



# ONEIDA COUNTY BOARD OF LEGISLATORS

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

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(315) 798-5404

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Majority Leader

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## COMMUNICATIONS WITH DOCUMENTATION

October 9, 2013

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

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# ONEIDA COUNTY BOARD OF LEGISLATORS

*Harmony Speciale, 728 Noyes Street, Utica, New York 13501*  
*Home Phone: (315) 679-1808 Business (315) 797-1617*

September 11, 2013

FN 20 13 - 335

Chairman Gerald J. Fiorini  
Oneida County Board of Legislators  
Oneida County Office Building  
800 Park Avenue, FL-10  
Utica, NY 13501

**READ & FILED**

Dear Chairman Fiorini:

The purpose of this correspondence is to advise of a conflict of interest I have with upcoming legislation involving Poncell Construction. I will not be able to vote on the related resolution as this firm has, in the past, sponsored my not-for-profit agency "Arts West Alliance".

Thank you for your attention to this matter. I appreciate your assistance.

Sincerely,

*Harmony Speciale*  
*HS*

Harmony Speciale (D)  
Legislator, 22<sup>nd</sup> District - Utica



Anthony J. Picente Jr.  
County Executive

Lucille A. Soldato  
Commissioner



**ONEIDA COUNTY DEPARTMENT OF SOCIAL SERVICES**

County Office Building, 800 Park Avenue, Utica, NY 13501  
Phone (315) 798-5733 Fax (315) 798-5218

October 3, 2013

FN 20 13-336

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

HEALTH & HUMAN SERVICES

Dear Mr. Picente:

**WAYS & MEANS**

I am submitting a Purchase of Services Agreement for review and approval by the Board of Legislators, per Board Resolutions and Local Law #3 of 2001, amending Article VIII, Section 802 of the Administrative Code.

The Department has contracted with Cornell Cooperative Extension for Nutritional Education Services for SNAP Recipients since 1996. The SNAP recipients will be taught food buying, food preparation, food safety, food sanitation and food budget education.

The program is 100% funded by the U.S. Department of Agriculture. The cost of this contract from October 1, 2013 through September 30, 2014 is \$ 102,490.00, completely reimbursed by the U.S. Department of Agriculture. **There will be no county funds utilized to support this effort.**

I am respectfully requesting that this matter be forwarded to the Board of Legislators for action as soon as possible. Thank you for your consideration.

Sincerely,

Lucille A. Soldato  
Commissioner

LAS/tms  
attachment



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

Anthony J. Picente, Jr.  
County Executive

Date 10/7/13

10/3/13  
# 11006

**Oneida Co. Department Social Services**

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

**Oneida County Board of Legislators**  
**Contract Summary**

**Name of Proposing Organization:** Cornell Cooperative Extension Oneida County  
121 Second Street  
Oriskany, New York 13424

**Title of Activity or Services:** Nutrition Education

**Proposed Dates of Operations:** 10/1/2013 - 9/30/2014

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

**SUMMARY STATEMENTS**

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

Provide the following Services.

The types of interventions:

- Home Visits
- Food Preparation/Demonstrations
- Group Lesson/Workshops
- Unstructured Groups
- Health Fairs

**2). Program/Service Objectives and Outcomes -**

Provide financial management and nutrition education (food buying, food preparation, food safety and sanitation) to families or individuals who are in receipt of SNAP benefits.

Program Goals:

- Target households eligible for SNAP with a focus on families with children and youth.
- Promote healthy eating habits and physically active lifestyles
- Promote consumption of healthy foods within a limited budget
- Promote primary preventions of diet-related chronic disease
- The goal of the Eat Smart Program is to improve the likelihood that persons eligible for SNAP benefits will make healthy food choices within a limited budget and choose physically active lifestyles.

- By maintaining a healthy diet and being physically active, individuals can achieve a healthy weight and reduce their risk of chronic diseases such as diabetes, heart disease, stroke and some forms of cancer.

### 3). Program Design and Staffing Level

Program Coordinator  
Program Educator

**Total Funding Requested:** \$102,490 a U.S. Department of Agriculture for the program. There is no local cost nor is there a local in-kind match required of Oneida County.

**Oneida County Dept. Funding Recommendation:** Account #A6010.49534

**Mandated or Non-Mandated:** Non-Mandated

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

Federal	100%	\$ 102,490
State	0%	\$ 0
County	0%	\$ 0

**Cost Per Client Served:**

**Past Performance Served:** The Department has contracted with Cornell Cooperative Extension since 1996. The contract amount from October 1, 2012 through September 30, 2013 was \$95,396. There is no local cost to support this program

**O.C. Department Staff Comments:** The Department is satisfied with this Contractor.

## AGREEMENT

THIS AGREEMENT, made and entered in to by and between the Oneida County through its Department of Social Services, a municipal corporation organized and existing under the laws of the State of New York, and having its principal offices at the Oneida County Office Building, 800 Park Avenue, Utica, New York 13501 (hereinafter called Department), and the Cornell Cooperative Extension Oneida County, 121 Second Street, Oriskany, New York 13424 (hereinafter called Contractor).

WHEREAS, the Department has a need to provide financial management and nutrition education (food buying, food preparation, food safety, sanitation) to families/individuals eligible for the Supplemental Nutrition Assistance Program (SNAP).

The Contractor agrees to provide 67% of Program Coordinator, 88% of a full-time equivalent Program Educator and 50% of a full-time equivalent, Frontline staff for families or individuals in receipt of/or eligible for SNAP benefits with a focus on households with children and youth.

Program goals are as follows:

- Target households eligible for SNAP with a focus on families with children and youth
- Promote healthy eating habits and physically active lifestyles
- Promote consumption of healthy foods within a limited budget
- Promote primary preventions of diet-related chronic disease
- The goal of the Eat Smart Program is to improve the likelihood that persons eligible for SNAP benefits will make healthy food choices within a limited budget and choose physically active lifestyles.
- By maintaining a healthy diet and being physically active, individuals can achieve a healthy weight and reduce their risk of chronic diseases such as diabetes, heart disease, stroke and some forms of cancer.

WHEREAS, the Contractor has knowledge and expertise to develop and operate an education program which will help participants gain knowledge and develop skills which will enable them to better use limited resources as they relate to food and nutrition.

WHEREAS, the Department has determined that the amount of funds to be paid to the Contractor is fair and reasonable to provide such services.

The term of this Agreement shall be from October 1, 2013 through September 30, 2014.

The Department agrees to pay the Contractor upon submission of a monthly County Voucher with such fiscal backup data sheets and any programmatic statistics as required by the

County and/or State. Total cost of service provided not to exceed \$102,490.00, as per the attached budget.

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.

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.

This Agreement shall be binding upon both parties when fully signed and executed and upon approval of the appropriate legislative bodies where required.

