing contracts or agreements between the CONTRACTOR and the State of New York;
2. The fulfillment of obligations by the CONTRACTOR, under this contract, does not and will not create any conflict of interest, or perception thereof, with any current role or responsibility that the CONTRACTOR has with regard to any existing contracts or agreements between the CONTRACTOR and the State of New York;
3. The fulfillment of obligations by the CONTRACTOR, under this contract, does not and will not compromise the CONTRACTOR's ability to carry out its obligations under any existing contracts between the CONTRACTOR and the State of New York;
4. The fulfillment of any other contractual obligations that the CONTRACTOR has with the State of New York will not affect or influence its ability to perform under any contract with the State of New York resulting from this Contract;
5. During the negotiation and execution of this Contract, the CONTRACTOR will not knowingly take any action or make any decision which creates a potential for conflict of interest or might cause a detrimental impact to New York State as a whole including, but not limited to, any action or decision to divert resources from one New York State contract to another;
6. In fulfilling obligations under each of its New York State contracts, including this Contract the CONTRACTOR will act in accordance with the terms of each of its New York State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State of New York as a whole including, but not limited to, any action or decision to divert resources from one New York State contract to another;
7. No former officer or employee of the STATE who is now employed by the CONTRACTOR, nor any former officer or employee of the CONTRACTOR who is now employed by the STATE, has played a role with regard to the administration of this Contract procurement in a manner that may violate section 73(8)(a) of the Public Officers Law; and

8. The CONTRACTOR has not and shall not offer to any employee, member or director of the STATE any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director.

CONTRACTOR should note that the STATE recognizes that conflicts may occur in the future because a CONTRACTOR may have existing or new relationships. The STATE will review the nature of any such new relationship and reserves the right to terminate this contract for cause if, in its judgment, a real or potential conflict of interest cannot be cured.

Part B. Program Specific Clauses

Attachment A-1 Part B intentionally omitted.

ATTACHMENT B-1 EXPENDITURE BASED BUDGET

SUMMARY

PROJECT NAME: Drinking Water Enhancement Grant Program

CONTRACTOR SFS PAYEE NAME: ONEIDA COUNTY OF

CONTRACT PERIOD: From: 04/01/2020
To: 03/31/2021

CATEGORY OF EXPENSE	GRANT FUNDS	MATCH FUNDS	MATCH %	OTHER FUNDS	TOTAL
1. Personal Services					
a) Salary	\$81,626.00	\$0.00	0 %	\$0.00	\$81,626.00
b) Fringe	\$45,156.00	\$0.00	0 %	\$0.00	\$45,156.00
Subtotal	\$126,782.00	\$0.00	0 %	\$0.00	\$126,782.00
2. Non Personal Services					
a) Contractual Services	\$0.00	\$0.00	0 %	\$0.00	\$0.00
b) Travel	\$0.00	\$0.00	0 %	\$0.00	\$0.00
c) Equipment	\$0.00	\$0.00	0 %	\$0.00	\$0.00
d) Space/Property & Utilities	\$0.00	\$0.00	0 %	\$0.00	\$0.00
e) Operating Expenses	\$0.00	\$0.00	0 %	\$0.00	\$0.00
f) Other	\$0.00	\$0.00	0 %	\$0.00	\$0.00
Subtotal	\$0.00	\$0.00	0 %	\$0.00	\$0.00
TOTAL	\$126,782.00	\$0.00	0 %	\$0.00	\$126,782.00

Contract Number: # DOH01-C34764GG-3450000

ATTACHMENT B-1 EXPENDITURE BASED BUDGET

PERSONAL SERVICES DETAIL

SALARY					
POSITION TITLE	ANNUALIZED SALARY PER POSITION	STANDARD WORK WEEK (HOURS)	PERCENT OF EFFORT FUNDED	NUMBER OF MONTHS FUNDED	TOTAL
Senior Clerk	\$25,246.00	35	2.8	12	\$756.56
Public Health Tech 1 (TC)	\$34,784.00	35	2	12	\$695.68
Public Health Tech (EP)	\$37,396.00	35	5		\$1,869.80
Public Health Tech (KL)	\$37,396.00	35	10	12	\$3,739.60
Public Health Tech 2 (JH)	\$45,622.00	35	20	12	\$9,124.00
Senior Public Health Sanitarian (EL)	\$65,602.00	35	50	12	\$32,801.93
Senior Public Health Sanitarian (JP)	\$80,692.00	35	37.67	12	\$30,393.93
Environmental Health Director	\$112,225.00	35	2	12	\$2,244.50
				Subtotal	\$81,626.00
TOTAL FRINGE					
					\$45,156.00
			PERSONAL SERVICES TOTAL		\$126,782.00

ATTACHMENT B-1 - EXPENDITURE BASED BUDGET
NON-PERSONAL SERVICES DETAIL

CONTRACTUAL SERVICES - TYPE/DESCRIPTION	TOTAL
TOTAL	

ATTACHMENT B-1 - EXPENDITURE BASED BUDGET
NON-PERSONAL SERVICES DETAIL

TRAVEL - TYPE/DESCRIPTION	TOTAL
TOTAL	

EQUIPMENT - TYPE/DESCRIPTION	TOTAL
TOTAL	

SPACE/PROPERTY EXPENSES: RENT - TYPE/DESCRIPTION	TOTAL
TOTAL	

SPACE/PROPERTY EXPENSES: OWN - TYPE/DESCRIPTION	TOTAL
TOTAL	

TYPE/DESCRIPTION OF UTILITY EXPENSES	TOTAL
TOTAL	

Contract Number: # DOH01-C34764GG-3450000

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OPERATING EXPENSES - TYPE/DESCRIPTION	TOTAL
TOTAL	

OTHER - TYPE/DESCRIPTION	TOTAL
TOTAL	

ATTACHMENT C - WORK PLAN

SUMMARY

PROJECT NAME: Drinking Water Enhancement Grant Program

CONTRACTOR SFS PAYEE NAME: ONEIDA COUNTY OF

CONTRACT PERIOD: From: 04/01/2020

To: 03/31/2021

Project Summary: A high-level overview of the project, including the overall goal and desired outcomes.

The following is a listing of program areas (both existing areas as well as new initiatives) which must be addressed in the work plan developed for the Drinking Water Enhancement grant, unless otherwise noted. Annual Local Health Department (LHD) program assessments shall be utilized in identifying special programmatic emphases and correcting programmatic deficiencies. Please note that for each of those tasks/activities that are quantifiable, the work plan must identify the anticipated output level. The work plan for State Fiscal Year (SFY) 20-21 should be developed for the 12-month period (4/1/2020 – 3/31/2021).

Note: All program activities must be conducted in accordance with the applicable federal and state laws and regulations as well as applicable New York State Department of Health policies and procedures.

Contract Number: # DOH01-C34764GG-3450000

Page 1 of 1 , Attachment C - Work Plan Summary

ATTACHMENT C - WORK PLAN
DETAIL

Objective

1 Addressing Public Health Hazards/Outbreak Investigations - To address public health hazards and outbreak investigations.

Tasks

1.1 Outbreak Investigations - Investigate water borne disease outbreaks, potentially attributable to drinking water, and other drinking water emergencies, ensuring that corrective action is taken to eliminate identified public health hazards.

Performance Measures

1.1.1 Investigation of water borne disease outbreaks - Investigation of water borne disease outbreaks and other drinking water emergencies as required.

Objective

2 Complaint Investigation - To investigate complaints.

Tasks

2.1 Consumer Complaint Response - Respond to each consumer complaint within 24 hours whenever a potential health hazard is indicated and within a timely fashion in other situations.

Performance Measures

2.1.1 Respond to consumer complaints - Respond to consumer complaints within 24 hours whenever a potential health hazard is indicated and within a timely fashion in other situations.

Tasks

2.2 Timely Correction of Identified Problems/ Issues - Require timely correction of any identified problems/issues.

Performance Measures

2.2.1 Correction of Identified problems/ issues - Correction of any identified problems or issues in a timely manner.

ATTACHMENT C - WORK PLAN

DETAIL

Objective

3 Emergency Response Plans & Vulnerability Assessments - Emergency Response Plans & Vulnerability Assessments

Tasks

3.1 Updated ERPs and VAs - Assure all applicable systems have updated Emergency Response Plans (ERPs) and Vulnerability Assessments (VAs) in place.

Performance Measures

3.1.1 Number of Systems - Provide 1) the current number of systems required to have a VA/ERP and 2) the number of systems required to update their VA/ERP in SFY 20-21
1)2
2)0

Tasks

3.2 Review/Endorse VAs and ERPs - Review/endorse updates to VAs and ERPs

Performance Measures

3.2.1 Review and Endorsement of VAs and ERPs - Review and endorsement of updates to VAs and ERPs.

Tasks

3.3 Assessment of Progress - Assess and note progress in implementing ERP/VA recommendations and other basic security issues during sanitary surveys of applicable systems.

Performance Measures

3.3.1 Assessment of Progress - Assess and note progress in implementing ERP/VA recommendations and other basic security issues during sanitary surveys of applicable systems.

**ATTACHMENT C - WORK PLAN
DETAIL**

Objective

4 Rule Implementation - The implementation of State and/or Federal drinking water rules.

Tasks

4.1 Oversight, Technical Assistance, Follow-Up Sampling for MCL Violations - Provide oversight, technical assistance, assure follow-up sampling for all MCL violations or triggers is conducted, & take appropriate enforcement actions for Part 5 requirements, including but not limited to rules outlined in the Performance Measure

Performance Measures

4.1.1 Part 5 Requirements - Rules: Total Coliform/ Revised Total Coliform; Surface Water Treatment; Interim Enhanced, LT 1 & LT 2 Enhanced Surface Water Treatment; Stage 1 & Stage 2 Disinfectants and DBPs; Radiological; Arsenic; Groundwater; Lead & Copper; POCs/SOCs/IOC/ Nitrate

Tasks

4.2 Ground Water Under the Direct Influence of Surface Water Systems - Identify ground water sources under the direct influence of surface water (GWUDI) and take appropriate compliance and enforcement actions, in accordance with PWS-42, the Log Removal/Inactivation Fact Sheet, and Generic GWUDI Design documents

Performance Measures

4.2.1 GWUDI Systems - Provide number of systems, 1) requiring a GWUDI assessment and 2) systems requiring appropriate treatment
1)0
2)17 require treatment all in compliance.

Tasks

4.3 Implementation of New Rules - Implement new rules/regulations as promulgated, notify water systems, implement monitoring programs and identify deficiencies that water systems may experience with new standards.

Performance Measures

4.3.1 Implementation of New Rules - Implement new rules/regulations as promulgated, notify water systems, implement monitoring programs and identify deficiencies that water systems may experience with new standards.

ATTACHMENT C - WORK PLAN

DETAIL

Objective

5 Compliance and Enforcement - Compliance and Enforcement Requirements.

Tasks

5.1 Tracking of General Water Supply Compliance - Track general water supply compliance (MCLs/M&R), including citing violations, enforcement against public health hazards and significant non-compliers (based on the Enforcement Targeting Tool), in accordance with ADM 2 and PWS 239.

Performance Measures

5.1.1 Track General Water Supply Compliance - Track general water supply compliance (MCLs/M&R), including citing violations, enforcement against public health hazards and significant non-compliers (based on the Enforcement Targeting Tool), in accordance with ADM 2 and PWS 239.

Tasks

5.2 Public Notifications - Assure required public notifications are performed and reported.

Performance Measures

5.2.1 Public Notifications - Assure required public notifications are performed and reported.

ATTACHMENT C - WORK PLAN

DETAIL

Objective

6 Sanitary Surveys - Sanitary Survey Requirements

Tasks

6.1 Conduct Sanitary Surveys - Conduct sanitary surveys in accordance with PWS-180, PWS-181, PWS-184 and other appropriate guidance. The priority and frequency found in tasks 6.2- 6.6 will be used.

Performance Measures

6.1.1 Conduct Sanitary Surveys - Conduct sanitary surveys in accordance with PWS-180, PWS-181, PWS-184 and other appropriate guidance. The priority and frequency found in tasks 6.2- 6.6 will be used.

Tasks

6.2 Sanitary Survey- Annual Frequency - 1. Unfiltered (Filtration Avoidance Systems)
2. All Systems with Disinfection Waivers
3. New Systems (on Startup)
4. Systems with unresolved health based violations
5. Systems with compliance schedules in effect

Performance Measures

6.2.1 Annual Frequency - Provide the number of current systems and the number of sanitary surveys to conducted in each category.
1)0/0
2)8/8
3)as needed new systems on start up
4)1/1
5)1/1

Tasks

6.3 Sanitary Survey- Every Three Years - 1. Community Systems (Surface/Ground Water)
2. Purchase systems with treatment

Performance Measures

6.3.1 Every Three Years - Provide the number of current systems and the number of sanitary surveys to be conducted in each category.
1)SW/GU= 11/2; GW 38/4
2)4/4

ATTACHMENT C - WORK PLAN

DETAIL

Tasks

- 6.4 Sanitary Survey- Every Five Years - 1. Community Ground Water systems with effective 4-log treatment
2. Purchase systems without treatment
3. Non-Transient Systems (Surface/Ground Water)
4. Transient Non-Community Systems (Surface/Ground Water)

Performance Measures

- 6.4.1 Every Five Years - Provide the number of current systems and the number of sanitary surveys to be conducted in each category.
1)15/2
2)10/0
3)SW/GU=0/0; GW=2/2
4)SW/GU=13/6; GW=60/39

Tasks

- 6.5 Permitted Facilities with Individual Water Systems - Permitted Facilities with Individual Water Systems

Performance Measures

- 6.5.1 Permitted Facilities with Individual Water Systems - Provide the number of current systems and the number of sanitary surveys to be conducted.
7 systems 3 sanitary surveys to be conducted

Tasks

- 6.6 Bottled/Bulk Water Facilities (If Applicable) - Bottled/Bulk Water Facilities (If Applicable)

Performance Measures

- 6.6.1 Bottled/Bulk Water Facilities (If Applicable) - Provide the number of current systems and the number of sanitary surveys to be conducted.
3 systems and 2 surveys to be conducted

ATTACHMENT C - WORK PLAN
DETAIL

Objective

7 Water System Planning, Siting, Treatment and Approval - Water System Planning, Siting, Treatment and Approval

Tasks

7.1 Cross Connection Control Plans - Assure systems have cross connection control plans.

Performance Measures

- 7.1.1 Cross Connection Control Plans - Provide the number of systems that are 1) required to have a cross connection control plan and 2) number of systems with adequate plans.
1)49 systems to gave cross con control plan
2)approximately 30 with adequate plans

Tasks

7.2 Fluoridating Systems - Assure systems practicing fluoridation are properly constructed and operated at "optimum" levels, and submit DOH-360CFL forms to the Bureau of Water Supply Protection.

Performance Measures

- 7.2.1 Fluoridating Systems - Provide the number of systems that fluoridate. 2 systems

Tasks

7.3 Drinking Water State Revolving Fund Projects - Assist in promoting, identifying and implementing Drinking Water State Revolving Fund (DWSRF) projects.

Performance Measures

- 7.3.1 DWSRF Projects - Provide the number of projects on the DWSRF Annual List.
27 projects

Tasks

7.4 Conduct Plan Review - Conduct plan review in accordance with PWS-131 and appropriate guidance, including new source reviews, comment on Water Withdrawal Applications, promote specific system improvements, & assure the review and approval of back flow prevention devices.

Performance Measures

- 7.4.1 Conduct Plan Review - Conduct plan review in accordance with PWS-131 and appropriate guidance, including new source reviews, comment on Water Withdrawal Applications, promote specific system improvements, & assure the review and approval of back flow prevention devices.

**ATTACHMENT C - WORK PLAN
DETAIL**

Objective

8 Operation and Quality Control - Operation and Quality Control

Tasks

8.1 Monthly Operation Reports - Review and log Monthly Operation Reports (MORs) within 15 days of receipt. Assure MORs are being submitted and appropriate enforcement action is taken for late/missing MORs.

Performance Measures

8.1.1 Monthly Operation Reports - Provide the number of systems required to submit an MOR.
150 systems required to submit an MOR

Tasks

8.2 Annual Water Quality Reports - Assure Annual Water Quality Reports (AWQR) (including SWAP summaries) are adequately completed and distributed by community water systems.

Performance Measures

8.2.1 Annual Water Quality Reports - Provide the number of systems required to submit an AWQR.
48 systems required to submit an AWQR.

Tasks

8.3 Certified Operators - Review Certified Operator applicants, assure proper certification and assist in operator training.

Performance Measures

8.3.1 Certified Operators - Review Certified Operator applicants, assure proper certification and assist in operator training.

ATTACHMENT C - WORK PLAN

DETAIL

Objective

9 Waivers, Variances and Exemptions - Waivers, Variances and Exemptions

Tasks

9.1 Disinfection Waivers - Review Disinfection Waivers in accordance with WSP-201. Where necessary, waivers must be revoked and technical assistance and regulatory oversight provided in the planning, design and installation of disinfection/treatment facilities.

Performance Measures

9.1.1 Disinfection Waivers - Provide the number of disinfection waived systems, all of which require an annual sanitary survey.
8 disinfection waived systems

ATTACHMENT C - WORK PLAN

DETAIL

Objective

10 SDWIS/Data Collection - To utilize, in full, the Safe Drinking Water Information System (SDWIS) as specified in tasks 10.1-10.3.

Tasks

10.1 Add and maintain inventory data, sample points and schedules - Enter all compliance and surveillance sample result data; enter violation & enforcement information including return to compliance; maintain sanitary survey information including tracking of significant deficiencies; implement new rule requirements

Performance Measures

10.1.1 Add and maintain inventory data, sample points and schedules - Enter all compliance and surveillance sample result data; enter violation & enforcement information including return to compliance; maintain sanitary survey information including tracking of significant deficiencies; implement new rule requirements

Tasks

10.2 Deficiencies and Data Errors - Correct deficiencies, reconcile all existing data errors and address new errors (located on the SDWIS Add-Ons Quality Report) at least on a monthly basis.

Performance Measures

10.2.1 Deficiencies and Data Errors - Correct deficiencies, reconcile all existing data errors and address new errors (located on the SDWIS Add-Ons Quality Report) at least on a monthly basis.

Tasks

10.3 Implementation of Electronic Drinking Water Reporting - Support implementation of electronic drinking water reporting, demonstrating readiness with test water systems and system groups prior to full implementation.

Performance Measures

10.3.1 Implementation of Electronic Drinking Water Reporting - Support implementation of electronic drinking water reporting, demonstrating readiness with test water systems and system groups prior to full implementation.

ATTACHMENT C - WORK PLAN

DETAIL

Objective

11 Capacity Development - Capacity Development

Tasks

11.1 Perform Capacity Reviews under the Capacity Development Program - For any new system use PWS-210; for existing systems use the Capacity Development Program Strategy Report from 2000; and for systems applying for DWSRF assistance, use the most recent Intended Use Plan.

Performance Measures

11.1.1 Perform Capacity Reviews under the Capacity Development Program - For any new system use PWS-210; for existing systems use the Capacity Development Program Strategy Report from 2000; and for systems applying for DWSRF assistance, use the most recent Intended Use Plan.

ATTACHMENT C - WORK PLAN
DETAIL

Objective

12 Surveillance Monitoring - Conduct Drinking Water Quality Surveillance monitoring in accordance with WSP-30.

Tasks

12.1 Bacteriological – Community (One per year) - Bacteriological – Community (One per year)

Performance Measures

12.1.1 Bacteriological – Community (One per year) - Provide the number of samples to be collected and analyzed.
approximately 64 samples to be collected and analyzed

Tasks

12.2 Bacteriological – Non-Community (One whenever the system is inspected) - Bacteriological – Non-Community (One whenever the system is inspected)

Performance Measures

12.2.1 Bacteriological – Non-Community (One whenever the system is inspected) - Provide the number of samples to be collected and analyzed.
approximately 91 samples to be collected and analyzed

Tasks

12.3 Inorganic Chemicals (LHD Discretion) - Inorganic Chemicals (LHD Discretion)

Performance Measures

12.3.1 Inorganic Chemicals (LHD Discretion) - Provide the number of samples to be collected and analyzed.
approximately 10 samples to be collected and analyzed

Tasks

12.4 Organic Chemicals –VOC/SOC (LHD Discretion) - Organic Chemicals –VOC/SOC (LHD Discretion)

Performance Measures

12.4.1 Organic Chemicals –VOC/SOC (LHD Discretion) - Provide the number of samples to be collected and analyzed.
approximately 10 samples to be collected and analyzed

Tasks

12.5 Organic Chemicals – DBPs (LHD Discretion) - Organic Chemicals – DBPs (LHD Discretion)

Performance Measures

12.5.1 Organic Chemicals – DBPs (LHD Discretion) - Provide the number of samples to be collected and analyzed.
0 samples to be collected and analyzed.

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ATTACHMENT C - WORK PLAN
DETAIL

Tasks

12.6 Radiological (LHD Discretion) - Radiological (LHD Discretion)

Performance Measures

12.6.1 Radiological (LHD Discretion) - Provide the number of samples to be collected and analyzed.
0 samples to be collected and analyzed.

Tasks

12.7 Other (be specific) - Other (be specific)

Performance Measures

12.7.1 Other (be specific) - Provide the number of samples to be collected and analyzed.
0 samples to be collected and analyzed.

Objective

13 Technical Assistance - Technical Assistance

Tasks

13.1 Provide Advice - Provide advice regarding water quality and quantity issues and long-term solutions to these problems.

Performance Measures

13.1.1 Provide Advice - Provide advice regarding water quality and quantity issues and long-term solutions to these problems.

Tasks

13.2 Maintain a working knowledge of Appendix 5-B and Appendix 5-D. - Provide technical assistance to public water systems, property owners, contractors and the public regarding installation, maintenance and operation of water supply wells.

Performance Measures

13.2.1 Maintain a working knowledge of Appendix 5-B and Appendix 5-D. - Provide technical assistance to public water systems, property owners, contractors and the public regarding installation, maintenance and operation of water supply wells.

ATTACHMENT C - WORK PLAN

DETAIL

Objective

14 Program Management - Program Management

Tasks

14.1 Engineering Capacity - Maintain the necessary professional engineering capacity to review engineering plans and specifications.

Performance Measures

14.1.1 Engineering Capacity - Maintain the necessary professional engineering capacity to review engineering plans and specifications.

Tasks

14.2 Technical Expertise - Maintain the necessary technical expertise to be able to perform the requirements of this work plan including conducting sanitary surveys and other assessments of public water systems (eg. participation in trainings).

Performance Measures

14.2.1 Technical Expertise - Maintain the necessary technical expertise to be able to perform the requirements of this work plan including conducting sanitary surveys and other assessments of public water systems (eg. participation in trainings).

Tasks

14.3 Attend a minimum of two training sessions involving water supply issues - These will be scheduled or announced by the Department, including special regional and Conference of Environmental Health Director meetings (attendance by the Director of Environmental Health and/or appropriate drinking water staff.)

Performance Measures

14.3.1 Attend a minimum of two training sessions involving water supply issues - Attendance by the Director of Environmental Health and/or appropriate drinking water staff.

**ATTACHMENT C - WORK PLAN
DETAIL**

Objective

15 Notifications - Notifications

Tasks

15.1 Notification to Public Water Systems - Notify public water systems of their annual monitoring responsibilities using sample schedules from SDWIS and reports developed by the Department.

Performance Measures

15.1.1 Notification to Public Water Systems - Provide the number of systems receiving notifications.
158 Systems receiving notifications.

Objective

16 Reporting - Reporting

Tasks

16.1 Final Status Report - A final status report of work plan activities (through March 31 each year) is due to the Regional Office by June 30 of that year. This provision shall survive the term or termination of this contract.

Performance Measures

16.1.1 Final Status Report - Submission of final status report of work plan activities.

ATTACHMENT C - WORK PLAN

DETAIL

Objective

17 Optional Programs - To allow for optional programs, not otherwise noted in the workplan

Tasks

17.1 Optional Programs, not otherwise noted in the workplan - It is expected that the mandatory objectives 1 – 15 of this work plan be completed before any of these optional program are provided.

Performance Measures

- 17.1.1 Optional Programs - Provide any additional program information that may be paid for under this grant including number and type of activity.
 - AWQR for approximately 49 CWS
 - Tap Taste test
 - Lead in Schools
 - Emerging contaminates

Objective

18 Public Health Emergencies (Optional) - Option for Public Health Emergencies

Tasks

18.1 Public Health Emergencies - In times of a State public health emergency, the LHD is permitted to assist in activities that might otherwise not be considered to be part of the overall objectives of this agreement, but are in the best interest of the protection of public health.

Performance Measures

- 18.1.1 Obtaining Prior Approval - The LHD must obtain the Grantor's approval and describe the impact the activities may have on other objectives in this grant PRIOR to use of any grant personnel or resources.

II. REPORTING PROVISIONS

A. Expenditure-Based Reports (select the applicable report type):

Narrative/Qualitative Report

The Contractor will submit, on a quarterly basis, not later than ___ days from the end of the quarter, the report described in Section III(G)(2)(a)(i) of the Master Contract

Statistical/Quantitative Report

The Contractor will submit, on a quarterly basis, not later than ___ days from the end of the quarter, the report described in Section III(G)(2)(a)(ii) of the Master Contract.

Expenditure Report

The Contractor will submit, on a quarterly basis, not later than ___ days after the end date for which reimbursement is being claimed, the report described in Section III(G)(2)(a)(iii) of the Master Contract.

Final Report

The Contractor will submit the final report as described in Section III(G)(2)(a)(iv) of the Master Contract, no later than 90 days after the end of the contract period.

Consolidated Fiscal Report (CFR)

The Contractor will submit the CFR on an annual basis, in accordance with the time frames designated in the CFR manual. For New York City contractors, the due date shall be May 1 of each year; for Upstate and Long Island contractors, the due date shall be November 1 of each year.

1

The Consolidated Fiscal Reporting System is a standardized electronic reporting method accepted by Office of Alcoholism & Substance Services, Office of Mental Health, Office of Persons with Developmental Disabilities and the State Education Department, consisting of schedules which, in different combinations, capture financial information for budgets, quarterly and/or mid-year claims, an annual cost report, and a final claim. The CFR, which must be submitted annually, is both a year-end cost report and a year-end claiming document.

Contract Number: # DOH01-C34764GG-3450000

B. Progress-Based Reports

1. Progress Reports

The Contractor shall provide the report described in Section III(G)(2)(b)(i) of the Master Contract in accordance with the forms and in the format provided by the State Agency, summarizing the work performed during the contract period (See Table 1 below for the annual schedule).

2. Final Progress Report

Final scheduled payment will not be due until ___ days after completion of agency's audit of the final expenditures report/documentation showing total grant expenses submitted by vendor with its final invoice. Deadline for submission of the final report is ____. The agency shall complete its audit and notify vendor of the results no later than ____. The Contractor shall submit the report not later than ___ days from the end of the contract.

C. Other Reports

The Contractor shall provide reports in accordance with the form, content and schedule as set forth in Table 1.

TABLE 1 - REPORTING SCHEDULE

PROGRESS REPORT #	PERIOD COVERED		Due Date
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			

III. SPECIAL PAYMENT AND REPORTING PROVISIONS

Quarterly Claims for Payment and supporting documentation should be sent electronically to Lori Ahmed at lori.ahmed@health.ny.gov. If unable to be scanned and sent electronically, invoices can be mailed to Lori Ahmed, NYSDOH-Bureau of Water Supply Protection, ESP Corning Tower Room 1110, Albany, NY 12237.

Attachment M

PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS: REQUIREMENTS AND PROCEDURES

I. General Provisions

- A. The New York State Department of Health is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 (“MWBE Regulations”) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The Contractor to the subject contract (the “Contractor” and the “Contract,” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State New York State Department of Health (the “New York State Department of Health”), to fully comply and cooperate with the New York State Department of Health in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for certified minority and women-owned business enterprises (“MWBEs”). Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, state or local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Attachment or enforcement proceedings as allowed by the Contract.

II. Contract Goals

- A. For purposes of this contract, the New York State Department of Health hereby establishes a goal of 0% for Minority and Women-Owned Business Enterprises (“MWBE”) participation on any eligible expenses including subcontracted labor or services, equipment, materials, or any combined purchase of the foregoing under this contract. The goal on the eligible portion of this contract will be 0% for Minority-Owned Business Enterprises (“MBE”) participation and 0% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs).
- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section II-A hereof, Contractor should reference the directory of New York State Certified MBWEs found at the following internet address:
<https://ny.newnycontracts.com/>

Additionally, Contractor is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

- C. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document “good faith efforts” to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the New York State Department of Health for liquidated or other appropriate damages, as set forth herein.

III. Equal Employment Opportunity (EEO)

- A. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the “Division”). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- B. Contractor shall comply with the following provisions of Article 15-A:
 - 1. Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
 - 2. The Contractor shall submit an EEO policy statement to the New York State Department of Health within seventy two (72) hours after the date of the notice by New York State Department of Health to award the Contract to the Contractor.
 - 3. If Contractor or Subcontractor does not have an existing EEO policy statement, the New York State Department of Health may provide the Contractor or Subcontractor a model statement (see Form #5 - Minority and Women-Owned Business Enterprises Equal Employment Opportunity Policy Statement).
 - 4. The Contractor’s EEO policy statement shall include the following language:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
 - c. The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union,

or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

- d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "D" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

C. **Form #4 - Staffing Plan**

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

- D. Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

IV. MWBE Utilization Plan

- A. The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan (Form #1) either prior to, or at the time of, the execution of the contract.
- B. Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this Attachment.
- C. Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, New York State Department of Health shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

V. Waivers

- A. Contractors without eligible expenses as defined in Section II.A. or who are not able to meet the goal as stated in Section II.A. of this Attachment, must submit a Waiver request (Form #2) to the Department.
- B. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the New York State Department of Health shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

- C. If the New York State Department of Health, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the New York State Department of Health may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

VI. Quarterly MWBE Contractor Compliance Report

- A. Contractor is required to submit a Quarterly MWBE Contractor Compliance Report to the New York State Department of Health by the 10th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract. Data should be submitted via the online compliance system at <https://ny.newnycontracts.com>.

VII. Liquidated Damages - MWBE Participation

- A. Where New York State Department of Health determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the New York State Department of Health liquidated damages.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
 - 1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
 - 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the New York State Department of Health, Contractor shall pay such liquidated damages to the New York State Department of Health within sixty (60) days after they are assessed by the New York State Department of Health unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the New York State Department of Health.

Anthony J. Picente, Jr.
County Executive



Colleen Fahy-Box
Commissioner

ONEIDA COUNTY DEPARTMENT OF FAMILY AND COMMUNITY SERVICES
COUNTY OFFICE BUILDING ~ 800 PARK AVENUE ~ UTICA, NY 13501
PHONE: 315-798-5260 ~ FAX: 315-793-6044

June 29, 2021

FN 20 21 210

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

HEALTH & HUMAN SERVICES

RE: Contracts with Various Personal Care Service Providers

WAYS & MEANS

Dear Mr. Picente:

I am submitting the following Purchase of Services Agreement for review and approval by the Board of Legislators.

Personal Care Services are a vital service and help deter placement of eligible Medicaid clients in nursing home care. These services are cost effective because people are able to remain at home, reducing the need for higher levels of care.

I am respectfully requesting that this Agreement for Personal Care Services be approved for use with all agencies the Department contracts with for this service.

The term of these Agreements are for five years and run from June 1, 2021 through May 31, 2026. Personal Care Services are paid directly by New York State and the cost of this service to the Department is included in the Medicaid Cap. The total cost to the state for these providers in 2020 was \$3,970,458.00. This Agreement is a fee for service and costs can vary depending on type of service. Based on 2020 expenses, the estimated cost to the State on behalf of the County for this service will be approximately \$19,852,290.00 with the local share included in the Counties Medicaid Cap.

If this Agreement meet with your approval, please forward to the Board of Legislators for action. Thank you for your consideration.

Sincerely,

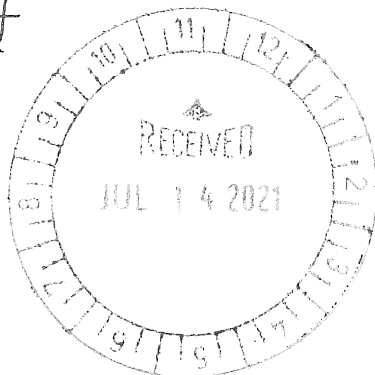
Colleen Fahy-Box

Colleen Fahy-Box

Commissioner

CFB/tms

attachment



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

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

Date 7-13-21

XXXXX

Oneida Co. Department Social Services

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

Oneida County Board of Legislators
Contract Summary

Name of Proposing Organizations: Various Personal Care Service Providers

Title of Activity or Services: Personal Care Services

Proposed Dates of Operations: June 1, 2021 through May 31, 2026

Client Population/Number to be Served: Physically or mentally disabled individuals in receipt of Medicaid who are residing in their own home.

SUMMARY STATEMENTS

1). Narrative Description of Proposed Services

Personal Care Services are defined as some or total assistance with personal hygiene, dressing and feeding, nutritional and environmental support functions and health-related tasks. Such services are essential to the maintenance of the patient's health and safety within his/her own home, ordered by the attending physician, based on an assessment of the patient's needs provided by a qualified person in accordance with a plan of care and supervised by a registered professional nurse.

2). Program/Service Objectives and Outcomes -

To enable disabled Medicaid recipients to remain in their own home and delay or divert entrance to a higher level of care.

3). Program Design and Staffing Level - N/A

Total Funding Requested: Rates determined by New York State

Oneida County Dept. Funding Recommendation: Account # A6102.495

Mandated or Non-mandated: Mandated service

Proposed Funding Source (Federal \$ /State \$ / County \$): 2020 costs for this service were \$3,970,458.00. Based on this number, costs over a five-year period are anticipated to be \$19,852,290.00.

		Annually Cost
Federal	62 % -	\$2,461,683.96
State	28 % -	\$1,111,728.24
County	10 % -	\$ 397,045.80

Cost Per Client Served: Rates vary based on the level of care required.

Past performance Served: Personal Care Services are paid directly by New York State through eMedNY. The cost of this service to the Department is included in the Medicaid Cap. The total cost to the state for this service in 2020 was \$3,970,458.00 and the cost to the Department was approximately \$397,045.80. Based on service use in 2020, the cost of this agreement for the five-year term is estimated to be \$19,852,290.00 with a local share included in the County Medicaid Cap.

O.C. Department Staff Comments: The Department is satisfied with all personal care service providers and contracts with a number of agencies to ensure availability of service.

#XXXXXX

Agreement

BETWEEN A LOCAL SOCIAL SERVICES DISTRICT AND A CONTRACTING AGENCY
FOR PERSONAL CARE SERVICES (PURSUANT TO TITLE 11 OF ARTICLE 5 OF THE
NEW YORK SOCIAL SERVICE LAWS AND TITLE XIX OF THE UNITED STATES
SOCIAL SECURITY ACT).
FOR TITLE XIX SERVICES ONLY

This Agreement is between Oneida County (hereinafter referred to as the “County”), a municipal corporation organized and existing under the laws of the State of New York having its principal office at 800 Park Avenue, Utica, New York 13501, through its Department of Family and Community Services (hereinafter referred to as the “Department”) and [Personal Care Service Provider] (hereinafter referred to as the “Provider”), a (type of business entity) having its principal office at _____.