\*\*\*\*\*

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

Oneida County Executive: \_\_\_\_\_

Anthony J. Picente Jr., Oneida County Executive

\*\*\*\*\*

Approved as to Form \_\_\_\_\_

Oneida County Attorney

\*\*\*\*\*

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

Oneida County Department of Social Services: \_\_\_\_\_

Lucille A. Soldato, Commissioner

\*\*\*\*\*

Date: 9-30-2013

Agency: Cornell Cooperative Extension Oneida County

Authorized Signature: 

Print Authorized Name: Ron Bunce

Title: Executive Director

\*\*\*\*\*

## BUDGET

10/01/2013 - 9/30/2014

<u>Object of Expense</u>	<u>Federal Funds</u>
Personnel Expense:	
Salary	\$ 68,655.00
Fringe	1,550.00
<b>Total Personnel:</b>	<b>\$ 70,205.00</b>
Non-Personnel Expense:	
Contractual & Agreements	5,230.00
Non-Capital:	
Equipment/Supplies	2,331.00
Materials	9,512.00
Travel/Training	<u>10,145.00</u>
<b>Total Non-Personnel &amp; Capital:</b>	<b>\$ 27,218.00</b>
Administrative:	
Salaries	\$ 2,818.00
Fringe	49.00
Building Space/Maintenance	0.00
Insurance/Lease/Rental/Audit	0.00
Equipment & Capital Expense	2,200.00
Indirect	0.00
<b>Total Administrative</b>	<b><u>\$ 5,067.00</u></b>
<b>PROJECT TOTAL</b>	<b>\$ 102,490.00</b>



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 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 five 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 of 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 or 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)

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**\*\*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 County laws and regulations.
- b. It is the policy of the Department to encourage the employment of qualified applicants for, 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:
  - 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 Contractor 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 register 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 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 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 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 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 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
  - 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 Agreement, where applicable. The Contractor specifically agrees that he 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, 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 the 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
- j. If the Contractor intends to use materials, equipment or personnel paid for under this contract 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 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 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 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 Contractor certifies that within the past three 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 Contract. The actions that would potentially establish a basis for a finding by Department that the contractor is a non-responsible vendor include:
  - The Contractor has had a license or contract suspended, revoked or terminated by a governmental agency.
  - The Contractor has had a claim, lien, fine, or penalty imposed or secured against the Contractor by a governmental agency.
  - The Contractor has initiated a bankruptcy proceeding or such a proceeding has been initiated against the Contractor

- 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.
- 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
- The contractor has not paid all due and owed local, state and federal taxes to the proper authorities
- 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, Department may require as a condition precedent to entering into the contract 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 contract, the Contractor agrees to comply with any such additional conditions that have been made a part of this contract.

By signing this contract, the contractor also agrees that during the term of the contract, 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 contract, the contractor agrees to comply with State Tax Law section 5-a
- p. Contractors must maintain Workers Compensation Insurance in accordance with the Workers Compensation Law. If a 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](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 Office'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 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 ON 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 County 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 a 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 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 other 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 a Employee Confidentiality Certification before any such employees and volunteers are permitted access to any financial and/or client identifiable information concerning such youth.
- c. Contractor and any subsequent sub-contractor shall not discriminate or refuse assistance to individuals with AIDS or an HIV infection or an HIV - related illness.

The Contractor and any subsequent sub-contractor 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 redisclosure in violations of State Law and Regulations.

The Contractor and any subsequent sub-contractor 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 Contractors, or it's 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 Contractor 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, 4<sup>th</sup> 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 and 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 contract period or deem this contract 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 their 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 the contract. 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 Contract 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, or 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 :

- 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 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 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, contractors may be placed on fiscal sanction when the Department identifies any of the following issues:

- 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;
- An Department or other audit identifies significant fiscal irregularities and/or that funds are due to the Department
- The Contractor has not provided satisfactory services as required under the terms of this or another Department agreement;
- The Contractor has not provided fiscal or program reports as required under the terms of this or another Department agreement;
- A County, State or Federal prosecutorial or investigative agency identifies possible criminal activity, or significant fiscal or programmatic irregularities on the part of the Contractor;



- The Contractor is not in compliance with State, 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 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 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 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 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 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 Contractor 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 Contractor, if a municipal corporation, represents that it is a self-insured entity. If a not-for-profit Corporation or entity other than a self-insured municipal Corporation, the Contractor agrees to obtain and maintain in effect a general policy of liability insurance in an amount not less than one million dollars (\$ 1,000,000). The Contractor agrees that it will require any and all Subcontractors with whom it

subcontracts pursuant to this contract to obtain and maintain a general policy of liability insurance in an amount not less than one million dollars (\$ 1,000,000). The Contractor further agrees to procure and maintain in force, for the duration of this Agreement, insurance in types and in the amounts as determined by the Department. Such coverage must be identified and entered upon a Standard Insurance Certificate or its acceptable substitute and be signed by the Contractor's Agency's insurance company, agent or broker.

The Contractor 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/death with regard to any property of persons. The liability and property damage coverage of such insurance shall not be less than One Million dollars (\$ 1,000,000). The Contractor agrees to have the Department and Oneida County added to said insurance policies as named additional insured, as their interest may appear, and to provide the Department and/or Oneida County with a certificate from said insurance company, or companies, showing coverage as herein before required, such certification to show the Department and the Oneida County as additional insured and to provide that such coverage shall not be terminated without written prior notice to the to the Department and/or Oneida County of at least thirty (30) days.

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 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 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 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 Contractor attest they have not been disbarred 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.

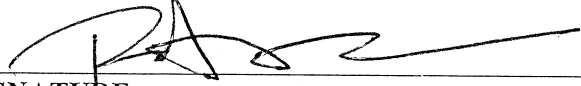
This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated by reference are to be attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement, shall be deemed to exist or to bind any of the parties hereto. No wavier, 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.

Cornell Cooperative Extension - Oneida County  
NAME OF CONTRACTED AGENCY

Ron Bunce Executive Director  
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

  
SIGNATURE

10/1/13  
DATE

Cornell Cooperative Extension Oneida County  
Nutrition Education

# 11006  
10/01/13-9/30/14

**Oneida County Department of Social Services  
Contractor and Contract Staff  
Confidentiality and Non-Disclosure Agreement**

I, the undersigned, an employee of \_\_\_\_\_, (the  
Name of Contract Agency

“Service Provider”), hereby state that I understand and agree that all information provided to the Service Provider from the Oneida County Department of Social Services staff by paper copies, computer systems or databases, electronic communication or otherwise obtained pursuant to the Agreement entered between the Oneida County Department of Social Services and the Service Provider indicated above, is CONFIDENTIAL, is to be used only for the purposes of performing services required by the Agreement, and must be safeguarded from unauthorized disclosure.

I further understand that such information includes, but is not limited to, any and all information regarding parents or guardians and their children, and all employment, financial, and personal identifying data, including Protected Health Information (PHI) as set forth in HIPAA regulations.

I agree to maintain all such information as CONFIDENTIAL, and I agree to use such information only in the performance of my official duties to perform the functions required by the Agreement, unless otherwise authorized in writing by the Department of Social Services.

I understand that confidential information maintained in and/or obtained from systems/databases such as, but not limited to the Welfare Management system (WMS), Child Support Management System (CSMS/ASSETS), Benefits Issuance Control System (BICS), COGNOS, and Connections are protected by Federal and State statutes and regulations. Access and disclosure of confidential information is strictly limited to authorized employees and legally designated agents, for authorized purposes only in the delivery of program services.

I understand that service providers may not access their own active, closed or archived records or those involving a relative, friend, acquaintance, neighbor, partner or co-worker or other individuals to whom they have no official assignment.

I understand that if my employment is terminated by resignation, retirement or for other reasons or the Service Provider Contract is not renewed, the terms of this Confidentiality and Non-Disclosure Agreement are still binding.

I understand that if I disclose CONFIDENTIAL information in violation of the requirements stated herein, any individual who incurs damages due to the disclosure may recover such damage in a civil action.

I understand that, in addition to any other penalties provided by law, any person who willfully releases or willfully permits the release of any CONFIDENTIAL information as described herein to persons or agencies not authorized under New York State law to receive it shall be guilty of a class A misdemeanor.

Print Name: \_\_\_\_\_

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

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

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

Witness: \_\_\_\_\_

Created 4-24-12

**ADDENDUM**

THIS ADDENDUM, entered into on this 1st day of October, 2013, between the County of Oneida, hereinafter known as COUNTY, and a contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as CONTRACTOR.

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

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

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

**1. Executor or Non-Appropriation Clause.**

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

**2. Oneida County Board of Legislators: Resolution #249 Solid Waste Disposal Requirements.**

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

**3. Certification Regarding Lobbying; Debarment, Suspension and other Responsibility Matters; and Drug-Free Workplace Requirements.**

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer

- or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal Grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.
2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
  3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
1. The Contractor certifies that it and its principals:
    - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
    - b. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contracts under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
    - c. Are not presently indicated or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1(b) of this certification; and
    - d. Have not within a three-year period preceding this Contract had one or more public transactions (Federal, State, or local) for cause or default; and
  2. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. The Contractor will or will continue to provide a drug-free workplace by:

- a. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- b. Establishing an on-going drug-free awareness program to inform employees about:
  1. The dangers of drug abuse in the workplace;
  2. The Contractor's policy of maintaining a drug-free workplace;
  3. Any available drug counseling, rehabilitation, and employee assistance program; and
  4. The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (a);
- d. Notifying the employee in the statement required by paragraph (a) that as a condition of employment under the Contract, the employee will:
  1. Abide by the terms of the statement; and
  2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- e. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
- f. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted;
  1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the Requirements of the Rehabilitation Act of 1973, as amended; or
  2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
- g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a),(b),(c),(d),(e),(f).

2. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.  
Place of Performance (street, address, city, county, state, zip code).

- 
- 
- d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F. for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
  2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

**4. Health Insurance Portability and Accountability Act (HIPAA).**

When applicable to the services provided pursuant to the Contract:

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



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

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

**5. Non-Assignment Clause.**

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

**6. Worker's Compensation Benefits.**

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

**7. Non-Discrimination Requirements.**

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

**8. Wage and Hours Provisions.**

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

**9. Non-Collusive Bidding Certification.**

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

**10. Records.**

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

to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

**11. Identifying Information and Privacy Notification.**

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

b. Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

**12. Conflicting Terms.**

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

**13. Governing Law.**

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

**14. Prohibition on Purchase of Tropical Hardwoods.**

The Contractor certifies and warrants that all wood products to be used under this Contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or

political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the Contractor to establish to meet with the approval of the County.

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

**15. Compliance with New York State Information Security Breach and Notification Act.**

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

**16. Gratuities and Kickbacks.**

a. **Gratuities.** It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

b. **Kickbacks.** It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

**17. Audit**

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The

revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to or permit the County to examine or obtain copies of any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

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

#### **18. Certification of compliance with the Iran Divestment Act.**

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

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

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

The County reserves the right to reject any bid or request for assignment for a Bidder/Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a

responsibility review with respect to any Bidder/Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

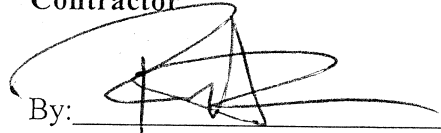
IN WITNESS WHEREOF, the parties hereto have signed this document on the day and year first above written.

**County of Oneida**

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

Oneida County Executive

**Contractor**

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

Approved as to Form only

\_\_\_\_\_

Oneida County Attorney



David L. Mathis  
Director, Workforce Development

Anthony J. Picente, Jr.  
Oneida County Executive

August 12, 2013

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

FN 20 13-337

HEALTH & HUMAN SERVICES

**WAYS & MEANS**

Dear County Executive *Anthony* Picente:

Attached for your approval are five (5) copies of a Grant Award Contract (RE12-1016-E01) from the New York State Division of Criminal Justice Services (DCJS) to once again fund the local Re-Entry Task Force.

This Grant Award Agreement will run from July 1, 2013 to June 30, 2014 and is for a total of \$114,240. It is completely funded by the New York State Division of Criminal Justice Services. The money for this program originates from a Re-Entry Task Force Enhancement Grant and its goal is to expand services to returning offenders and parolees. As in past years, this will continue to be accomplished through improved coordination and collaboration among local criminal justice, social services, educational, health and mental health systems.

The attached five (5) copies of the Division of Criminal Justice Services Project Award Documents represent the contractual mechanism by which the actual grant money is transferred.

**No Oneida County tax dollars will be used to cover the costs of administering the local Re-Entry Task Force through this Grant Award.**

**Approval of the Oneida County Board of Legislators is required for you to sign the Grant Award Documents.**

Upon approval of the Board of Legislators, please sign and date the attached copies of the Grant Award Documents where indicated, and return them to Anthony Ricci of my staff (ext. 5908). **Please note that your electronic signature will also be required in order to secure the grant funds.**

If you have any questions, please feel free to contact me.

Sincerely yours,

*David L. Mathis*

David L. Mathis, Director  
Oneida County Workforce Development

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

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

Date 9/23/13



**ONEIDA COUNTY BOARD OF LEGISLATORS**

**Name of Proposing Organization: Oneida County Workforce Development**

**Title of Activity or Service:** Local Re-Entry Task Force Initiative

**Proposed Dates of Operation:** July 1, 2013 to June 30, 2014

**Client Population/Number to Be Served:** 143 Moderate to High Risk and/or Special Population formerly-incarcerated individuals.

**Summary Statements**

**1) Narrative Description of Proposed Services**

The goal of New York State's Re-Entry strategy is to reduce recidivism and promote community safety. Additional goals are as follows: 1. To help individuals returning from prison to the community, to assess and address their criminogenic needs and provide linkages to services which will reduce their criminality and increase public safety; 2. To coordinate a system of resources and services necessary to address the criminogenic and stabilization needs of formerly incarcerated individuals; 3. To build support for re-entry as a public safety initiative through public education initiatives.

**2) Program/Service Objectives and Outcomes**

Intake, assess and hold the first case conference for 143 Moderate to High Risk and/or Special Population formerly-incarcerated individuals.

**3) Program Design and Staffing**

The program is currently staffed by one (1) Coordinator and one (1) part-time Community Liaison. Linkage is provided to local Re-Entry Task Force.

The Re-Entry Task Force receives referrals from the NYS Department of Corrections and Community Supervision (DOCCS), screens individuals for eligibility, determines each individual's service needs, reviews cases with DOCCS and Parole, and develops appropriate service plans and refers individuals to appropriate services.

**Total Funding Requested:** \$114,240

**Account #**

Revenue: J3764

Appropriation: J6342.495

**Oneida County Dept. Funding Recommendation:** Oneida County Workforce Development recommends acceptance of NYS Dept. of Criminal Justice Services grant to fund Local Re-Entry Task Force initiative.

**Proposed Funding Sources** (Federal \$/ State \$/ County \$: NYS Dept. of Criminal Justice Services Grant totaling \$114,240.