WHEREAS, the parties hereto desire to make Personal Care Services available to the County under Title XIX of the Federal Social Security Act; and

WHEREAS, the Department is authorized, pursuant to Section 365-a(2)(e) of the New York State Social Services Law and 18 New York Code of Rules and Regulation (NYCRR) and/or other New York State Department of Health regulations, to provide personal care services to persons eligible to receive said services; and

WHEREAS, the County is desirous of obtaining personal care services to be rendered to recipients of Medical Assistance (Medicaid) for which reimbursement is available pursuant to Title XIX of the Federal Social Security Act and applicable state law; and

WHEREAS, the Provider herein shall provide services that are authorized pursuant to Title XIX of the Federal Social Security Act and applicable state law and which are eligible for reimbursement thereto;

THEREFORE, the parties signing and executing this Agreement do in consideration of the above agree as follows:

1. Term of Agreement

This Agreement shall begin on June 1, 2021 and terminate on May 31, 2026. The option to renew is at the sole discretion of the Department and the County and notice to the Provider shall be provided prior to the end of the term of this Agreement.

2. Provision of Personal Care Services

The Provider shall provide personal care services, as defined in New York State 18 NYCRR to recipients of Medicaid (hereinafter individually referred to as the “Client” or collectively as the “Clients”), as defined in Title 11 of Article 5 of the New York State Social Services Law and/or Title XIX of the Federal Social Security Act, if requested to provide said services by the Department, pursuant to the order(s) and/or prescription(s)

of a physician, in accordance with a plan of care and to be supervised by a registered nurse, subject to the conditions set forth in the regulations of New York State 18 NYCRR or superseding provisions.

3. Authorization and Request for Personal Care Services

- a It shall be the sole responsibility of the Department to determine the eligibility of a Client. The Department and/or eMedNY shall not reimburse the Provider for personal care services provided to persons who have not been determined eligible and authorized by the Department to receive such services and when such services are not provided in accordance with the written authorization of the Department.
- b The Department and/or eMedNY shall reimburse the Provider only for such personal care services authorized and provided in accordance with the policies and procedures of the Department.
It shall be the sole responsibility of the Department to notify the Provider of the service authorization of each Client including the functions and tasks required.
- c The Department will forward to the Provider written confirmation of each telephoned service authorization within seven (7) working days of such notification.

4. Obligation to Utilize Provider

The Department shall not be obligated to utilize the services of the Provider(s).

5. Department Termination of Agreement

The Department shall have the right to terminate this Agreement under the following conditions:

- a Upon receipt of notification that federal and/or state reimbursement is no longer available for the services to be provided.
- b Failure of the Provider to perform its obligations pursuant to this Agreement and the requirements of 18 NYCRR 505.14.
- c Violation by the Provider of any of the material terms of this Agreement or participation in Medicaid fraud.
- d Except for emergencies when the Client's health and safety is in immediate jeopardy, the Department shall give the Provider thirty (30) days written notice of intention to terminate services of the Provider under this Agreement; in the event of termination, the Provider shall, within five (5) working days, transfer copies of any and all records pertaining to any Client who has been or is receiving services provided by the Provider to the Department. The Provider shall retain its original Client care records and, within five (5) working days, transfer a copy of any and all Client care records in lieu of originals which shall be retained by the Provider for at least six (6) years beyond the date of termination of this Agreement between the Provider and the Department.
- e The cessation of services to a particular Client shall not render this entire Agreement void or voidable.

6. Provider's Termination of Agreement

The Provider shall have the right to terminate this Agreement under the following conditions:

- a. If there is an imposition of new or additional requirements by the federal or state governments as a condition to continued federal or state reimbursement which the Provider reasonably finds unacceptable.
- b. The State Department of Health has, pursuant to the provisions of this Agreement, reduced the rate paid to the Provider and the Provider finds such reduced rate to be unacceptable.
- c. The Provider shall give the Department thirty (30) days written notice of its intention to terminate services to the Department or any Client who would otherwise remain eligible to continue receiving personal care services. This written notice of termination shall contain the reasons for termination and the effective dates.

7. Close-Out Procedures

Upon termination or expiration of this Agreement, the Provider shall comply with all State Department of Health and the Department's close-out procedures, including, but not limited to:

- a. Turn over to the State Department of Health or the Department all books, Client records, Client documents and material relating to Client services.
- b. Not incur or pay any further obligations pursuant to this Agreement beyond the termination date. Any obligation necessarily incurred by the Provider on account of this Agreement prior to receipt of notice of termination and, falling due after such date, shall be paid by the County in accordance with the terms of this Agreement if the County receives notice of such obligations within thirty (30) days after the date of termination overpayments or funds paid in excess of allowable payments which have been paid to the Provider pursuant to this Agreement.
- c. Account for the refund to the County within thirty (30) days after the date of termination, overpayments of funds paid in excess of allowable payments which have been paid to the Provider pursuant to this Agreement.
- d. Submit to the State Department of Health within ninety (90) days after the date of termination or expiration, a final report of receipt and expenditure of funds relating to this Agreement. The report shall be made by a certified public accountant.

8. Provider as Independent Contractor

The Department and the Provider agree that the Provider is an Independent Contractor and its employees are not in any way to be deemed employees of the County or the State Department of Health. It is further understood and agreed that no agent, servant or employee of the Provider shall, at any time, or under any circumstances, be deemed to be an agent, servant, or employee of the the County or State Department of Health.

9. Indemnification

The Provider agrees that it shall, at all times, defend, indemnify and hold the County and the State Department of Health and their officers or employees harmless and free and clear of any and all liability arising from any act of omission or commission by the

Provider, its officers or employees with respect to this Agreement and any of the terms thereof.

10. Jurisdiction of Department

The Provider agrees that its employees or agents rendering personal care services shall be subject to the jurisdiction of the Department and/or its designee, when such designee has been approved by the State Department of Health. It is understood and agreed that the Department retains the right to maintain and continue case management for any recipients of Medicaid and that the activities of the Provider shall be subject to the monitoring of the Department and the State Department of Health, in accordance with the requirements of 18 NYCRR.

11. Agreement to Renegotiate

The parties agree to renegotiate this Agreement in the event that the United States Department of Health and Human Services or the State Department of Health issue new or revised requirements on the Department as a condition for receiving continued federal or state reimbursement.

12. Amendment of Contract

This Agreement may be amended whenever determined necessary by the County and the Provider. All amendments shall be in writing, duly signed by both parties, and be annexed to this Agreement.

13. Fair Hearings

The Department shall be responsible for providing notice to Clients of the Client's right to a state fair hearing as required by federal and state law and regulations, and the manner in which a state fair hearing may be requested. The Provider, upon request of the Department, shall participate in state fair hearings when necessary for the determination of issues.

14. Adequacy of Service Notices

This Agreement shall not diminish the Provider's responsibility for maintaining adequacy of service notices thereof to recipients, reports, surveys, studies, audits, court or judicial proceedings, and any other matters of procedures relating to the furnishing of personal care services by the Provider.

15. Adequacy of Provider Services

This Agreement shall not diminish the Provider's responsibility for maintaining adequacy of services provided by the Provider. As required in 10 NYCRR 766.10 (d), notwithstanding any other provisions in this Agreement, the Provider remains responsible for: a) ensuring that any service provided pursuant to this Agreement complies with all pertinent provisions of federal, state and local statutes, rules and regulations; b) ensuring the quality of all services provided by Provider; and c) ensuring adherence by the Provider staff to the plan of care established for Clients.

16. Insurance Requirements

- a. The Provider shall obtain and maintain in full force and effect general liability insurance in the amount of \$1,000,000 per incident and \$2,000,000 annual aggregate. The Provider shall also obtain and maintain in full force and effect professional liability insurance in the amount of \$1,000,000 per incident and \$2,000,000 aggregate. The Provider shall name Oneida County as an additional insured on the Provider's general liability policy, on a primary, non-contributory basis, as their interests may appear. The Provider shall provide the County with certificates of insurance reflecting such coverage required herein, the terms and conditions thereof, and a commitment to notify the County at least ten (10) days before any cancellation, reduction or other change in coverage becomes effective (pursuant to usual insurance "hold harmless" or "loss payee" provisions).
- b. The Provider shall obtain and maintain insurance of the following types of coverage and limits of liability with an insurance carrier qualifies and admitted to do business in the State of New York. The insurance carrier must have at least an A- (excellent) rating by A.M. Best.
 - i. Automobile Liability.
 1. Business Auto Liability with limits of at least \$1,000,000 each accident.
 2. Business Auto coverage must include coverage for liability arising out of all owned, leased, hired and non-owned automobiles.
 3. Oneida County shall be included as an additional insured on the auto policy. Coverage for the additional insured shall be on a primary and non-contributing basis.
 - ii. Commercial Umbrella.
 1. Umbrella limits must be at least \$1,000,000.
 2. Umbrella coverage must include as additional insureds all entities that are additional insureds on the general liability policy.
 3. 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.
 - iii. Workers' Compensation and Employer's Liability.
 1. Statutory limits apply.
- c. Waiver of Subrogation: Provider 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 general liability, professional liability, Automobile Liability, Umbrella Liability or Workers' Compensation and Employer's Liability insurance maintained per requirements stated above.
- d. Certificates of Insurance: Prior to the start of any services the Provider 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 Provider's 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.

17. Fiscal Reports

The Provider shall make the necessary and/or required employer payroll reports, deductions, and tax, insurance, or other payments, including, but not limited to, providing for workers' compensation insurance, disability insurance, U.S. Social Security taxes, federal and state unemployment insurance benefits, withholding federal, state and local income taxes; and shall comply with any other legal or customary requirements.

18. Performance Standards

The Provider shall provide services which assure the health and safety of the Client and assist the Client to live as independently as possible. To assure the quality of the service, the following shall apply:

- a. The Provider shall commence services as expeditiously as possible upon receipt of an oral or written authorization from the Department. If notice to commence services is received on a Friday, Saturday, Sunday, or Official State Holiday, the said hour period shall begin to run on the next business day following such Friday, Saturday, Sunday or State Holiday.
- b. The Provider shall establish and maintain procedures in order to ensure uninterrupted service in accordance with service authorizations, including the following:
 - i) The Provider shall establish and maintain a twenty-four hour per day, seven days per week system for emergency replacement of personal care aides.
 - ii) The Provider shall establish and submit to the Department for review and approval a holiday coverage plan for the provision of services.
 - iii) Providers who are certified in accordance with Part 760 of 10 NYCRR or licensed in accordance with Part 765 of 10 NYCRR shall share with the Department their plan for emergency and disaster preparedness prepared in accordance with Section 763.8 of 10 NYCRR and Section 766.5 of 10 NYCRR. Those agencies which are not required to be certified or licensed and are providing services exclusively under 18 NYCRR shall establish and submit to the Department for its prior approval a plan for maintaining services in the event of an emergency, including snowstorms and power failures.
 - iv) The Provider shall promptly notify the Client and the Department when the Provider is unable to provide continuing services in accordance with service authorization. The Provider shall make such emergency arrangements as shall be necessary to ensure that the safety of the Client is not endangered by the inability of the Provider to provide the authorized services.
- c. The Provider shall notify the Department when personal care services appear to be no longer appropriate. The Provider shall in no event terminate services to a Client without the prior approval of the Department.

- d. The Provider shall notify in writing all of its employees that the personal care aides cannot cash checks, do banking or pay bills for the Client without special written permission from the Department. If such permission is granted, all such transactions shall be documented in writing.
- e. The personal care aide shall not directly or indirectly solicit any gift or accept any gift, whether in the form of money, services, loans, time off, telephone usage, travel or any other form.

19. Administrative Supervision

The Provider shall perform administrative supervision activities to assure that personal care services are provided as authorized by the Department. To assure that services are provided according to the level, amount, frequency and duration authorized, the Provider shall:

- a) Notify the Department within twenty-four (24) hours of the initial referral whether the Provider accepts or rejects an assigned case. If the Provider accepts the Client, the Provider must notify the Department of the arrangements made to provide personal care services. If the Provider rejects the Client, the Provider shall notify the Department of the reason for rejecting the referral.
- b) Assign a personal care aide(s) to the Client which can meet his/her needs. In making such a determination, the Provider shall take the following into consideration:
 - i) The skills needed by the Client;
 - ii) The Client's cultural background, primary language, personal characteristics and geographic location; and
 - iii) The ability of the personal care aide to communicate with the Client or with a caregiver acting on the Client's behalf;
- c) Promptly provide a replacement when the assigned personal care aide:
 - i) Is unavailable;
 - ii) Does not work effectively with the Client or care givers or provides personal care services inappropriately or unsafely; or
 - iii) Is not performing to the satisfaction of the Client.
- d) Promptly notify the Department when the Provider is unable to maintain coverage including cases requiring service at night, weekends and holidays, or when there are questions regarding the adequacy of the authorized personal care services.
- e) Participate in, or arrange for, the orientation of persons providing personal care services to the employment policies and procedures of the Provider;
- f) Evaluate, at a minimum annually, the overall job performance of persons providing personal care services;
- g) Check time cards for required documentation and maintain scheduling records and any other records necessary to fulfill required administration activities.

20. Provider Records

- a) The Provider shall maintain books, records, documents and acceptable accounting procedures and practices which adequately reflect all direct and indirect costs of any nature expended in the performance of this Agreement. The Provider shall collect and

maintain program and statistical records as prescribed by and on forms furnished by the Department and authorized by the State Department of Health.

- b The Provider shall retain all books, records, and other documents relevant to this Agreement for six (6) full years after final payment. Federal and/or state auditors and any persons duly authorized by the County shall have full access to and the right to examine any of said materials during said six (6) year period.
- c The County and the Provider shall observe and require the observance of applicable federal and state requirements relating to confidentiality of records and information, and each agrees not to allow examination of records or disclose information, except for examination of records by the County and/or the state Department of Health as may be necessary to assure that the purpose of the Agreement will be effectuated. The County also agrees that the physician's orders, the nursing and the social assessments will be maintained within their records provided that the Department furnishes copies of such written documentation and information, including copies of the physician's orders and nursing assessment, and access to its staff, as may be required by the State Department of Health or by the licensed Provider, to assure compliance with applicable statutes, rules and regulations.

21. Cooperative Agreements

The Provider warrants that it has notified, or shall notify, the Department and/or the State Department of Health of any affiliated entities with which it has direct or indirect cooperative agreements, contracts for services, or any other type of formal or informal arrangement whereby the costs and/or the amounts received in reimbursement for services rendered to recipients are shared among or transferred between the Provider and any other entity(ies). If the Provider makes any disbursement directly or indirectly to any entity receiving reimbursement from any governmental agency, the Department and/or the State Department of Health shall also be notified.

22. Rates of Payment

The Provider shall be reimbursed through eMedNY and at the rates set forth by the State Department of Health and approved by the State Division of the Budget. Unless otherwise stated, the rate of payment set forth shall be the total gross amount of payment and no additional reimbursement to the Provider shall be made for any subsidiary or other services supplementary or in addition to the terms herein set forth.

23. Local Variations

Local variations, if any, shall be set forth in Appendix B, appended hereto and shall be effective only if the terms and form of such variations do not conflict with the contents of this Agreement. The words and meaning of the terms in the main body shall be controlling to the exclusion of the local variations unless a separate executed Agreement between the State Department of Health and the County deliberately changes said effect and a copy of said Agreement is appended hereto.

24. Civil Rights Requirements

The Provider shall comply with the requirements of the United States Civil Rights Act of 1964 as amended and Executive Order No. 11246 entitled "Equal Employment

Opportunities” and the regulations issued pursuant thereto as shall be deemed to exist or to bind any of the parties hereto.

25. Non-Discrimination Requirements

The Provider shall observe and comply with the federal regulations contained in 45 CFR 84 entitled “Non-discrimination on the Basis of Handicap; Programs and Activities Receiving or Benefiting from Federal Financial Assistance.”

26. Entire Agreement

This Agreement and all attached appendixes and addendums contain all the terms and conditions agreed upon by the parties. All items incorporated by reference are to be attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement, shall be deemed to exist or to bind any other parties hereto.

In Witness Whereof, the parties hereunto have signed and executed this Agreement on the date(s) indicated opposite their respective Signature.

Date: _____

Oneida County _____

Anthony J. Picente, Jr., County Executive

Approved as to Form _____

Richard P. Ferris, Assistant County Attorney

Date: 7/7/21

Oneida County Department of Social Services: Colleen Fahy-Box

Colleen Fahy-Box, Commissioner

Date: _____

Agency: _____

Authorized Signature: _____

Print Authorized Name: _____

Title: _____

eMedNY ID # _____

APPENDIX A

The parties to the attached contract further agree to be bound by the following, which are hereby made a part of said contract.

- I. This contract may not be assigned by the contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or disposed of without the previous consent, in writing, of the State.
- II. This contract shall be deemed executory only to the extent of money available to the State for the performance of the terms hereof and no liability on account thereof shall be incurred by the State of New York beyond moneys available for the purpose thereof.
- III. The contractor specifically agrees, as required by Labor Law, Sections 220 and 220-d, as amended that:
 - (a) no laborer, workman or mechanic, in the employ of the contractor, subcontractor or other person doing or contracting to do the whole or any part of the work contemplated by the contract shall be permitted or required to work more than eight hours in any one calendar day or more than five days in any one week, except in the emergencies set forth in the Labor Law.
 - (b) The wages paid for a legal day's work shall be not less than the prevailing rate of wages as defined by law.
 - (c) The minimum hourly rate of wages to be paid shall not be less than that stated in the specifications, and any redetermination of the prevailing rate of wages after the contract is approved shall be deemed to be incorporated herein by reference as of the effective date of redetermination and shall form a part of these contract documents.
 - (d) The Labor Law provides that the contract may forfeited and no sum paid for any work done thereunder on a second conviction for willfully paying less than—
 - (a) the stipulated wage scale as provided in Labor Law, Section 220, subdivision 3, as amended or
 - (b) less than the stipulated minimum hourly wage scale as provided in Labor Law, Section 220-d, as amended.
- IV. The contractor specifically agrees, as required by the provisions of the Labor Law, Section 220-e, as amended, that:
 - (a) in hiring of employees for the performance of work under this contract or any subcontract hereunder, or for the manufacture, sale or distribution of materials, equipment or supplies hereunder, no contractor, subcontractor, shall by reason of race, creed, color, sex or national origin discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates.
 - (b) No contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this contract on the account of

- race, creed, color, sex or national origin.
- (c) There may be deducted from the amount payable to the contractor by the State under this contract a penalty of fifty dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the contract, and
 - (d) This contract may be cancelled or terminated by the State or municipality and all moneys due or to become due hereunder may be forfeited for a second or any subsequent violation of the terms or conditions of this section of the contract, and
 - (e) The aforesaid provisions of this section covering every contract for or on behalf of the State or a municipality for the manufacture, sale or distribution of materials, equipment or supplies shall be limited to operations performed within the territorial limits of the State of New York.
- V. The contractor specifically agrees, as required by Executive Order # 45, dated Jan. 4, 1977, effective February 4, 1977, that:
- (a) The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake programs of affirmative action to insure that they are afforded equal employment opportunities without discrimination. Such action shall be taken with reference, but not limited to: recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.
 - (b) If the contractor is directed to do so by the contracting agency or the Office of State Contract Compliance (hereafter OSCC). The contractor shall request each employment agency, labor union, or authorized representative of workers, with which he has a collective bargaining or other agreement or understanding, to furnish him with a written statement that such employment agency, labor union or representative will not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations hereunder and the purposes of Executive Order # 45 (1977).
 - (c) The contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the contractor, that all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
 - *(d) The contractor will comply with all the provisions of Executive Order # 45 (1977) and rules, regulations and orders issued pursuant thereto and will furnish all information and reports required

by said Executive Order or such rules, regulations and orders, and will permit access to its books, records, and accounts and to its premises by the contracting agency or the OSCC for the purposes of ascertaining compliance with said Executive Order and such rules, regulations and orders.

*(e) If the contractor does not comply with the equal opportunity provisions of this contract, with Executive Order # 45 (1977), or with such rules, regulations, or orders, this contract or any portion thereof, may be cancelled, terminated or suspended or payments thereon withheld, or the contractor may be declared ineligible for future State or State-assisted contracts, in accordance with procedures authorized in Executive Order #45 (1977), and such other sanctions may be imposed and remedies invoked as are provided in said Executive Order or by rule, regulation or order issued pursuant thereto, or as otherwise provided by law.

*(f) The contractor will include the provisions of clauses (a) through (e) above and all contract provisions promulgated by OSCC pursuant to Section 1.3 (b) of Executive Order # 45 (1977), in every non-exempt subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its work force within the State of New York. The contractor will take such action in enforcing such provisions of such subcontract or purchase order as the contracting agency or the OSCC may direct, including sanctions or remedies for noncompliance. If the contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction, the contractor shall promptly so notify the Attorney General, requesting him to intervene and protect the interests of the State of New York.

VI. The contractor will comply with the provisions of Sections 291-299 of the Executive Law and the Civil Rights Law, will furnish all information and reports deemed necessary by the State Division of Human Rights under the Law, and will permit access to its books, records and accounts by the State Industrial Commissioner for the purposes of investigation to ascertain compliance with the non-discrimination clauses, the Executive Law and Civil Rights Law.

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

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

2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder,

and will not be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor;

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

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

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

****Note:** Reference to the above Rules and Regulations refer to those Rules and Regulations in effect as of the date of the solicitation of bids relative to this contract.

APPENDIX B

STANDARD CLAUSES FOR ALL ONEIDA COUNTY DEPARTMENT OF SOCIAL SERVICES CONTRACTS

PERSONNEL

- a. The Provider agrees to be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries and management of its project personnel. These functions shall be carried out in accordance with the provisions of this AGREEMENT, and all applicable federal, state and county laws and regulations.
- b. It is the policy of the Department to encourage the employment of qualified applicants of, or recipients of public assistance by both public organization and private enterprises who are under contractual AGREEMENT to the Department for the provision of goods and services. Providers will be expected to make best efforts in this area.
- c. The Provider agrees to identify, in writing, the person(s) who will be responsible for directing the work to be done under this AGREEMENT. No change or substitution of such responsible person(s) will be made without prior approval in writing from the Department, to the degree that such change is within the reasonable control of the Provider.

NOTICES

- a. All notices permitted or required hereunder shall be in writing and shall be transmitted either by:
 - a. By certified or registered United States mail, return receipt requested;
 - b. By facsimile transmission;
 - c. By personal delivery;
 - d. By expedited delivery service; or
 - e. By e-mail.

Notices to the Department shall be addressed to the Commissioner of Social Services at the address, telephone number, facsimile number or e-mail address provided to the Provider during contract development or to such different Program Manager as the Department may for time-to time designate.

- b. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.
- c. The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The

Parties agree to mutually designate individuals as their respective representatives for the purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

OFFICE SERVICES

- a. The Provider shall be responsible for the provision of necessary equipment and services for Provider's staff, pursuant to and described in the narratives and budgets contained in the AGREEMENT.
- b. For federally funded contracts, title to real property and non-expendable personal property whose requisition cost is borne in whole or in part by monies proved under this AGREEMENT shall be determined between the Provider and the Department, pursuant to Federal Regulations 45 CFR 92 unless such authority is otherwise inappropriate. Title to all equipment, supplies and material purchased with funds under this AGREEMENT under contracts which are not federally funded shall be in the State of New York and the property shall not be transferred, conveyed, or disposed of without written approval of the Department. Upon expiration or termination of this Agreement, all property purchased with funds under this Agreement shall be returned to the Department, unless the Department has given direction for, or approval of, an alternative means of disposition in writing.
- c. Upon written direction by the Department, the Provider shall maintain an inventory of those properties that are subject to the provisions of sub-paragraph b of this section.

GENERAL TERMS AND CONDITIONS

- a. The Provider agrees to comply in all respects with the provisions of this AGREEMENT and the attachments hereto. The Provider specifically agrees to perform services according to the objectives, tasks, work plan and staffing plan contained in the AGREEMENT. Any modifications to the tasks or work plan contained in AGREEMENT must be mutually agreed to by both parties in writing before the additional or modified tasks or work plan shall commence.
- b. If any specific event or conjunction of circumstances threatens the successful completion of the project, in whole or in part, including, where relevant, timely completion of milestones, the Provider agrees to submit to the Department within three days of occurrence or perception of such problem, a written description thereof together with a recommended solution thereto.
- c. The Provider immediately shall notify in writing the Department Program Manager assigned to this contract of any unusual incident, occurrence or event that involves the staff, volunteers or officers of the Provider, and subcontractor or Program participant funded through this contract, including, but not limited to the following: death or serious injury; an arrest or possible criminal activity; and destruction of property; significant damage to the physical plant of the Provider, or other matters of a similarly serious

nature.

- d. In providing these services, the Provider hereby agrees to be responsible for designing and operating these services, and otherwise performing, so as to maximize Federal financial participation to the Department under the Federal Social Security Act.
- e. If funds from this contract will be used to pay any costs associated with the provision of legal services of any sort, the following shall apply;
 - No litigation shall be brought against the State of New York, the New York State Office of Children and Family Services or against Oneida County or the Department or other local government or local social services district with funds provided under this contract. The term "litigation" shall include commencing or threatening to commence a lawsuit, joining or threatening to join as a party to ongoing litigation, or requesting any relief from either the State of New York, the New York State Office of Children and Family Services or Oneida County or other local government or local social services district, based upon any agreement between such agency in litigation with another party and such party, during pendency of the litigation.
 - Opinions prepared by consultant law firms construing the statutes or Constitution of the State of New York do not constitute the view of the State unless the prior written approval of the Attorney General is obtained. Requests for said approval shall be submitted to the Solicitor General, Division of the Appeals and Opinions Bureau, department of Law, The Capitol, Albany, New York 12224
 - The Provider shall provide to the Department in a format provided by the Department such additional information concerning the provision of legal services as the Department shall require.
- f. The Department will designate a contract Manager who shall have authority relating to the technical services and operational functions of this AGREEMENT and activities completed or contemplated thereunder. The Contract Manager and those individuals designated by him/her in writing shall have the prerogative to make announced or unannounced on-site visits to the project. Project reports and issues of interpretation or direction relating to this AGREEMENT shall be directed to the Contract Manager.
- g. Except where the Department otherwise authorizes or directs in writing, the Provider agrees not to enter into any subcontracts, or revisions to subcontracts, for the performance of the obligations contained herein until it has received the prior written approval of the Department, which shall have the right to review and approve each and every subcontract prior to giving written approval to the Provider to enter into the subcontract. All AGREEMENTS between the Provider and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions specifying (1) that the work performed by the subcontractor must be in accordance with the terms of this AGREEMENT (2) that nothing contained in the subcontract shall impair the rights of the Department under this

AGREEMENT, (3) that nothing contained in the subcontract, nor under this AGREEMENT, shall be deemed to create any contractual relationship between the subcontractor and the Department, and (4) incorporating all provisions regarding the rights of the Department as set forth in Agreement, where applicable. The Provider specifically agrees that the Provider shall be fully responsible to the Department for the acts and omissions of subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by the Provider.

- h. The Provider warrants that it, its staff and any and all subcontractors which must be approved by the Department, have all the necessary licenses, approvals and certifications currently required by the law of any applicable local, state or federal government to perform the services pursuant to this AGREEMENT and/or subcontract entered into under this AGREEMENT. The Provider further agrees such required licenses, approvals and certificates will be kept in full force and effect during the term of this Agreement, and/or any extension thereof, and to secure any new licenses, approvals or certificates within the required time frames and/or to require its staff and subcontractors to obtain any requisite licenses, approvals or certificates. In the event the Provider, its staff, and/or subcontractors are notified of a denial or revocation of any license, approval or certification to perform the services under the AGREEMENT, Provider will immediately notify the Department.
- i. This Agreement cannot be assigned by the Provider to a subcontractor without obtaining written approval of the Department. Prior to executing a subcontract agreement the Provider agrees to provide the Department with the information the Department needs to determine whether a proposed subcontractor is a responsible vendor. The Determination of Vendor responsibility will be made in accordance with Section n. of General Terms and Conditions.
- j. If the Provider intends to use materials, equipment or personnel paid for under this contract in a revenue generating activity, the Provider shall report such intentions to the Department forthwith and shall be subject to the direction of the Department as to the disposition of such revenue.
- k. Any interest accrued on funds paid to the Provider by the Department shall be deemed to be the property of the Department and shall either be credited to the Department at the termination of this AGREEMENT or expended on additional services provided for under this AGREEMENT.
- l. The Provider ensures that the grounds, structures, building and furnishings at the program site(s) used under this AGREEMENT are maintained in good repair and free from any danger to health or safety and that any building or structure used for program services complies with all applicable zoning, building, health, sanitary, and fire codes.
- m. The Provider agrees to produce, and retain for the balance of the calendar year in which produced, and for a period of six years thereafter, any and all records necessary to

substantiate upon audit, the proper deposit and expenditure of funds received under this contract. Such records shall include, but not be limited to, original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:

- a) Payroll Expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, employee personal history folders, and cost allocation plans, if applicable.
- b) Payroll Taxes and Fringe Benefits: cancelled checks, copies of related bank statements, reporting forms, and invoices for Fringe Benefit expenses.
- c) Non-Personal Services Expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, and cost allocation plans, if applicable.
- d) Receipt and Deposit of Advance and Reimbursements: Itemized bank stamped deposit slips, and a copy of the related bank statements.
- e) The Provider agrees that any equipment purchased with funds under this agreement is the property of the Department and will remain with or will be returned to the Department in the event of the termination of this Agreement,

Although not required, the Department recommends that the Provider retain records directly pertinent to this contract for a period of ten (10) years after the end of the calendar year in which they were made, as the statute of limitations for the New York False Claims Act is ten years.

- n. By signing this contract, the Provider certifies that within the past three years the Provider has engaged in no actions that would establish a basis for a finding by the Department that the Provider is a non-responsible vendor or, if the Provider has engaged in any such action or actions, that all such actions have been disclosed to the Department prior to entering into this Agreement. The actions that would potentially establish a basis for a finding by Department that the Provider is a non-responsible vendor include:
 - The Provider has had a license or contract suspended, revoked or terminated by a governmental agency.
 - The Provider has had a claim, lien, fine, or penalty imposed or secured against the Provider by a governmental agency.
 - The Provider has initiated a bankruptcy proceeding or such a proceeding has been initiated against the Provider.
 - The Provider has been issued a citation, notice, or violation order by a governmental agency finding the Provider to be in violation of any local, state, or federal laws.
 - The Provider has been advised by a governmental agency that a determination to issue a citation, notice or violation order finding the Provider to be in violation of any local, state or federal laws is pending before a governmental agency.
 - The Provider has not paid all due and owed local, state and federal taxes to the proper authorities.
 - The Provider has engaged in any other actions of a similarly serious nature.

Where the Provider has disclosed any of the above to the Department, Department may require as a condition precedent to entering into the contract that the Provider agrees to

such additional conditions as will be necessary to satisfy the Department that the vendor is and will remain a responsible vendor. By signing this contract, the Provider agrees to comply with any such additional conditions that have been made a part of this contract.

By signing this contract, the Provider also agrees that during the term of the contract, the Provider will promptly notify the Department if the Provider engages in any actions that would establish a basis for a finding by Department that the Provider is a non-responsible vendor, as described above.

- o. By signing this Agreement, the Provider agrees to comply with State Tax Law section 5-a.
- p. Provider must maintain Workers' Compensation Insurance in accordance with the Workers' Compensation Law. If the Provider believes they are exempt from the Workers' Compensation insurance requirement then they must apply for an exemption. Providers can apply for the exemption online through the New York State Workers' Compensation Board website at:
http://www.wcb.state.ny.us/content/ebiz/wc_db_exemptions/wc_db_exemptions.jsp
- q. All organizations that receive federal financial assistance under social service programs are prohibited from discriminating against beneficiaries or prospective beneficiaries of the social service programs on the basis of religion or religious belief. Accordingly, organizations, in providing services supported in whole or in part with federal financial assistance, and in their outreach activities related to such services, are not allowed to discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

Organizations that engage in explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization) must perform such activities and offer such services outside of programs that are supported with direct Federal financial assistance (including through prime awards or sub-awards), separately in time or location from any such programs or services supported with direct federal financial assistance, and participation in any such explicitly religious activities must be voluntary for the beneficiaries of the social service program supported with such federal financial assistance

REPORTS AND DELIVERABLES

The Provider shall prepare and submit all reports, documents, and projects required by this AGREEMENT to the Office's Contract Manager for review and approval. These reports shall be in such substance, form, and frequency as required by the Department and as necessary to meet State, Federal and County requirements.

The Provider shall complete Contract Evaluations as required by the Department as well as Statistical Data as needed by the Department and New York State to meet the

reporting requirements.

CONFIDENTIALITY AND PROTECTION OF HUMAN SUBJECTS

- a. The Provider agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this project. The Provider shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this AGREEMENT in conformity with the provisions of applicable state, federal, and county laws and regulations. Any breach of confidentiality by the Provider, its agents or representatives shall be cause for immediate termination of this AGREEMENT.
- b. Any Provider who will provide goods and/or services to a residential facility or program operated by Department agrees to require all of its employees and volunteers who will have the potential for regular and substantial contact with youth in the care or custody of the Department to sign an Employee Confidentiality Certification and employee Background Certification before any such employees and volunteers are permitted access to youth in the care or custody of the Department and/or any financial and/or client identifiable information concerning such youth. Additionally, Department will require a database check of the Statewide Central Register of Child Abuse and Maltreatment (SCR) of each employee and volunteer of the Provider who has the potential for regular and substantial contract with children in the care or custody of the Department. Any other Provider whose employees and volunteers will have access to financial and/or client identifiable information concerning youth in the care or custody of Department agrees to require all such employees and volunteers to sign an Employee Confidentiality Certification before any such employees and volunteers are permitted access to any financial and/or client identifiable information concerning such youth.
- c. Provider and any subsequent subcontractor shall not discriminate or refuse assistance to individuals with AIDS or an HIV infection or an HIV - related illness.

The Provider and any subsequent subcontractor agrees that their staff to whom confidential HIV - related information may be given as a necessity for providing services and in accordance with 403 of Title 18 NYSDSS regulation and Section 2782 of the Public Health Law are fully informed of the penalties and fines for re-disclosure in violations of State Law and Regulations.

The Provider and any subsequent subcontractor must include the following written statement when disclosing any confidential HIV - related information.

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

disclosure."

- d. All information contained in the Provider's, or its sub-contractor's files shall be held confidential pursuant to the applicable provisions of the Social Services Law and any State Department Regulations promulgated thereunder, including 18 NY CRR Sec. 357.5 and 423.7, as well as any applicable federal laws and any regulations promulgated thereunder and shall not be disclosed except as authorized by law.
- e. The Provider and all Contract Staff that are subject to the Oneida County computer systems/databases shall complete the Oneida County Department of Social Services Confidentiality and Non-Disclosure Agreement provided with this agreement and shall submit forms to the following address:

Oneida County Department of Social Services
Contract Administration Office, 4th Floor
800 Park Ave
Utica, New York, 13501

PUBLICATIONS AND COPYRIGHTS

- a. The results of any activity supported under this AGREEMENT may not be published without prior written approval of the Department, which results (1) shall acknowledge the support of the Department and the County and, if funded with federal funds, the applicable federal funding agency, and (2) shall state that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Provider and do not necessarily represent the opinions, interpretation or policy of the Department or Oneida County.
- b. The Department and Oneida County expressly reserve the right to a royalty-free, non-exclusive and irrevocable license to reproduce, publish, distribute or otherwise use, in perpetuity, any and all copyrighted or copyrightable material resulting from this AGREEMENT or activity supported by this AGREEMENT. All publications by the Provider covered by this AGREEMENT shall expressly acknowledge the Department's right to such license.
- c. All of the license rights so reserved to the Department and Oneida County under this paragraph are equally reserved to the United States Department of Health and Human Services and subject to the provisions on copyrights contained in 45 CFR 92 if the AGREEMENT is federally funded.
- d. The Provider agrees that at the completion of any scientific or statistical study, report or analysis prepared pursuant to this AGREEMENT, it will provide to the Department, at no additional cost, a copy of any and all data supporting the scientific or statistical study, report or analysis, together with the name(s) and business address(es) of the principal(s) producing the scientific or statistical study, report or analysis. The Provider agrees and acknowledges the right of the Department, subject

to applicable confidentiality restrictions, to release the name(s) and business address(es) producing the scientific or statistical study, report or analysis, together with a copy of the scientific or statistical study, report or analysis and all data supporting the scientific or statistical study, report or analysis.

PATENTS AND INVENTIONS

The Provider agrees that any and all inventions, conceived or first actually reduced to practice in the course of, or under this AGREEMENT, or with monies supplied pursuant to this AGREEMENT, shall be promptly and fully reported to the DEPARTMENT. Determination as to ownership and/or disposition of rights to such inventions, including whether a patent application shall be filed, and if so, the manner of obtaining, administering and disposing of rights under any patent application or patent which may be issued, shall be made pursuant to all applicable law and regulations.

TERMINATION

- a. This AGREEMENT may be terminated by the DEPARTMENT upon thirty (30) days prior written notice to the Provider. Such notice is to be made by way of registered or certified mail return receipt requested or hand delivered with receipt granted by the Provider. The date of such notice shall be deemed to be the date the notice is received by the Provider established by the receipt returned, if delivery by registered or certified mail, or by the receipt granted by the Provider, if the notice is delivered by hand. The Department agrees to pay the Provider for reasonable and appropriate expenses incurred in good faith before the date of termination of this AGREEMENT.
- b. If the Provider fails to use any real property or equipment purchased pursuant to this AGREEMENT or the Provider ceases to provide the services specified in the AGREEMENT for which the equipment was purchased, the Department may terminate this AGREEMENT upon thirty (30) days written notice to the Provider, where the Provider has failed to cure as set forth hereafter, Said notice of breach and shall be sent by way of registered or certified mail return receipt requested, or shall be delivered by hand, receiving Provider's receipt therefore. Said notice shall specify the Provider's breach and shall demand that such breach be cured. Upon failure of the Provider to comply with such demand within thirty (30) days, or such longer period as may be specified therein, the Department may, upon written notice similarly served, immediately terminate this AGREEMENT, termination to be effective upon the date of receipt of such notice established by the receipt returned to the Department. Upon such termination, the Department may require (a) the repayment to the Department of any monies previously paid to the Provider, or (b) return of any real property or equipment purchased under the terms of this AGREEMENT or an appropriate combination of (a) and (b), at the Department's option.
- c. To the extent permitted by law, this AGREEMENT shall be deemed in the sole

discretion of the Department terminated immediately upon the filing of a petition in bankruptcy or insolvency, by or against the Provider. Such termination shall be immediate and complete, without termination costs or further obligation by the Department to the Provider.

- d. Should the Department determine that federal, state or county funds are limited or become unavailable for any reason, the Department may reduce that total amount of funds payable to the Provider, reduce the contract period or deem this contract terminated immediately. The Department agrees to give notice to the Provider as soon as it becomes aware that funds are unavailable, in the event of termination under this paragraph. If the initial notice is oral notification, the Department shall follow this up immediately with written notice. The Department will be obligated to pay the Provider only for the expenditures made and obligations incurred by the Provider until such time as notice of termination is received either orally or in writing by the Provider from the Department.
- e. The Provider shall provide to the Department such information as is required by the Department in order that the Department may determine whether the Provider is a responsible vendor for purposes of compliance with section 163 of the State Finance Law and requirements of the Department. If there is any change in any of the vendor responsibility information provided to the Department by the Provider at any time during the term of this Agreement, the Provider shall be required to immediately notify the Department so that the Department may assess whether the Provider continues to be a responsible vendor. Should the Provider fail to notify the Department of any change in the vendor responsibility information or should the Department otherwise determine that the Provider has ceased to be a responsible vendor for the purposes of this AGREEMENT, the Department may terminate this AGREEMENT upon thirty (30) days written notice to the Provider. Said notice of termination shall be sent by way of registered or certified mail return receipt requested, or shall be delivered by hand, receiving Provider's receipt therefore. Said notice shall specify the reason(s) that the Provider has been found to no longer be a responsible vendor.

Upon determination that the Provider is no longer a responsible vendor, the Department may, in its discretion and as an alternative to termination pursuant to this paragraph, notify the Provider of the determination that the Provider has ceased to be a responsible vendor and set forth the corrective action that will be required of the Provider to maintain the contract. Should the Provider fail to comply with the required corrective action within thirty (30) days of the date of notification, or such longer period as may be specified therein, the Department may, upon written notice similarly served, immediately terminate this AGREEMENT, termination to be effective upon the date of receipt of such notice established by the receipt returned to the Department. Upon such termination, the Department may require (a) the repayment to the Department of any monies previously paid to the Provider, (b) return of any real property or equipment purchased under the terms of this AGREEMENT, or an appropriate combination of (a) and (b) at the Department's

option.

PROVIDER COMPLIANCE

The Provider agrees to provide an Annual Certification pertaining to this Contract as part of the Provider's Annual Independent audit.

The Department shall have the right to audit or review the Provider's performance and operations as related to this AGREEMENT. If the Department should determine that the Provider has abused or misused funds paid to the Provider, or if the Provider has violated or is in non-compliance with any term of any other AGREEMENT with the Department, or has abused or misused funds paid to the Provider under any other AGREEMENT with the Department, the rights of the Department shall include, but not be limited to:

- Recovery of any funds expended in violation of the AGREEMENT;
- Suspension of Payments;
- Termination of the AGREEMENT; and/or
- Employment of another entity to fulfill the requirements of the AGREEMENT.

The Provider shall be liable for all reasonable costs incurred on account thereof, including payment of any cost differential for employing such entity. The Provider will assist the Department in transferring the operation of the Contracted services to any other entity selected by the Department in a manner that will enable the Department or clients to continue to receive services in an on-going basis, including, but not limited to, notifying clients of the new entity to which the services will be transferred and the effective date of the transfer, providing the new entity promptly and at no charge with a complete copy of the clients' and all other records necessary to continue the provision of the transferred services, and transferring any equipment purchased with funds provided under this AGREEMENT.

Nothing herein shall preclude the Department from taking actions otherwise available to it under law.

The Provider agrees to cooperate fully with any audit or investigation the Department or any agent of the Department may conduct and to provide access during normal business hours to any and all information necessary to perform its audit or investigation. The Provider shall also allow the Department, and any representatives specifically directed by the Department to take possession of all books, records and documents relating to this AGREEMENT without prior notice to the Provider. The Department will return all such books, records and documents to the Provider upon completion the official purposes for which they were taken.

The Provider agrees that all AGREEMENTS between the Provider and a subcontractor or consultants for the performance of any obligations under the AGREEMENT will be by written contract (subcontract) which will contain provisions including, but not limited to, the above specified rights of the Department.

FISCAL SANCTION

In accordance with the Department, Providers may be placed on fiscal sanction when the Department identifies any of the following issues:

- The Provider has received an advance, overpayment or other funds under this or another agreement that has not been refunded to the Department within the established timeframe;
- A Department or other audit identifies significant fiscal irregularities and/or that funds are due to the Department;
- The Provider has not provided satisfactory services as required under the terms of this or another Department agreement;
- The Provider has not provided fiscal or program reports as required under the terms of this or another Department agreement;
- A Department, county, state or federal prosecutorial or investigative agency identifies possible criminal activity, or significant fiscal or programmatic irregularities on the part of the Provider;
- The Provider is not in compliance with state, federal, or county statutes or regulations, or applicable Department guidelines, policies and/or procedures; or
- Unsafe physical conditions exist at a program site operated by the Provider and funded under an agreement with the Department

Once the Provider has been placed on fiscal sanction, payments on all open contracts and any new awards, amendments or contract renewals will not be processed until the issues have been satisfactorily resolved. The Provider will be notified in advance of any proposed fiscal sanction and will be provided a timeframe within which the issues must be resolved in order to avoid fiscal sanction. Issues that are not resolved within the timeframe established by the Department may be referred to the Attorney General (AG) for collection of legal action. If a contract is referred to the AG a collection fee will be added to the amount owed. In addition, interest will be due on any amount not paid in accordance with the timeframes established by the AG. The Provider will remain on fiscal sanction until the amount owed, including any collection fee and interest is paid.

ADDITIONAL ASSURANCES

- a. The Department and Provider agree that Provider is an independent contractor, and its employees, officers and agents are not in any way deemed to be employees of the Department or County of Oneida for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement or health benefits. The Provider agrees to defend and indemnify the Department and/or Oneida County for any loss the Department and/or Oneida County may suffer when such losses result from claims of any person or organization injured by the negligent acts or omissions of Provider, its officers and/or employees or subcontractors. Furthermore, the Provider agrees to indemnify, defend, and save harmless the Department and/or Oneida County, and its officers, agents, and employees from any and all claims and losses occurring or resulting from any and all Providers, subcontractors, and any other person, firm, or corporation furnishing or supplying

work, services, materials, or supplies in connection with the performance of the contract, and from all claims and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the Provider in the performance of the contract, and against any liability, including costs and expenses, for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, or use, or disposition of any data furnished under the contract or based on any libelous or other unlawful matter contained in such data or written materials in any form produced pursuant to the contract.

- b. The Provider further agrees that the Department has the right to take whatever action it deems appropriate, including, but not limited to, the removal of the Provider from the rotation list, the removal of clients, the cessation of client referrals, and termination of this Agreement, if the Provider fails to submit a completed and signed Standard Insurance Certificate or its acceptable substitute, which is subsequently approved by the Oneida County Department of Law, prior to the expiration of its insurance coverage

RENEWAL NOTICE TO PROVIDERS

Options to renew the contract are at the discretion of the Department, which shall supply written notice of such renewal or termination within 30 days of the expiration date. The Commissioner of Social Services reserves the right to evaluate the job performance and availability of funding.

COMPLIANCE WITH LAW

The Provider represents and agrees to comply with the requirements of the Civil Rights Act of 1964 as amended, the Age Discrimination Employment Act of 1964 as amended, the Federal Rehabilitation Act of 1973 as amended, and Executive Order No. 11246, entitled "Equal Employment Opportunity" as amended by Executive Order No. 11375 and as supplemented in Department of Labor Relations, 41CFR Part 60.

The Provider also agrees to comply with Federal and State Laws as supplemented in the Dept. of Labor regulations and any other regulations of the Federal and State entities relating to such employment and Civil Rights requirements.

As a mandated reporting agency, all instances of suspected child abuse, neglect and/or maltreatment, will be reported to the Central Registry as required by law. These verbal reports will be followed by submission of completed 2221A to the local Department of Social Services. The family will be informed in advance of the Agency's decision to file a report with the Central Register.

The Provider attests they have not been debarred by the Federal Government from contracting to provide services funded by any Federal money.

The obligations of the parties hereunder are conditioned upon the continued availability of Federal and/or New York State Funds for the purposes set forth in this Agreement.



ONEIDA COUNTY HEALTH DEPARTMENT

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE

DANIEL W. GILMORE, PH.D., MPH
DIRECTOR OF HEALTH



"PROMOTING & PROTECTING THE HEALTH OF ONEIDA COUNTY"

OCGOV.NET/HEALTH

July 9, 2021

FN 20 21-214

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

HEALTH & HUMAN SERVICES

WAYS & MEANS

Dear Mr. Picente:

Attached please find a template agreement for a one year, second and final, extension to existing agreements between Oneida County, through its Health Department, and a variety of Preschool Related Services providers. Through these one year extensions, the County will provide related services rendered to eligible preschool age children with disabilities. I ask that this template for a one year extension be approved for use as a template for all Preschool Related Services Contracts.

Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, counties are to provide payment for related services rendered to eligible preschool aged children with disabilities.

The term of the one year extension will commence July 1, 2021 and continue through June 30, 2022. This is a New York State mandated program. New York State will reimburse the county 59.5% of the costs incurred. The expense for all of the Preschool Related Services providers for the one year extension is not expected to exceed \$894,836.00.

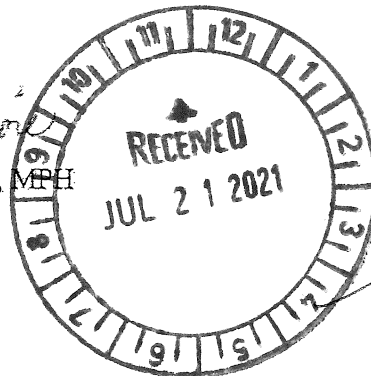
If this template for a one year extension meets with your approval, please forward the same to the Board of Legislators for consideration.

Thank you for your continued assistance.

Sincerely,

Daniel W. Gilmore
Daniel W. Gilmore Ph.D., MPH
Director of Health

CM



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

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

Date 7-20-21

ADMINISTRATION
ADIRONDACK BANK BLDG., 5TH FL.,
185 GENESEE ST. UTICA, NY 13501
TEL: (315) 798-6400 • FAX: (315) 266-6138

SPECIAL CHILDREN SERVICES
ADIRONDACK BANK BLDG., 5TH FL.,
185 GENESEE ST. UTICA, NY 13501
TEL: (315) 798-5249 • FAX: (315) 731-3491

ENVIRONMENTAL HEALTH
ADIRONDACK BANK BLDG., 4TH FL.,
185 GENESEE ST. UTICA, NY 13501
TEL: (315) 798-5064 • FAX: (315) 798-6486

CLINICAL SERVICES
406 ELIZABETH ST. UTICA, NY 13501
TEL: (315) 798-5748 • FAX: (315) 798-1057

Oneida Co. Department: Health

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

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: See attached list for current vendors

Title of Activity or Service: Preschool Related Services

Proposed Dates of Operation: July 1, 2021 to June 30, 2022

Client Population/Number to be Served: Eligible preschool children in Oneida County with disabilities

Summary Statements

- 1) **Narrative Description of Proposed Services:** NYS requires Counties under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, to provide payment for related services rendered to eligible preschool aged children with disabilities.
- 2) **Program/Service Objectives and Outcomes:** Compliance with NYS Department of Education Law
- 3) **Program Design and Staffing** NA

Total Funding Requested: \$894,836.00 **Account #** A2960.1953
Rev A3277

Oneida County Dept. Funding Recommendation:

Proposed Funding Sources (Federal \$/ State \$/County \$): State pays 59.5% County pays 40.5%

Cost Per Client Served: NA

Past Performance Data: 2020 expense \$791,788.50

O.C. Department Staff Comments:

Mandated Service: Yes

Oneida County Health Department Preschool Related Services Second One Year Extension Agreement

THIS AMENDMENT AGREEMENT, made this _____ day of _____, 2021, by and between Oneida County, a municipal corporation organized and existing under the laws of the State of New York, through its Health Department, with its principal offices at the County Office Building, 800 Park Avenue, Utica, New York, 13501 (hereinafter referred to collectively as the "County"), and _____ a _____ organized and existing under the laws of the State of New York located at _____, (hereinafter referred to as the "Contractor").

WITNESSETH

WHEREAS, the County and the Contractor entered into an agreement (Oneida County Contract No. _____), hereinafter referred to as the "Original Agreement," a copy of which is annexed hereto as "Exhibit A," that had an expiration date of June 30, 2020 and allowed for two consecutive one year extensions of the Original Agreement; and

WHEREAS, the County and the Contractor entered into the first one year extension Amended Agreement (Oneida County Contract No. _____), a copy of which is attached hereto as "Exhibit B," which amended the Oneida County Rate Schedule in the Original Contract and extended the Original Contract for an additional year, with a term ending June 30, 2021; and

NOW, THEREFORE, in consideration of the mutual promises made herein, the parties hereto agree as follows:

1. The Original Agreement as amended shall be extended for the second of two consecutive one year options beginning July 1, 2021 and ending June 30, 2022.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the date first written above.

ONEIDA COUNTY

CONTRACTOR

BY: _____
Anthony J. Picente Jr.
Oneida County Executive

BY: _____

DATE: _____

DATE: _____

Approved

Ellen S. Rayhill
Assistant County Attorney

Vendor	address
3 Circles Therapy: OT,PT,SLP Services	23 Mexico Street, Camden, NY 13316
NYSARC , Inc. ARC OF ONEIDA-LEWIS CHAPTER	245 Genesee Street, Utica, NY 13501
BATES, HEATHER	141 Northwood Circle, Rome, NY 13440
BATES, JACALYN	9824 Shady Lake Road, Camden, NY 13316
BOUSKA, ANN MARGARET	7867 McKern Road, Rome, NY 13440
BUILDING BLOCKS COMPREHENSIVE SVCS INC.	275 Parrish St. Suite A Canandaigua, NY 14424
BUILDING BLOCKS LEARNING CENTER, LLC.	19 Robinson Road, Clinton, NY 13323
CAMDEN CENTRAL SCHOOL DISTRICT	51 Third Street, Camden, NY 13316
CENTRAL ASSOCIATION FOR THE BLIND INC.	507 Kent Street, Utica, NY 13501
THE NETWORK FOR CHILDREN'S SPEECH, OCCUPATIONAL AND PHYSICAL THERAPY, LLC.	171 Intrepid Lane, Syracuse, NY 13205
GILMORE LISA	211 West Sycamore Street, Rome, NY 13440
HEAR 2 LEARN AUDIOLOGY AND SPEECH LANGUAGE PATHOLOGY, PLLC	6575 Kirkville Road, Suite 1, East Syracuse, NY 13057
LIBERTY RESOURCES PSYCHOLOGY, PHYSICAL, OCCUPATIONAL AND SPEECH THERAPY, PLLC	1045 James St., Syracuse, NY 13203
MCKEOWN, MAUREEN	605 Roosevelt Ave., Rome, NY 13440
OSWEGO BOCES aka CITI BOCES THE CENTER FOR INSTRUCTION, TECHNOLOGY AND INNOVATION	179 County Route 64, Mexico, NY 13114
ROME CITY SCHOOL DISTRICT	409 Bell Road, Rome, NY 13440
SNYDER, RENEE	19 Westminster Road, Utica, NY 13501
SPECIAL PROGRAMS - LITTLE LUKES	159 West First Street, Oswego NY 13126
SPEECH- LANGUAGE THERAPY OF CNY LLC	4266 Acme Road, Frankfort, NY 13340
SPROUT THERAPY GROUP-PHYSICAL THERAPY, OCCUPATIONAL THERAPY AND SPEECH PATHOLOGY, LLC	108 Southview Road, Syracuse, NY 13209
TOWN OF WEBB UNION FREE SCHOOL DISTRICT	3002 Main Street Old Forge, NY 13420
UPSTATE CEREBRAL PALSY INC	1020 Mary Street, Utica, NY 13501
VERNON VERONA SHERRILL CSD	5275 State Route 31, Verona, NY 13478
WUEST, COLLEEN	10320 Korber Road, Holland Patent, NY 13354

Oneida County Health Department Preschool Related Services Rate Amendment

THIS AMENDMENT AGREEMENT, made this 27th day of October 2020, by and between Oneida County, a municipal corporation organized and existing under the laws of the State of New York, through its Health Department, with its principal offices at the County Office Building, 800 Park Avenue, Utica, New York, 13501 (hereinafter referred to collectively as the "County"), and [REDACTED] existing under the laws of the State of New York located at [REDACTED] (hereinafter referred to as the "Contractor").

WITNESSETH

WHEREAS, the County and the Contractor entered into an agreement (Oneida County Contract No. [REDACTED]), hereinafter referred to as the "Original Agreement," a copy of which is annexed hereto as "Exhibit A," that has an expiration date of June 30, 2020 and allows for an extension of the Original Agreement, and

NOW, THEREFORE, in consideration of the mutual promises made herein, the parties hereto agree as follows:

1. The Original Agreement shall be extended for the first of two consecutive one year options beginning July 1, 2020 and ending June 30, 2021.
2. The Original Agreement will be amended to change the Oneida County Rate Schedule which is attached hereto and incorporated in full.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the date first written above.

Oneida County

Contractor

[Signature]
Anthony J. Picente, Jr.
Oneida County Executive

[REDACTED]

DATE: 10/27/20

DATE: 8/28/2020

Approved:

[Signature]
Ellen S. Rayhill
Assistant County Attorney

APPENDIX A

ONEIDA COUNTY RELATED SERVICE RATES SCHEDULE

RELATED SERVICE	MAXIMUM INDIVIDUAL HALF-HOUR RATE	MAXIMUM COORDINATOR PER HALF-HOUR BLOCK RATE	MAXIMUM GROUP HALF-HOUR RATE
Audiology	\$53.00	\$30.00	\$30.00
Assistive Technology Services	\$53.00	N/A	\$30.00
Counseling Services	\$53.00	\$30.00	\$30.00
Occupational Therapy	\$53.00	\$30.00	\$30.00
Orientation and Mobility Services	\$53.00	N/A	N/A
Physical Therapy	\$53.00	\$30.00	\$30.00
Speech Therapy for Eligible Preschool Students with Disabilities	\$62.50	\$30.00	\$34.00
Teacher of Hearing Impaired	\$53.00	N/A	\$30.00
Teacher of Visually Impaired	\$53.00	N/A	\$30.00
Aide 1:1	\$10.00	N/A	N/A

EXHIBIT A



ONEIDA COUNTY PRESCHOOL RELATED SERVICE CONTRACT

THIS CONTRACT, by and between the COUNTY OF ONEIDA, through its Health Department, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as the "County," and [REDACTED] a New York limited liability company organized and existing under the laws of the State of New York, having its principal office located at [REDACTED], hereinafter referred to as the "Contractor."

WITNESSETH:

WHEREAS, the County is in need of the provision of related services to preschool children with disabilities pursuant to Section 4410 of the New York State Education Law and Part 200 of the Regulations of the Commissioner of Education, through the County's Education of Handicapped Children Program; and

WHEREAS, the Contractor has been approved by the Commissioner of Education of the State of New York to provide related services to preschool children with disabilities in accordance with Section 4410 of the New York State Education Law and in compliance with 8 NYCRR Part 200, to eligible preschool students with disabilities, as recommended by the Committee on Preschool Special Education and approved by the appropriate Board of Education from the child's resident school district;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. TERM OF AGREEMENT

This Contract shall become effective July 1, 2018 and shall terminate on June 30, 2020, conditioned upon the continued availability of federal and/or New York State funds for the purpose set forth in this Contract. The County shall also have two (2) separate and consecutive options to extend this Contract. Each option shall be for one (1) year and shall be under the same terms and conditions contained in this Contract. Each such option shall be the sole and exclusive right of the County. Each option shall be exercised by the County in writing, and such option period shall commence upon the expiration of the immediately preceding Contract or option period.

2. RATES

Upon submission of a completed County voucher and required supporting documentation as discussed below for services rendered, the County shall pay the Contractor the rates set forth in the Oneida County Related Service Rates Schedule, attached hereto and incorporated hereto as "Appendix A." Any rate changes during the life of this contract will be submitted as amendments to this Contract.

3. TERMINATION

- a. By Contractor: Should the Contractor request termination of this Contract, a written notice of any such termination shall be provided to the County by the Contractor not less than ninety (90) days prior to the intended effective date of such action. In the event of such termination, the parties shall adjust the accounts due and the Contractor shall undertake no additional expenditures not already required.
- b. By County: This Contract may be terminated at any time by the County upon ten (10) days written notice to the Contractor. However, in the event the Contractor defaults in the performance of any of its obligations under this Contract, the County may terminate this Contract effective upon written notice at any time. Furthermore, should funds become unavailable or should appropriate Federal or New York State officials fail to approve sufficient funds for completion of the services or programs set forth in this Contract, the County shall have the option to immediately terminate this Contract upon providing written notice to the Contractor. In such event, the County shall be under no further obligation to the Contractor other than payment for costs actually incurred prior to termination and in no event will the County be responsible for any actual or consequential damages as a result of termination.

4. SCOPE OF SERVICES

Services performed pursuant to this Contract shall be provided in accordance with Section 4410 of the New York State Education Law and in compliance with the regulations of the Commissioner of Education of the State of New York set forth in 8 NYCRR 200.

- a. The Contractor shall provide appropriate Related Services for children with disabilities delivered on an itinerant basis subject to New York State Education Department (hereinafter "NYSED") and the appropriate Board of Education (hereinafter "BOE") approval. The parties hereto agree that "Related Services" as used herein shall have the same meaning as that term is defined in Section 4410 of the New York State Education Law and 8 NYCRR 200.1(qq).
- b. The Contractor shall provide Related Services for children with disabilities during the school year. The school year is hereby defined as a July/August session from July 1 through August 31 and/or a September/June session from September 1 through June 30.
- c. The Contractor cannot begin providing Related Services to a child with disabilities until the BOE has approved the Notification of Determination of Placement or STAC 1 (System to Track and Account for Children), if the BOE uses the STAC 1, outlining the appropriate Related Services to be provided by the Contractor. The start date will be indicated on the STAC 1 and a copy shall be provided to the Contractor.
- d. All financial arrangements for services under this Contract shall be between the County and Contractor as outlined in the section entitled "Conditions of Payment" below. The County will maintain an approved Oneida County Related Services Provider List and ensure that the Contractor is a referral from this list approved by the New York State Department of Education for the County of Oneida.

5. CONDITIONS OF PAYMENT:

The County, in accordance with the provisions of this Contract, shall reimburse the Contractor for expenditures made for contracted services as follows:

- a. The County will set rates for all related services delivered on an itinerant basis subject to NYSED approval.
- b. The County will provide payment of services rendered, as authorized on the child's Individualized Education Program (hereinafter "IEP") and the STAC 1 upon the Contractor's submission of a correctly completed voucher on a monthly basis. All submissions must include the required documentation as set forth in this Contract and any other documentation requested by the County. The Contractor shall maintain a copy of the child's IEP throughout the term of this Contract.
- c. The Contractor shall submit a voucher to the County for the services rendered not later than fifteen (15) days after the end of the July/August session and not later than fifteen (15) days after the end of each month for the September to June session.
- d. No payment shall be required to be made by the County prior to the receipt of Notification of Determination of Placement or STAC 1, if the BOE uses the STAC 1 as its notice of determination of placement.
- e. No parent or any person shall be required or requested to make payment for services in addition to the payments made by the County pursuant to this Contract.
- f. The Contractor must submit, for Medicaid eligible children, a signed Medicaid Provider Agreement and Reassignment form with the signed contract so the County can claim Medicaid reimbursement for the Related Services.

6. MEDICAID COMPLIANCE:

The Contractor shall provide with the voucher the following information for all Medicaid eligible children enrolled in its programs pursuant to Section 4410 of the New York State Education Law:

- a. Dates the child received a Related Service (e.g. physical therapy, speech therapy, occupational therapy, skilled nursing services and/or counseling, and transportation, as applicable).
- b. Documentation that each Related Service session was verified as delivered by the signature of the service provider.
- c. Copy of the Medicaid consent form to release child specific information signed by the parent of a child with a disability receiving Medicaid eligible services.
- d. All reporting requirements necessary for Medicaid compliance per Section 4410 of the New York State Education Law. The Contractor shall be responsible for reviewing Medicaid in Education notifications and changes, which can be found at <http://www.oms.nysed.gov/medicaid/>.
- e. Documentation evidencing the number of eligible Medicaid services by service type provided to each Medicaid eligible child pursuant to Section 4410 New York State Education Law.
- f. The Contractor shall obtain from the parent or person in parental relationship to the Medicaid eligible child receiving Related Services pursuant to Section 4410 of the New York State Education Law, the Client Identification Number (hereinafter "CIN"), period of eligibility and any other relevant third party health insurance information for

the purpose of establishing Medicaid as the "payer of last resort." Nothing herein shall preclude the child's enrollment and initiation of services in accordance with the Board's Notice of Determination. A copy is to remain in the Contractor's file.

7. COMPLIANCE WITH THE LAW

The Contractor agrees that while performing under the terms of this Contract that the Contractor shall comply with all federal, New York State statutes and regulations, and all local rules and regulations.

8. CHILD ABUSE/MALTREATMENT MANDATE

- a. In compliance with Section 4410 of the New York State Education Law and Section 424-a of the New York State Social Services Law, the Contractor is required to screen and be cleared through the State Central Register of Child Abuse and Maltreatment (hereinafter "SCR").
- b. The Contractor is responsible for screening and obtaining clearance through the SCR for the following individuals:
(1) Any person who is actively being considered for employment and who will have the potential for regular and substantial contact with children who receive preschool special education programs and Related Services; (2) Any person who is employed by an individual, corporation, partnership, or association that provides goods or services to approved preschool special education children.
- c. The Contractor is responsible for screening individuals through the SCR regardless of whether an individual has been screened through the SCR for employment or contract with another County or agency provider.
- d. The Contractor will not permit unsupervised contact between child and any potential employee or contractor before receiving a completed clearance and acceptable response from SCR.
- e. The Contractor will notify all individuals being screened that an inquiry will be made to the SCR and that this is a State requirement. The Contractor will establish procedures to ensure that the confidentiality of any SCR response is maintained. The Contractor will comply with SCR regulations in not screening employees more than once every six months, and one time only to the extent required by Section 424-a of the New York State Social Services Law for contractors, consultants and volunteers.
- f. Proof of SCR database check in accordance with Section 424-a of the New York State Social Services Law must be submitted to the County with the instant Contract and on an ongoing basis as required for special education services and programs for preschool children with disabilities.

9. CONFIDENTIALITY

The County and the Contractor shall hold in strict confidence all child records and disclose information and data in such records only to persons or entities as authorized or required by law or by written consent of the child's representative. The Contractor further agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this Contract. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this Contract in conformity with the provisions of applicable Federal, State, and local laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this Contract.

10. REPORTING REQUIREMENTS

- a. Contractor employed therapists shall be presently qualified to provide Related Services in New York State and shall submit copies of all appropriate license(s) or certification(s) to the County and update these as necessary during the term of this Contract.
- b. Contractor agrees to attend Committee for Preschool Special Education (hereinafter "CPSE") annual review meetings and program reviews as scheduled by the CPSE Chairperson or BOCES Coordinator who may receive served. The Contractor shall submit a copy of any reports necessary for review at these meetings to the County, as well as the CPSE Chairperson/BOCES Coordinator, at least ten (10) school days prior to the meeting date.
- c. Speech pathologists shall be required to obtain a written prescription (recommendation/order) for speech services signed and dated from (1) NYS Licensed and ASHA Certified Speech-Language Pathologist OR (2) a physician, physician's assistant or nurse practitioner which denotes the appropriate and current ICD code. The NYS Licensed and ASHA Certified Speech-Language Pathologist cannot write a referral if they have not seen the preschool child. According to 18 NYCRR 505.11, a written order must contain a diagnostic statement and purpose of treatment. It is not acceptable for the ordering or referring professional never to have met with the child as it is incompatible with the obligations of the ordering practitioner to assure that the ordered care, services or supplies will meet the recipients needs and restore him/her to the best possible functional level. Physician, physician assistants or nurse practitioner's orders must be dated on or before the initiation of service. No direct or consultation services will be

- permitted unless an appropriately written prescription is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
- d. Physical Therapists must obtain a signed prescription (order/recommendation) from a physician, physician assistant or nurse practitioner which denotes an ICD code.
 - e. Occupational therapists must obtain a signed prescription (order/recommendation) signed and dated by a licensed physician or nurse practitioner which denotes an ICD code.
 - f. No direct or consultation services can be delivered unless an appropriately signed and dated prescription by the appropriate professional is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
 - g. The Contractor must obtain a current copy of the IEP from the CPSE Chairperson prior to start of service which will follow the BOE approval date. This is applicable to any later program changes on the IEP as well. The Contractor shall deliver services as specified on the IEP in the areas of remediation, frequency and duration of Related Services.
 - h. The Contractor shall submit an attendance and progress note for each session the child received Related Services on a monthly basis at the minimum, or with the invoice, whichever is presented first. All progress notes submitted must also have the signature and National Provider Identification (NPI) number of this licensed individual and title as well as the direct service provider and title.
 - i. The Contractor shall call the CPSE chairperson for a program review if services cannot be delivered as indicated on IEP due to child's absence, or if the therapist recommends a change in service or discharge.
 - j. The Contractor shall forward a copy of all documentation and justification for 12-month programming to the County and the CPSE prior to any scheduled program review or annual review, whenever such is recommended.
 - k. The Contractor shall meet with the child's parent/guardian at such times as appropriate during the year to discuss goals and progress. Whenever services are to be delivered in conjunction with a general education preschool program, the Contractor shall work with the program by communicating with staff, parents, school district and other therapists. An attempt will also be made to provide parent/guardian with follow up materials to be used at home to reinforce delivery of related services.
 - l. The Contractor shall inform the parent/guardian of his/her responsibility to ensure that the child's attendance enables him/her to benefit from the related services provided. The parent/guardian should be made aware of the need to alert the Contractor in a timely manner when the child will be absent or not available for Related Services if provided in the home.
 - m. If two or more Related Services are required for a child, the CPSE Chairperson shall select one of the therapists to act as a Coordinator of Service. If the CPSE determines that a Special Education Itinerant Teacher (hereinafter "SEIT") is to be provided in conjunction with one or more Related Services, the SEIT shall be responsible for the coordination of such services pursuant to Regulations of the Commissioner of Education. Compensation for such services is to be part of the NYSED established rates for the SEIT model.
 - n. The Contractor's progress notes addressing goals and objectives on the IEP must be completed quarterly. A copy of the progress notes must be provided to the parent, the CPSE Chairperson and the County.
 - o. Upon expiration of the term of this Contract, all files and records shall be retained by the Contractor for six (6) years from the last date of payment under this Contract.

11. RESPONSIBILITIES OF THE COORDINATOR OF SERVICE

- a. When two or more Related Services are mandated (not in conjunction with SEIT), the CPSE Chairperson will designate the coordinator of services from the list of approved Related Service providers maintained by the County. The coordinator must be one of the individuals/agencies providing Related Services to the child, as specified by the CPSE. It is suggested that, to the extent possible, service providers be selected from the same agency. It is the responsibility of the coordinator to stay thoroughly informed on all facets of the services provided to the child. In addition to duties as outlined in the section entitled "Reporting Requirements" above, the designated coordinator will perform appropriate coordination activities including but not limited to:
 - i. Arranging the schedule for service delivery, offering recommendations and consulting with the CPSE chairperson to resolve scheduling issues when appropriate.
 - ii. Sharing appropriate information with other Related Service providers for the appropriate integration of such services.
 - iii. Gathering appropriate progress reports and anecdotal information relating to the student's progress from all Related Service providers to ensure that the Coordinator has a general knowledge of the child's progress, as well as any significant considerations, in the Related Service area.
 - iv. Attend Annual Review meeting and other meetings, if requested by the CPSE chairperson. The coordinator is responsible to have all information on the child's progress and needs and is expected to represent the other therapists involved in the child's care at the CPSE meetings.
 - v. Conducting activities such as telephone conferences or other communication practices. Coordination activities must be documented and reported in half-hour service blocks on the Coordination Service Form.

- vi. Coordination services can be provided only by a licensed speech pathologist, physical therapist and occupational therapist.
- b. Billing for Coordination services shall not exceed 10 sessions or service blocks during a September/June session and 2 sessions or service blocks during a July/August session per child. One (1) session or service block consists of a half-hour and will be paid at the rate indicated under the Oneida County Related Service Rates Schedule. Each date of contact and length of time claimed for coordination during the month must be listed and identified. Periods of less than a half-hour block may be combined into half-hour service blocks of coordination services for billing purposes.

12. MAKE UP POLICY

- a. Reporting Absences. Habitual absences by the student should be reported to the school district (CPSE) and the Special Education Itinerant Teacher (SEIT) if the child receives SEIT services; if the child receives two or more Related Services, habitual absences shall be reported to the assigned Related Service coordinator appointed by the CPSE Chairperson.
- b. Student Absence or Cancellation. There shall be no makeup for therapy sessions provided under 4410 services which are missed due to a child's absence or cancellation (with or without notice). If a child's illness will necessitate canceling of service for several consecutive sessions, please request the parent/guardian call you to commence Related Services.
- c. Therapist Absence or Cancellation. Related Services which are missed due to the absence or cancellation of the therapist may be made up if the parent consents and the therapist's schedule permits. The makeup sessions must take place within the same week the Related Service was missed.
- d. Prolonged Absence of Therapist. When the therapist is absent for a prolonged period of time, the school district should be notified. The school district is responsible for arranging the replacement for the absent therapist. The school district is responsible for notifying the County of any change of a Related Service provider prior to the change so the County may give the new provider permission to begin services.
- e. Holidays and Other School Closings. The Contractor will follow the calendar of the local school district in which the child resides. Therefore, holiday and other school closings of that particular school district will apply. When Related Services are provided in a mainstream preschool setting, the preschool calendar will be followed except where written prior arrangements have been mandated by the school district and approved by the County.
- f. Limitations on Scheduling Therapy Makeup Sessions. Make up sessions must be clearly documented on the appropriate session notes with reasons for the makeup session.