**Cost per Client Serviced:** \$798.88, based on proposed intake of 143 individuals

**Past Performance Data:**

For the period July 1, 2012 to June 30, 2013:

- Objective: The Oneida County Re-Entry Program proposed to serve a minimum of 120 formerly-incarcerated individuals, at least 96 of which must be “Moderate to High Risk and/or Special Population Individuals.”  
Result: 134 individuals served
- Objective: The Oneida County Re-Entry Program proposed to serve individuals in obtaining housing that is conducive to maintaining a law abiding lifestyle (i.e., parole stabilization housing, residential treatment and halfway house).  
Result: 72 individuals referred to or provided housing services; 64 individuals obtained housing.
- Objective: The Oneida County Re-Entry Program proposed to serve individuals in obtaining employment or employment programs/services (i.e., One Stop Center, Department of Labor, ACCES, transitional employment, temp agency).  
Result: 109 individuals referred to or provided employment programs and/or services; 40 individuals obtained full-time employment; 47 individuals obtained part-time employment.
- Objective: The Oneida County Re-Entry Program proposed to serve individuals in pursuing education and vocational services (i.e., GED training program, educational program, or vocational training program).  
Result: 50 individuals attended a GED, educational, or vocational program
- Objective: Social Services Assistance: The Oneida County Re-Entry Program proposed to serve individuals in obtaining social services (i.e., SSI, SSD, Food Stamps, Medicaid, TANF).  
Result: 145 individuals were referred for social service benefits; 134 individuals obtained social service benefits.

- Objective: Treatment: The Oneida County Re-Entry Program proposed to serve individuals in obtaining treatment (i.e., Substance Abuse treatment, Mental Health treatment, and Sex Offender treatment).  
Result: 121 individuals were referred to or provided with treatment; 108 individuals received treatment.
- Objective: Domestic Violence/Offender Accountability: The Oneida County Re-Entry Program proposed to serve individuals in receiving Domestic Violence/Offender Accountability program treatment.  
Result: 19 individuals were referred for domestic violence treatment; 14 individuals were enrolled in treatment.
- Objective: Cognitive Behavioral Intervention (CBI) Programs: The Oneida County Re-Entry Program proposed to serve individuals in obtaining cognitive behavioral intervention programs.  
Result: 42 individuals referred for treatment; 31 individuals enrolled in treatment.
- Objective: Mentoring Services: The Oneida County Re-Entry Program proposed to serve individuals in obtaining mentoring services.  
Result: 8 individuals referred to mentoring services; 8 individuals enrolled in mentoring services.

Additional results during the July 1, 2012 to June 30, 2013 period:

- 8 Low-Risk individuals were referred to services
- 8 Walk-ins were referred to services
- 10 Low-Risk individuals were referred to housing services
- 15 Low-Risk individuals were referred to employment or vocational services
- 14 Low-Risk individuals were referred to social services
- 12 Low-Risk individuals were referred to treatment services
- 3 Low-Risk individuals were referred to domestic violence/offender accountability programs.
- 7 Low-Risk individuals were referred to cognitive behavioral intervention programs
- 3 Low-Risk individuals were referred to mentoring services

#### **O.C. Department Staff Comments**

This program was funded at \$114,240 during the period July 1, 2012 to June 30, 2013.

This program was funded at \$161,300 during the period July 1, 2011 to June 30, 2012.

This program was funded at \$175,100 during the period July 1, 2010 to June 30, 2011.

This program was funded at \$224,332 during the period July 1, 2009 to June 30, 2010.

<u>STATE AGENCY</u> Division of Criminal Justice Services 80 South Swan Street Albany, NY 12210	<u>NYS COMPTROLLER'S NUMBER:</u> C490044 (Contract Number)  <u>ORIGINATING AGENCY CODE:</u> 01490 - Division of Criminal Justice Services
<u>GRANTEE/CONTRACTOR:</u> (Name & Address) Oneida County 800 Park Avenue Utica, NY 13501	<u>TYPE OF PROGRAMS:</u> Reentry Task Forces and Enhanced Services <u>DCJS NUMBERS:</u> RE10490044 REB3490044 <u>CFDA NUMBERS:</u>
<u>FEDERAL TAX IDENTIFICATION NO:</u> 156000460 <u>MUNICIPALITY NO:</u> (if applicable) 300100000000	<u>INITIAL CONTRACT PERIOD:</u> FROM 07/01/2013 TO 06/30/2014 <u>FUNDING AMOUNT FROM INITIAL PERIOD:</u> \$228,480.00
<u>STATUS:</u> Contractor is not a sectarian entry. Contractor is not a not-for-profit organization.	<u>MULTI-YEAR TERM:</u> (if applicable): 1 1-year renewal options.
<u>CHARITIES REGISTRATION NUMBER:</u> <div style="border: 1px solid black; width: 150px; height: 20px; margin: 5px 0;"></div> (Enter number or Exempt) if "Exempt" is entered above, reason for exemption. <u>N/A</u>  <div style="border: 1px solid black; padding: 5px; width: fit-content;">           Contractor has _____ has not _____ timely filed with the Attorney General's Charities Bureau all required periodic or annual written reports.         </div>	<u>APPENDIX ATTACHED AND PART OF THIS AGREEMENT</u> <input checked="" type="checkbox"/> APPENDIX A Standard Clauses required by the Attorney General for all State contracts <input checked="" type="checkbox"/> APPENDIX A1 Agency-specific Clauses <input checked="" type="checkbox"/> APPENDIX B Budget <input checked="" type="checkbox"/> APPENDIX C Payment and Reporting Schedule <input checked="" type="checkbox"/> APPENDIX D Program Workplan <input type="checkbox"/> APPENDIX F Guidelines for the Control and Use of Confidential Funds <input type="checkbox"/> APPENDIX G Procedural Guidelines for the Control of Surveillance Equipment <input checked="" type="checkbox"/> Other (Identify)  See Appendix B1 - Program Performance Milestones and Costs
IN WITNESS THERE OF, the parties hereto have electronically executed or approved this AGREEMENT on the dates of their signatures.	
NYS Division of Criminal Justice Services BY: _____ Date: _____ Office of Program Development and Funding <u>State Agency Certification:</u> "In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract". <u>GRANTEE:</u> BY: Hon. Anthony J. Picente jr., County Executive Date: _____	
<u>ATTORNEY GENERAL'S SIGNATURE</u> _____ Title: _____ Date: _____	<u>APPROVED,</u> Thomas P. DiNapoli, State Comptroller _____ Title: _____ Date: _____

**Award Contract**

**Reentry Task Forces and Enhanced Services**

**Project No.**

**Grantee Name**

RE12-1016-E01

Oneida County

08/09/2013

APPENDIX A

STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, 'the contract' or 'this contract') agree to be bound by the following clauses which are hereby made a part of the contract (the word 'Contractor' herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.
2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.
3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6.a).
4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible

termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

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

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

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

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, 'the Records'). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the 'Statute') provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

(a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the

following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

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

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

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

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

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

13. **CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.
14. **GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.
15. **LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.
16. **NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.
17. **SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ('CPLR'), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.
18. **PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.
- In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.
19. **MACBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.
20. **OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
30 South Pearl St – 7th Floor  
Albany, New York 12245  
Telephone: 518-292-5220  
Fax: 518-292-5884  
<http://www.empire.state.ny.us>



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  
30 South Pearl St – 2nd Floor  
Albany, New York 12245  
Telephone: 518-292-5250  
Fax: 518-292-5803 <http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

- (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
- (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and
- (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. **RECIPROCITY AND SANCTIONS PROVISIONS.** Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. **COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

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

24. **PROCUREMENT LOBBYING.** To the extent this agreement is a 'procurement contract' as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. **CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.** To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law