13. INSURANCE

The Contractor shall maintain a professional liability policy and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate during the term of this Contract. The Contractor shall also maintain general liability insurance and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate. The Contractor agrees to have the County named as "additional insured" on the general liability policy and to provide the County with certificates from said insurance company or companies showing proof of insurance as stated heretofore. The Contractor further agrees to provide that such coverage shall not be terminated without prior notice to the County of at least thirty (30) days. The Contractor grants Oneida County a limited power of attorney to communicate with the Contractor's insurance provider and/or agent for the express purpose of confirming the coverage required hereunder.

14. INDEMNIFICATION

The Contractor agrees that it shall defend, indemnify and hold harmless the County from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the work of the Contractor or its agents, contractors, subcontractors, servants or employees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the Contractor or failure on the part of the Contractor to comply with any of the covenants, terms or conditions of this Contract.

15. EXCLUSIVITY

- a. The County retains the right to reassign children receiving Related Services under the terms of this Contract to other Contractors or its own employees.
- b. The County retains the right to contract with other independent contractors for such services which are the same or similar to those provided by the Contractor, or to provide such services to its eligible children through its own employees. The Contractor retains the right to provide services directly or indirectly through contract with another agency, to persons who are not classified preschool aged children with a disability receiving Related Services in Oneida County.

16. INDEPENDENT CONTRACTOR STATUS

- a. It is expressly agreed that the relationship of the Contractor to the County shall be that of an Independent Contractor. The Contractor's employees shall not be considered employees of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Contractor, in accordance with its status as an independent contractor, covenants and agrees that its employees will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the County by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.
- b. Contractor warrants and represents that it is in the business of offering the same or similar services detailed herein and does offer the same or similar service(s) to other entities and/or the general public as a regular course of business. Contractor and County agree that Contractor is free to undertake other work arrangements during the term of this Contract, and may continue to make its services available to the public.
- c. The Contractor's employees shall not be eligible for compensation from the County due to a) illness; b) absence due to normal vacation; c) absence due to attendance at school or special training or a professional convention or meeting.
- d. Contractor acknowledges and agrees that its employees and agents shall not be eligible for any County employee benefits, including retirement membership credits.
- e. Contractor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to Contractor or its employees and agents under this Contract, and for compliance with all applicable labor and employment requirements with respect to Contractor's self-employment, sole proprietorship or other form of business organization, and with respect to the employees and agents, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for State or Federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). Contractor shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Contract.
- f. The Contractor will indemnify and hold the County harmless from all loss or liability incurred by the County as a result of the County not making such payments or withholdings.
- g. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's Independent Contractor status, it is agreed that both the County and the Contractor shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.
- h. The Contractor agrees to comply with federal and state laws as supplemented in the United States Department of Labor regulation and any other regulations of the federal and state entities relating to such employment and civil rights requirements.

17. SUBCONTRACT

The Contractor may not assign the Contractor's rights and obligations under this Contract, or subcontract with or employ another to provide the services described above of this Contract, without the prior written consent of the County.

18. EXPENSES

Contractor is solely responsible for paying all of its business expenses related to furnishing the services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating expenses.

19. TRAINING

Contractor shall not be required to attend or undergo any training by the County. Contractor shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the services described herein, and shall be solely responsible for the cost of the same.

20. ADVICE OF COUNSEL


Each party acknowledges that, in executing this Contract, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Contract.

21. ENTIRE AGREEMENT

The terms of this contract, the Oneida County Related Service Rates Schedule, the attached Standard Oneida County Conditions Addendum (Appendix B), and any other attachments, amendments, addendums or appendixes attached hereto, are deemed incorporated herein in their entirety and constitute the entire understanding and agreement of the parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Contract. No waiver, alterations or modifications of and provisions of this Contract shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

IN WITNESS WHEREOF, the parties hereto have executed this Contract.

ONEIDA COUNTY

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

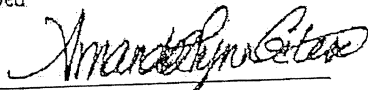
CONTRACTOR



DATE: 8/13/18

DATE: 6/18/18

Approved

BY: 
01/10 Raymond F. Bara
Assistant County Attorney

APPENDIX A
ONEIDA COUNTY RELATED SERVICE RATES SCHEDULE

RELATED SERVICE	MAXIMUM INDIVIDUAL HALF HOUR RATE	MAXIMUM COORDINATOR RATE PER HALF- HOUR BLOCK
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Audiology	\$53	\$30
Assistive Technology Services	\$53	
Counseling Services	\$53	\$30
Occupational Therapy	\$53	\$30
Orientation & Mobility Services	\$53	
Physical Therapy	\$53	\$30
Speech Therapy	\$53	\$30
Teacher of Hearing Impaired	\$53	
Teacher of Visually Impaired	\$53	
Aide 1:1	\$10	

RELATED SERVICE	MAXIMUM GROUP HALF HOUR RATE
Assistive Technology Services	\$25.00
Audiology	\$25.00
Counseling Services	\$25.00
Occupational Therapy	\$25.00
Physical Therapy	\$25.00
Speech Therapy	\$25.00
Teacher of Hearing Impaired	\$25.00
Teacher of Visually Impaired	\$25.00

APPENDIX B

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

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

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
- i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
- i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

- B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and
 - D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;
- ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
- i. The Contractor will or will continue to provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - B. Establishing an ongoing drug-free awareness program to inform employees about:

- 1) The dangers of drug abuse in the workplace;
- 2) The Contractor's policy of maintaining a drug-free workplace;
- 3) Any available drug counseling, rehabilitation, and employee assistance program; and
- 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;

C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;

D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:

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

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

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

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

1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

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

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

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

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

i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

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

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

When applicable to the services provided pursuant to the Contract:

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

County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;

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

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so

are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKERS' COMPENSATION BENEFITS.

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

7. NON-DISCRIMINATION REQUIREMENTS.

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

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set

forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its knowledge and belief:

(1) the prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; and (2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) no attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from

public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

12. CONFLICTING TERMS.

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

13. GOVERNING LAW.

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

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

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from

another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application; request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

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

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

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

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

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

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

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

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

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

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including:

chewing; holding in the mouth; or expectoration of chewing tobacco.

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



ONEIDA COUNTY HEALTH DEPARTMENT

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE

DANIEL W. GILMORE, PH.D., MPH
DIRECTOR OF HEALTH



"PROMOTING & PROTECTING THE HEALTH OF ONEIDA COUNTY"

OCGOV.NET/HEALTH

FN 20 21-215

July 9, 2021

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

HEALTH & HUMAN SERVICES

Dear Mr. Picente:

WAYS & MEANS

Attached is an Agreement between Oneida County through its Health Department and Building Blocks Learning Center for the reimbursement of Special Education Itinerate Services rendered to eligible preschool children with disabilities for the period of July 1, 2021 through June 30, 2024.

Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, municipalities are required to provide payment for Preschool Special Education Programs rendered to eligible preschool aged children with disabilities.

This is a New York State mandated program. The tuition rate is set by New York State. We anticipate reimbursements will not exceed \$650,000.00 over the three year term.

If this contract meets with your approval please forward it to the Board of Legislators.

Sincerely,

Daniel W. Gilmore, Ph.D., MPH
Public Health Director

Attachments
CM

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

Anthony J. Picente, Jr.
County Executive

Date 7-20-21

ADMINISTRATION
ADIRONDACK BANK BLDG., 5TH FL.,
185 GENESEE ST. UTICA, NY 13501
TEL: (315) 798-6400 • FAX: (315) 266-6138

SPECIAL CHILDREN SERVICES
ADIRONDACK BANK BLDG., 5TH FL.,
185 GENESEE ST. UTICA, NY 13501
TEL: (315) 798-5249 • FAX: (315) 731-3491

ENVIRONMENTAL HEALTH
ADIRONDACK BANK BLDG., 4TH FL.,
185 GENESEE ST. UTICA, NY 13501
TEL: (315) 798-5064 • FAX: (315) 798-6486

CLINICAL SERVICES
406 ELIZABETH ST. UTICA, NY 13501
TEL: (315) 798-5748 • FAX: (315) 798-1057

Oneida Co. Department: Health

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

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: Building Blocks Learning Center, LLC
19 Robinson Road
Clinton, New York 13323

Title of Activity or Service: Special Education Services/Evaluation

Proposed Dates of Operation: July 1, 2021 to June 30, 2024

Client Population/Number to be Served: Qualified Preschool aged children with disabilities

Summary Statements

- 1) **Narrative Description of Proposed Services:** The Oneida County Health Department contracts with agencies that are qualified to provide a preschool program according to Section 4410 of the Education Law, 8 NYCRR Part 200 Regulations of the Commissioner of Education,
- 2) **Program/Service Objectives and Outcomes:** Special Education Itinerate Services for preschool students with disabilities
- 3) **Program Design and Staffing:** NA

Total Funding Requested: 650,000.00 **Account #** A2960.4957

Oneida County Dept. Funding Recommendation: \$650,000.00

Proposed Funding Sources (State 59.5%/County 40.5%): State pays = \$386,750.00
County pays =\$263,250.00

Cost Per Client Served: Current State rate is \$58,231.00 per student for 12 months of service

Past Performance Data: Total reimbursement for 2020- was \$204,309.50

Mandated Service: Yes

O.C. Department Staff Comments:



ONEIDA COUNTY CONTRACT FOR PRESCHOOL SPECIAL EDUCATION SERVICES

This Contract, by and between the County of Oneida, a municipal corporation organized and existing under the laws of the State of New York, through its Health Department, having its principal offices at 800 Park Avenue, Utica, New York, hereinafter referred to as the “County,” and Building Blocks learning Center, LLC, a domestic limited liability company, with its principal offices at 19 Robinson Road, Clinton, New York, hereinafter referred to as the “Contractor.”

WITNESSETH:

WHEREAS, the County is in need of the provision of special education individual evaluation and program services to preschool children with disabilities pursuant to Section 4410 of the New York State Education Law and Part 200 of the Regulations of the Commissioner of Education of the State of New York, through the County’s Preschool Education and Transportation for Disabled Children Program; and

WHEREAS, the Contractor has been approved by the Commissioner of Education of the State of New York (“Commissioner”) to provide New York State Education Department (“NYSED”) special education services in accordance with Section 4410 of the New York State Education Law and in compliance with 8 NYCRR Part 200, to an eligible preschool age child with a disability, as recommended by the Committee on Preschool Special Education (“CPSE”) and approved by the Board of Education (“BOE”) from the child’s resident school district;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. TERM OF AGREEMENT

This Contract shall commence July 1, 2021 and shall terminate on June 30, 2024, conditioned upon the continued availability of federal and/or New York State funds for the purpose set forth in this Contract.

2. RATES

Upon submission of a completed County voucher and required supporting documentation as discussed below for services rendered, the County shall pay the Contractor the rates approved by the NYSED. Rates shall be the amount established for such purpose by the Commissioner and certified by the Director of Budget of the State of New York. The County shall pay the Contractor only those rates published on the NYSED website by the Commissioner and only for such period as the Contractor has the Commissioner’s approval.

3. TERMINATION

- a. **BY CONTRACTOR:** Should the Contractor request termination of this Contract, a written notice of any such termination shall be provided to the County by the Contractor not less than ninety (90) days prior to the intended effective date of such action. In the event of such termination, the parties shall adjust the accounts due and the Contractor shall undertake no additional expenditures not already required.
- b. **BY COUNTY:** This Contract may be terminated at any time by the County upon ten (10) days written notice to the Contractor. However, in the event the Contractor defaults in the performance of any of its obligations under this Contract, the County may terminate this Contract effective upon written notice at any time. Furthermore, should funds become unavailable or should appropriate

federal or New York State officials fail to approve sufficient funds for completion of the services or programs set forth in this Contract, the County shall have the option to immediately terminate this Contract upon providing written notice to the Contractor. In such event, the County shall be under no further obligation to the Contractor other than payment for costs actually incurred prior to termination and in no event will the County be responsible for any actual or consequential damages as a result of termination.

4. SCOPE OF SERVICES

Services performed pursuant to this Contract shall be provided in accordance with Section 4410 of the New York State Education Law and in compliance with the regulations of the Commissioner set forth in 8 NYCRR Part 200.

- a. With NYSED approval for Individual Evaluation/Individual Psychological Evaluation, the Contractor shall provide Individual Evaluation/Individual Psychological Evaluation for children with potential disabilities. The parties hereto agree that "Individual Evaluation" as used herein shall have the same meaning as that term is defined in Section 4410 of New York State Education Law and 8 NYCRR 200.1 (aa). The parties hereto agree that "Individual Psychological Evaluation" as used herein shall have the same meaning as that term is defined in Section 4410 of New York State Education Law and 8 NYCRR 200.1 (bb).
- b. With NYSED and BOE approval for Special Education services, the Contractor shall provide appropriate Special Education services for children with disabilities delivered in a Special Class Integrated Setting ("SCIS"). With NYSED and BOE approval, the Contractor shall provide appropriate Special Education services for children with disabilities delivered in a Special Class. SCIS and Special Class will be provided during the school year. The school year is hereby defined as July/August session from July 1 through August 31 and/or September/June session from September 1 through June 30. The parties hereto agree that "Special Education" as used herein shall have the same meaning as that term is defined in 8 NYCRR 200.1 (ww) and described in Section 4410 of the New York State Education Law.
- c. With NYSED approval for Special Education Itinerant Services ("SEIS"), the Contractor shall provide SEIS for children with disabilities during the school year. The school year is hereby defined as a July/August session from July 1 through August 31 and/or a September/June session from September 1 through June 30.
- d. The Contractor cannot begin providing Special Education services to a child with disabilities until the BOE has approved the Notification of Determination of Placement or System to Track and Account for Children ("STAC 1"), if the BOE uses the STAC 1, outlining the appropriate Special Education services to be provided by the Contractor. The start date will be indicated on the STAC 1 and a copy shall be provided to the Contractor.
- e. All financial arrangements for services under this Contract shall be between the County and Contractor in accordance with the provisions of Section 5 of this Contract. The Contractor shall be responsible for the delivery of appropriate services, including the training and/or retraining of direct service staff employed by the Contractor. For purposes hereof, "Direct Service Staff" shall be defined as, but not limited to, individuals providing Special Education services who are certified by law to provide such services as mandated on the child's Individualized Education Program ("IEP"). For Individual Evaluation and Psychological Evaluation, the County will maintain an approved Oneida County Evaluator List and ensure that the Contractor is a referral from this list approved by NYSED for the County.
For SEIS, the County will maintain an approved Oneida County SEIS Provider List and ensure that the Contractor is a referral from this list approved by NYSED for the County.

5. CONDITIONS OF PAYMENT

The County, in accordance with the provisions of this Contract, shall pay the Contractor for expenditures made for contracted services as follows:

- a. The County will provide payment of Individual Evaluation, Psychological Evaluation and Reevaluation services rendered, as authorized on the child's Request for Commissioner's Approval

of Reimbursement for the Cost of Evaluations (STAC-5) certified by the CPSE Chairperson in each school district.

- b. The County will provide payment for Special Education services rendered as authorized on the child's IEP and the STAC 1 upon the Contractor's submission of a correctly completed voucher on a monthly basis. All submissions must include the required documentation as set forth in this Contract and any other documentation requested by the County. The Contractor shall maintain a copy of the child's IEP throughout the term of this Contract.
- c. The Contractor shall submit a voucher to the County for the services rendered not later than fifteen (15) days after the end of the July/August session and not later than fifteen (15) days after the end of each month for the September to June session.
- d. No payment shall be required to be made by the County prior to the receipt of Notification of Determination of Placement or STAC 1, if the BOE uses the STAC 1 as its notice of determination of placement.
- e. No parent or any person shall be required or requested to make payment for services in addition to the payments made by the County pursuant to this Contract.
- f. The Contractor must submit for Medicaid eligible children a signed Medicaid Provider Agreement and Reassignment form with the signed Contract so the County can claim Medicaid reimbursement.
- g. The Contractor shall prepare and make available such statistical, financial and other records pursuant to Section 4410 of the New York State Education Law, as necessary for reporting and accountability. All documents and records shall be consistent with New York State requirements for audit and rate establishment procedures. The financial records shall be retained by the Contractor for seven (7) years after the school year in which the services were provided. The Contractor shall also be responsible for submitting to the County a copy of their cost report for the Contract term provided herein.
- h. All records prepared pursuant to Section 4410 of the New York State Education Law shall be subject at all reasonable times to inspection, review or audit by the BOE, the County, the State of New York acting through the Education Department or the New York State Comptroller, and federal and other personnel duly authorized by the County. In addition, the County shall make available any and all copies of such documents to such other municipalities previously determined to bear financial responsibility of the audited services and program.

6. MEDICAID COMPLIANCE

The Contractor shall provide with its voucher the following information for all Medicaid eligible children pursuant to Section 4410 of the New York State Education Law:

- a. Dates of services rendered and documentation that each SEIS session was verified as delivered by the signature of the service provider.
- b. Dates of SCIS and Special Class attendance and documentation of services rendered was verified as delivered by the signature of the service provider.
- c. Copy of the Medicaid consent form to release child specific information signed by the parent of a child with a disability receiving Medicaid eligible services.
- d. All reporting requirements necessary for Medicaid compliance with Section 4410 of the New York State Education Law. The Contractor shall be responsible for reviewing Medicaid in Education notifications and changes, which can be found at <http://www.oms.nysed.gov/medicaid/>.
- e. The Contractor shall obtain from the parent or person in parental relationship to the Medicaid eligible child receiving services pursuant to Section 4410 of the New York State Education Law, the Client Identification Number ("CIN"), period of eligibility and any other relevant third party health insurance information for the purpose of establishing Medicaid as the "payer of last resort." Nothing herein shall preclude the child's enrollment and initiation of services in accordance with the Board's Notice of Determination. A copy is to remain in the Contractor's file.

7. COMPLIANCE WITH THE LAW

The Contractor agrees that while performing under the terms of this Contract that the Contractor shall comply with all federal and New York State statutes and regulations and all local rules and regulations pertaining to the provision services described herein.

8. CHILD ABUSE/MALTREATMENT MANDATE

- a. In compliance with Section 4410 of the New York State Education Law and Section 424-a of the New York State Social Services Law, the Contractor is required to screen its employees, volunteers, consultants and providers of goods and services who will have “regular and substantial contact” with children through the State Central Register of Child Abuse and Maltreatment (“SCR”).
- b. The Contractor is responsible for screening and obtaining clearance through the SCR for the following individuals: (1) Any person who is actively being considered for employment and who will have the potential for regular and substantial contact with children who receive preschool Special Education programs and services; (2) Any person who is employed by an individual, corporation, partnership, or association that provides goods or services to children approved o receive preschool Special Education.
- c. The Contractor is responsible for screening individuals through the SCR regardless of whether an individual has been screened through the SCR for employment or contract with another County or agency provider.
- d. The Contractor will not permit unsupervised contact between children who receive preschool Special Education services and any potential employee or contractor before receiving a completed clearance and acceptable response from SCR.
- e. The Contractor will notify all individuals being screened that an inquiry will be made to the SCR and that this is a New York State requirement. The Contractor will establish procedures to ensure that the confidentiality of any SCR response is maintained. The Contractor will comply with SCR regulations in not screening employees more than once every six months, and one time only to the extent required by Section 424-a of the New York State Social Services Law for contractors, consultants and volunteers.
- f. Proof of SCR database check in accordance with Section 424-a of the New York State Social Services Law must be submitted to the County with this Contract and on an ongoing basis as required for Special Education services and programs for preschool children with disabilities.

9. CONFIDENTIALITY

The County and the Contractor shall hold in strict confidence all child records and disclose information and data in such records only to persons or entities as authorized or required by law or by written consent of the child’s representative. The Contractor further agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this Contract. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this Contract in conformity with the provisions of applicable federal, state, and local laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this Contract.

10. REPORTING REQUIREMENTS

- a. The Contractor’s employed therapists and teachers shall be presently qualified to provide Individual Evaluations, Individual Psychological Evaluations and/or Special Education services in New York State as may be required of this Contract and shall submit copies of all appropriate license(s) or certification(s) to the County and update these as necessary during the term of this Contract.
- b. The Contractor agrees that assigned therapists or their representative shall attend CPSE annual review meetings and program reviews as scheduled by the CPSE Chairperson or BOCES Coordinator for the child being served. **The Contractor shall submit a copy of any reports necessary for review at these meetings to the County, as well as the CPSE Chairperson/BOCES Coordinator, at least ten (10) school days prior to the meeting date.**

- c. **Speech pathologists** shall be required to obtain a written prescription (recommendation/order) for speech services signed and dated from (1) New York State Licensed and American Speech-Language-Hearing Association (“ASHA”) certified Speech-Language Pathologist OR (2) a physician, physician’s assistant or nurse practitioner which denotes the appropriate and current **ICD code**. The New York State Licensed and ASHA Certified Speech-Language Pathologist cannot write a referral if they have not seen the preschool child. The regulations of the New York State Department of Social Services at 18NYCRR 505.11 state that a written order must contain a diagnostic statement and purpose of treatment. It is not acceptable for the ordering or referring professional never to have met with the child as it is incompatible with the obligations of the ordering practitioner to assure that the ordered care, services or supplies will meet the recipients needs and restore him/her to the best possible functional level. Physician, physician assistants or nurse practitioner’s orders must be dated on or before the initiation of service. No direct or consultation services will be permitted unless an appropriately written prescription is obtained. A copy of this prescription must also be forwarded to the County with the initial voucher.
- d. **Physical Therapists** must obtain a signed prescription (order/ recommendation) from a physician, physician assistant or nurse practitioner which denotes an **ICD code**.
- e. **Occupational therapists** must obtain a signed prescription (order/recommendation) signed and dated by a licensed physician or nurse practitioner which denotes an **ICD code**.
- f. **No direct or consultation services can be delivered unless an appropriately signed and dated prescription by the appropriate professional is obtained. A copy of this prescription must also be forwarded to the County with the initial voucher.**
- g. The Contractor must obtain a current copy of the IEP from the CPSE Chairperson prior to start of service which will follow the BOE approval date. This is applicable to any later program changes on the IEP as well. The Contractor shall deliver services as specified on the IEP in the areas of remediation, frequency and duration of Special Education services.
- h. The Contractor shall submit an attendance and progress note for each session a child received Special Education services on a monthly basis at the minimum, or with the voucher, whichever is presented first. **All progress notes submitted must also have the signature and National Provider Identification number (“NPI#”) of this licensed individual and title as well as the direct service provider and title.**
- i. The Contractor shall call the CPSE Chairperson for a program review if services cannot be delivered as indicated on IEP due to child’s absence or other factor, or if the therapist recommends a change in service or discharge.
- j. The Contractor shall forward a copy of all documentation and justification for 12-month programming to the County and the CPSE prior to any scheduled program review or annual review, whenever such is recommended.
- k. The Contractor shall meet with the child’s parent/guardian at such times as appropriate during the term of Special Education services to discuss goals and progress. Whenever SEIS are to be delivered in conjunction with a general education preschool program, the Contractor’s assigned therapists shall work with the program by communicating with staff, parents, school district and other therapists. An attempt will also be made to provide parent/guardian with follow up materials to be used at home to reinforce delivery of Special Education services.
- l. The Contractor shall inform the parent/guardian of his/her responsibility to ensure that the child’s attendance enables him/her to benefit from the Special Education services provided. The parent/guardian should be made aware of the need to alert the Contractor in a timely manner when the child will be absent or not available for Special Education services.
- m. If the CPSE determines that SEIS is to be provided in conjunction with one or more Related Services, the SEIS shall be responsible for the coordination of such services pursuant to regulations of the Commissioner. Compensation for such services is to be part of the NYSED established rates for the SEIS model. “Related Services” as used herein shall have the same meaning as that term defined in Section 4410 of the New York State Education Law and 8 NYCRR 200.1 (qq).
- n. The Contractor’s progress notes addressing goals and objectives on the IEP must be completed quarterly. A copy of the progress notes must be provided to the parent, the CPSE Chairperson and the County.

11. RESPONSIBILITIES OF SEIS AS THE COORDINATOR OF SERVICE

- a. It is the responsibility of the SEIS provider to act as Special Education services coordinator (“SEIS Coordinator”) and stay thoroughly informed on all facets of the services provided to the child. In addition to duties as outlined in the provisions of Section 10 of this Contract, the SEIS Coordinator will perform appropriate coordination activities including but not limited to:
 - i. Arranging the schedule for service delivery, offering recommendations, and consulting with the CPSE Chairperson to resolve scheduling issues when appropriate.
 - ii. Sharing appropriate information with other Related Service providers for the appropriate integration of such services.
 - iii. Gathering appropriate progress reports and anecdotal information relating to the child’s progress from all Related Service providers to ensure that the SEIS Coordinator has a general knowledge of the child’s progress, as well as any significant considerations, in the Related Service area.
 - iv. Attend Annual Review meeting and other meetings if requested by the CPSE Chairperson. The SEIS Coordinator is responsible to have all information on the child’s progress and needs and is expected to represent the other therapists involved in the child’s care at the CPSE meetings.
 - v. Conducting activities such as telephone conferences or other communication practices. SEIS Coordination activities must be documented and reported in half-hour service blocks on the Coordination Service Form.
 - vi. SEIS Coordination services can be provided only by a licensed speech pathologist, physical therapist or occupational therapist.

12. INSURANCE

The Contractor shall maintain a professional liability policy and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$3,000,000 aggregate. The Contractor shall also maintain general liability insurance and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$3,000,000 aggregate. Coverage for abuse and molestation must be included. The Contractor agrees to have the County named as an additional insured on a primary and non-contributory basis, as its interests may appear on the general liability policy and to provide the County with certificates from said insurance company or companies showing the proof of insurance as stated heretofore. The County reserves the right to require the Contractor to provide insurance policies for review by the County. The Contractor grants the 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.

13. INDEMNIFICATION

The Contractor shall defend, indemnify and hold harmless the County from and against all liability, damages, expenses, costs, causes of action, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the work of the Contractor or its agents, contractors, subcontractors, servants or employees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the Contractor or its agents, contractors, subcontractors, servants or employees, or failure on the part of the Contractor or its agents, contractors, subcontractors, servants or employees to comply with any of the covenants, terms or conditions of this Contract.

14. EXCLUSIVITY

- a. The County retains the right to reassign children receiving Special Education services under the terms of this Contract to other Contractors or its own employees.
- b. The County retains the right to contract with other Independent Contractors for such services which are the same or similar to those provided by the Contractor, or to provide such services to its eligible children through its own employees. The Contractor retains the right to provide services directly or indirectly through contract with another agency, to persons who are not classified preschool aged children with a disability receiving Special Education services in Oneida County.

15. INDEPENDENT CONTRACTOR STATUS

- a. It is expressly agreed that the relationship of the Contractor and its employees to the County shall be that of Independent Contractors. The Contractor's employees shall not be considered employees of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health insurance benefits. The Contractor, in accordance with its status as an Independent Contractor, covenants and agrees that its employees will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the County by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.
- b. The Contractor warrants and represents that it is in the business of offering the same or similar services detailed herein and does offer the same or similar service(s) to other entities and/or the general public as a regular course of business. The Contractor and the County agree that the Contractor is free to undertake other work arrangements during the term of this Contract, and may continue to make its services available to the public.
- c. The Contractor's employees shall not be eligible for compensation from the County due to illness, absence due to normal vacation, or absence due to attendance at school or special training or a professional convention or meeting.
- d. The Contractor acknowledges and agrees that its employees shall not be eligible for any County employee benefits, including retirement membership credits.
- e. The Contractor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to the Contractor or its employees under this Contract, and for compliance with all applicable labor and employment requirements with respect to the Contractor's form of business organization, and with respect to its employees, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for state or federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). The Contractor shall provide proof of workers' compensation insurance, where applicable, prior to execution of this Contract.
- 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 or its employees' 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 regulations and any other regulations of the federal and state entities relating to such employment and Civil Rights requirements.

16. SUBCONTRACT

The Contractor may not assign the Contractor's rights and obligations under this Contract, or subcontract with or employ another to provide the services described above in this Contract, without the prior written consent of the County.

17. ENTIRE AGREEMENT

The terms of this Contract, the attached Standard Oneida County Conditions Addendum, and any other attachments, amendments, addendums or appendixes attached hereto, are deemed incorporated herein in their entirety and constitute the entire understanding and agreement of the parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Contract. No waiver, alterations or modifications of any provisions of this Contract shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]
IN WITNESS WHEREOF, the parties hereto have executed this Contract.

ONEIDA COUNTY

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

Contractor

DocuSigned by:
Michelle O'Brien
BY: _____
C65AC4CE82D5437
Michelle O'Brien, CEO
Building Blocks Learning Center

DATE: _____

7/15/2021
DATE: _____

Approved

BY: _____
Ellen S. Rayhill, Assistant County Attorney

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

THIS ADDENDUM, entered into on this 15th day of July, 2021, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative

agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:

- i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
- i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a

criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and

D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;

ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.

c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. The Contractor will or will continue to provide a drug-free workplace by:

A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

B. Establishing an ongoing drug-free awareness program to inform employees about:

1) The dangers of drug abuse in the workplace;

- 2) The Contractor's policy of maintaining a drug-free workplace;
- 3) Any available drug counseling, rehabilitation, and employee assistance program; and
- 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;

C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;

D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:

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

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

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

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

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

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

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

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

19 Robinson Rd Clinton, NY

- d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
 - i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
 - ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the

Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

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

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

When applicable to the services provided pursuant to the Contract:

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

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County

available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and

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

5. NON-ASSIGNMENT CLAUSE.

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

6. WORKER'S COMPENSATION BENEFITS.

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

7. NON-DISCRIMINATION REQUIREMENTS.

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

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as

determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its knowledge and belief:

(1) the prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; and (2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) no attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records

shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

12. CONFLICTING TERMS.

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

13. GOVERNING LAW.

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

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

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application;

request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

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

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

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services

(hereinafter “OGS”) website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

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

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

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

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

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

- a. For the purposes of this provision, the “use of tobacco” shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.
- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that

delivers vapor which is inhaled by an individual user as he or she simulates smoking.

- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida;
and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

20. COMPLIANCE WITH NEWYORK STATE LABOR LAW § 201-G

The Contractor shall comply with the provisions of New York State Labor Law § 201-g.



ONEIDA COUNTY HEALTH DEPARTMENT

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE

DANIEL W. GILMORE, PH.D., MPH
DIRECTOR OF HEALTH



"PROMOTING & PROTECTING THE HEALTH OF ONEIDA COUNTY"

OGGOV.NET/HEALTH

FN 20 21-016

July 13, 2021

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

HEALTH & HUMAN SERVICES

WAYS & MEANS

Dear Mr. Picente:

Attached is one (1) copy of a Grant Agreement between Oneida County through its Health Department (OCHD) and The New York State Department of Health for the provision of services through Children and Youth with Special Healthcare Needs Program.

The term of the master grant contract is from October 1, 2020 through September 30, 2025 for a total grant award of \$266,485.00, consisting of \$53,297 annually, for each of the five years of the grant.

This grant supports a program mandated by Public Health Law.

If this Agreement meets with your approval, please forward to the Board of Legislators.

Sincerely,
Daniel W. Gilmore, Ph.D., MPH
Public Health Director

Attachments
CM

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

Anthony J. Picente, Jr.
County Executive
Date 7-19-21

ADMINISTRATION
ADIRONDACK BANK BLDG., 5TH FL.,
185 GENESEE ST. UTICA, NY 13501
TEL: (315) 798-6400 • FAX: (315) 266-6138

SPECIAL CHILDREN SERVICES
ADIRONDACK BANK BLDG., 5TH FL.,
185 GENESEE ST. UTICA, NY 13501
TEL: (315) 798-5249 • FAX: (315) 731-3491

ENVIRONMENTAL HEALTH
ADIRONDACK BANK BLDG., 4TH FL.,
185 GENESEE ST. UTICA, NY 13501
TEL: (315) 798-5064 • FAX: (315) 798-6466

CLINICAL SERVICES
406 ELIZABETH ST. UTICA, NY 13501
TEL: (315) 798-5748 • FAX: (315) 798-1057

Oneida Co. Department: Public Health

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

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: NYS Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

Title of Activity or Service: Children and Youth with Special Health Care Needs

Proposed Dates of Operation: Fiscal term: Current Period October 1, 2020 to September 30, 2021
October 1, 2020 through September 30, 2025

Client Population/Number to be Served: Children and Youth with Special Health Care Needs

Summary Statements

- 1) **Narrative Description of Proposed Services:** This program seeks to improve the system of care for children and youth from birth to 21 years of age. Oneida County's program acts as a resource and referral mechanism to empower families to advocate for the best health care to meet their children's needs.
- 2) **Program/Service Objectives and Outcomes:** Provide families with information regarding health insurance, increase awareness and knowledge of tools and resources, and provide information about transitioning to adult health care.
- 3) **Program Design and Staffing:** Oneida County Health department professional and support staff will implement activities to reach goals and objectives.

Total Funding Requested: \$266,485.00 **Account #** A4011 Rev 3401.02

Oneida County Dept. Funding Recommendation: N/A

Proposed Funding Sources (Federal \$/ State \$/County \$): State: \$266,485.00

Cost per Client Served: This amount varies based on number of referrals made to this program

Past Performance Data: NA

Mandated: Grant money supports mandated services

O.C. Department Staff Comments:

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

<p>STATE AGENCY (Name & Address): Department of Health Corning Tower Empire State Plaza Albany, NY 12237</p>	<p>BUSINESS UNIT/DEPT. ID: DOH01 CONTRACT NUMBER: DOH01-C35730GG-3450000 CONTRACT TYPE: <input checked="" type="checkbox"/> Multi-Year Agreement <input type="checkbox"/> Simplified Renewal Agreement <input type="checkbox"/> Fixed Term Agreement</p>
<p>CONTRACTOR SFS PAYEE NAME: ONEIDA COUNTY OF</p>	<p>TRANSACTION TYPE: <input checked="" type="checkbox"/> New <input type="checkbox"/> Renewal <input type="checkbox"/> Amendment</p>
<p>CONTRACTOR DOS INCORPORATED NAME: Oneida County Public Health Department</p>	<p>PROJECT NAME: Children and Youth with Special Health Care Needs</p>
<p>CONTRACTOR IDENTIFICATION NUMBERS: NYS Vendor ID Number: 1000002595 Federal Tax ID Number: 156000460 DUNS Number (if applicable): 075814186</p>	<p>AGENCY IDENTIFIER: CFDA NUMBER (Federally Funded Grants Only): 93.994</p>
<p>CONTRACTOR PRIMARY MAILING ADDRESS: 800 PARK AVE UTICA, NY 13501</p> <p>CONTRACTOR PAYMENT ADDRESS: <input checked="" type="checkbox"/> Check if same as primary mailing address</p> <p>CONTRACT MAILING ADDRESS: <input type="checkbox"/> Check if same as primary mailing address 185 GENESEE ST 4TH FL UTICA, NY 13501</p>	<p>CONTRACTOR STATUS: <input type="checkbox"/> For Profit <input checked="" type="checkbox"/> Municipality, Code: 300100000000 <input type="checkbox"/> Tribal Nation <input type="checkbox"/> Individual <input type="checkbox"/> Not-for-Profit</p> <p>Charities Registration Number: Exemption State/Code: <input type="checkbox"/> Sectarian Entity</p>

Contract Number: # DOH01-C35730GG-3450000

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<p>CURRENT CONTRACT TERM: From: 10/01/2020 To: 09/30/2025</p> <p>CURRENT CONTRACT PERIOD: From: 10/01/2020 To: 09/30/2025</p> <p>AMENDED TERM: From: To:</p> <p>AMENDED PERIOD: From: To:</p>	<p>CONTRACT FUNDING AMOUNT (Multi-year - enter total projected amount of the contract; Fixed Term/Simplified Renewal - enter current period amount):</p> <p>CURRENT: \$266,485.00</p> <p>AMENDED:</p> <p>FUNDING SOURCE(S)</p> <p><input type="checkbox"/> State <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Other</p>
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FOR MULTI-YEAR AGREEMENTS ONLY - CONTRACT AND FUNDING AMOUNT:

(Out years represents projected funding amounts)

#	CURRENT PERIOD	CURRENT AMOUNT	AMENDED PERIOD	AMENDED AMOUNT
1	10/01/2020-09/30/2021	\$53,297.00		
2	10/01/2021-09/30/2022	\$53,297.00		
3	10/01/2022-09/30/2023	\$53,297.00		
4	10/01/2023-09/30/2024	\$53,297.00		
5	10/01/2024-09/30/2025	\$53,297.00		

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ATTACHMENTS PART OF THIS AGREEMENT:

- Attachment A: A-1 Program Specific Terms and Conditions
 A-2 Federally Funded Grants

- Attachment B: B-1 Expenditure Based Budget
 B-2 Performance Based Budget
 B-3 Capital Budget
 B-4 Net Deficit Budget
 B-1 (A) Expenditure Based Budget (Amendment)
 B-2 (A) Performance Based Budget (Amendment)
 B-3 (A) Capital Budget (Amendment)
 B-4 (A) Net Deficit Budget (Amendment)

Attachment C: Work Plan

Attachment D: Payment and Reporting Schedule

Other: MWBE

Contract Number: # DOH01-C35730GG-3450000

IN WITNESS THEREOF, the parties hereto have electronically executed or approved this Master Contract on the dates below their signature.

In addition, I, acting in the capacity as Contractor, certify that I am the signing authority, or have been delegated or designated formally as the signing authority by the appropriate authority or officials, and as such I do agree, and I have the authority to agree, to all of the terms and conditions set forth in the Master Contract, including all appendices and attachments. I understand that (i) payment of a claim on this Master Contract is conditioned upon the Contractor's compliance with all applicable conditions of participation in this program and (if I am acting in the capacity as a not-for profit Contractor) the accuracy and completeness of information submitted to the State of New York through the Gateway vendor prequalification process and (ii) by electronically indicating my acceptance of the terms and conditions of the Master Contract, I certify that (a) to the extent that the Contractor is required to register and/or file reports with the Office of Attorney General's Charities Bureau ("Charities Bureau"), the Contractor's registration is current, all applicable reports have been filed, and the Contractor has no outstanding requests from the Charities Bureau relating to its filings and (b) all data and responses in the application submitted by the Contractor are true, complete and accurate. I also understand that use of my assigned User ID and Password on the State's contract management system is equivalent to having placed my signature on the Master Contract and that I am responsible for any activity attributable to the use of my User ID and Password. Additionally, any information entered will be considered to have been entered and provided at my direction. I further certify and agree that the Contractor agrees to waive any claim that this electronic record or signature is inadmissible in court, notwithstanding the choice of law provisions.

CONTRACTOR:

ONEIDA COUNTY OF

By: Anthony Picente

Printed Name

Title: County Executive

Date: 10/27/2020

In addition, the party below certifies that it has verified the electronic signature of the Contractor to this Master Contract.

STATE AGENCY:

Department of Health

By: _____

Printed Name

Title: _____

Date: _____

ATTORNEY GENERAL'S SIGNATURE
APPROVED AS TO FORM

By: _____

Printed Name

Title: _____

Date: _____

STATE COMPTROLLER'S SIGNATURE

By: _____

Printed Name

Title: _____

Date: _____

Contract Number: # DOH01-C35730GG-3450000

**STATE OF NEW YORK
MASTER CONTRACT FOR GRANTS**

This State of New York Master Contract for Grants (Master Contract) is hereby made by and between the State of New York acting by and through the applicable State Agency (State) and the public or private entity (Contractor) identified on the face page hereof (Face Page).

WITNESSETH:

WHEREAS, the State has the authority to regulate and provide funding for the establishment and operation of program services, design or the execution and performance of construction projects, as applicable and desires to contract with skilled parties possessing the necessary resources to provide such services or work, as applicable; and

WHEREAS, the Contractor is ready, willing and able to provide such program services or the execution and performance of construction projects and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services or work, as applicable, required pursuant to the terms of the Master Contract;

NOW THEREFORE, in consideration of the promises, responsibilities, and covenants herein, the State and the Contractor agree as follows:

STANDARD TERMS AND CONDITIONS

I. GENERAL PROVISIONS

A. Executory Clause: In accordance with Section 41 of the State Finance Law, the State shall have no liability under the Master Contract to the Contractor, or to anyone else, beyond funds appropriated and available for the Master Contract.

B. Required Approvals: In accordance with Section 112 of the State Finance Law (or, if the Master Contract is with the State University of New York (SUNY) or City University of New York (CUNY), Section 355 or Section 6218 of the Education Law), if the Master Contract exceeds \$50,000 (or \$85,000 for contracts let by the Office of General Services, or the minimum thresholds agreed to by the Office of the State Comptroller (OSC) for certain SUNY and CUNY contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount including, but not limited to, changes in amount, consideration, scope or contract term identified on the Face Page (Contract Term), it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the New York Attorney General Contract Approval Unit (AG) and OSC. If, by the Master Contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the AG and OSC.

Budget Changes: An amendment that would result in a transfer of funds among program activities or budget cost categories that does not affect the amount, consideration, scope or other terms of such contract may be subject to the approval of the AG and OSC where the amount of such modification is, as a portion of the total value of the contract, equal to or greater than ten percent for contracts of less than five million dollars, or five percent for contracts of more than

five million dollars; and, in addition, such amendment may be subject to prior approval by the applicable State Agency as detailed in Attachment D (Payment and Reporting Schedule).

C. Order of Precedence:

In the event of a conflict among (i) the terms of the Master Contract (including any and all attachments and amendments) or (ii) between the terms of the Master Contract and the original request for proposal, the program application or other attachment that was completed and executed by the Contractor in connection with the Master Contract, the order of precedence is as follows:

1. Standard Terms and Conditions
2. Modifications to the Face Page
3. Modifications to Attachment A-2¹, Attachment B, Attachment C and Attachment D
4. The Face Page
5. Attachment A-2², Attachment B, Attachment C and Attachment D
6. Modification to Attachment A-1
7. Attachment A-1
8. Other attachments, including, but not limited to, the request for proposal or program application

D. Funding: Funding for the term of the Master Contract shall not exceed the amount specified as “Contract Funding Amount” on the Face Page or as subsequently revised to reflect an approved renewal or cost amendment. Funding for the initial and subsequent periods of the Master Contract shall not exceed the applicable amounts specified in the applicable Attachment B form (Budget).

E. Contract Performance: The Contractor shall perform all services or work, as applicable, and comply with all provisions of the Master Contract to the satisfaction of the State. The Contractor shall provide services or work, as applicable, and meet the program objectives summarized in Attachment C (Work Plan) in accordance with the provisions of the Master Contract, relevant laws, rules and regulations, administrative, program and fiscal guidelines, and where applicable, operating certificate for facilities or licenses for an activity or program.

F. Modifications: To modify the Attachments or Face Page, the parties mutually agree to record, in writing, the terms of such modification and to revise or complete the Face Page and all the appropriate attachments in conjunction therewith. In addition, to the extent that such modification meets the criteria set forth in Section I.B herein, it shall be subject to the approval of the AG and

¹ To the extent that the modifications to Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the modifications to Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).

² To the extent that the terms of Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the Federal requirements of Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V). Contract Number: # DOH01-C35730GG-3450000

OSC before it shall become valid, effective and binding upon the State. Modifications that are not subject to the AG and OSC approval shall be processed in accordance with the guidelines stated in the Master Contract.

G. Governing Law: The Master Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

H. Severability: Any provision of the Master Contract that is held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof; provided, however, that the parties to the Master Contract shall attempt in good faith to reform the Master Contract in a manner consistent with the intent of any such ineffective provision for the purpose of carrying out such intent. If any provision is held void, invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

I. Interpretation: The headings in the Master Contract are inserted for convenience and reference only and do not modify or restrict any of the provisions herein. All personal pronouns used herein shall be considered to be gender neutral. The Master Contract has been made under the laws of the State of New York, and the venue for resolving any disputes hereunder shall be in a court of competent jurisdiction of the State of New York.

J. Notice:

1. All notices, except for notices of termination, shall be in writing and shall be transmitted either:
 - a) by certified or registered United States mail, return receipt requested;
 - b) by facsimile transmission;
 - c) by personal delivery;
 - d) by expedited delivery service; or
 - e) by e-mail.
2. Notices to the State shall be addressed to the Program Office designated in Attachment A-1 (Program Specific Terms and Conditions).
3. Notices to the Contractor shall be addressed to the Contractor's designee as designated in Attachment A-1 (Program Specific Terms and Conditions).
4. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or e-mail, upon receipt.
5. The parties may, from time to time, specify any new or different e-mail address, facsimile number or address in the United States as their address for purpose of receiving notice under the

Master Contract by giving fifteen (15) calendar days prior written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under the Master Contract. Additional individuals may be designated in writing by the parties for purposes of implementation, administration, billing and resolving issues and/or disputes.

K. Service of Process: In addition to the methods of service allowed by the State Civil Practice Law & Rules (CPLR), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. The Contractor shall have thirty (30) calendar days after service hereunder is complete in which to respond.

L. Set-Off Rights: The State shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold, for the purposes of set-off, any moneys due to the Contractor under the Master Contract up to any amounts due and owing to the State with regard to the Master Contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of the Master Contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State Agency, its representatives, or OSC.

M. Indemnification: The Contractor shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the Contractor or its subcontractors pursuant to this Master Contract. The Contractor shall indemnify and hold harmless the State and its officers and employees from claims, suits, actions, damages and cost of every nature arising out of the provision of services pursuant to the Master Contract.

N. Non-Assignment Clause: In accordance with Section 138 of the State Finance Law, the Master Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet, or otherwise disposed of without the State's previous written consent, and attempts to do so shall be considered to be null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract, let pursuant to Article XI of the State Finance Law, may be waived at the discretion of the State Agency and with the concurrence of OSC, where the original contract was subject to OSC's approval, where the assignment is due to a reorganization, merger, or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that the merged contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless the Master Contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

O. Legal Action: No litigation or regulatory action shall be brought against the State of New York, the State Agency, or against any county or other local government entity with funds provided under the Master Contract. The term "litigation" shall include commencing or threatening to commence a lawsuit, joining or threatening to join as a party to ongoing litigation, or requesting any relief from

any of the State of New York, the State Agency, or any county, or other local government entity. The term “regulatory action” shall include commencing or threatening to commence a regulatory proceeding, or requesting any regulatory relief from any of the State of New York, the State Agency, or any county, or other local government entity.

P. No Arbitration: Disputes involving the Master Contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

Q. Secular Purpose: Services performed pursuant to the Master Contract are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

R. Partisan Political Activity and Lobbying: Funds provided pursuant to the Master Contract shall not be used for any partisan political activity, or for activities that attempt to influence legislation or election or defeat of any candidate for public office.

S. Reciprocity and Sanctions Provisions: The Contractor is hereby notified that if its principal place of business is located in a country, nation, province, state, or political subdivision that penalizes New York State vendors, and if the goods or services it offers shall be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that it be denied contracts which it would otherwise obtain.³

T. Reporting Fraud and Abuse: Contractor acknowledges that it has reviewed information on how to prevent, detect, and report fraud, waste and abuse of public funds, including information about the Federal False Claims Act, the New York State False Claims Act, and whistleblower protections.

U. Non-Collusive Bidding: By submission of this bid, the Contractor and each person signing on behalf of the Contractor certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive binding certification on the Contractor’s behalf.

V. Federally Funded Grants and Requirements Mandated by Federal Laws: All of the Specific Federal requirements that are applicable to the Master Contract are identified in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto. To the extent that the Master Contract is funded in whole or part with Federal funds or mandated by Federal laws, (i) the provisions of the Master Contract that conflict with Federal rules, Federal regulations, or Federal program specific requirements shall not apply and (ii) the Contractor agrees to comply with all applicable Federal rules, regulations and program specific requirements including, but not limited to, those provisions that are set forth in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto.

³As of October 9, 2012, the list of discriminatory jurisdictions subject to this provision includes the states of Alaska, Hawaii, Louisiana, South Carolina, West Virginia and Wyoming. Contact NYS Department of Economic Development for the most current list of jurisdictions subject to this provision.

II. TERM, TERMINATION AND SUSPENSION

A. Term: The term of the Master Contract shall be as specified on the Face Page, unless terminated sooner as provided herein.

B. Renewal:

1. General Renewal: The Master Contract may consist of successive periods on the same terms and conditions, as specified within the Master Contract (a “Simplified Renewal Contract”). Each additional or superseding period shall be on the forms specified by the State and shall be incorporated in the Master Contract.

2. Renewal Notice to Not-for-Profit Contractors:

a) Pursuant to State Finance Law §179-t, if the Master Contract is with a not-for-profit Contractor and provides for a renewal option, the State shall notify the Contractor of the State’s intent to renew or not to renew the Master Contract no later than ninety (90) calendar days prior to the end of the term of the Master Contract, unless funding for the renewal is contingent upon enactment of an appropriation. If funding for the renewal is contingent upon enactment of an appropriation, the State shall notify the Contractor of the State’s intent to renew or not to renew the Master Contract the later of: (1) ninety (90) calendar days prior to the end of the term of the Master Contract, and (2) thirty (30) calendar days after the necessary appropriation becomes law. Notwithstanding the foregoing, in the event that the State is unable to comply with the time frames set forth in this paragraph due to unusual circumstances beyond the control of the State (“Unusual Circumstances”), no payment of interest shall be due to the not-for-profit Contractor. For purposes of State Finance Law §179-t, “Unusual Circumstances” shall not mean the failure by the State to (i) plan for implementation of a program, (ii) assign sufficient staff resources to implement a program, (iii) establish a schedule for the implementation of a program or (iv) anticipate any other reasonably foreseeable circumstance.

b) Notification to the not-for-profit Contractor of the State’s intent to not renew the Master Contract must be in writing in the form of a letter, with the reason(s) for the non-renewal included. If the State does not provide notice to the not-for-profit Contractor of its intent not to renew the Master Contract as required in this Section and State Finance Law §179-t, the Master Contract shall be deemed continued until the date the State provides the necessary notice to the Contractor, in accordance with State Finance Law §179-t. Expenses incurred by the not-for-profit Contractor during such extension shall be reimbursable under the terms of the Master Contract.

C. Termination:

1. Grounds:

- a) Mutual Consent: The Master Contract may be terminated at any time upon mutual written consent of the State and the Contractor.
- b) Cause: The State may terminate the Master Contract immediately, upon written notice of termination to the Contractor, if the Contractor fails to comply with any of the terms and conditions of the Master Contract and/or with any laws, rules, regulations, policies, or procedures that are applicable to the Master Contract.
- c) Non-Responsibility: In accordance with the provisions of Sections IV(N)(6) and (7) herein, the State may make a final determination that the Contractor is non-responsible (Determination of Non-Responsibility). In such event, the State may terminate the Master Contract at the Contractor's expense, complete the contractual requirements in any manner the State deems advisable and pursue available legal or equitable remedies for breach.
- d) Convenience: The State may terminate the Master Contract in its sole discretion upon thirty (30) calendar days prior written notice.
- e) Lack of Funds: If for any reason the State or the Federal government terminates or reduces its appropriation to the applicable State Agency entering into the Master Contract or fails to pay the full amount of the allocation for the operation of one or more programs funded under this Master Contract, the Master Contract may be terminated or reduced at the State Agency's discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to the State Agency for payment of such costs. Upon termination or reduction of the Master Contract, all remaining funds paid to the Contractor that are not subject to allowable costs already incurred by the Contractor shall be returned to the State Agency. In any event, no liability shall be incurred by the State (including the State Agency) beyond monies available for the purposes of the Master Contract. The Contractor acknowledges that any funds due to the State Agency or the State of New York because of disallowed expenditures after audit shall be the Contractor's responsibility.
- f) Force Majeure: The State may terminate or suspend its performance under the Master Contract immediately upon the occurrence of a "force majeure." For purposes of the Master Contract, "Force majeure" shall include, but not be limited to, natural disasters, war, rebellion, insurrection, riot, strikes, lockout and any unforeseen circumstances and acts beyond the control of the State which render the performance of its obligations impossible.

2. Notice of Termination:

- a) Service of notice: Written notice of termination shall be sent by:
 - (i) personal messenger service; or
 - (ii) certified mail, return receipt requested and first class mail.

b) Effective date of termination: The effective date of the termination shall be the later of (i) the date indicated in the notice and (ii) the date the notice is received by the Contractor, and shall be established as follows:

(i) if the notice is delivered by hand, the date of receipt shall be established by the receipt given to the Contractor or by affidavit of the individual making such hand delivery attesting to the date of delivery; or

(ii) if the notice is delivered by registered or certified mail, by the receipt returned from the United States Postal Service, or if no receipt is returned, five (5) business days from the date of mailing of the first class letter, postage prepaid, in a depository under the care and control of the United States Postal Service.

3. Effect of Notice and Termination on State's Payment Obligations:

a) Upon receipt of notice of termination, the Contractor agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the State.

b) The State shall be responsible for payment on claims for services or work provided and costs incurred pursuant to the terms of the Master Contract. In no event shall the State be liable for expenses and obligations arising from the requirements of the Master Contract after its termination date.

4. Effect of Termination Based on Misuse or Conversion of State or Federal Property:

Where the Master Contract is terminated for cause based on Contractor's failure to use some or all of the real property or equipment purchased pursuant to the Master Contract for the purposes set forth herein, the State may, at its option, require:

a) the repayment to the State of any monies previously paid to the Contractor; or

b) the return of any real property or equipment purchased under the terms of the Master Contract; or

c) an appropriate combination of clauses (a) and (b) of Section II(C)(4) herein.

Nothing herein shall be intended to limit the State's ability to pursue such other legal or equitable remedies as may be available.

D. Suspension: The State may, in its discretion, order the Contractor to suspend performance for a reasonable period of time. In the event of such suspension, the Contractor shall be given a formal written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor shall comply with the particulars of the notice. The State shall have no obligation to reimburse Contractor's expenses during such suspension period. Activities may resume at such time as the State issues a formal written notice authorizing a resumption of performance under the Master Contract.

III. PAYMENT AND REPORTING

A. Terms and Conditions:

1. In full consideration of contract services to be performed, the State Agency agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page.
2. The State has no obligation to make payment until all required approvals, including the approval of the AG and OSC, if required, have been obtained. Contractor obligations or expenditures that precede the start date of the Master Contract shall not be reimbursed.
3. Contractor must provide complete and accurate billing invoices to the State in order to receive payment. Provided, however, the State may, at its discretion, automatically generate a voucher in accordance with an approved contract payment schedule. Billing invoices submitted to the State must contain all information and supporting documentation required by Attachment D (Payment and Reporting Schedule) and Section III(C) herein. The State may require the Contractor to submit billing invoices electronically.
4. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the head of the State Agency, in the sole discretion of the head of such State Agency, due to extenuating circumstances. Such electronic payment shall be made in accordance with OSC's procedures and practices to authorize electronic payments.
5. If travel expenses are an approved expenditure under the Master Contract, travel expenses shall be reimbursed at the lesser of the rates set forth in the written standard travel policy of the Contractor, the OSC guidelines, or United States General Services Administration rates. No out-of-state travel costs shall be permitted unless specifically detailed and pre-approved by the State.
6. Timeliness of advance payments or other claims for reimbursement, and any interest to be paid to Contractor for late payment, shall be governed by Article 11-A of the State Finance Law to the extent required by law.
7. Article 11-B of the State Finance Law sets forth certain time frames for the Full Execution of contracts or renewal contracts with not-for-profit organizations and the implementation of any program plan associated with such contract. For purposes of this section, "Full Execution" shall mean that the contract has been signed by all parties thereto and has obtained the approval of the AG and OSC. Any interest to be paid on a missed payment to the Contractor based on a delay in the Full Execution of the Master Contract shall be governed by Article 11-B of the State Finance Law.

B. Advance Payment and Recoupment:

1. Advance payments, which the State in its sole discretion may make to not-for-profit grant recipients, shall be made and recouped in accordance with State Finance Law Section 179(u), this Section and the provisions of Attachment D (Payment and Reporting Schedule).
2. Initial advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the first day of the Contract Term or, if renewed, in the period identified on the Face Page. Subsequent advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the dates specified in Attachment D (Payment and Reporting Schedule).
3. For subsequent contract years in multi-year contracts, Contractor will be notified of the scheduled advance payments for the upcoming contract year no later than 90 days prior to the commencement of the contract year. For simplified renewals, the payment schedule (Attachment D) will be modified as part of the renewal process.
4. Recoupment of any advance payment(s) shall be recovered by crediting the percentage of subsequent claims listed in Attachment D (Payment and Reporting Schedule) and Section III(C) herein and such claims shall be reduced until the advance is fully recovered within the Contract Term. Any unexpended advance balance at the end of the Contract Term shall be refunded by the Contractor to the State.
5. If for any reason the amount of any claim is not sufficient to cover the proportionate advance amount to be recovered, then subsequent claims may be reduced until the advance is fully recovered.

C. Claims for Reimbursement:

1. The Contractor shall submit claims for the reimbursement of expenses incurred on behalf of the State under the Master Contract in accordance with this Section and the applicable claiming schedule in Attachment D (Payment and Reporting Schedule).

Vouchers submitted for payment shall be deemed to be a certification that the payments requested are for project expenditures made in accordance with the items as contained in the applicable Attachment B form (Budget) and during the Contract Term. When submitting a voucher, such voucher shall also be deemed to certify that: (i) the payments requested do not duplicate reimbursement from other sources of funding; and (ii) the funds provided herein do not replace funds that, in the absence of this grant, would have been made available by the Contractor for this program. Requirement (ii) does not apply to grants funded pursuant to a Community Projects Fund appropriation.

2. Consistent with the selected reimbursement claiming schedule in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the appropriate following provisions:
 - a) Quarterly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency quarterly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

b) Monthly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency monthly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

c) Biannual Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency biannually voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

d) Milestone/Performance Reimbursement:⁴ Requests for payment based upon an event or milestone may be either severable or cumulative. A severable event/milestone is independent of accomplishment of any other event. If the event is cumulative, the successful completion of an event or milestone is dependent on the previous completion of another event.

Milestone payments shall be made to the Contractor when requested in a form approved by the State, and at frequencies and in amounts stated in Attachment D (Payment and Reporting Schedule). The State Agency shall make milestone payments subject to the Contractor's satisfactory performance.

e) Fee for Service Reimbursement:⁵ Payment shall be limited to only those fees specifically agreed upon in the Master Contract and shall be payable no more frequently than monthly upon submission of a voucher by the contractor.

f) Rate Based Reimbursement:⁶ Payment shall be limited to rate(s) established in the Master Contract. Payment may be requested no more frequently than monthly.

g) Scheduled Reimbursement:⁷ The State Agency shall generate vouchers at the frequencies and amounts as set forth in Attachment D (Payment and Reporting Schedule), and service reports shall be used to determine funding levels appropriate to the next annual contract period.

⁴ A milestone/ performance payment schedule identifies mutually agreed-to payment amounts based on meeting contract events or milestones. Events or milestones must represent integral and meaningful aspects of contract performance and should signify true progress in completing the Master Contract effort.

⁵ Fee for Service is a rate established by the Contractor for a service or services rendered.

⁶ Rate based agreements are those agreements in which payment is premised upon a specific established rate per unit.

⁷ Scheduled Reimbursement agreements provide for payments that occur at defined and regular intervals that provide for a specified dollar amount to be paid to the Contractor at the beginning of each payment period (i.e. quarterly, monthly or bi-annually). While these payments are related to the particular services and outcomes defined in the Master Contract, they are not dependent upon particular services or expenses in any one payment period and provide the Contractor with a defined and regular payment over the life of the contract.

- h) Interim Reimbursement: The State Agency shall generate vouchers on an interim basis and at the amounts requested by the Contractor as set forth in Attachment D (Payment and Reporting Schedule).
- i) Fifth Quarter Payments:⁸ Fifth quarter payment shall be paid to the Contractor at the conclusion of the final scheduled payment period of the preceding contract period. The State Agency shall use a written directive for fifth quarter financing. The State Agency shall generate a voucher in the fourth quarter of the current contract year to pay the scheduled payment for the next contract year.
3. The Contractor shall also submit supporting fiscal documentation for the expenses claimed.
4. The State reserves the right to withhold up to fifteen percent (15%) of the total amount of the Master Contract as security for the faithful completion of services or work, as applicable, under the Master Contract. This amount may be withheld in whole or in part from any single payment or combination of payments otherwise due under the Master Contract. In the event that such withheld funds are insufficient to satisfy Contractor's obligations to the State, the State may pursue all available remedies, including the right of setoff and recoupment.
5. The State shall not be liable for payments on the Master Contract if it is made pursuant to a Community Projects Fund appropriation if insufficient monies are available pursuant to Section 99-d of the State Finance Law.
6. All vouchers submitted by the Contractor pursuant to the Master Contract shall be submitted to the State Agency no later than thirty (30) calendar days after the end date of the period for which reimbursement is claimed. In no event shall the amount received by the Contractor exceed the budget amount approved by the State Agency, and, if actual expenditures by the Contractor are less than such sum, the amount payable by the State Agency to the Contractor shall not exceed the amount of actual expenditures.
7. All obligations must be incurred prior to the end date of the contract. Notwithstanding the provisions of Section III(C)(6) above, with respect to the final period for which reimbursement is claimed, so long as the obligations were incurred prior to the end date of the contract, the Contractor shall have up to ninety (90) calendar days after the contract end date to make expenditures; provided, however, that if the Master Contract is funded, in whole or in part, with Federal funds, the Contractor shall have up to sixty (60) calendar days after the contract end date to make expenditures.

D. Identifying Information and Privacy Notification:

1. Every voucher or New York State Claim for Payment submitted to a State Agency by the Contractor, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property, must include the Contractor's Vendor Identification Number assigned by the Statewide Financial System, and any or all of the following identification numbers: (i) the Contractor's Federal employer identification number,

⁸ Fifth Quarter Payments occurs where there are scheduled payments and where there is an expectation that services will be continued through renewals or subsequent contracts. Fifth Quarter Payments allow for the continuation of scheduled payments to a Contractor for the first payment period quarter of an anticipated renewal or new contract.

(ii) the Contractor's Federal social security number, and/or (iii) DUNS number. Failure to include such identification number or numbers may delay payment by the State to the Contractor. Where the Contractor does not have such number or numbers, the Contractor, on its voucher or Claim for Payment, must provide the reason or reasons for why the Contractor does not have such number or numbers.

2. The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. The personal information is requested by the purchasing unit of the State Agency contracting to purchase the goods or services or lease the real or personal property covered by the Master Contract. This information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York, 12236.

E. Refunds:

1. In the event that the Contractor must make a refund to the State for Master Contract-related activities, including repayment of an advance or an audit disallowance, payment must be made payable as set forth in Attachment A-1 (Program Specific Terms and Conditions). The Contractor must reference the contract number with its payment and include a brief explanation of why the refund is being made. Refund payments must be submitted to the Designated Refund Office at the address specified in Attachment A-1 (Program Specific Terms and Conditions).

2. If at the end or termination of the Master Contract, there remains any unexpended balance of the monies advanced under the Master Contract in the possession of the Contractor, the Contractor shall make payment within forty-five (45) calendar days of the end or termination of the Master Contract. In the event that the Contractor fails to refund such balance the State may pursue all available remedies.

F. Outstanding Amounts Owed to the State: Prior period overpayments (including, but not limited to, contract advances in excess of actual expenditures) and/or audit recoveries associated with the Contractor may be recouped against future payments made under this Master Contract to Contractor. The recoupment generally begins with the first payment made to the Contractor following identification of the overpayment and/or audit recovery amount. In the event that there are no payments to apply recoveries against, the Contractor shall make payment as provided in Section III(E) (Refunds) herein.

G. Program and Fiscal Reporting Requirements:

1. The Contractor shall submit required periodic reports in accordance with the applicable schedule provided in Attachment D (Payment and Reporting Schedule). All required reports or other work products developed pursuant to the Master Contract must be completed as provided by the agreed upon work schedule in a manner satisfactory and acceptable to the State Agency in order for the Contractor to be eligible for payment.

2. Consistent with the selected reporting options in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the following applicable provisions:

a) If the Expenditure Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with one or more of the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

(i) *Narrative/Qualitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a report, in narrative form, summarizing the services rendered during the quarter. This report shall detail how the Contractor has progressed toward attaining the qualitative goals enumerated in Attachment C (Work Plan). This report should address all goals and objectives of the project and include a discussion of problems encountered and steps taken to solve them.

(ii) *Statistical/Quantitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed report analyzing the quantitative aspects of the program plan, as appropriate (e.g., number of meals served, clients transported, patient/client encounters, procedures performed, training sessions conducted, etc.)

(iii) *Expenditure Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed expenditure report, by object of expense. This report shall accompany the voucher submitted for such period.

(iv) *Final Report*: The Contractor shall submit a final report as required by the Master Contract, not later than the time period listed in Attachment D (Payment and Reporting Schedule) which reports on all aspects of the program and detailing how the use of funds were utilized in achieving the goals set forth in Attachment C (Work Plan).

(v) *Consolidated Fiscal Report (CFR)*: The Contractor shall submit a CFR, which includes a year-end cost report and final claim not later than the time period listed in Attachment D (Payment and Reporting Schedule).

b) If the Performance-Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

(i) *Progress Report*: The Contractor shall provide the State Agency with a written progress report using the forms and formats as provided by the State Agency, summarizing the work performed during the period. These reports shall detail the Contractor's progress toward attaining the specific goals enumerated in Attachment C (Work Plan). Progress reports shall be submitted in a format prescribed in the Master Contract.

- (ii) *Final Progress Report*: Final scheduled payment is due during the time period set forth in Attachment D (Payment and Reporting Schedule). The deadline for submission of the final report shall be the date set forth in Attachment D (Payment and Reporting Schedule). The State Agency shall complete its audit and notify the Contractor of the results no later than the date set forth in Attachment D (Payment and Reporting Schedule). Payment shall be adjusted by the State Agency to reflect only those services/expenditures that were made in accordance with the Master Contract. The Contractor shall submit a detailed comprehensive final progress report not later than the date set forth in Attachment D (Payment and Reporting Schedule), summarizing the work performed during the entire Contract Term (i.e., a cumulative report), in the forms and formats required.

3. In addition to the periodic reports stated above, the Contractor may be required (a) to submit such other reports as are required in Table 1 of Attachment D (Payment and Reporting Schedule), and (b) prior to receipt of final payment under the Master Contract, to submit one or more final reports in accordance with the form, content, and schedule stated in Table 1 of Attachment D (Payment and Reporting Schedule).

H. Notification of Significant Occurrences:

1. If any specific event or conjunction of circumstances threatens the successful completion of this project, in whole or in part, including where relevant, timely completion of milestones or other program requirements, the Contractor agrees to submit to the State Agency within three (3) calendar days of becoming aware of the occurrence or of such problem, a written description thereof together with a recommended solution thereto.

2. The Contractor shall immediately notify in writing the program manager assigned to the Master Contract of any unusual incident, occurrence, or event that involves the staff, volunteers, directors or officers of the Contractor, any subcontractor or program participant funded through the Master Contract, including but not limited to the following: death or serious injury; an arrest or possible criminal activity that could impact the successful completion of this project; any destruction of property; significant damage to the physical plant of the Contractor; or other matters of a similarly serious nature.

IV. ADDITIONAL CONTRACTOR OBLIGATIONS, REPRESENTATIONS AND WARRANTIES

A. Contractor as an Independent Contractor/Employees:

1. The State and the Contractor agree that the Contractor is an independent contractor, and not an employee of the State and may neither hold itself out nor claim to be an officer, employee, or subdivision of the State nor make any claim, demand, or application to or for any right based upon any different status. Notwithstanding the foregoing, the State and the Contractor agree that if the Contractor is a New York State municipality, the Contractor shall be permitted to hold itself out, and claim, to be a subdivision of the State.

The Contractor shall be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries and management of its project personnel. These functions shall be carried out in accordance with the provisions of the Master Contract, and all applicable Federal and State laws and regulations.

2. The Contractor warrants that it, its staff, and any and all subcontractors have all the necessary licenses, approvals, and certifications currently required by the laws of any applicable local, state, or Federal government to perform the services or work, as applicable, pursuant to the Master Contract and/or any subcontract entered into under the Master Contract. The Contractor further agrees that such required licenses, approvals, and certificates shall be kept in full force and effect during the term of the Master Contract, or any extension thereof, and to secure any new licenses, approvals, or certificates within the required time frames and/or to require its staff and subcontractors to obtain the requisite licenses, approvals, or certificates. In the event the Contractor, its staff, and/or subcontractors are notified of a denial or revocation of any license, approval, or certification to perform the services or work, as applicable, under the Master Contract, Contractor shall immediately notify the State.

B. Subcontractors:

1. If the Contractor enters into subcontracts for the performance of work pursuant to the Master Contract, the Contractor shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the State under the Master Contract. No contractual relationship shall be deemed to exist between the subcontractor and the State.

2. If requested by the State, the Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, that are in excess of \$100,000 for the performance of the obligations contained herein until it has received the prior written permission of the State, which shall have the right to review and approve each and every subcontract in excess of \$100,000 prior to giving written permission to the Contractor to enter into the subcontract. All agreements between the Contractor and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of the Master Contract, (2) that nothing contained in the subcontract shall impair the rights of the State under the Master Contract, and (3) that nothing contained in the subcontract, nor under the Master Contract, shall be deemed to create any contractual relationship between the subcontractor and the State. In addition, subcontracts shall contain any other provisions which are required to be included in subcontracts pursuant to the terms herein.

3. If requested by the State, prior to executing a subcontract, the Contractor agrees to require the subcontractor to provide to the State the information the State needs to determine whether a proposed subcontractor is a responsible vendor.

4. If requested by the State, when a subcontract equals or exceeds \$100,000, the subcontractor shall submit a Vendor Responsibility Questionnaire (Questionnaire).

5. If requested by the State, upon the execution of a subcontract, the Contractor shall provide detailed subcontract information (a copy of subcontract will suffice) to the State within fifteen (15) calendar days after execution. The State may request from the Contractor copies of subcontracts between a subcontractor and its subcontractor.

6. The Contractor shall require any and all subcontractors to submit to the Contractor all financial claims for Services or work to the State agency, as applicable, rendered and required supporting documentation and reports as necessary to permit Contractor to meet claim deadlines and documentation requirements as established in Attachment D (Payment and Reporting

Schedule) and Section III. Subcontractors shall be paid by the Contractor on a timely basis after submitting the required reports and vouchers for reimbursement of services or work, as applicable. Subcontractors shall be informed by the Contractor of the possibility of non-payment or rejection by the Contractor of claims that do not contain the required information, and/or are not received by the Contractor by said due date.