5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

December 2011

Certified by - on

**Award Contract**

**Reentry Task Forces and Enhanced Services**

**Project No.**

**Grantee Name**

RE12-1016-E01

Oneida County

08/09/2013

**APPENDIX B - Budget Summary by Participant**

Oneida County - Version 1

#	All Other Expenses	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	RE13-Oneida County Offender Reentry - 7/1/13-6/30/14 - Based on maximum state reimbursement amount in Appendix B1	1	\$114,240.00	\$114,240.00	\$114,240.00	\$0.00
Justification: See attached Appendix B-1, Program Performance Milestones and Costs.						
Total				\$114,240.00	\$114,240.00	\$0.00

Total Project Costs	Total Cost	Grant Funds	Matching Funds
	\$114,240.00	\$114,240.00	\$0.00

Total Contract Costs	Total Cost	Grant Funds	Matching Funds
	\$114,240.00	\$114,240.00	\$0.00

**Appendix B - Project Budget**

	<u>NUMBER OF UNITS</u>	<u>UNIT COST</u>	<u>GRANT AMOUNT</u>	<u>MATCH AMOUNT</u>
<b>RE12-1016-E01</b>				
<b>Oneida County</b>				
Budget #:				
<b>Personnel</b>				
	1		\$62,500	
Description:				\$0
<b>Salaries for Project Coordinator &amp; Project Assistant</b>		\$62,500.00		
Assisting returning offenders is labor-intensive, requiring the services of two staff to address housing, behavioral, employment and other needs. The project coordinator will receive a salary of \$53,500. The part-time support staff will be paid \$9,000.				
Category Subtotal:			62,500.00	
<b>Fringe Benefits</b>				
	1		\$13,375	
Description:				\$0
<b>Fringe benefits for staff</b>		\$13,375.00		
Standard fringe benefits apply, with the exception of the Coordinator, who does not take health insurance.				
Category Subtotal:			13,375.00	
<b>Supplies</b>				
	1		\$3,200	
Description:				\$0
<b>Project supplies</b>		\$3,200.00		
Operating the task force requires costs for consumable supplies such as paper as well as office expenses such as copying. Cost items are: \$400 for office supplies (paper, pens, folders, etc.); \$1,200 for telephone land lines (2); \$500 for postage and \$1,100 for the cost of ID materials for parolees.				
Category Subtotal:			3,200.00	
<b>Rental of Facilities</b>				
	1		\$5,400	
Description:				\$0
<b>Office Rent</b>		\$5,400.00		
The CRTF rents space adjacent to the city's downtown bus hub. Rent is \$450 per month over 12 months.				
Category Subtotal:			5,400.00	
<b>Travel and Subsistence</b>				
			\$3,800	

Description:	1		\$0
<b>Travel for staff</b>		\$3,800.00	

The budget requires the costs to support staff attendance at any mandatory training sessions, and to support local travel.

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Category Subtotal:		3,800.00	
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**All Other Expenses**

Description:	1		\$25,965	\$0
<b>Expenses for Parolees</b>		\$25,965.00		

There are costs for services to parolees as follows:  
 \$15,000 in CBT services for parolees through the Center for Family Life and Recovery.  
 \$1,000 in interview clothes and hygiene products for parolees.  
 \$6,715 in housing services, including temporary housing for homeless offenders.  
 \$2,000 to the Workforce Investment Board, which pays out all expenses based upon vouchers from the CRTF.  
 \$1,250 for bus passes to allow parolees to attend mandated counseling and other sessions when parolees have no other means of transportation available.

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Category Subtotal:		25,965.00	
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<b>Budget Version Subtotal:</b>		<b>114,240.00</b>	
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<b><u>Total Budget for Project # RE12-1016-E01</u></b>		<b><u>\$114,240</u></b>	<b><u>\$0</u></b>
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<b>PROJECT TOTAL:</b>	<b>\$114,240</b>
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APPENDIX B-1

PROGRAM PERFORMANCE MILESTONES AND COSTS

CONTRACTOR: Oneida County

CONTRACT NUMBER: C490044

PROGRAM: Oneida CRTF

BUDGET TERM: 7/1/13 - 6/30/14

BUDGET CATEGORIES	OPERATING BUDGET	PERFORMANCE MILESTONE	ANNUAL MILESTONE TARGET	STATE REIMBURSEMENT RATE	TOTAL STATE REIMBURSEMENT
Personal Services	\$ 62,500	Intakes/Assessments	143	399.44	57,119.92
Fringe Benefits	13,375	45 Day Retention	107	266.92	28,560.44
Consultant Services		90 Day Retention	72	396.67	28,560.24
Equipment					
Supplies	3,200				
Travel and Subsistence	3,800				
Rental of Facilities	5,400				
Alterations and Renovations					
All Other Expenses	25,965				
<b>Total Operating Budget</b>	<b>\$ 114,240</b>	<b>Total</b>			<b>\$114,240</b>
<b>Maximum State Reimbursement</b>	<b>114,240</b>				
<b>Reimbursement Rate</b>	<b>100%</b>				

**APPENDIX D - Work Plan**

**Goal**

The goals for NYS County Re-entry Task Forces are as follows: 1. To help individuals returning from prison to the community, to assess and address their criminogenic needs and provide linkages to services which will reduce their criminality and increase public safety; 2. To coordinate a system of resources and services necessary to address the criminogenic and stabilization needs of formerly incarcerated individuals; 3. To build support for re-entry as a public safety initiative through public education initiatives. Workplan term: 7/1/13- 6/30/14.

**Objective #1**

Intake, assess and hold the first case conference for 143 Track I individuals.

**Task #1 for Objective #1**

Tasks for Objective I are as follows: Required participants will be moderate to high risk and/or special population individuals (referred to as Track I). Each CRTF will receive Track I referrals from DOCCS, screen individuals for eligibility, determine each individual's service needs, conference cases with DOCCS (Parole), develop service plan and refer individuals to appropriate services.

**# Performance Measure**

1 The number of individuals who are actively involved and receiving services based on assessed needs at the 45 day point.

**Objective #2**

45-day retention (75% of total intakes) - 107 individuals reach 45 day retention point.

**Task #1 for Objective #2**

Record the number of individuals who are actively involved and receiving one or more of the following services based on assessed needs. (The number to be reported is the number reaching the 45 day point. Specific need areas addressed will be reported separately in a monthly report to DCJS.)

Housing: The CRTF shall assist individuals in obtaining housing that is conducive to maintaining a law abiding lifestyle (i.e., parole stabilization housing, residential treatment and halfway house).

Employment: The CRTF shall assist individuals in obtaining employment or employment programs/services (i.e., One Stop Center, Department of Labor, ACCES, transitional employment, temp agency).

Education: The CRTF shall assist individuals in pursuing education and vocational services (i.e., GED training program, educational program or vocational training program).

Social Services Assistance: The CRTF shall assist individuals in obtaining social services (i.e., SSI, SSD, food stamps, Medicaid and TANF).

Treatment: The CRTF shall assist individuals in obtaining treatment (i.e., chemical dependency treatment, mental health treatment and sex offender treatment).

Offender Accountability: The CRTF shall assist individuals in receiving offender accountability programming.

Cognitive Behavioral Intervention (CBI) Programs: The CRTF shall assist individuals in obtaining cognitive behavioral intervention programs (i.e., Thinking for a Change, Aggression Replacement Therapy, Moral Reconciliation Therapy, etc.)

Mentoring Services: The CRTF shall assist individuals in obtaining mentoring services

**# Performance Measure**

1 The number of individuals who are actively involved and receiving services at the 45 day point based on assessed needs.

**Objective #3**

90-day retention (50% of intakes) - 72 individuals have reached the 90-day retention point in the program and have received services.

**Task #1 for Objective #3**

Record the number of individuals who are actively involved and receiving one or more of the following services based on assessed needs. (The number to be reported is the number reaching 90-day retention point. Specific need areas addressed will be reported separately in monthly report to DCJS.)

Housing: The CRTF shall assist individuals in obtaining housing that is conducive to maintaining a law abiding lifestyle (i.e., parole stabilization housing, residential treatment and halfway house).

Employment: The CRTF shall assist individuals in obtaining employment or employment programs/services (i.e., One Stop Center, Department of Labor, ACCES, transitional employment, temp agency).

Education: The CRTF shall assist individuals in pursuing education and vocational services (i.e., GED training program, educational program or vocational training program).

Social Services Assistance: The CRTF shall assist individuals in obtaining social services (i.e., SSI, SSD, food stamps, Medicaid and TANF).

Treatment: The CRTF shall assist individuals in obtaining treatment (i.e., chemical dependency treatment, mental health treatment and sex offender treatment).

Offender Accountability: The CRTF shall assist individuals in receiving offender accountability programming.

Cognitive Behavioral Intervention (CBI) Programs: The CRTF shall assist individuals in obtaining cognitive behavioral intervention programs (i.e., Thinking for a Change, Aggression Replacement Therapy, Moral Reconciliation Therapy, etc.)

Mentoring Services: The CRTF shall assist individuals in obtaining mentoring services.

**# Performance Measure**

1 The number of individuals who are actively involved and receiving services at the 90-day retention point based on assessed needs.



**Award Contract****Reentry Task Forces and Enhanced Services****Project No.****Grantee Name**

RE12-1016-E01

Oneida County

08/09/2013

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**Award Conditions**

Upon approval of this grant by the Office of the State Comptroller, or DCJS for "T" contract only, the Grantee is authorized to initially voucher for advance payment of those prospective expenses previously approved by DCJS not to exceed \$0.00 from the total contracted amount. Consistent with paragraph 15 of Appendix A-1 of this grant contract, vouchers for advance payments for the purchase of equipment and supplies must be supported by a copy of the purchase order.

**APPENDIX D - Special Conditions**

For performance based contracts, Appendix B 1, Program Performance Milestones and Costs, is included herein via the GMS Attachment Module, and is incorporated into the AGREEMENT.

**A. PROGRAM SERVICES**

1. The CONTRACTOR agrees to promptly notify the STATE of any critical incidents involving the respective PROGRAM, its clients/participants or staff, as well as negative media reports, as required by the STATE.
2. The CONTRACTOR shall provide, on STATE supplied case monitoring forms, client/participant specific data as called for and delineated within those forms. Identification of client/participant names and disclosure of other PROGRAM records to the STATE shall be pertinent to performance under this AGREEMENT.
3. The CONTRACTOR agrees that if the project is not operational within 60 days of the original starting date of the grant period, it will report by letter 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 Grantee will submit a second statement 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.
4. Strategy Special Conditions: The CONTRACTOR agrees that if funding is being provided for the implementation of any DCJS crime reduction strategies including, but not limited to Operation IMPACT or Reentry, that the implementing agency will develop a formal interactive relationship with those other strategy initiatives in the county.
5. 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 sub-contractors for compliance with evidence-based practice as defined by the Transition from Prison to the Community model and New York State's adaptation of that model (NYTPC).
6. In addition to services designed to meet the basic survival needs of returning persons, the CONTRACTOR must ensure that the county's network of services includes those that address criminogenic needs, have been evaluated for effectiveness in achieving their desired outcomes, and comport with evidence-based interventions for people who have offended. Examples include, but are not limited to, Thinking for a Change and Offender Workforce Development Specialist Programming that can be evaluated as part of the contract with the Contractor/grantee.

**B. TERMINATION**

1. The STATE shall have the right to terminate this AGREEMENT early for: (i) unavailability of funds; (ii) cause; (iii) without cause; or (iv) upon mutual consent.
2. The STATE may terminate this AGREEMENT if federal/state appropriation authorizations lapse and are not renewed,

continued or reenacted or if funds are no longer made available pursuant to the laws controlling such authorizations and availabilities. However, if such authorizations or availabilities lapse and are not renewed, continued or reenacted, as to funds encumbered or available and to the extent of such encumbrances or availabilities, this AGREEMENT shall remain in effect for the duration of such encumbrances or availabilities unless this AGREEMENT is otherwise terminated by the STATE. Although the liquidity of encumbrances or availability of funds may be affected by budgetary hiatuses, a STATE budgetary hiatus will not by itself be construed to lapse this AGREEMENT, provided any necessary STATE appropriations or other funding authorizations therefore are eventually enacted.

3. The STATE may terminate the AGREEMENT immediately for cause upon written notice of termination to the CONTRACTOR: (i) if the STATE determines that the CONTRACTOR and/or any other identified SERVICE PROVIDER(S) fails to comply with the terms and conditions of this agreement and/or with any laws, rules, regulations, policies or procedures affecting this AGREEMENT, including but not limited for reason of vendor responsibility or failure to accurately disclose or (ii) upon a disapproved Service Plan.

4. The STATE reserves the right to terminate this AGREEMENT in the event it is found that the certification filed by the CONTRACTOR in accordance with New York State Finance Law §139 k was intentionally false or intentionally incomplete. Upon such finding, the STATE may exercise its termination right by providing written notification to the CONTRACTOR in accordance with the written notification terms of this AGREEMENT.

5. The STATE may only invoke its right to terminate without cause provided the STATE has given 90 days or more written notice to the CONTRACTOR, except with respect to contractual language contained herein that gives the STATE the general right to terminate at any time.

6. This AGREEMENT may be terminated at any time upon mutual written consent of the STATE and the CONTRACTOR or by the DIVISION serving thirty (30) calendar days written notice upon the other party, as specified by the STATE.

#### C. SAFEGUARDS FOR SERVICES AND CONFIDENTIALITY

1. The CONTRACTOR agrees that all records on this PROGRAM shall be safeguarded and not be open to indiscriminate public review. Towards this end, the CONTRACTOR shall establish written policies and procedures as to maintenance, security, retention and disposition of such records. The CONTRACTOR shall agree to maintain complete confidentiality of all information concerning applicants, employees, PROGRAM clients/participants, and their families which it may obtain during the course of performing the services of this AGREEMENT unless required in the performance of this AGREEMENT or otherwise authorized by law. Except as authorized by law and for audit purposes as noted above and for provision of PROGRAM services, the CONTRACTOR will not release any of said information, including names and addresses, without prior written permission from the STATE. Records retention and disposition shall be in accordance with this AGREEMENT and any applicable Federal or State laws, rules or regulations. The STATE shall have access to all CONTRACTOR records relating to the PROGRAM. Information relating to individuals who may receive services pursuant to this CONTRACTOR shall be maintained and safeguarded in conformity with the applicable provisions of laws, regulations and policies and directives of the STATE.

2. The CONTRACTOR specifically agrees to comply with New York State's "Information Security Breach and Notification Act" as set forth in State Technology Law Section 208 and General Business Law Section 899 aa. The CONTRACTOR shall promptly notify the STATE where there is reasonable belief of breach of security, unauthorized access or unauthorized release of personal computer data containing personal information and take appropriate action with respect to notification of affected individuals and to other required state agencies consistent with such Act. CONTRACTOR shall be liable for the costs associated with such breach if caused by CONTRACTOR'S negligent or willful acts or omissions, or the negligent or willful acts or omissions of CONTRACTOR'S agents, officers, employees or subcontractors.