C. Use Of Material, Equipment, Or Personnel:

1. The Contractor shall not use materials, equipment, or personnel paid for under the Master Contract for any activity other than those provided for under the Master Contract, except with the State's prior written permission.
2. Any interest accrued on funds paid to the Contractor by the State shall be deemed to be the property of the State and shall either be credited to the State at the close-out of the Master Contract or, upon the written permission of the State, shall be expended on additional services or work, as applicable, provided for under the Master Contract.

D. Property:

1. Property is real property, equipment, or tangible personal property having a useful life of more than one year and an acquisition cost of \$1,000 or more per unit.
 - a) If an item of Property required by the Contractor is available as surplus to the State, the State at its sole discretion, may arrange to provide such Property to the Contractor in lieu of the purchase of such Property.
 - b) If the State consents in writing, the Contractor may retain possession of Property owned by the State, as provided herein, after the termination of the Master Contract to use for similar purposes. Otherwise, the Contractor shall return such Property to the State at the Contractor's cost and expense upon the expiration of the Master Contract.
 - c) In addition, the Contractor agrees to permit the State to inspect the Property and to monitor its use at reasonable intervals during the Contractor's regular business hours.
 - d) The Contractor shall be responsible for maintaining and repairing Property purchased or procured under the Master Contract at its own cost and expense. The Contractor shall procure and maintain insurance at its own cost and expense in an amount satisfactory to the State Agency, naming the State Agency as an additional insured, covering the loss, theft or destruction of such equipment.
 - e) A rental charge to the Master Contract for a piece of Property owned by the Contractor shall not be allowed.
 - f) The State has the right to review and approve in writing any new contract for the purchase of or lease for rental of Property (Purchase/Lease Contract) operated in connection with the provision of the services or work, as applicable, as specified in the Master Contract, if applicable, and any modifications, amendments, or extensions of an existing lease or purchase prior to its execution. If, in its discretion, the State disapproves of any

Purchase/Lease Contract, then the State shall not be obligated to make any payments for such Property.

g) No member, officer, director or employee of the Contractor shall retain or acquire any interest, direct or indirect, in any Property, paid for with funds under the Master Contract, nor retain any interest, direct or indirect, in such, without full and complete prior disclosure of such interest and the date of acquisition thereof, in writing to the Contractor and the State.

2. For non-Federally-funded contracts, unless otherwise provided herein, the State shall have the following rights to Property purchased with funds provided under the Master Contract:

a) For cost-reimbursable contracts, all right, title and interest in such Property shall belong to the State.

b) For performance-based contracts, all right, title and interest in such Property shall belong to the Contractor.

3. For Federally funded contracts, title to Property whose requisition cost is borne in whole or in part by monies provided under the Master Contract shall be governed by the terms and conditions of Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws).

4. Upon written direction by the State, the Contractor shall maintain an inventory of all Property that is owned by the State as provided herein.

5. The Contractor shall execute any documents which the State may reasonably require to effectuate the provisions of this section.

E. Records and Audits:

1. General:

a) The Contractor shall establish and maintain, in paper or electronic format, complete and accurate books, records, documents, receipts, accounts, and other evidence directly pertinent to its performance under the Master Contract (collectively, Records).

b) The Contractor agrees to produce and retain for the balance of the term of the Master Contract, and for a period of six years from the later of the date of (i) the Master Contract and (ii) the most recent renewal of the Master Contract, any and all Records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under the Master Contract. Such Records may include, but not be limited to, original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:

(i) personal service expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, cash and check disbursement records including copies of money orders and the like, vouchers and invoices, records of contract labor, any and all records listing payroll and the money value of non-cash advantages provided to employees, time cards, work schedules and logs, employee personal history folders,

detailed and general ledgers, sales records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

(ii) payroll taxes and fringe benefits: cancelled checks, copies of related bank statements, cash and check disbursement records including copies of money orders and the like, invoices for fringe benefit expenses, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

(iii) non-personal services expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, and cost allocation plans, if applicable.

(iv) receipt and deposit of advance and reimbursements: itemized bank stamped deposit slips, and a copy of the related bank statements.

c) The OSC, AG and any other person or entity authorized to conduct an examination, as well as the State Agency or State Agencies involved in the Master Contract that provided funding, shall have access to the Records during the hours of 9:00 a.m. until 5:00 p.m., Monday through Friday (excluding State recognized holidays), at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.

d) The State shall protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records, as exempt under Section 87 of the Public Officers Law, is reasonable.

e) Nothing contained herein shall diminish, or in any way adversely affect, the State's rights in connection with its audit and investigatory authority or the State's rights in connection with discovery in any pending or future litigation.

2. Cost Allocation:

a) For non-performance based contracts, the proper allocation of the Contractor's costs must be made according to a cost allocation plan that meets the requirements of OMB Circulars A-87, A-122, and/or A-21. Methods used to determine and assign costs shall conform to generally accepted accounting practices and shall be consistent with the method(s) used by the Contractor to determine costs for other operations or programs. Such accounting standards and practices shall be subject to approval of the State.

b) For performance based milestone contracts, or for the portion of the contract amount paid on a performance basis, the Contractor shall maintain documentation demonstrating that milestones were attained.

3. Federal Funds: For records and audit provisions governing Federal funds, please see Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws).

F. Confidentiality: The Contractor agrees that it shall use and maintain personally identifiable information relating to individuals who may receive services, and their families pursuant to the Master Contract, or any other information, data or records marked as, or reasonably deemed, confidential by the State (Confidential Information) only for the limited purposes of the Master Contract and in conformity with applicable provisions of State and Federal law. The Contractor (i) has an affirmative obligation to safeguard any such Confidential Information from unnecessary or unauthorized disclosure and (ii) must comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

G. Publicity:

1. Publicity includes, but is not limited to: news conferences; news releases; public announcements; advertising; brochures; reports; discussions or presentations at conferences or meetings; and/or the inclusion of State materials, the State's name or other such references to the State in any document or forum. Publicity regarding this project may not be released without prior written approval from the State.

2. Any publications, presentations or announcements of conferences, meetings or trainings which are funded in whole or in part through any activity supported under the Master Contract may not be published, presented or announced without prior approval of the State. Any such publication, presentation or announcement shall:

a) Acknowledge the support of the State of New York and, if funded with Federal funds, the applicable Federal funding agency; and

b) State that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Contractor and do not necessarily represent the opinions, interpretations or policy of the State or if funded with Federal funds, the applicable Federal funding agency.

3. Notwithstanding the above, (i) if the Contractor is an educational research institution, the Contractor may, for scholarly or academic purposes, use, present, discuss, report or publish any material, data or analyses, other than Confidential Information, that derives from activity under the Master Contract and the Contractor agrees to use best efforts to provide copies of any manuscripts arising from Contractor's performance under this Master Contract, or if requested by the State, the Contractor shall provide the State with a thirty (30) day period in which to review each manuscript for compliance with Confidential Information requirements; or (ii) if the Contractor is not an educational research institution, the Contractor may submit for publication, scholarly or academic publications that derive from activity under the Master Contract (but are not deliverable under the Master Contract), provided that the Contractor first submits such manuscripts to the State forty-five (45) calendar days prior to submission for consideration by a publisher in order for the State to review the manuscript for compliance with confidentiality requirements and restrictions and to make such other comments as the State deems appropriate. All derivative publications shall follow the same acknowledgments and disclaimer as described in Section IV(G)(2) (Publicity) hereof.

H. Web-Based Applications-Accessibility: Any web-based intranet and Internet information and applications development, or programming delivered pursuant to the Master Contract or procurement shall comply with New York State Enterprise IT Policy NYS-P08-005, Accessibility

Web-Based Information and Applications, and New York State Enterprise IT Standard NYS-S08-005, Accessibility of Web-Based Information Applications, as such policy or standard may be amended, modified or superseded, which requires that State Agency web-based intranet and Internet information and applications are accessible to person with disabilities. Web content must conform to New York State Enterprise IT Standards NYS-S08-005, as determined by quality assurance testing. Such quality assurance testing shall be conducted by the State Agency and the results of such testing must be satisfactory to the State Agency before web content shall be considered a qualified deliverable under the Master Contract or procurement.

I. Non-Discrimination Requirements: Pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that the Master Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Master Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Master Contract. The Contractor shall be subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 of the Labor Law.

J. Equal Opportunities for Minorities and Women; Minority and Women Owned Business Enterprises: In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if the Master Contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting State Agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting State Agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting State Agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the Contractor certifies and affirms that (i) it is subject to Article 15-A of the Executive Law which includes, but is not limited to, those provisions concerning the maximizing of opportunities for the participation of minority and women-owned business enterprises and (ii) the following provisions shall apply and it is Contractor's equal employment opportunity policy that:

1. The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status;

2. The Contractor shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts;
3. The Contractor shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;
4. At the request of the State, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative shall not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative shall affirmatively cooperate in the implementation of the Contractor's obligations herein; and
5. The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants shall be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

The Contractor shall include the provisions of subclauses 1 – 5 of this Section (IV)(J), in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (Work) except where the Work is for the beneficial use of the Contractor. Section 312 of the Executive Law does not apply to: (i) work, goods or services unrelated to the Master Contract; or (ii) employment outside New York State. The State shall consider compliance by the Contractor or a subcontractor with the requirements of any Federal law concerning equal employment opportunity which effectuates the purpose of this section. The State shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such Federal law and if such duplication or conflict exists, the State shall waive the applicability of Section 312 of the Executive Law to the extent of such duplication or conflict. The Contractor shall comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

K. Omnibus Procurement Act of 1992: It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises, as bidders, subcontractors and suppliers on its procurement contracts.

1. If the total dollar amount of the Master Contract is greater than \$1 million, the Omnibus Procurement Act of 1992 requires that by signing the Master Contract, the Contractor certifies the following:
 - a) The Contractor has made reasonable efforts to encourage the participation of State business enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

c) The Contractor agrees to make reasonable efforts to provide notification to State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of the Master Contract and agrees to cooperate with the State in these efforts.

L. Workers' Compensation Benefits:

1. In accordance with Section 142 of the State Finance Law, the Master Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of the Master Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

2. If a Contractor believes they are exempt from the Workers Compensation insurance requirement they must apply for an exemption.

M. Unemployment Insurance Compliance: The Contractor shall remain current in both its quarterly reporting and payment of contributions or payments in lieu of contributions, as applicable, to the State Unemployment Insurance system as a condition of maintaining this grant.

The Contractor hereby authorizes the State Department of Labor to disclose to the State Agency staff only such information as is necessary to determine the Contractor's compliance with the State Unemployment Insurance Law. This includes, but is not limited to, the following:

1. any records of unemployment insurance (UI) contributions, interest, and/or penalty payment arrears or reporting delinquency;
2. any debts owed for UI contributions, interest, and/or penalties;
3. the history and results of any audit or investigation; and
4. copies of wage reporting information.

Such disclosures are protected under Section 537 of the State Labor Law, which makes it a misdemeanor for the recipient of such information to use or disclose the information for any purpose other than the performing due diligence as a part of the approval process for the Master Contract.

N. Vendor Responsibility:

1. If a Contractor is required to complete a Questionnaire, the Contractor covenants and represents that it has, to the best of its knowledge, truthfully, accurately and thoroughly completed such Questionnaire. Although electronic filing is preferred, the Contractor may

obtain a paper form from the OSC prior to execution of the Master Contract. The Contractor further covenants and represents that as of the date of execution of the Master Contract, there are no material events, omissions, changes or corrections to such document requiring an amendment to the Questionnaire.

2. The Contractor shall provide to the State updates to the Questionnaire if any material event(s) occurs requiring an amendment or as new information material to such Questionnaire becomes available.

3. The Contractor shall, in addition, promptly report to the State the initiation of any investigation or audit by a governmental entity with enforcement authority with respect to any alleged violation of Federal or state law by the Contractor, its employees, its officers and/or directors in connection with matters involving, relating to or arising out of the Contractor's business. Such report shall be made within five (5) business days following the Contractor becoming aware of such event, investigation, or audit. Such report may be considered by the State in making a Determination of Vendor Non-Responsibility pursuant to this section.

4. The State reserves the right, in its sole discretion, at any time during the term of the Master Contract:

- a) to require updates or clarifications to the Questionnaire upon written request;
- b) to inquire about information included in or required information omitted from the Questionnaire;
- c) to require the Contractor to provide such information to the State within a reasonable timeframe; and
- d) to require as a condition precedent to entering into the Master Contract that the Contractor agree to such additional conditions as shall be necessary to satisfy the State that the Contractor is, and shall remain, a responsible vendor; and
- e) to require the Contractor to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity. By signing the Master Contract, the Contractor agrees to comply with any such additional conditions that have been made a part of the Master Contract.

5. The State, in its sole discretion, reserves the right to suspend any or all activities under the Master Contract, at any time, when it discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor shall be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the State issues a written notice authorizing a resumption of performance under the Master Contract.

6. The State, in its sole discretion, reserves the right to make a final Determination of Non-Responsibility at any time during the term of the Master Contract based on:

- a) any information provided in the Questionnaire and/or in any updates, clarifications or amendments thereof; or
- b) the State's discovery of any material information which pertains to the Contractor's responsibility.

7. Prior to making a final Determination of Non-Responsibility, the State shall provide written notice to the Contractor that it has made a preliminary determination of non-responsibility. The State shall detail the reason(s) for the preliminary determination, and shall provide the Contractor with an opportunity to be heard.

O. Charities Registration: If applicable, the Contractor agrees to (i) obtain not-for-profit status, a Federal identification number, and a charitable registration number (or a declaration of exemption) and to furnish the State Agency with this information as soon as it is available, (ii) be in compliance with the OAG charities registration requirements at the time of the awarding of this Master Contract by the State and (iii) remain in compliance with the OAG charities registration requirements throughout the term of the Master Contract.

P. Consultant Disclosure Law:⁹ If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services, then in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

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

⁹ Not applicable to not-for-profit entities.

**ATTACHMENT A-1
AGENCY AND PROGRAM SPECIFIC CLAUSES**

Part A. Agency Specific Clauses

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

A. International Boycott Prohibition: In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

B. Prohibition on Purchase of Tropical Hardwoods:

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

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

C. MacBride Fair Employment Principles: In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that

the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

D. Omnibus Procurement Act of 1992: It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 1-800-782-8369
Small Business Liaison: 212-803-3149
email: nylovessmbiz@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development

633 Third Avenue
New York, NY 10017
855-373-4692
email: mwbecertification@esd.ny.gov
<https://ny.newnycontracts.com/>

E. Procurement Lobbying: To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

F. Certification of Registration to Collect Sales and Compensating Use Tax by Certain State Contractors, Affiliates, and Subcontractors: To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the

Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

G. The CONTRACTOR certifies that all revenue earned during the budget period as a result of services and related activities performed pursuant to this contract shall be used either to expand those program services funded by this AGREEMENT or to offset expenditures submitted to the STATE for reimbursement.

H. Administrative Rules and Audits:

1. If this contract is funded in whole or in part from federal funds, the CONTRACTOR shall comply with the federal grant requirements regarding administration and allowable costs:

a) For local and Indian tribal governments, non-profit organizations; and educational institutions, use the administrative requirements and cost principles (Subparts A through E) in Office of Management and Budget (OMB), Title 2 Code of Federal Regulations (CFR), Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards.

b) Exceptions: Pursuant to 2 CFR Part 200 Appendix IX, for a hospital, use the cost principles in Department of Health and Human Services, 45 CFR Part 74, Appendix E, "Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals". For hospital administrative requirements, use OMB, 2 CFR, Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

For fixed amount awards, cost principles (Subpart E) do not apply.

2. If this contract is funded entirely from STATE funds, and if there are no specific administration and allowable costs requirements applicable, CONTRACTOR shall adhere to the applicable principles in "1" above.

3. The CONTRACTOR shall comply with the following grant requirements regarding audits.

a) If the contract is funded from federal awards, and the CONTRACTOR expends \$750,000 or more (or the amount per the current federal regulations 2 CFR Part 200 as revised, which is scheduled to be updated every 5 years) in federal awards during their fiscal year, an audit report must be submitted in accordance with Subpart F of OMB, 2 CFR, Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

b) If this contract is funded from other than federal awards or if the contract is funded from a combination of STATE and federal awards but federal awards are less than \$750,000 (or the amount per the current federal regulations 2 CFR Part 200 as revised,

which is scheduled to be updated every 5 years), and if the CONTRACTOR expends \$750,000 or more in total annual payments from the STATE, the CONTRACTOR shall submit to the STATE after the end of the CONTRACTOR's fiscal year an audit report. The audit report shall be submitted to the STATE within thirty days after its completion but no later than nine months after the end of the audit period. The audit report shall summarize the business and financial transactions of the CONTRACTOR. The report shall be prepared and certified by an independent accounting firm or other accounting entity, which is demonstrably independent of the administration of the program being audited. Audits performed of the CONTRACTOR's records shall be conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States covering financial audits. This audit requirement may be met through entity-wide audits, coincident with the CONTRACTOR's fiscal year, as described in OMB, 2 CFR, Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Reports, disclosures, comments and opinions required under these publications should be so noted in the audit report.

4. For audit reports that are not received by the dates due, the following steps shall be taken:
 - a) If the audit report is one or more days late, voucher payments shall be held until a compliant audit report is received.
 - b) If the audit report is 180 days or more late, the STATE shall terminate all active contracts, prohibit renewal of those contracts and prohibit the execution of future contracts until all outstanding compliant audit reports have been submitted.

I. The CONTRACTOR shall accept responsibility for compensating the STATE for any exceptions which are revealed on an audit and sustained after completion of the normal audit procedure.

J. The STATE, its employees, representatives and designees, shall have the right at any time during normal business hours to inspect the sites where services are performed and observe the services being performed by the CONTRACTOR. The CONTRACTOR shall render all assistance and cooperation to the STATE in making such inspections. The surveyors shall have the responsibility for determining contract compliance as well as the quality of service being rendered.

K. The CONTRACTOR has an affirmative duty to take prompt, effective, investigative and remedial action where it has actual or constructive notice of discrimination in the terms, conditions or privileges of employment against (including harassment of) any of its employees by any of its other employees, including managerial personnel, based on race, creed, color, sex, national origin, age, disability, sexual orientation or marital status.

L. The CONTRACTOR shall not discriminate on the basis of race, creed, color, sex, national

origin, age, disability, sexual orientation or marital status against any person seeking services for which the CONTRACTOR may receive reimbursement or payment under this AGREEMENT

M. The CONTRACTOR shall comply with all applicable federal, State and local civil rights and human rights laws with reference to equal employment opportunities and the provision of services.

N. Unless the CONTRACTOR is a political sub-division of New York State, the CONTRACTOR shall provide proof, completed by the CONTRACTOR's insurance carrier and/or the Workers' Compensation Board, of coverage for:

1. Workers' Compensation, for which one of the following is incorporated into the Econtract under the Contract Package Tool in the Grants Gateway or as Attachment E-1 in the paper based contract:

a) **CE-200** -- Certificate of Attestation For New York Entities With No Employees And Certain Out Of State Entities, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR

b) **C-105.2** -- Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the **U-26.3**; OR

c) **SI-12** -- Certificate of Workers' Compensation Self-Insurance, OR **GSI-105.2** -- Certificate of Participation in Workers' Compensation Group Self-Insurance

2. Disability Benefits coverage, for which one of the following is incorporated into the Econtract under the Contract Package Tool in the Grants Gateway or as Attachment E-2 in the paper based contract:

a) **CE-200**, Certificate of Attestation For New York Entities With No Employees And Certain Out Of State Entities, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR

b) **DB-120.1** -- Certificate of Disability Benefits Insurance OR

c) **DB-155** -- Certificate of Disability Benefits Self-Insurance

O. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208). Contractor shall be liable for the costs associated with any breach if caused by Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of Contractor's agents, officers, employees or subcontractors.

P. All products supplied pursuant to this agreement shall meet local, state and federal regulations, guidelines and action levels for lead as they exist at the time of the State's acceptance of this contract.

Q. All bidders/contractors agree that all state funds dispersed under this bid/contract will be bound by the terms, conditions, obligations and regulations promulgated or to be promulgated by the Department in accordance with E.O. 38, signed in 2012, governing restrictions on executive compensation.

R. The CONTRACTOR shall submit to the STATE (*quarterly*) voucher claims and reports of expenditures on such forms and in such detail as the STATE shall require. The CONTRACTOR shall submit vouchers to the State's designated payment office located electronically at:

dfh.boa@health.ny.gov

S. If the CONTRACTOR is eligible for an annual cost of living adjustment (COLA), enacted in New York State Law, that is associated with this grant AGREEMENT, payment of such COLA shall be made separate from payments under this AGREEMENT and shall not be applied toward or amend amounts payable under Attachment B of this Agreement.

Before payment of a COLA can be made, the STATE shall notify the CONTRACTOR, in writing, of eligibility for any COLA. The CONTRACTOR shall be required to submit a written certification attesting that all COLA funding will be used to promote the recruitment and retention of staff or respond to other critical non-personal service costs during the State fiscal year for which the cost of living adjustment was allocated, or provide any other such certification as may be required in the enacted legislation authorizing the COLA.

T. Certification Regarding Environmental Tobacco Smoke: Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through State or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a monetary penalty of up to \$1000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing this AGREEMENT, the CONTRACTOR certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The CONTRACTOR agrees that

it will require that the language of this certification be included in any subawards which contain provisions for children's services and that all subrecipients shall certify accordingly.

U. Pursuant to the Master Contract's Standard Terms and Conditions, I. (General Provisions); J. (Notices), such notices shall be addressed as follows or to such different addresses as the parties may from time to time designate:

State of New York Department of Health

Name: Kelly King Jr

Title: HPA

Address: Corning Tower ESP room 840 Albany, NY 12237

Telephone Number: 518-473-4441

Facsimile Number:

E-Mail Address: kelly.kingjr@health.ny.gov

Vendor/Grantee

Vendor/Grantee notices shall be addressed to the Executive Director at the address listed within "Contractor Primary Mailing Address" on Page 1 of 2, Master Grant Contract, Face Page.

V. Executive Order 177 Certification

By entering into this Contract, the Contractor understands the following:

1. The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics;
2. The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices; and
3. Generally, the Human Rights Law applies to:
 - all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment;
 - employers with fewer than four employees in all cases involving sexual harassment; and,
 - any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, the Contractor, by entering into this Contract hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

W. Contractor Assurance of No Conflict of Interest or Detrimental Effect

The CONTRACTOR or Subcontractor, by entering in to this Contract as a contractor, joint venture contractor, subcontractor, or consultant, attests that its performance of the services outlined in this contract or proposal does not and will not create a conflict of interest with nor position the CONTRACTOR to breach any other contract currently in force with the State of New York.

The CONTRACTOR shall disclose any existing or contemplated relationship with any other person or entity, including relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated CONTRACTOR, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the CONTRACTOR or former officers and employees of the STATE and its Affiliates, in connection with your rendering services enumerated in this Contract. If a conflict does or might exist, please describe how you would eliminate or prevent it. Indicate what procedures will be followed to detect, notify the STATE of, and resolve any such conflicts. The STATE will review the nature of any relationships and reserves the right to terminate this Contract for any reason, or for cause, if, in the judgment of the STATE, a real or potential conflict of interest cannot be cured.

The CONTRACTOR shall disclose whether it, or any of its members, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any investigation or disciplinary action by the New York State Joint Commission on Public Ethics or its predecessor State entities (collectively, "Commission"), and if so, a brief description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved. The STATE will review the nature of any relationships and reserves the right to terminate this Contract for any reason, or for cause, if, in the judgment of the STATE, a real or potential conflict of interest cannot be cured.

Furthermore, the CONTRACTOR attests that it will not act in any manner that is detrimental to any New York State contract on which the CONTRACTOR is rendering services. Specifically, the CONTRACTOR attests that:

1. The fulfillment of obligations by the CONTRACTOR, under this contract, does not violate any existing contracts or agreements between the CONTRACTOR and the State of New York;
2. The fulfillment of obligations by the CONTRACTOR, under this contract, does not and will not create any conflict of interest, or perception thereof, with any current role or responsibility that the CONTRACTOR has with regard to any existing contracts or agreements between the CONTRACTOR and the State of New York;
3. The fulfillment of obligations by the CONTRACTOR, under this contract, does not and will not compromise the CONTRACTOR's ability to carry out its obligations under any existing contracts between the CONTRACTOR and the State of New York;
4. The fulfillment of any other contractual obligations that the CONTRACTOR has with the State of New York will not affect or influence its ability to perform under any contract with the State of New York resulting from this Contract;
5. During the negotiation and execution of this Contract, the CONTRACTOR will not knowingly take any action or make any decision which creates a potential for conflict of interest or might cause a detrimental impact to New York State as a whole including, but not limited to, any action or decision to divert resources from one New York State contract to another;
6. In fulfilling obligations under each of its New York State contracts, including this Contract the CONTRACTOR will act in accordance with the terms of each of its New York State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State of New York as a whole including, but not limited to, any action or decision to divert resources from one New York State contract to another;
7. No former officer or employee of the STATE who is now employed by the CONTRACTOR, nor any former officer or employee of the CONTRACTOR who is now employed by the STATE, has played a role with regard to the administration of this Contract procurement in a manner that may violate section 73(8)(a) of the Public Officers Law; and

8. The CONTRACTOR has not and shall not offer to any employee, member or director of the STATE any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director.

CONTRACTOR should note that the STATE recognizes that conflicts may occur in the future because a CONTRACTOR may have existing or new relationships. The STATE will review the nature of any such new relationship and reserves the right to terminate this contract for cause if, in its judgment, a real or potential conflict of interest cannot be cured.

Part B. Program Specific Clauses

Additional Department of Health program specific clauses follow in Attachment A-1 Part B.

ATTACHMENT A-1
AGENCY AND PROGRAM SPECIFIC CLAUSES
Part B. Program Specific Clauses

New York State Department of Health

Department of Health Program Name: Center for Community Health

Initiative Name: Children and Youth with Special Health Care Needs

A. SUBCONTRACTS

1. In addition to those terms set forth in the Master Contract concerning subcontractors, the following terms shall also apply:
 - a. Unless otherwise authorized or directed by the Department, all proposed subcontracts for the performance of the obligations contained herein require the review and approval of the Department prior to the execution of an agreement between the Contractor and subcontractors. All such agreements between the Contractor and subcontractors shall be by bona fide written contract, which may only be changed by expressed written consent of both parties and upon prior approval of the Department.
 - b. The Department shall have the right to contact any subcontractor directly concerning the Performance of the obligations contained herein and to require the attendance of the Subcontractor at any or all meetings between the Contractor and Department, at which the performance of the Contractor pursuant to this Master Contract will be discussed.
 - c. Any interest accrued on funds provided to the contractor by the Department pursuant to the contractor's request for an advance payment, shall either be used to reduce reimbursement owed to the Contractor by the Department pursuant to this Master Contract, or at the direction of the Department, used to provide additional services provided for under this Master Contract.
- B. The Contractor agrees to identify the position(s) and the incumbent(s) responsible for directing the work to be done under this Master Contract. The Department may, at its discretion, require the Contractor to request prior approval from the Department to change or substitute such responsible person(s), to the degree that such change is within the reasonable control of the Contractor.

C. PUBLICATIONS AND COPYRIGHTS

1. The Contractor agrees that any and all materials, publications, videos or curricula conceived, produced and/or reduced to practice pursuant to this Master Contract, or with monies supplied pursuant to this Master Contract, shall become property of the Department.

ATTACHMENT A-1
AGENCY AND PROGRAM SPECIFIC CLAUSES
Part B. Program Specific Clauses

New York State Department of Health

2. Pursuant to Section IV(G)(2)(a) of the Master Contract, the Contractor shall acknowledge the support of the State and Department of Health with the following language: "Produced with funding from The New York State Department of Health, Division of Family Health."
3. Except as otherwise provided in Section IV(G)(3) of the Master Contract, the Department and the State of New York expressly reserve the right to reproduce, publish distribute, copyright or otherwise use, in perpetuity, any and all materials, publications, videos or curricula conceived and produced pursuant to this Master Contract and all the activities supported thereunder.
4. The Contractor agrees that unless otherwise provided by the terms of this Master Contract, the Contractor is expressly prohibited from copyrighting the materials developed in the course of this Master Contract, or permitting others to do so without the prior written consent of the Department.
5. If any materials paid for under this contract are used in a revenue generating activity, the Contractor shall report such intentions to the Department for prior written approval and shall be subject to the direction of the Department as to the disposition of such revenue.

D. PURCHASING

1. All procurement transactions, including but not limited to equipment purchases and leases, supplies, conference, training, or seminar related expenditures, and other services whose cost is borne in whole or in part by this contract shall be conducted in a manner to provide, to the maximum extent practicable, open and free competition.
2. In addition to the requirements of Section IV (D) of the Master Contract, procurement records and files for purchases in excess of \$5,000 shall include the following:
 - a. basis for selection;
 - b. listing of bidders solicited or vendors contacted, including but not limited to the response from each bidder or vendor to the solicitation;
 - c. justification for lack of competition when competitive bids or offers are not obtained;
 - d. basis for award cost or price.

- E.** Reimbursement for any travel related expenses, including but not limited to transportation, lodging, and meal expenses shall be based upon the actual, necessary and reasonable expenses essential to the ordinary comforts of the traveler in the performance of the duties under this Master Contract and shall be reimbursed pursuant to the terms of Section III (5) of the Master Contract.

ATTACHMENT A-1
AGENCY AND PROGRAM SPECIFIC CLAUSES
Part B. Program Specific Clauses

New York State Department of Health

F. EQUIPMENT/INVENTORY REPORT

1. In addition to the requirements contained in Section IV (c) (1) and Section IV (D) (2) of the Master Contract, A complete inventory of all property as defined in Section IV (D) (1) shall be maintained by the Contractor who shall report to the appropriate Program Director of the State Department of Health acquisitions of equipment. All such equipment shall be identified in a suitable manner. An annual inventory of such equipment shall be submitted to such Program Director by the Contractor and is to be inclusive of all such equipment received during the contract year, within 45 days after the completion of the services to be performed under this Master Contract. Disposition of the inventoried property will be made in accordance with the Master Contract and applicable provisions of law.

G. HEALTHY MEETING GUIDELINES

For Agreements under Which Contractors Receive Reimbursement from the State for all or a portion of meeting costs: By signing this AGREEMENT, the CONTRACTOR certifies that it will comply with the Departments' requirements for healthy meetings when the State is reimbursing for all or a portion of the meeting costs. The Department reserves the right to review the site, menu and agenda so that the State can ensure the nutrition, physical activity, sustainability and tobacco-free guidelines are met. The Healthy Meeting Guidelines and frequently asked questions can be accessed at: 3TU http://www.health.ny.gov/funding/cch_hmr_faq.pdf.

**ATTACHMENT A-1
AGENCY AND PROGRAM SPECIFIC CLAUSES
Part B. Program Specific Clauses**

**New York State Department of
Health**

H. REFUSAL OF FUNDS FROM TOBACCO-RELATED ENTITIES

By signing this AGREEMENT, the CONTRACTOR certifies that it has a written policy prohibiting any affiliation¹ with a tobacco company or tobacco product manufacturer² including receipt of gifts, grants, contracts, financial support and in-kind support, and other relationships. CONTRACTOR certifies that no not-for-profit subcontractors receiving funding through this AGREEMENT for work instrumental to achieving the goals and objectives of the grant has any affiliation with a tobacco company or tobacco product manufacturer. More information regarding tobacco-free requirements, including frequently asked questions, can be found at: http://www.health.ny.gov/funding/cch_rfte_faq.pdf.

¹ Affiliation:

- being employed by or contracted to any tobacco company, association or any other agents known by you to be acting
- for tobacco companies or associations;
- receiving honoraria, travel, conference or other financial support from any tobacco company, association or any other
- agents known by you to be acting for or in service of tobacco companies or associations;
- receiving direct or indirect financial support for research, education or other services from a tobacco company,
- association or any agent acting for or in service of such companies or associations, and;
- owning a patent or proprietary interest in a technology or process for the consumption of tobacco or other tobacco use
- related products or initiatives.

² Tobacco company or tobacco product manufacturer: any person, corporation or entity, including any repacker or relabeler, who:

- manufactures, fabricates, assembles, processes, or labels a tobacco product; or imports a finished tobacco product for sale or distribution in New York State

**ATTACHMENT A-2
FEDERALLY FUNDED GRANTS**

PART A. AGENCY SPECIFIC CLAUSES

A. Federal Certifications: This section shall be applicable to this AGREEMENT only if any of the funds made available to the CONTRACTOR under this AGREEMENT are federal funds.

1. Lobbying Certification (except as otherwise provided in Part B of this Attachment A-2)
 - a) If the CONTRACTOR is a tax-exempt organization under Section 501 (c)(4) of the Internal Revenue Code, the CONTRACTOR certifies that it will not engage in lobbying activities of any kind regardless of how funded.
 - b) The CONTRACTOR acknowledges that as a recipient of federal appropriated funds, it is subject to the limitations on the use of such funds to influence certain Federal contracting and financial transactions, as specified in Public Law 101-121, section 319, and codified in section 1352 of Title 31 of the United States Code. In accordance with P.L. 101-121, section 319, 31 U.S.C. 1352 and implementing regulations, the CONTRACTOR affirmatively acknowledges and represents that it is prohibited and shall refrain from using Federal funds received under this AGREEMENT for the purposes of lobbying; provided, however, that such prohibition does not apply in the case of a payment of reasonable compensation made to an officer or employee of the CONTRACTOR to the extent that the payment is for agency and legislative liaison activities not directly related to the awarding of any Federal contract, the making of any Federal grant or loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement. Nor does such prohibition prohibit any reasonable payment to a person in connection with, or any payment of reasonable compensation to an officer or employee of the CONTRACTOR if the payment is for professional or technical services rendered directly in the preparation, submission or negotiation of any bid, proposal, or application for a Federal contract, grant, loan, or cooperative agreement, or an extension, continuation, renewal, amendment, or modification thereof, or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract, grant, loan or cooperative agreement.
 - c) This section shall be applicable to this AGREEMENT only if federal funds allotted exceed \$100,000.
 - (i) The CONTRACTOR certifies, to the best of his or her knowledge and belief, that:
 - No federal appropriated funds have been paid or will be paid, by or on behalf of the CONTRACTOR, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal loan, the entering into of any cooperative agreement, and the extension,

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continuation, renewal amendment or modification of any federal contract, grant, loan, or cooperative agreement.

- If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
- (ii) The CONTRACTOR shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- (iii) The CONTRACTOR shall disclose specified information on any agreement with lobbyists whom the CONTRACTOR will pay with other Federal appropriated funds by completion and submission to the STATE of the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions. This form may be obtained by contacting either the Office of Management and Budget Fax Information Line at (202) 395-9068 or the Bureau of Contracts at (518) 474-7896. Completed forms should be submitted to the New York State Department of Health, Bureau of Contracts, Empire State Plaza, Corning Tower Building, Room 2756, Albany, 12237-0016.
- (iv) The CONTRACTOR shall file quarterly updates on the use of lobbyists if material changes occur, using the same standard disclosure form identified in (c) above to report such updated information.
- d) The reporting requirements enumerated in subsection (3) of this paragraph shall not apply to the CONTRACTOR with respect to:
- (i) Payments of reasonable compensation made to its regularly employed officers or employees;
 - (ii) A request for or receipt of a contract (other than a contract referred to in clause (c) below), grant, cooperative agreement, subcontract (other than a subcontract referred to in clause (c) below), or subgrant that does not exceed \$100,000; and
 - (iii) A request for or receipt of a loan, or a commitment providing for the United States to insure or guarantee a loan, that does not exceed \$150,000, including a contract or subcontract to carry out any purpose for which such a loan is made.

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2. Certification Regarding Environmental Tobacco Smoke:

Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through State or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a monetary penalty of up to \$1000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing this AGREEMENT, the CONTRACTOR certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The CONTRACTOR agrees that it will require that the language of this certification be included in any subawards which contain provisions for children's services and that all subrecipients shall certify accordingly.