#### D. FUNDING

1. For performance based CONTRACTS, the CONTRACTOR shall promptly provide written notice to the STATE, via a

separate letter, of special circumstances experienced by the PROGRAM in achieving its milestones and outcomes. Notwithstanding any fiscal provisions relative to reimbursement for milestones and outcomes, the CONTRACTOR may request written approval of the STATE to adjust a milestone and/or outcome to compensate for over achievement of PROGRAM participants. The reimbursement will be at the agreed upon participant cost for the milestone and/or outcome and in no event exceed the total maximum costs delineated in Appendix B or B1, where applicable.

2. Reimbursement to the CONTRACTOR will be made after the CONTRACTOR submits vouchers and supporting documents as established by the STATE, and the CONTRACTOR is otherwise adhering to the AGREEMENT, including submission of any necessary reporting documentation in a timely manner. Programmatic data shall be completed and submitted in accordance with timeframes and procedures established by the STATE. Failure to timely report may result in termination of contractual services. The CONTRACTOR agrees to provide detailed fiscal and other programmatic information in keeping with STATE instructions. In addition to the four (4) required quarterly progress reports that are referenced in Appendix A-1, the CONTRACTOR may be required to submit additional program data or information in accordance with timeframes and procedures established by DCJS.

Counties opting to subcontract with a not-for-profit agency for the services of a County Reentry Coordinator and/or Enhanced Services must follow the jurisdiction's procurement process for such services and maintain the records for obtaining these services on file.

Funds will be reimbursed to the CONTRACTOR within 30 days of receipt of the claim if the claim and supporting documentation are in order and the CONTRACTOR is otherwise adhering to the terms and conditions of the AGREEMENT.

3. A not for profit organization operating on a multi year contract may, at the sole discretion of the STATE, be issued a fifth quarter advance against the succeeding year's appropriation, pursuant to State Finance Law, Section 179 u.

4. Vouchers and supporting documentation should be sent to:

NYS Division of Criminal Justice Services

Office of Finance

4 Tower Place

Albany, NY 12203

5. Reconciliation shall be based upon services provided by the CONTRACTOR and payments made by the STATE consistent with the terms of this AGREEMENT and may occur at any time during the AGREEMENT and shall occur upon termination of the AGREEMENT. The CONTRACTOR shall refund any overpayments made pursuant to this AGREEMENT within ninety (90) calendar days of written notification by the STATE unless written approval is obtained by the STATE.

6. The CONTRACTOR agrees that these grant funds will be used to supplement and not supplant existing funds and services. This contract may be extended, increased, decreased, terminated, renewed, amended or renegotiated at the discretion of the Commissioner of the Division of Criminal Justice Services.

The following condition will apply to contracts between two New York State governmental entities: This is an agreement between two New York State governmental entities, and as such the provisions contained herein with respect to grants are applicable only to the extent that the provisions would otherwise be applicable between New York State governmental entities.

Program progress reports and vouchers with fiscal documentation will be due on the last day of the month following the end of each calendar quarter. The first program progress report will be due on the last day of the month following the last day of the calendar quarter from the start date of the contract.

**Award Contract**

**Reentry Task Forces and Enhanced Services**

**Project No.**

**Grantee Name**

RE12-1016-E01

Oneida County

08/09/2013

---

Amendment created on - 03/11/2013

Prior Contract Terms

Contract Start Date - 07/01/2012

Contract End Date - 06/30/2013

Contract Amount - \$114,240.00

**APPENDIX X**

**AMENDMENT OF GRANT CONTRACT TERMS**

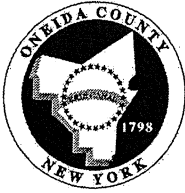
Agency Code: 01490

This is an Appendix (Appendix X) to the AGREEMENT between THE STATE OF NEW YORK, acting by and through the New York State Division of Criminal Justice Services (DCJS), and represents an amendment to the grant contract executed between DCJS and the Grantee Agency indicated in the GMS Participant Module (the Parties).

It is understood that the terms and conditions of the original grant contract have been modified by mutual agreement between DCJS and the Grantee Agency. Those terms and conditions which have been modified herein supersede prior executed versions of this contract. All other provisions of the contract shall remain in full force and effect for the duration of the contract, unless further amended by mutual agreement of the Parties, and by the electronic certification of a subsequent Appendix X by both DCJS and the Grantee Agency.

All Certified Assurances for federal programs, and DCJS Contract Appendices are also available online for download at <http://criminaljustice.state.ny.us/ofpa/forms.htm>.

Certified by - on



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

Linda M. Nelson, *Commissioner*



Phone: (315) 768-3660  
Fax: (315) 768-3670  
E-mail: [mentalhealth@ocgov.net](mailto:mentalhealth@ocgov.net)  
Web site: [www.ocgov.net](http://www.ocgov.net)

September 03, 2013

FN 20 13-338

HEALTH & HUMAN SERVICES



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

**WAYS & MEANS**

Dear Mr. Picente:

I am forwarding seven (7) copies of the Purchase of Services Agreement between the Oneida County Department of Mental Health and Insight House Chemical Dependency Services, Inc., for your review and signature. Due to requirements by the State of New York, the attached contract needs to be approved by the Board of Legislators no later than November 27, 2013.

The gross amount of this Agreement is **\$1,512,612.00** per year. The amount reflects **\$1,476,612.00** in OASAS State Aid Funding and **\$36,000.00** in County Funds.

Thank you very much for your time and consideration of this request. I would be pleased to respond to any questions or concerns you might have with regard to this Agreement.

Respectfully,

Linda M. Nelson  
Commissioner

LMN/mb  
Encs.

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

Anthony J. Picente, Jr.  
County Executive

Date 9/13/13

Oneida County Department: Mental Health

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

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**CONTRACT SUMMARY**

**Name of Proposing Individual/Organization:** Insight House Chemical Dependency Services, Inc.

**Title of Proposed Service/Program:** Outpatient Substance Abuse Clinic Treatment  
Intensive Residential Treatment  
Substance Abuse School-Based Prevention

**Proposed Dates of Operation:** January 1, 2014 through December 31, 2016

**Client Population/Number to be Served:** Individuals with an alcohol and/or substance abuse or dependency problem, and their families

**Summary Statements:**

- I. Narrative Description of Service/Program:**
- A. Outpatient Substance Abuse Treatment Clinic (3520) (\$454,423); (County) (\$36,000)**  
Individualized, evidenced-based services are provided in a clinic-like setting and address a cohort ranging from adolescents to seniors. Services include: evaluation/assessment services; referral; individual, family and group counseling; and discharge aftercare planning.
- B. Chemical Dependence Intensive Residential Treatment (3560) (\$904,025)**  
The Residential Program is a certified 48-bed service that provides a highly-intensive level of care suitable for men and women who are experiencing dysfunction in multiple life areas and who require a structured living arrangement during treatment. The average length of stay is six months. A minimum of 40 hours per week of clinical services is provided within this controlled therapeutic environment. Additional skill training is provided in the following areas: vocational and educational, life, parenting, community living, personal hygiene/care, socialization and leisure activities.
- D. Substance Abuse School-Based Prevention Services (5520) (\$105,407); (5550) (\$12,757)**  
Insight House is currently in 9 Districts. The Prevention Outreach Team meets weekly to discuss school-wide issues with individual students, and to plan community prevention education. Community and environmental strategies are focused on changing the culture in our community through public service announcements and a monthly newsletter. Prevention counselors provide faculty with updates as to the current trends and signs/symptoms of local drug/alcohol use/abuse. Insight House provides parent forums, which focus on different topics that increase awareness in the home. Prevention counselors are available to provide student assembly or classroom presentations on different topics.
- II. Service/Program Objectives and Outcomes: (N/A)**
- III. Service/Program Design and Staffing:**

All services and programs are certified by the NYS Office of Alcoholism and Substance Abuse Services (OASAS) and thus are directed to meet minimum staffing requirements.