3. Certification Regarding Debarment and Suspension:

Regulations of the Department of Health and Human Services, located at Part 376 of Title 2 of the Code of Federal Regulations (CFR), implement Executive Orders 12549 and 12689 concerning debarment and suspension of participants in federal programs and activities. Executive Order 12549 provides that, to the extent permitted by law, Executive Departments and agencies shall participate in a government-wide system for non-procurement debarment and suspension. Executive Order 12689 extends the debarment and suspension policy to procurement activities of the federal government. A person who is debarred or suspended by a federal agency is excluded from federal financial and non-financial assistance and benefits under federal programs and activities, both directly (primary covered transaction) and indirectly (lower tier covered transactions). Debarment or suspension by one federal agency has government-wide effect.

Pursuant to the above-cited regulations, the DEPARTMENT (as a participant in a primary covered transaction) may not knowingly do business with a person who is debarred, suspended, proposed for debarment, or subject to other government-wide exclusion (including any exclusion from Medicare and State health care program participation on or after August 25, 1995), and the DEPARTMENT must require its prospective CONTRACTORS, as prospective lower tier participants, to provide the certification as set forth below:

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By signing this Contract or submitting a proposal pursuant to a solicitation issued by the Department, the prospective lower tier participant is providing the certification set out below:

- a) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to the other remedies available to the Federal Government, New York State or the DEPARTMENT may pursue available remedies, including suspension and/or debarment.
- b) The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
- c) The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered Transaction, principal, proposal, and voluntarily excluded, as used in this Section, are defined in 2 CFR Part 180, as supplemented by 2 CFR Part 376.
- d) The prospective lower tier participant agrees by signing this contract or submitting a proposal pursuant to a solicitation issued by the DEPARTMENT that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 2 CFR Part 180, as supplemented by 2 CFR Part 376, or 48 CFR Part 9, Subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the DEPARTMENT.
- e) The prospective lower tier participant further agrees by signing this contract or proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions.
- f) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 2 CFR Part 180, as supplemented by 2 CFR Part 376, or 48 CFR Part 9, Subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. The DEPARTMENT strongly encourages each participant to check the List of parties Excluded from Federal Procurement and Non-procurement Programs in the System for Award Management.
- g) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this Section.
- h) Except for transactions authorized under paragraph (d) of this certification, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 2 CFR Part 180 or 48 CFR Part 9,

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Subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the New York State or the DEPARTMENT may pursue available remedies, including suspension and/or debarment.

- i) Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions
- j) The prospective lower tier participant certifies, by signing this contract or submitting a proposal to the Department, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily exclude from participation in this transaction by any federal agency.
- k) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

B. Administrative Rules and Audits:

1. If this contract is funded in whole or in part from federal funds, the CONTRACTOR shall comply with the federal grant requirements regarding administration and allowable costs:
 - a) For local and Indian tribal governments, non-profit organizations; and educational institutions, use the administrative requirements and cost principles (Subparts A through E) in Office of Management and Budget (OMB), Title 2 Code of Federal Regulations (CFR), Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards.
 - b) Exceptions: Pursuant to 2 CFR Part 200 Appendix IX, for a hospital, use the cost principles in Department of Health and Human Services, 45 CFR Part 74, Appendix E, "Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals". For hospital administrative requirements, use OMB, 2 CFR, Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

For fixed amount awards, cost principles (Subpart E) do not apply.

2. If this contract is funded entirely from STATE funds, and if there are no specific administration and allowable costs requirements applicable, CONTRACTOR shall adhere to the applicable principles in "1" above.
3. The CONTRACTOR shall comply with the following grant requirements regarding audits.
 - a) If the contract is funded from federal awards, and the CONTRACTOR expends \$750,000 or more (or the amount per the current federal regulations 2 CFR Part 200 as revised, which is scheduled to be updated every 5 years) in federal awards during their fiscal year, an audit report must be submitted in accordance with Subpart F of OMB, 2 CFR, Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

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- b) If this contract is funded from other than federal awards or if the contract is funded from a combination of STATE and federal awards but federal awards are less than \$750,000 (or the amount per the current federal regulations 2 CFR Part 200 as revised, which is scheduled to be updated every 5 years), and if the CONTRACTOR expends \$750,000 or more in total annual payments from the STATE, the CONTRACTOR shall submit to the STATE after the end of the CONTRACTOR's fiscal year an audit report. The audit report shall be submitted to the STATE within thirty days after its completion but no later than nine months after the end of the audit period. The audit report shall summarize the business and financial transactions of the CONTRACTOR. The report shall be prepared and certified by an independent accounting firm or other accounting entity, which is demonstrably independent of the administration of the program being audited. Audits performed of the CONTRACTOR's records shall be conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States covering financial audits. This audit requirement may be met through entity-wide audits, coincident with the CONTRACTOR's fiscal year, as described in OMB, 2 CFR, Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Reports, disclosures, comments and opinions required under these publications should be so noted in the audit report.
4. For audit reports that are not received by the dates due, the following steps shall be taken:
- a) If the audit report is one or more days late, voucher payments shall be held until a compliant audit report is received.
 - b) If the audit report is 180 days or more late, the STATE shall terminate all active contracts, prohibit renewal of those contracts and prohibit the execution of future contracts until all outstanding compliant audit reports have been submitted.

PART B. PROGRAM SPECIFIC FEDERAL CLAUSES

Attachment A-2 Part B intentionally omitted.

**ATTACHMENT B-1 EXPENDITURE BASED BUDGET
SUMMARY**

PROJECT NAME: Children and Youth with Special Health Care Needs

CONTRACTOR SFS PAYEE NAME: ONEIDA COUNTY OF

CONTRACT PERIOD: From: 10/01/2020
To: 09/30/2021

CATEGORY OF EXPENSE	GRANT FUNDS	MATCH FUNDS	MATCH %	OTHER FUNDS	TOTAL
1. Personal Services					
a) Salary	\$34,608.00	\$0.00	0 %	\$0.00	\$34,608.00
b) Fringe	\$18,383.00	\$0.00	0 %	\$0.00	\$18,383.00
Subtotal	\$52,991.00	\$0.00	0 %	\$0.00	\$52,991.00
2. Non Personal Services					
a) Contractual Services	\$0.00	\$0.00	0 %	\$0.00	\$0.00
b) Travel	\$0.00	\$0.00	0 %	\$0.00	\$0.00
c) Equipment	\$0.00	\$0.00	0 %	\$0.00	\$0.00
d) Space/Property & Utilities	\$0.00	\$0.00	0 %	\$0.00	\$0.00
e) Operating Expenses	\$306.00	\$0.00	0 %	\$0.00	\$306.00
f) Other	\$0.00	\$0.00	0 %	\$0.00	\$0.00
Subtotal	\$306.00	\$0.00	0 %	\$0.00	\$306.00
TOTAL	\$53,297.00	\$0.00	0 %	\$0.00	\$53,297.00

Contract Number: # DOH01-C35730GG-3450000

ATTACHMENT B-1 EXPENDITURE BASED BUDGET

PERSONAL SERVICES DETAIL

SALARY					
POSITION TITLE	ANNUALIZED SALARY PER POSITION	STANDARD WORK WEEK (HOURS)	PERCENT OF EFFORT FUNDED	NUMBER OF MONTHS FUNDED	TOTAL
Public Health Nurse- Michelle Jones	\$73,491.00	35	30	12	\$22,047.00
Senior Office Specialist- Jessica Keiser	\$24,387.00	35	40	12	\$9,755.00
Director Special Children's Services Barb Pellegrino	\$93,523.00	35	3	12	\$2,806.00
				Subtotal	\$34,608.00
TOTAL FRINGE					
					\$18,383.00
				PERSONAL SERVICES TOTAL	\$52,991.00

ATTACHMENT B-1 - EXPENDITURE BASED BUDGET
NON-PERSONAL SERVICES DETAIL

CONTRACTUAL SERVICES - TYPE/DESCRIPTION	TOTAL
TOTAL	

ATTACHMENT B-1 - EXPENDITURE BASED BUDGET
NON-PERSONAL SERVICES DETAIL

TRAVEL - TYPE/DESCRIPTION	TOTAL
TOTAL	

EQUIPMENT - TYPE/DESCRIPTION	TOTAL
TOTAL	

SPACE/PROPERTY EXPENSES: RENT - TYPE/DESCRIPTION	TOTAL
TOTAL	

SPACE/PROPERTY EXPENSES: OWN - TYPE/DESCRIPTION	TOTAL
TOTAL	

TYPE/DESCRIPTION OF UTILITY EXPENSES	TOTAL
TOTAL	

Contract Number: # DOH01-C35730GG-3450000

OPERATING EXPENSES - TYPE/DESCRIPTION	TOTAL
Print and copy	\$106.00
Office supplies	\$200.00
TOTAL	\$306.00

Contract Number: # DOH01-C35730GG-3450000

Page 9 of 10, Attachment B-1 - Expenditure Based Budget

OTHER - TYPE/DESCRIPTION	TOTAL
TOTAL	

ATTACHMENT C - WORK PLAN

DETAIL

Objective

1 Collaboration and Resource Development - Collaborate with DOH and Regional Support Centers (RSC) as available to identify resources and develop a comprehensive resource list, access technical assistance, participate in webinars or professional development & identify barriers and unmet needs

Tasks

1.1 Needs Assessment - Participate in needs assessment with RSC.

Performance Measures

1.1.1 Number Participating in Needs Assessment - Local Health Department (LHD) will participate in at least one needs assessment call with their RSC.

Tasks

1.2 Family Engagement - Encourage family participation in family engagement activities.

Performance Measures

1.2.1 Provide information to families - LHD will provide families with information about family engagement sessions offered by the RSC.

Tasks

1.3 Increase Community Awareness - Utilize individualized technical support from the RSC to increase community awareness of LHD's presence in their community.

Performance Measures

1.3.1 LHD Participation with RSC - LHD will participate in an initial in-person or teleconference meeting, and follow-up calls quarterly to discuss barriers, challenges, improvements, etc.

Tasks

1.4 In-person Meetings - Attend in-person regional Children and Youth with Special Health Care Needs (CYSHCN) meetings and follow-up calls every quarter offered by RSC

Performance Measures

1.4.1 Number Participating in Annual Meeting - At least one representative of the LHD will attend in-person annual regional CYSHCN meeting

Tasks

1.5 Webinars - Participate in quarterly statewide webinars to discuss promoting practices.

Performance Measures

1.5.1 Number that participate in Webinar - At least one representative of the LHD will participate in quarterly webinars/conference calls

ATTACHMENT C - WORK PLAN

DETAIL

Tasks

1.6 Quality Improvement - Identify barriers and unmet needs and suggest strategies for addressing barriers and unmet needs

Performance Measures

1.6.1 Report on Progress in Identifying Barriers and Unmet Needs - LHD will identify gaps and unmet needs and discuss strategies to overcome barriers, unmet needs and discuss progress towards addressing these unmet needs in their quarterly narrative report.

ATTACHMENT C - WORK PLAN

DETAIL

Objective

2 Outreach, Engagement and Community Promotion - Engage medical providers, childcare providers & school system in the county to develop a relationship, identify resources & unmet needs or challenges & serve as a technical resource. Distribute information about services of the LHD CYSHCN program.

Tasks

2.1 Engage Medical Providers - Engage medical providers in your county to develop a relationship, identify resources and unmet needs or challenges, and serve as a resource to the provider's practices and CYSHCN and their families.

Performance Measures

2.1.1 Report on Outreach to Medical Providers - LHD will report on the number and type of medical providers information with and outcomes.

Tasks

2.2 Engage Childcare Providers - Engage childcare providers in the county to assist CYSHCN and their families in navigating the available community systems of care.

Performance Measures

2.2.1 Report on Engaging Childcare Providers - LHD will report on the number and type of childcare providers information was shared with and outcomes.

Tasks

2.3 Work with School Systems - Work with local school systems to improve communications between providers and administrators to assist families in acquiring appropriate educational accommodations.

Performance Measures

2.3.1 Report on Working with school Systems - LHD will report on the number and type of school systems information was shared with and outcomes.

Tasks

2.4 Community Engagement - Participate in community engagement activities to promote program awareness at least twice per year.

Performance Measures

2.4.1 Report on Community Engagement - LHD will report on the number and type of community engagement information shared and outcomes.

ATTACHMENT C - WORK PLAN

DETAIL

Objective

3 Coordination of Community Resources - Provide supportive services/community resources referral to medical, social & behavioral specialist, school system, transportation services, insurance payers, medical suppliers, homecare agencies, transition, childcare agencies & advocacy groups.

Tasks

3.1 Community Resources - Inform families about support meetings and training workshops on CYSHCN-related topics offered by community organizations and the RSC.

Performance Measures

3.1.1 Record of Resources Provided - Each referral to community resources will have a documented follow up.

Tasks

3.2 Resources Documented - Inform families about support meetings and training workshops on CYSHCN-related topics offered by community organizations and the RSC.

Performance Measures

3.2.1 Report on Information Distributed - LHD will report on who was provided information and type of information provided.

Objective

4 Transition Services - Work with school administrators and service providers to improve communication & assist families with referral process & to support transition of youth & young adults with special health care needs ages 14-21 from pediatric to adult health care.

Tasks

4.1 Transition - Provide youth ages 14-21 and their families with information about transition.

Performance Measures

4.1.1 Number Receiving Transition Information - LHDs will report on number of youth ages 14-21 who received transition information.

ATTACHMENT C - WORK PLAN

DETAIL

Objective

5 Family Satisfaction - Facilitate families' and youth's satisfaction with CYSHCN Program activities by involving them in local planning events, work groups, committees, or advisory committees focused on improving the system of care for CYSHCN.

Tasks

5.1 Family Feedback - Work Groups - Involve families of CYSHCN in work groups, committees, task forces or advisory committees to improve the system of care for CYSHCN.

Performance Measures

5.1.1 Families of CYSHCN Involved in System of Care for CYSHCN - Number of CYSHCN involved as described to improve the system of care for CYSHCN.

Tasks

5.2 Family Feedback - Planning - Involve families and CYSHCN in local planning activities, such as the Community Health Assessment (CHA).

Performance Measures

5.2.1 Families Involved in the CHA or other Local Planning Activities - Number of families involved in Community Health Assessment or other local planning activities.

Tasks

5.3 Family Feedback - Planning - Use feedback from families of CYSHCN to develop training for CYSHCN staff and providers.

Performance Measures

5.3.1 Families Training of CYSHCN Staff and Providers - Describe how family feedback was used to develop training for CYSHCN staff and providers.

Tasks

5.4 Reimbursement - Provide reimbursement of families of CYSHCN for their participation in CYSHCN program planning activities (i.e. travel expenses, attendant care, and stipends).

Performance Measures

5.4.1 Reimbursement for Participation in CYSHCN Program Activities - Number of families that are provided reimbursement for their participation in CYSHCN program planning activities.

Tasks

5.5 Diverse Family Engagement - Engage families of CYSHCN of diverse cultures in family satisfaction activities.

Performance Measures

ATTACHMENT C - WORK PLAN

DETAIL

- 5.5.1 Engaging Families of Diverse Cultures Involved in CYSHCN Activities - Number of families of diverse cultures that are engaged in CYSHCN activities.

Objective

- 6 Health Equity - Integrate health equity into written materials, communication, outreach and referrals for CYSHCN and families. The Department and RSCs will collaborate with LHDs to support health equity work

Tasks

- 6.1 Health Equity - Ensure that communication, outreach, referrals and engagement strategies reflect the diversity of the community.

Performance Measures

- 6.1.1 Health Equity - Describe how the communication, outreach, referrals and engagement strategies reflected the diversity of the community.

Objective

- 7 Database - Record each encounter with CYSHCN and their families in the New York State CYSHCN database.

Tasks

- 7.1 Data Entry - Enter complete record for all eligible children assisted by the program in the New York State CYSHCN database.

Performance Measures

- 7.1.1 Ensure Complete Record - Each record in the database is complete and accurate. All referrals will have a documented follow up and outcome.

ATTACHMENT C - WORK PLAN

DETAIL

Objective

8 Program Administration - Develop and maintain an updated organizational chart of all personnel, including vacant positions.

Tasks

8.1 Organizational Chart - The organizational chart must include all personnel who perform CYSHCN activities and the location of the CYSHCN Program (submit with 1st quarterly report).

Performance Measures

8.1.1 Provide Organizational Chart - LHD will submit an organizational chart with the 1st quarterly report annually.

Objective

9 Policies and Procedures - Develop and maintain an updated organizational chart of all personnel, including vacant positions.

Tasks

9.1 Policies and Procedures are Current - The CYSHCN Program policies and procedures (including Children and Youth with Special Health Care Needs Support Services (CYSHCNSS), when applicable) must be current and up to date.

Performance Measures

9.1.1 Policies and Procedures are Kept Current - CYSHCN and CYSHCNSS policies and procedures are written, reviewed and kept current.

II. REPORTING PROVISIONS

A. Expenditure-Based Reports (select the applicable report type):

Narrative/Qualitative Report

The Contractor will submit, on a quarterly basis, not later than 30 days from the end of the quarter, the report described in Section III(G)(2)(a)(i) of the Master Contract

Statistical/Quantitative Report

The Contractor will submit, on a quarterly basis, not later than ___ days from the end of the quarter, the report described in Section III(G)(2)(a)(ii) of the Master Contract.

Expenditure Report

The Contractor will submit, on a quarterly basis, not later than 30 days after the end date for which reimbursement is being claimed, the report described in Section III(G)(2)(a)(iii) of the Master Contract.

Final Report

The Contractor will submit the final report as described in Section III(G)(2)(a)(iv) of the Master Contract, no later than ___ days after the end of the contract period.

Consolidated Fiscal Report (CFR) ¹

The Contractor will submit the CFR on an annual basis, in accordance with the time frames designated in the CFR manual. For New York City contractors, the due date shall be May 1 of each year; for Upstate and Long Island contractors, the due date shall be November 1 of each year.

1

The Consolidated Fiscal Reporting System is a standardized electronic reporting method accepted by Office of Alcoholism & Substance Services, Office of Mental Health, Office of Persons with Developmental Disabilities and the State Education Department, consisting of schedules which, in different combinations, capture financial information for budgets, quarterly and/or mid-year claims, an annual cost report, and a final claim. The CFR, which must be submitted annually, is both a year-end cost report and a year-end claiming document.

Contract Number: # DOH01-C35730GG-3450000

B. Progress-Based Reports

1. Progress Reports

The Contractor shall provide the report described in Section III(G)(2)(b)(i) of the Master Contract in accordance with the forms and in the format provided by the State Agency, summarizing the work performed during the contract period (See Table 1 below for the annual schedule).

2. Final Progress Report

Final scheduled payment will not be due until ___ days after completion of agency's audit of the final expenditures report/documentation showing total grant expenses submitted by vendor with its final invoice. Deadline for submission of the final report is ____. The agency shall complete its audit and notify vendor of the results no later than ____. The Contractor shall submit the report not later than ___ days from the end of the contract.

C. Other Reports

The Contractor shall provide reports in accordance with the form, content and schedule as set forth in Table 1.

TABLE 1 - REPORTING SCHEDULE

PROGRESS REPORT #	PERIOD COVERED		Due Date
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			

III. SPECIAL PAYMENT AND REPORTING PROVISIONS

Contract Number: # DOH01-C35730GG-3450000

Attachment M

**PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE
CONTRACTS: REQUIREMENTS AND PROCEDURES**

I. General Provisions

- A. The New York State Department of Health is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 (“MWBE Regulations”) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The Contractor to the subject contract (the “Contractor” and the “Contract,” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State Department of Health (the “New York State Department of Health”), to fully comply and cooperate with the New York State Department of Health in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for certified minority and women-owned business enterprises (“MWBEs”). Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, state or local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Attachment or enforcement proceedings as allowed by the Contract.

II. Contract Goals

- A. For purposes of this contract, the New York State Department of Health hereby establishes a goal of 0% for Minority and Women-Owned Business Enterprises (“MWBE”) participation on any eligible expenses including subcontracted labor or services, equipment, materials, or any combined purchase of the foregoing under this contract. The goal on the eligible portion of this contract will be 0% for Minority-Owned Business Enterprises (“MBE”) participation and 0% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs).
- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section II-A hereof, Contractor should reference the directory of New York State Certified MBWEs found at the following internet address:
<https://ny.newnycontracts.com/>

Additionally, Contractor is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

- C. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document “good faith efforts” to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the New York State Department of Health for liquidated or other appropriate damages, as set forth herein.

III. Equal Employment Opportunity (EEO)

- A. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the “Division”). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- B. Contractor shall comply with the following provisions of Article 15-A:
1. Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
 2. The Contractor shall submit an EEO policy statement to the New York State Department of Health within seventy two (72) hours after the date of the notice by New York State Department of Health to award the Contract to the Contractor.
 3. If Contractor or Subcontractor does not have an existing EEO policy statement, the New York State Department of Health may provide the Contractor or Subcontractor a model statement (see Form #5 - Minority and Women-Owned Business Enterprises Equal Employment Opportunity Policy Statement).
 4. The Contractor’s EEO policy statement shall include the following language:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
 - c. The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union,

or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

- d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "D" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

C. **Form #4 - Staffing Plan**

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

- D. Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

IV. MWBE Utilization Plan

- A. The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan (Form #1) either prior to, or at the time of, the execution of the contract.
- B. Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this Attachment.
- C. Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, New York State Department of Health shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

V. Waivers

- A. Contractors without eligible expenses as defined in Section II.A. or who are not able to meet the goal as stated in Section II.A. of this Attachment, must submit a Waiver request (Form #2) to the Department.
- B. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the New York State Department of Health shall evaluate the request and issue a written notice of acceptance or denial after the waiver has been fully processed.

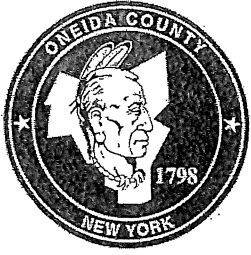
- C. If the New York State Department of Health, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the New York State Department of Health may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

VI. Quarterly MWBE Contractor Compliance Report

- A. Contractor is required to submit a Quarterly MWBE Contractor Compliance Report to the New York State Department of Health by the 10th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract. Data should be submitted via the online compliance system at <https://ny.newnycontracts.com>.

VII. Liquidated Damages - MWBE Participation

- A. Where New York State Department of Health determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the New York State Department of Health liquidated damages.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
 - 1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
 - 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the New York State Department of Health, Contractor shall pay such liquidated damages to the New York State Department of Health within sixty (60) days after they are assessed by the New York State Department of Health unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the New York State Department of Health.



ONEIDA COUNTY BOARD OF ELECTIONS

Union Station ♦ 321 Main St. ♦ 3rd Floor
Utica, New York 13501
Fax: 315-798-6412

Anthony J. Picente Jr.
County Executive

Sarah F. Bormann
Democratic Commissioner
315-798-5762

Nichole D. Shortell
Republican Commissioner
315-798-5763

FN 20 21 - 217

July 20, 2021

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

WAYS & MEANS

Dear County Executive Picente:

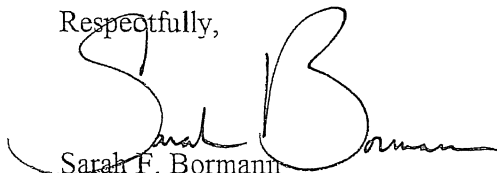
Attached please find a poll site agreement for the Utica City School District, Donovan School Location which is being submitted for use in the 2021 Elections. This agreement differs from other agreements as this is for only a one (1) year term. We respectfully request that you review the proposed agreement and if you approve, kindly endorse this letter and forward the enclosed to the Board of Legislators for consideration at their next meeting.


Once approved, this agreement will be forwarded to Utica City School District for use on Primary and General Election Day. Once it has been signed by the designated officials at each location and returned to our office, it will be forwarded to you for final execution. Then the signed versions will be forwarded to the Finance Department for preparation of an insurance binder, after which a fully-executed copy will be provided to the poll site. We anticipate this to be a lengthy process; therefore, time is of the essence.

Should you have any questions, please feel free to contact us at our office.

Thank you for your assistance in this matter.

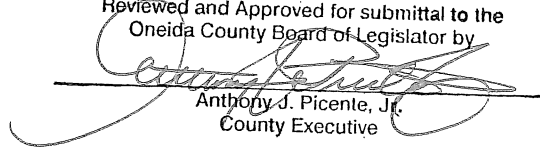
Respectfully,


Sarah F. Bormann
Democratic Commissioner


Nichole D. Shortell
Republican Commissioner

Enc.

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


Anthony J. Picente, Jr.
County Executive

Date 7-21-21

Oneida Co. Department: Board of Elections

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

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: Utica City School District
929 York Street
Utica, New York 13502

Title of Activity or Service: 2021 Poll Site Agreement

Proposed Dates of Operation: January 1, 2021 – December 31, 2021

Client Population/Number to be Served: N/A

Summary Statements

- 1) **Narrative Description of Proposed Services:** Poll site agreement for use of premises by the Oneida County Board of Elections on Election Days – Donovan School Location
- 2) **Program/Service Objectives and Outcomes:** N/A
- 3) **Program Design and Staffing:** N/A

Total Funding Requested: \$200.00 (\$100.00 per election day)

Account: A1450.4951

Oneida County Dept. Funding Recommendation: \$200.00

Proposed Funding Sources (Federal \$/ State \$/County \$): 100% County

Cost Per Client Served: N/A

Mandated Service: Yes

Past Performance Data: N/A

O.C. Department Staff Comments: This agreement is to be utilized for a Poll Site for the Primary and General Elections for the year 2021.

POLL SITE AGREEMENT

THIS AGREEMENT (the “Agreement”), dated as of the 1st day of January, 2021, by and between the County of Oneida, a municipal corporation organized and existing under the laws of the State of New York, with its principal office and place of business located at 800 Park Avenue, Utica, New York, by and through its Board of Elections, hereinafter referred to collectively as the “County,” and Utica City School District, a public school organized and existing under the laws of the State of New York, with its principal office located at 106 Memorial Parkway, Utica, New York, hereinafter referred to as the “Owner,” each a “Party,” and collectively, the “Parties.”

WITNESSETH

WHEREAS, the County is responsible for holding all federal, state and local primary and general elections (the “Elections”) throughout Oneida County; and

WHEREAS, the Owner has a facility that the Parties have agreed would be suitable for use as a poll site for the Elections to be held in (the “Poll Site”); and

WHEREAS, the County and the Owner desire to enter into a Poll Site Agreement to clearly state the terms and conditions whereby the Owner shall allow the County to use its premises for the purposes of holding its Elections; and

WHEREAS, the Oneida County Board of Legislators has approved this Agreement;

NOW THEREFORE, in consideration of the mutual promises, terms and obligations hereafter made, the Parties mutually agree and obligate themselves as follows:

1. POLL SITE INFORMATION

- 1.1. The Poll Site’s name is Donovan Middle School;
- 1.2. The Poll Site’s address is 1701 Noyes Street, Utica, New York 13502;
- 1.3. The Owner does not request the County to provide security services at the Poll Site during the Elections.
- 1.4. The Elections shall include the following election districts within the County:
 - 1.4.1. Utica Ward 2, Districts 1, 3 and 5;

1.5. The contact information for the Owner's contact person during the Owner's normal business hours for the Poll Site is:

Name & Title: Michael Ferraro, Maintenance Foreman;
Address: 1701 Noyes Street, Utica, New York 13502;
Telephone number: 315.792.2231 or 315.269.9146 ;
Fax number:;
Email address:mferraro@uticaschools.org.

1.6. The contact information for the Owner's contact person during non-business hours for the Poll Site is:

Name & Title: Michael Ferraro, Maintenance Foreman;
Telephone number: 315.792.2231 or 315.269.9146 .

2. TERM AND ELECTION DATES/TIMES

2.1. The term of this Agreement shall be from January 1, 2021 through December 31, 2021, and shall include all Elections.

2.2. In 2021, the dates for the Elections are as follows:

- 2.2.1. The local, and state primary elections will be held on June 22, 2021;
- 2.2.2. The general election will be held on November 2, 2021.

2.3. For all Election dates, the County shall have uninterrupted use and possession of the Poll Sites from 5:00 AM until 9:30 PM (being one half-hour after the closing of the polls), or until the poll inspectors have completed their work, whichever time is later.

3. The Owner shall immediately notify the County should any conflict arise with the availability of the Poll Sites. The Owner may contact the County using the following phone number: (315) 798-5765. **DELIVERY OF MACHINES**

3.1. The Owner hereby agrees to make the Poll Site available for delivery and pickup of the voting machines(s) and all necessary voting equipment for one (1) week prior to the Elections and one (1) week after the Elections. The County shall deliver said machines and all necessary voting equipment to the Poll Site, including the purple-colored election day bags (the "Election Day Bags").

3.2. Upon receipt of the voting machine(s), the Owner or the Owner's representative shall sign off on a "Voting System Transportation Manifest" (the "Manifest"), confirming that the machines were delivered and received by the Poll Site. The Parties acknowledge and agree that the Owner or its representative's signature on the Manifest is essential to the chain of custody. The Owner or the Owner's representative's signature is also required for the receipt of the Election Day Bags.

3.3. The Owner shall keep the voting machines and all necessary voting equipment locked and sealed. The Owner hereby agrees to indemnify, save and hold harmless the County for any damage to the voting machine(s) and/or voting equipment while in the sole custody of the Owner.

4. OWNER'S OBLIGATIONS: The Owner hereby promises, covenants and agrees as follows:

4.1. To use reasonable or ordinary care in keeping the Poll Site in a reasonably safe condition. This duty of care shall apply equally to all parking lots or other parking areas adjacent to the Poll Site facility.

4.2. To warn all voters and other visitors, in a clear and conspicuous manner, of any latent or concealed perils that are known or should be known to the Owner or occupant, of which the voters and other visitors are unaware and cannot discover through the exercise of reasonable care.

4.3. To furnish necessary electricity, light and heat to the Poll Site.

4.4. To provide access to electrical outlets, as needed.

4.5. To provide a telephone for official use only by County poll workers and inspectors. The phone shall be available at all times and must be in or near the poll worker areas to enable them to make and receive calls from the County.

4.6. To provide a minimum of four (4) chairs and a table no less than forty-eight (48) inches in length per election district.

4.7. To ensure that the Poll Site is accessible to the public during the times specified herein, and that the doors are opened.

4.8. To ensure that there is a functional restroom facility available for use by the County poll workers and inspectors.

- 4.9. To ensure that the Poll Site is not located on premises owned or leased by a person holding office or who is a candidate for public office in an Election, and to notify the County immediately if the Owner should become aware that this has occurred or is occurring.
- 4.10. To ensure that the Poll Site is situated in a room or location within the building suitable for registration and voting, and which is as close as possible to a convenient entrance to such building that provides access, by ramp or otherwise, to physically disabled voters.
- 4.11. To ensure that the Poll Site is otherwise accessible to citizens with disabilities and complies with the accessibility guidelines of the Americans with Disabilities Act (the "ADA").
- 4.12. To ensure that the Poll Site is opened at the designated time to allow inspectors sufficient time to set up the voting system as well as arrange the Poll Site.
- 4.13. To make available access to a refrigerator and/or kitchen for use by the County poll workers and inspectors.
- 4.14. To have the Poll Site clear of extra furnishings prior to the arrival of the County poll workers and inspectors, in order to ensure that there is adequate space to accommodate the voting machine(s) as well as the voting booths.
- 4.15. To allow the County to place temporary cones, signs and other devices in and around the Poll Site to notify voters of the voting area.
- 4.16. To acknowledge that all items placed at the Poll Site by County poll workers and inspectors shall remain the sole property of the County.
- 4.17. In the event any of the Elections are delayed or continued to another date as a result of a common disaster, the Owner agrees to make the Poll Site(s) available to the County on a subsequently scheduled Election date.

5. OWNER'S INSURANCE REQUIREMENTS

- 5.1. As part of its obligation to indemnify, defend and hold harmless the County as set forth herein, the Owner agrees to obtain and maintain in full force and effect, for the term of this Agreement, and each extension, if any, insurance coverage as described below.
- 5.2. Commercial General Liability Insurance (CGL): The Owner shall, at its own expense, 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) per occurrence and such insurance shall not be less than two million dollars (\$2,000,000) annual aggregate.

5.3. Excess/Umbrella Liability Insurance: The Owner shall, during the term of this Agreement, and each extension, purchase and maintain in force a policy of umbrella and/or excess liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence.

6. COUNTY'S OBLIGATIONS: The County hereby promises, covenants, agrees and acknowledges as follows:

6.1. Not to use the Poll Site or any part thereof for any purpose other than the official voter registration and Election functions.

6.2. Not to sub-license or assign any rights under this Agreement over said Poll Site or any part thereof to another without the prior written consent of the Owner.

6.3. To punctually pay rent, if any, as the same accrues. The rent for this Agreement shall be \$100.00 per Election day.

6.4. To use reasonable care to ensure that no damage happens to the building or any improvements or fixtures therein.

6.5. To provide security services if so requested in paragraph 1 of this Agreement.

6.6. To hold the Owner harmless for any damage caused to the Poll Sites by placement of voting machines, booths, or other items in the Poll Sites.

7. COUNTY'S INSURANCE REQUIREMENTS: As part of its obligation to indemnify, defend and hold harmless the Owner as set forth herein, the County agrees to obtain and maintain in full force and effect, for the term of this Agreement, insurance coverage as described below.

7.1. CGL:

7.1.1. The County shall, at its own expense, during the term of this Agreement, and each extension, if any, 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 two million dollars (\$2,000,000) annual aggregate.

7.1.2. 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.

7.1.3. The Owner, and any other parties required by the Owner, shall be included as additional insureds. Coverage for the additional insureds shall apply as primary and non-contributing insurance before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by or provided to the additional insureds.

7.2. Auto Liability:

7.2.1. The County shall, during the term of this Agreement, and each extension, 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).

7.3. Excess/Umbrella Liability Insurance:

7.3.1. The County shall, 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 two million dollars (\$2,000,000) annual aggregate.

7.3.2. Umbrella coverage must include as additional insureds all entities that are additional insureds on the CGL.

7.3.3. Umbrella coverage for such 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.

7.4. Workers' Compensation and Employer's Liability Insurance:

7.4.1. The County shall, during the term of this Agreement, and each extension, purchase and maintain in force a policy of insurance or self-insurance which will insure against

all claims under New York State Workers' Compensation Law at statutory New York State limits.

- 7.5. Certificates of Insurance: Prior to the start of any work, the County shall provide certificates of insurance to the Owner. Attached to each certificate of insurance shall be a copy of the additional insured endorsement that is part of each of the County's policies. These certificates and the insurance policies required above shall contain a provision that coverage afforded under the policies will not be canceled or allowed to expire until at least thirty (30) days prior written notice has been given to the Owner.

8. INDEMNIFICATION

- 8.1. The obligations of the Parties 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.
- 8.2. To the fullest extent permitted by applicable law, the Owner (the "Indemnifying Party") shall indemnify and hold harmless, and at the County's option, defend, the 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 the Owner's authorized personnel) arising out of or in connection with the exercise by the Owner or any of the Owner'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;
- 8.3. To the fullest extent permitted by applicable law, the County (the "Indemnifying Party") shall indemnify and hold harmless, and at the Owner's option, defend, the Owner, 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 the County's authorized personnel) arising out of or in connection with the exercise by the County or any of the 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.

9. TERMINATION OF AGREEMENT:

9.1. This Agreement may be terminated by the County, for any reason, upon thirty (30) days written notice to the Owner;

9.2. This Agreement may be terminated by the Owner, for any reason, upon ninety (90) days written notice to the County.

10. CHOICE OF LAW/FORUM: 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.

11. SEVERABILITY: If any provision of this Agreement or any part thereof is or becomes void or unenforceable by force or operation of law, the Parties hereby agree that this 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 hereby agree that all other provisions shall remain valid and enforceable.

12. 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.

13. 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, alteration

or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by the duly authorized representative of the Party sought to be bound.

IN WITNESS WHEREOF, each of the Parties hereto have affixed their hands and seals the day and year mentioned above.

COUNTY OF ONEIDA

BY: _____

ANTHONY J. PICENTE, JR.
Oneida County Executive

ONEIDA COUNTY BOARD OF ELECTIONS

By: _____

SARAH F. BORMANN
Democratic Commissioner of Elections

ONEIDA COUNTY BOARD OF ELECTIONS

By: _____

NICHOLE D. SHORTELL
Republican Commissioner of Elections

UTICA CITY SCHOOL DISTRICT

By: _____

LOUIS LaPOLLA
President, Board of Education

Approved

John A. Herbowy
Assistant Oneida County Attorney

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

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

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative

agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:

- i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
- i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a

criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and

D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;

ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.

c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. The Contractor will or will continue to provide a drug-free workplace by:

A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

B. Establishing an ongoing drug-free awareness program to inform employees about:

1) The dangers of drug abuse in the workplace;

- 2) The Contractor's policy of maintaining a drug-free workplace;
- 3) Any available drug counseling, rehabilitation, and employee assistance program; and
- 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;

C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;

D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:

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

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

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

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

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

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

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

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

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

- i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the

Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

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

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

When applicable to the services provided pursuant to the Contract:

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

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
 - ii. The Contractor may provide data aggregation services relating to the health care operations of the County.
- c. The Contractor shall:
 - i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
 - ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
 - iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
 - iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
 - v. Make available protected health information in accordance with 45 CFR §164.524;
 - vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
 - vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
 - viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County

available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and

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

5. NON-ASSIGNMENT CLAUSE.

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

6. WORKER'S COMPENSATION BENEFITS.

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

7. NON-DISCRIMINATION REQUIREMENTS.

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

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as

determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its knowledge and belief:

(1) the prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; and (2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) no attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records

shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

12. CONFLICTING TERMS.

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

13. GOVERNING LAW.

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

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

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application;

request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

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

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

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services

(hereinafter “OGS”) website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

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

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

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

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

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

- a. For the purposes of this provision, the “use of tobacco” shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.
- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that

delivers vapor which is inhaled by an individual user as he or she simulates smoking.

- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida; and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

20. COMPLIANCE WITH NEW YORK STATE LABOR LAW § 201-G

The Contractor shall comply with the provisions of New York State Labor Law § 201-g.



Undersheriff Joseph Lisi
Chief Deputy Jonathan Owens

Chief Deputy Lisa Zurek
Chief Deputy Derrick O'Meara

Sheriff Robert M. Maciol

June 7, 2021

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

FN 20 21-218

PUBLIC SAFETY
WAYS & MEANS

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

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

Date 7-21-21

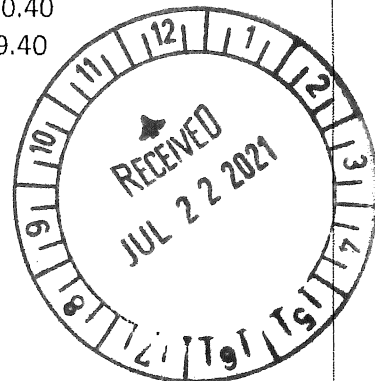
Dear County Executive Picente:

The Sheriff's Office is requesting approval of an Agreement with Whitesboro Central School District for the 2021-2022 school year. This Agreement is for fourteen (14) part-time Special Patrol Officers (SPOs) to be utilized within the Whitesboro school facilities to increase law enforcement presence, to decrease the number of incidents at the school, and to ensure building safety and security measures are in place and are followed by students, staff, parents, and other visitors. Two (2) part-time SPOs will be assigned to the High School with the remaining twelve (12) SPOs at locations throughout the remaining district locations. The total amount of this Agreement is approximately \$285,976.32. The rates for 2022 are estimated in the below calculation as the current CBA expires at the end of 2021 and new rates have not yet been finalized.

The cost is broken down as follows:

7 hours per day x 80 days (9/2021-12/2021) x \$29.37/hr x 7 officers/day = \$115,130.40
7 hours per day x 105 days (1/2022-8/2022) x \$29.72/hr x 7 officers/day = \$152,909.40
= \$268,039.80
Plus Training Cost (Required range time, etc.) = \$7,436.52
= \$275,476.32
Plus equipment/uniform cost = \$10,500.00

14 SCHOOL DISTRICT SPOs TOTAL = Approximately \$285,976.32



The District will reimburse the County for 100% of the hourly costs of the SPOs.

If you find the enclosed contract acceptable, I request that you forward this agreement to the Board of Legislators at your earliest convenience. I ask that this agreement be made a template for all school districts that will be responsible for 100% of the costs of the SPOs for 2021-2022. These schools include



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

Office of the Sheriff



County of Oneida

Undersheriff Joseph Lisi
Chief Deputy Jonathan Owens

Chief Deputy Lisa Zurek
Chief Deputy Derrick O'Meara

Sheriff Robert M. Maciol

Holland Patent, Camden, Clinton, Sauquoit, Waterville, and Westmoreland. 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
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Fax (315) 765-2205

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Fax (315) 736-7946

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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

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

Title of Activity or Service: Special Patrol Officer Initiative

Proposed Dates of Operation: September 1, 2021 – August 31, 2022

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

Summary Statements

1) **Narrative Description of Proposed Services:** Use of Special Patrol Officers (SPOs) at the Whitesboro school buildings. Whitesboro Central School District has requested fourteen (14) part-time SPOs for the 2021-2022 school year. The SPOs will ensure building safety, ensure security measures are in place and being followed by students, staff, parents, and other visitors to the buildings, and will provide a uniformed presence to deter criminal behavior on school grounds.

2) **Program/Service Objectives and Outcomes:** Provide for security and safety on school grounds, protect school property and maintain order in and around the school grounds, provide intervention between students and/or staff, investigate all crimes and incidents.

3) **Program Design and Staffing:** 14 part-time SPOs during the 2021-2022 school year.

Total Funding Requested: \$285,976.32

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

7 hours per day x 80 days (9/2021-12/2021) x \$29.37/hr x 7 officers/day = \$115,130.40

7 hours per day x 105 days (1/2022-8/2022) x \$29.72/hr x 7 officers/day = \$152,909.40

= \$268,039.80

Plus Training Cost (Required range time, etc.) = \$7,436.52

= \$275,476.32

Plus equipment/uniform cost = \$10,500.00

14 SCHOOL DISTRICT SPOs TOTAL = Approximately \$285,976.32

Oneida County Dept. Funding Recommendation: \$285,976.32

Proposed Funding Sources (Federal \$/ State \$/County \$): Whitesboro Central School District 100%

Cost Per Client Served: N/A

Past Performance Data: Whitesboro had 14 SPOs at the school last year, and we will be continuing this successful program in the 2021-2022 school year.

O.C. Department Staff Comments: This is the 4th year of the SPO program at Whitesboro Central School District. It was very successful last year, and we anticipate this success will continue into the 2021-2022 school year.

Mandated: _____ Not Mandated: _____

Whitesboro Central School District has taken advantage of the 50% reimbursement from the County for 3 years. This year, the district will be responsible for 100% of the costs of the SPOs. There are no additional County costs with this contract.

The costs on this summary sheet are estimated for 2022 as the current CBA expires at the end of 2021. New rates will be established for 2022 once a new contract is negotiated.

**SCHOOL DISTRICT SPECIAL PATROL OFFICER AGREEMENT
BETWEEN
ONEIDA COUNTY, through the ONEIDA COUNTY SHERIFF’S OFFICE,
and
the WHITESBORO CENTRAL SCHOOL DISTRICT**

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

WITNESSETH

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

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

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

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

1. To establish a staff of part-time SPOs consisting of experienced and trained retired law enforcement officers, as prescribed in NYS General Municipal Law Section 209-v, to perform the duties of a County Special Patrol Officer, which is detailed in the attached Exhibit A- Job Specification of Special Patrol Officer and made a part hereof;
2. To increase the physical law enforcement presence within the District facilities;
3. To decrease the number of incidents involving outside police intervention at the District facilities;
4. To increase a sense of safety and order within the school setting; and
5. To ensure that the facilities’ safety and security measures in place are being followed by students, staff, parents, and other visitors within the District; and

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

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

1. **Assignment of the SPOs.** The OCSO shall assign fourteen (14) uniformed officers as SPOs to serve in the District according to a schedule established by mutual agreement between the OCSO and the District. The aggregate number of hours that SPOs are assigned to the District shall not exceed a total of 280 hours per week. The OCSO will schedule SPOs to be on site at District campuses when requested by the District during the Term of this Agreement (as defined below in Section 2). The OCSO will provide substitute coverage when the designated SPOs are absent. The SPOs will wear the uniforms issued by OCSO, including a firearm and all other equipment authorized and issued by the OCSO, when acting in the capacity of an SPO at the District.

2. **Term of Agreement.** The Term of this Agreement begins on September 1, 2021 and expires on August 31, 2022, without notice, unless terminated earlier as provided in this Agreement (the "Term").

3. **Compensation.**

- a. Basic Payment. The County agrees to pay the SPO's hourly rate and employment benefits in accordance with the applicable salary schedules, rules, policies and employment practices of the County, subject to reimbursement by the District as detailed herein.
- b. The District shall be responsible for one hundred percent (100%) of the costs of the SPOs during the Term of this Agreement, to include payroll taxes and all other associated costs, such as, but not limited to, workers' compensation, disability, and unemployment insurance. The District also agrees to pay the County for one hundred percent (100%) of hours spent by the SPOs undergoing mandatory training to maintain eligibility as SPOs, and shall pay the County for SPO uniform costs.
- c. The rate of pay and fringe of SPOs is paid at an hourly rate of twenty-nine dollars and thirty-seven cents (\$29.37) from September 1, 2021 to December 31, 2021. From January 1, 2022 to the end of the Term, the hourly rate of pay and fringe may increase based upon a new Collective Bargaining Agreement. The County shall provide the District with notice of any new rates of pay and/or fringe benefits within ten (10) days of a change in pay rates by resolution of the County Board of Legislators. The new pay rates shall become effective upon the date specified by the Collective Bargaining Agreement. The estimated pay rates for compensation under this Agreement shall be adjusted, and the actual pay rates reconciled with payments made as of the effective date of the pay rate change, and the Parties acknowledge that any future resolution of the County Board of Legislators changing the pay rates could include retroactive increases to the pay rates for which the District will be responsible, and that the same may be ratified after the expiration of this Agreement. In the event that such reconciliation results in a credit to the District, it shall be applied to offset subsequent

payments due, and if such adjustment results in an amount due the County, it shall be included in the next payment or paid within thirty (30) days of receipt of a demand by the County with itemized billing if the increase is ratified after the expiration of this Agreement.

- d. Any time spent by SPOs that is not related to the interests of the District will not be charged to the District.
- e. Incidental and Unrelated Costs. Incidental costs, such as ongoing training costs, shall be covered by the County. Any time spent by the SPOs that is not related to the interest of the District will not be considered time worked for the District, and shall not be reimbursed by the District.
- f. Additional Hours. Should the District, upon request of the principal or designee, wish to have any SPO be present at times over and above the regular school day hours agreed upon by the Parties, the District will be billed based on the applicable hourly rate at the time. The District shall be responsible for one hundred percent (100%) of this additional cost, and will be billed by the OCSO accordingly. The District must schedule these additional hours with the OCSO Deputy Sheriff Patrol – Sergeant at least one week prior to the need for these additional hours.
- g. Travel Costs. In the event the SPOs incur travel costs between District facilities during the school day, the District shall reimburse the OCSO at the IRS standard mileage rate at the time of travel upon receipt of an invoice. Travel costs shall be paid in accordance with (h) below.
- h. Billing & Payment. The OCSO shall submit an invoice for payment of the Agreement fee to the District on a bi-weekly basis, to correspond with the schedule under which employees of the OCSO submit proof of their hours worked to the OCSO. The District shall reimburse the County the sum due in each invoice within seven (7) days of receipt of the same.

4. **Supervision of the SPOs.** The OCSO agrees to have a designated Deputy Sheriff Patrol - Sergeant responsible for supervising SPOs to facilitate scheduling, cover absences, and/or supply support as needed by the District on site at the designated District campuses each day that school is in session during the Term of this Agreement. The Deputy Sheriff Patrol - Sergeant shall coordinate his or her activities at the District with the principal or designee. The Deputy Sheriff Patrol - Sergeant will be designated by the OCSO to act in such capacity, and will be under the supervision of a Deputy Sheriff Patrol - Lieutenant.

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

- a. Provide for the security and safety of all students, staff, and visitors.
- b. Protect school property and maintain order in and around the school site.
- c. Report all violations of law, school rules, regulations, or policies to District administration so that District administration may take appropriate disciplinary measures.
- d. Enforce New York State laws, rules, and regulations.
- e. Act as liaisons with police and fire officials.
- f. Advise the school administration of any circumstances or situations that may create a potential for harm to persons, or damage to or loss of property.

- g. Screen all persons entering the building or school grounds when in a position to do so, and take necessary action to prohibit loitering and trespassing on school grounds.
- h. Become familiar with all hidden recesses in the building and check them periodically.
- i. Become familiar with the Student Code of Conduct so that violations may be immediately reported to District administration so the District may take appropriate disciplinary measures (SPOs shall not act as school disciplinarians).
- j. Maintain post integrity by being highly visible at all times and refraining from unnecessary fraternization with other SPOs and employees of the District.
- k. Report for duty in a timely manner. In the event an SPO is absent from work, the SPO shall notify the designated Deputy Sheriff Patrol - Sergeant. The OCSO shall then provide the District with a replacement SPO. The OCSO shall notify the Superintendent of the District that the SPO will be absent and shall notify the principal of that school of the replacement SPO.
- l. Question any individual not having appropriate identification to ascertain his or her status.
- m. When requested, participate in meetings with school officials, parents, or the District School Board to assist in developing policy and procedures concerning school safety.
- n. The SPOs shall comply with all State and Federal laws as well as all of the rules, regulations, policies, and procedures related to investigations, interviews, and search and arrest procedures of the OCSO.
- o. Act swiftly and cooperatively when responding to major disruptions and flagrant criminal offenses at school, including, but not limited to: disorderly conduct by trespassers, the possession and use of weapons on campus, the illegal sale and/or distribution of controlled substances, and riots.
- p. The SPOs are prohibited from detaining or questioning students about their immigration status.
- q. The SPOs shall not take any action that would be considered student discipline. The SPO role is primarily providing for safety and security of all students, staff, and visitors. Any and all student disciplinary actions are delegated to District administration in accordance with New York Education Law § 2801-a(10).
- r. The SPOs shall meet all of the obligations above without discriminating on the basis of race, color, sex, national origin, or membership in any other protected class.

6. **Responsibilities of the OCSO.** The OCSO, in its sole discretion, shall have the power and authority to hire, discharge, and discipline all SPOs. It is understood by all Parties herein that the OCSO will retain tactical control of all of the SPOs. SPOs shall relinquish all criminal law enforcement actions and investigations, including, but not limited to, interviews, searches, arrests, and discovery of controlled substances to the Law Enforcement Division of the OCSO.

The OCSO further agrees as follows:

- a. To provide SPOs who:

- i. Meet the requirements as prescribed in NYS General Municipal Law Section 209-v;
 - ii. Shall possess sufficient knowledge of the applicable Federal, State, and local laws and regulations;
 - iii. Demonstrate a broad base of knowledge regarding youth, social issues, and the criminal justice system; and
 - iv. Meet all education and experience requirements set forth by Oneida County and New York State.
- b. The District may request from the OCSO that certain individuals not be assigned to the District if it is determined by the District that the SPO does not meet the qualifications as listed above. The OCSO will honor these requests to the fullest extent possible.
 - c. OCSO will use best efforts to provide SPOs to appropriately cover the District's facilities in accordance with a schedule agreed to by the OCSO and the District.
 - d. OCSO will ensure the SPOs submit appropriate verification forms to be signed by authorized school personnel to provide audit documentation of time spent on campus.
 - e. OCSO will cooperate with the District to implement the SPO program with the least possible disruption to the educational process.

7. District's Responsibilities. The District agrees to:

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

8. Confidentiality and Disclosure of Records.

- a. Confidentiality. The County, OCSO, and the District agree that all information exchanged is considered confidential and subject to provisions of Federal and New York State Law, and will be used only for the purposes outlined in this Agreement.
- b. Records Disclosure. The County, OCSO, and the District agree to comply with the requirements set forth in the Family Education Rights to Privacy Act (FERPA), New York State Education Law Section 2-d, as well as any regulations promulgated under those laws, as the same may be amended from time-to-time. Attached hereto and made a part of this Agreement in Addenda A-1 and A-2 are the terms required by New York State Education Law Section 2-d concerning the disclosure of protected identifiable student, principal, and teacher information from disclosure.
- c. HIV-Related Information.
 - i. Non Discrimination. The County, OCSO, and the assigned SPOs and any substitute SPOs shall not discriminate or refuse assistance to individuals with AIDS or HIV infection. It is agreed that the Sheriff, and any member of his staff with whom confidential HIV-related information may be given as a necessity for providing services, in accordance with Part 403.9 of Title 18 NYSDSS regulations and Section 2782 of NYS Public Health Law, are fully informed of the penalties and fines for disclosure in violations of State Law and Regulations.
 - ii. Re-disclosure. The following written statement must be included when disclosing any confidential HIV-related information:
“This information has been disclosed to you from confidential records which are protected by State Law. State Law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State Law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for further disclosure.”
- d. Child Abuse, Neglect, and Maltreatment. Notwithstanding any other provision of this Agreement, the OCSO shall comply with all New York State laws, rules, and regulations governing Child Abuse, Neglect, and Maltreatment.
- e. The Parties agree that all records must be maintained no less than the minimum period of time as set forth in the ED-1 Records Retention & Disposition Schedule or LGS-1 Records Retention & Disposition Schedule, as adopted by the District, and must be made available for audit by the New York State Department of Education and New York State Audit and Control upon request. This subdivision shall survive termination of this Agreement.

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

- a. The purposes of this Agreement may require the disclosure of certain personally identifiable student information (hereinafter referred to as “PII”), as defined by Education Law Section 2-d (1), (d) and (j). Accordingly, it is anticipated that this

Agreement will involve disclosure of such data to the SPOs. The exclusive purpose for which the referenced PII will be used is the delivery of SPO services provided under the Agreement. Upon expiration of this Agreement, the SPOs and/or substitute SPOs must securely destroy or return all PII to the District that remains in the SPO's or substitute SPO's possession.

- b. If PII is disclosed to the SPOs and/or substitute SPOs by the District for purposes of the SPOs providing services to the District, the SPOs and County must additionally comply with the following express requirements of New York State Education Law Section 2-d(5), (e) & (f) (Chapter 56, Subpart L of the Laws of 2014), as well as any implementing regulations and/or any data privacy policy adopted by the District:
 - i. Any officers or employees of the third party contractor and its assignees who have access to student data or teacher or principal data have received or will receive training on Federal and State law governing confidentiality of such data prior to receiving access;
 - ii. Limit internal access to education records to those individuals that are determined to have legitimate educational interests;
 - iii. Not use the education records for any other purposes than those explicitly authorized in this Agreement;
 - iv. Except for authorized representatives of the third party contractor to the extent they are carrying out the Agreement, not disclose any PII to any other party:
 - A. Without prior written consent of the parent or eligible student; or
 - B. Unless required by statute or court order and the party provides a notice of the disclosure to the County, District Board of Education, or institution that provided the information no later than the time the information is disclosed, unless providing notice of the disclosure is expressly prohibited by the statute or court order;
 - v. Maintain reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of personally identifiable student information in its custody; and
 - vi. Use encryption to protect data while in motion or in its custody from unauthorized disclosure using a technology or methodology specified by the Secretary of the United States Department of Health and Human Services in guidance issued under Section 13402(H)(2) of Public Law 111-5.
- c. The Parents' Bill of Rights and the attachment to the Parents' Bill of Rights are annexed to this Agreement as Addenda A-1 and A-2, respectively, the terms of which are incorporated herein by reference.

10. **Resolution of Issues/Termination.**

- a. In case of deficiencies of service or other SPO programmatic issues, the District will first develop an Action Plan in concert with the OCSO to address the issues. In the event that the issues cannot be resolved through the Action Plan, the District reserves the right to terminate services and this Agreement with a thirty (30) day notice.

- b. If programmatic issues occur that cause the OCSO to feel termination of this Agreement is appropriate, the OCSO must first address the issues in writing to the District. A subsequent meeting will be held and an Action Plan developed to resolve the issue. In the event that the issues cannot be resolved through these steps, the OCSO reserves the right to terminate services and this Agreement upon thirty (30) days written notice.
- c. Should funds become unavailable or should appropriate governing bodies fail to approve sufficient funds for completion of services or programs set forth in this Agreement, the District and/or the County shall have the option to immediately terminate this Agreement upon providing written notice to the other Party. In such an event, the District shall be under no further obligation to the County other than payment for costs actually incurred prior to termination, and in no event will the OCSO be responsible for further performance of any duties on behalf of the District or for any actual or consequential damages as a result of termination.
- d. The District and the OCSO agree that this Agreement may be terminated upon thirty (30) days written notice to the other Party at said Party's designated address for reasons other than those described in (a)-(c) above.
- e. If this Agreement is terminated for any reason, the District will be provided with all documents, notes, memoranda and reports (if any) with respect to the SPOs' services up to the effective termination date of the Agreement.
- f. The Parties shall use their best efforts to resolve any disputes between them concerning performance or administrative issues by negotiation and agreement. The exclusive means of disposing of any dispute arising under a contract with the District which is not resolved by agreement shall be by a New York State Court of competent jurisdiction located within Oneida County, New York. There shall be no right to binding arbitration. Pending final resolution of a dispute, the OCSO must proceed diligently with contract performance and the District must proceed diligently with payment therefor. Each Party waives any dispute or claim not made in writing and received by the other Party within sixty (60) days of the discovery of the claim, or within sixty (60) days of when such claim should have reasonably been discovered. Any claims for monetary damages must be in writing, for a sum certain, and must be fully supported by all cost and pricing information.

11. **Independent Contractors.** It is expressly understood and agreed that the legal status of the OCSO and its officers and employees, vis-à-vis the District under this Agreement, is that of an independent contractor, and in no manner shall the SPOs be deemed employees of the District. Neither Party shall be an agent of or otherwise have authority to bind the other Party. The County agrees, during the Term of this Agreement, to maintain at its expense those benefits to which the SPOs, as its employees, would otherwise be entitled by law, and all necessary insurances for its employees, including workers' compensation and unemployment insurance, and to provide the District with certification of such insurance upon request. The County remains responsible for all applicable Federal, State, and Local taxes, and all FICA contributions, subject to reimbursement for the same by the District pursuant to Section 3 hereinabove.

12. Indemnification & Insurance.

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

- iv. Commercial Umbrella
 - A. Umbrella limits must be at least \$5,000,000.
 - B. Umbrella coverage must include the County as an additional insured.
 - C. Umbrella coverage for the additional insured shall apply as primary and non-contributing before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by, or provided to, the additional insured.
- v. Waiver of Subrogation: The District waives all rights against the County, its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by CGL, Business Auto Liability or Workers' Compensation and Employer's Liability insurance maintained per requirements stated above.
- vi. Certificates of Insurance: Prior to the start of any work, the District shall provide certificates of insurance to County. Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of the District's Policies. These certificates and the insurance policies required above shall contain a provision that coverage afforded under the policies will not be canceled or allowed to expire until at least thirty (30) days prior written notice has been given to the County.

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

14. **Suspension of Work.**

- a. The District, in its sole discretion, reserves the right to suspend any or all activities under this Agreement at any time if deemed to be in the best interests of the District. In the event of such suspension, the OCSO will be given a formal written notice outlining the particulars of such suspension. Examples of the reason for such suspension include, but are not limited to, a budget freeze on contractor spending, an uncontrollable event, a declaration of emergency, or other such circumstances. Upon issuance of such notice, the OCSO shall comply with the suspension order. Activity may resume at such time as the District issues a written notice authorizing a resumption of work.
- b. Neither Party shall be liable for any delay or failure in performance beyond its control resulting from acts of God or an uncontrollable event, such as the COVID-19 pandemic. The Parties shall use reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties under this Agreement.

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

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

With a copy sent to OCSO at:

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

All notices to the District should be sent to:

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

16. **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.

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

18. **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.

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

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

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

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

For Oneida County

Anthony J. Picente, Jr.
County Executive

Date

For Whitesboro Central School District

Michael Head

Michael Head
President, Board of Education

7/15/21

Date

Approved

Alison Stanulevich, Esq.
Assistant County Attorney

ADDENDA A-1

PARENTS' BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY

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

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

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

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

Parents' rights under FERPA include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- The policies will also require security measures when providing student data to parents, to ensure that only authorized individuals receive such data. A parent may be asked for information or verifications reasonably necessary to ensure that he or she is in fact the student's parent and is authorized to receive such information pursuant to law.

(C) State and federal laws protect the confidentiality of PII, and safeguards associated with industry standards and best practices, including, but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred.

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

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

superintendents, school board members, principals, and other persons or entities may request information pertaining to student data or teacher or principal APPR data in a timely and efficient manner.

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

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

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

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

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

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

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

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

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

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

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

Where there is a breach and unauthorized release of PII by a by a third party contractor or its assignees (e.g., a subcontractor): (i) the third party contractor must notify the educational

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

8. Data Security and Privacy Standards

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

9. No Private Right of Action

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

ADDENDA A-2

Model Notification of Rights under FERPA for Elementary and Secondary Schools

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

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

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

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

Parents or eligible students who wish to ask the [School] to amend their child's or their education record should write the school principal [or appropriate school official], clearly identify the part of the record they want changed, and specify why it should be changed. If the school decides not to amend the record as requested by the parent or eligible student, the school will notify the parent or eligible student of the decision and of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

3. The right to provide written consent before the school discloses personally identifiable information (PII) from the student's education records, except to the extent that FERPA authorizes disclosure without consent.

One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. The criteria for determining who constitutes a school official and what constitutes a legitimate educational interest must be set forth in the school's or school district's annual notification for FERPA rights. A school official typically includes a person employed by the school or school district as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel) or a person serving on the school board. A school official also may include a volunteer, contractor, or consultant who, while not employed by the school, performs an institutional service or function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII

from education records, such as an attorney, auditor, medical consultant, or therapist; a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his or her tasks. A school official typically has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

[Optional] Upon request, the school discloses education records without consent to officials of another school or school district in which a student seeks or intends to enroll, or is already enrolled if the disclosure is for purposes of the student's enrollment or transfer. [NOTE: FERPA requires a school or school district to make a reasonable attempt to notify the parent or student of the records request unless it states in its annual notification that it intends to forward records on request or the disclosure is initiated by the parent or eligible student.]

4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the [School] to comply with the requirements of FERPA. The name and address of the Office that administers FERPA are:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

[NOTE: In addition, a school may want to include its directory information public notice, as required by § 99.37 of the regulations, with its annual notification of rights under FERPA.]

[Optional] See the list below of the disclosures that elementary and secondary schools may make without consent.

FERPA permits the disclosure of PII from students' education records, without consent of the parent or eligible student, if the disclosure meets certain conditions found in § 99.31 of the FERPA regulations. Except for disclosures to school officials, disclosures related to some judicial orders or lawfully issued subpoenas, disclosures of directory information, and disclosures to the parent or eligible student, § 99.32 of the FERPA regulations requires the school to record the disclosure. Parents and eligible students have a right to inspect and review the record of disclosures. A school may disclose PII from the education records of a student without obtaining prior written consent of the parents or the eligible student –

- To other school officials, including teachers, within the educational agency or institution whom the school has determined to have legitimate educational interests. This includes contractors, consultants, volunteers, or other parties to whom the school has outsourced institutional services or functions, provided that the conditions listed in § 99.31(a)(1)(i)(B)(1) - (a)(1)(i)(B)(3) are met. (§ 99.31(a)(1))
- To officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already

enrolled if the disclosure is for purposes related to the student's enrollment or transfer, subject to the requirements of § 99.34. (§ 99.31(a)(2))

- To authorized representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as the State educational agency (SEA) in the parent or eligible student's State. Disclosures under this provision may be made, subject to the requirements of § 99.35, in connection with an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of PII to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf, if applicable requirements are met. (§§ 99.31(a)(3) and 99.35)
- In connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid. (§ 99.31(a)(4))
- To State and local officials or authorities to whom information is specifically allowed to be reported or disclosed by a State statute that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records were released, subject to § 99.38. (§ 99.31(a)(5))
- To organizations conducting studies for, or on behalf of, the school, in order to: (a) develop, validate, or administer predictive tests; (b) administer student aid programs; or (c) improve instruction, if applicable requirements are met. (§ 99.31(a)(6))
- To accrediting organizations to carry out their accrediting functions. (§ 99.31(a)(7))
- To parents of an eligible student if the student is a dependent for IRS tax purposes. (§ 99.31(a)(8))
- To comply with a judicial order or lawfully issued subpoena if applicable requirements are met. (§ 99.31(a)(9))
- To appropriate officials in connection with a health or safety emergency, subject to § 99.36. (§ 99.31(a)(10))
- Information the school has designated as "directory information" if applicable requirements under § 99.37 are met. (§ 99.31(a)(11))
- To an agency caseworker or other representative of a State or local child welfare agency or tribal organization who is authorized to access a student's case plan when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student in foster care placement. (20 U.S.C. § 1232g(b)(1)(L))

- To the Secretary of Agriculture or authorized representatives of the Food and Nutrition Service for purposes of conducting program monitoring, evaluations, and performance measurements of programs authorized under the Richard B. Russell National School Lunch Act or the Child Nutrition Act of 1966, under certain conditions. (20 U.S.C. § 1232g(b)(1)(K))

EXHIBIT A

Civil Division: Oneida County Government
Jurisdictional Class: Competitive
EEO Category: Protective Service: Sworn
Revised: 09/10/15

SPECIAL PATROL OFFICER

DISTINGUISHING FEATURES OF THE CLASS: The work involves responsibility for maintaining order and providing security for publicly owned property. Persons employed in this class shall have all the powers of a peace officer, as set forth in section 2.20 of Criminal Procedure Law, when performing the duties of protecting property or persons on such premises. The work is performed under general supervision of the Oneida County District Attorney, Oneida County Sheriff's Office, or other designated Oneida County law enforcement agent. The incumbent performs related work as required.

TYPICAL WORK ACTIVITIES: (Illustrative Only)

Provides security by standing in and patrolling public buildings;
Protects and guards the public and employees in the designated publicly-owned property;

Physically restrains unruly individuals;

Escorts law enforcement agents, juries and witnesses to and from the courtroom;

Provides general information to visitors on premises ;

Checks to insure that all necessary documents and identifications are in order;

Safeguards public property;

Provides assistance in emergency situations;

Maintains and updates records as required;

Prepares incident reports;

Distributes and posts appropriate documents and materials.

FULL PERFORMANCE KNOWLEDGE, SKILLS, ABILITIES AND PERSONAL CHARACTERISTICS:

Good knowledge of procedures and practices for protecting and safeguarding buildings and property; good knowledge of the powers of a peace officer; ability to maintain order; ability to perform first aid; ability to exercise judgment and common sense in stressful situations; ability to carry out established security procedures in case of fire, bomb threat or other emergency situations; ability to observe detail, remember facts and information and evaluate situations; ability to understand oral and written instructions and apply information, rules, regulations and procedures to specific situations; ability to prepare brief written communications; ability to communicate information orally to the public or related personnel; ability to use self-defense, restraint techniques and security equipment.

continued...

SPECIAL PATROL OFFICER

page two

MINIMUM QUALIFICATIONS: Retired member of a police or sheriff's department, or division of state police, or retired former corrections, parole or probation officer.

NOTE: In accordance with Section 209-v of General Municipal Law, a retiree who had permanent competitive class status in one of the above listed occupations may be reinstated to a Special Patrol Officer position without further examination.

SPECIAL REQUIREMENTS TO CARRY OR POSSESS FIREARMS: Special Patrol Offices may not carry or possess firearms while on duty unless authorized to do so by the Appointing Authority and a license has been issued pursuant to Section 400.00 of Penal Law (Section 2.10.37 of Criminal Procedure Law). Where possession of the license is required, eligibility for and continued possession of the license is required for appointment.

Adopted: 06/13/12
Revised: 06/29/12, 09/10/15

EXHIBIT B - STANDARD ONEIDA COUNTY CONDITIONS

THIS ADDENDUM, entered into on this _____ day of _____, 20____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

Pursuant to Oneida County Board of Legislator Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress,

an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.

- ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
- i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and

- D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;
 - ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
 - c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
 - i. The Contractor will or will continue to provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - B. Establishing an ongoing drug-free awareness program to inform employees about:
 - 1) The dangers of drug abuse in the workplace;
 - 2) The Contractor's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, and employee assistance program; and
 - 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
 - C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;
 - D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:
 - 1) Abide by the terms of the statement; and

2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;

E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.

F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;

1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.

ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

- i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

Director, Grants Management Bureau, State Office Building Campus,
Albany, NY 12240. Notice shall include the identification number(s) of
each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to

computers and paper files that contain protected health information of the County's clients.

- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:
 - i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
 - ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

- c. The Contractor shall:
 - i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
 - ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
 - iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
 - iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
 - v. Make available protected health information in accordance with 45 CFR §164.524;
 - vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
 - vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
 - viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or

received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and

- ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

d. The Contractor agrees that this contract may be amended if any of the following events occurs:

- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
- ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
- iii. There is a material change in the business practices and procedures of the County.

e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKER'S COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for

the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 of the Labor Law, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its knowledge and belief:

(1) the prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; and (2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) no attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.

- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether for supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

15. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

The Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa).

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application; request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.
- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY

Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.

- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.
- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida; and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

20. COMPLIANCE WITH NEWYORK STATE LABOR LAW § 201-G

The Contractor shall comply with the provisions of New York State Labor Law § 201-g.



ONEIDA COUNTY
OFFICE OF THE COUNTY EXECUTIVE

ANTHONY J. PICENTE, JR.
County Executive
ce@ocgov.net

July 21, 2021

Gerald J. Fiorini, Chairman
Oneida County
Board of Legislators
800 Park Avenue
Utica, NY 113501

FN 20-21-219

GOVERNMENT OPERATIONS

WAYS & MEANS

Dear Chairman Fiorini:

The Commissioner of Finance has requested that position eleven in A1312, Assistant Real Property Tax Director, be funded for the remaining 2021 budget year. This position was unfunded to save money due to the extraordinary expenses Oneida County was incurring as a result of COVID, and that goal has been achieved. The position of Assistant Real Property Tax Director has a starting salary of W34, step 2 or \$54,737 per year. No transfer of funds or supplemental appropriation for the A-Fund will be necessary as funded vacancies within the department will more than cover the anticipated cost for the rest of the year.

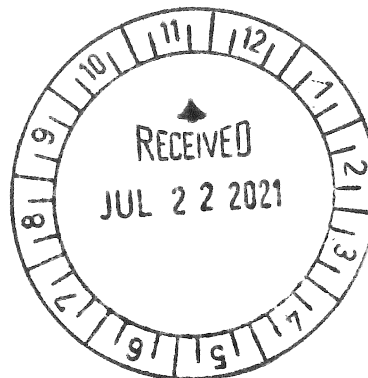
The Commissioner of Finance has discussed with me staffing concerns within the Finance Department and he will be requesting certain reclassifications in the 2022 budget in an effort to further address the tax foreclosure moratoriums placed on municipalities across the state due to COVID, the consequent backlogs facing the department, and continuity of future operations.

If possible, we are asking if this could be on the agenda for full Board consideration in August.

Thank you for your kind attention in this regard.

Sincerely,

Anthony J. Picente, Jr.
Oneida County Executive



CC: Comptroller
County Attorney
Budget
Finance