**Total Funding Requested:**

**Account #:** A4310.49515

Gross Budget		\$1,512,612.00
State Funds	OMH	0
	OPWDD	0
	OASAS	\$1,476,612.00
County Funds		\$ 36,000.00

**Oneida County Department Funding Recommendation(s):**

It is recommended that the full amount of \$1,512,612.00 be approved for 2014.

**Service Units:** (N/A)

**Proposed Funding Sources (Federal \$/State \$/County \$):** State-\$1,476,612.00; County-\$36,000.00

## AGREEMENT

**THIS AGREEMENT** between Oneida County, by and through its Department of Mental Health, with offices at 120 Airline Street, Suite 200, Oriskany, New York 13424, hereinafter referred to as the "**County**" and **CORPORATE NAME**, having its principal office located at Insight House Chemical Dependency Services, Inc., Utica, New York 13502, hereinafter referred to as the "**Provider Agency**".

### WITNESSETH:

**WHEREAS**, the **County** through its Department of Mental Health desires to establish a comprehensive and integrated system of community mental health services as required by Article 41 of the Mental Hygiene Law of the State of New York; and

**WHEREAS**, Article 41 of New York State (hereinafter referred to as the "**State**") Mental Hygiene Law mandates and authorizes the **County** through its Department of Mental Health to enter into a series of Agreements, which establish a comprehensive and integrated system of community mental health services that will address the needs of the citizens and residents of Oneida County; and

**WHEREAS**, the **Provider Agency** hereby warrants that they have the proper and necessary staff and infrastructure to act as a provider and resource to and for the Oneida County Department of Mental Health; and

**NOW THEREFORE**, in consideration of the covenants hereinafter expressed, the parties agree as follows:

1. The term of this Agreement shall be from January 1, 2014 through December 31, 2016 or until terminated according to the stipulations contained within this contract.

2. The **Provider Agency** shall:

(A) Provide Outpatient Substance Abuse Clinic Treatment consistent with the NYS OASAS regulations to individuals and family members striving to achieve and maintain a sober lifestyle. The clinic will provide evaluation/assessment services, individual, family and group counseling, referral and discharge planning;

(B) Provide a 44 bed voluntary drug free Intensive Residential Substance Abuse program consistent with the NYS OASAS regulations. This component provides a highly-intensive level of care for men and women who are experiencing dysfunction in multiple life areas and who require a structured living arrangement during treatment. A minimum of 40 hours per week of clinical services is provided along with vocational, educational, parenting, community living, personal hygiene/care, and socialization and leisure activities;

(C) Provide School Based Substance Abuse Prevention Counseling Services to a variety of school districts, consistent with the NYS OASAS Prevention Guidelines. Based on the unique school district need, this may require model and/or non-model programs such as: individual or group counseling, student assemblies, classroom presentations, parent forums, public service announcements and educational awareness on a variety of topics.

3. The **Provider Agency** agrees, where applicable, to provide any and all **Services**, authorized by this agreement or other license or certification, to individuals involved in the NYS OMH



Assisted Outpatient Treatment (AOT) Program. This includes individuals under a court order and individuals that meet the criteria for an AOT order but have been diverted from the formal court proceedings. The **Provider Agency** further agrees to provide any and all required client-specific information as required by the State of New York and/or the Oneida County Department of Mental Health for monitoring purposes. It is expressly understood that all information sent to the Oneida County Department of Mental Health will be handled in a safe and confidential manner.

4. The **Provider Agency** agrees to participate in the development and implementation of the Local Governmental Plan. Participation may include but not necessarily be limited to: attendance at appropriate subcommittee meetings; notification to a subcommittee of intent to submit a Certificate of Need (CON) application and/or grant application which will modify **Services** offered by the **Provider Agency**; submission of planning reports and CON applications and/or Prior Approval and Review applications to the **County** prior to submission to the **State**; attendance and cooperation with various ad hoc work groups of the subcommittee.

5. The **Provider Agency** shall not be entitled to any of the benefits of an employee of the County of Oneida, such as New York State Employee's Retirement Benefits, Unemployment Insurance, Worker's Compensation, Employee's Medical, Hospital, Dental, Prescription, Optical coverage; and any other benefits that an employee of the County of Oneida normally is eligible to receive.

6. The **Provider Agency** is an independent contractor under this Agreement to perform a specialized service for the Oneida County Department of Mental Health. The **Provider Agency** further agrees to hold the County of Oneida harmless for all of their actions and warrants.

7. For the Services provided, the Oneida County Department of Mental Health will reimburse The **Provider Agency** a maximum of **\$1,512,612.00 (one million five hundred twelve thousand six hundred twelve dollars)** per year. This shall include but not be limited to travel time, evaluation time and any court time as deemed necessary by the court. The payment schedule will be based upon submission of an Oneida County Voucher to the Department of Mental Health. Annexed hereto and made part here of as **Appendix A**.

8. In the event that the **State** or **County** approves or makes changes to the funding amount that is listed in **Appendix A**, the **Provider Agency**, at the request of the **County** shall submit a revised budget plan which reflects the approved Operating Costs, Net Operating Costs and funding by the various Deficit Funding Sources. It is expressly understood that the **County** assumes no responsibility for either costs not approved for reimbursements by either the **County** or the **State**; or changes to the budget anytime during the contract period. Should any expenses be disapproved in a post-audit by the State of New York or funds are not spent in the approved programs during the fiscal year, the **Provider Agency** shall submit a check payable to the **County Commissioner of Finance** equal to the amount of any disallowance already paid to the **Provider Agency** by the **County** within thirty (30) days of notification. This provision shall apply to this agreement and all previous agreements between the **County** and the **Provider Agency**.

9. The **County** will make State Aid Payments either monthly or quarterly based on payments made to the **County** by New York State and the timely submission of correct monthly payment vouchers. Payments will be provided subsequent to services rendered and upon review of the voucher receipt submitted by the **Provider Agency**.

10. The **Provider Agency** agrees to submit to the **County** on the last business day of the following month at the end of each quarter (i.e. Jan-Mar report due April 30<sup>th</sup>) a Quarterly Financial Analysis, Performance Analysis, and Service Utilization Report. In addition, the **Provider Agency** agrees to submit the following reports by the listed required dates as applicable to funding received:

- a) **Office of Persons with Developmental Disabilities (OPWDD) Budgets** for the current year is required to be received by the **County** by February 1<sup>st</sup>.
- b) **Office of Alcoholism and Substance Abuse Services (OASAS) Estimated Claims** for the prior year are required to be received by the **County** by April 15<sup>th</sup>.

- c) **Pre-Approved 30-day Office of Mental Health (OMH) Consolidated Fiscal Report (CFR) Extension Requests** for the prior year OMH CFR are required to be received by the **County** by April 15<sup>th</sup>.
- d) **OMH, OASAS and OPWDD (Full) Audited CFR** for the prior year that do not have a pre-approved 30-day extension (OMH only) are required to be received by the **County** by April 15<sup>th</sup>. An OPWDD Estimated CFR is required by this date if an extension was filed. An OASAS Estimated Claim is required to be received by this date; no extension allowed for OASAS CFRs.
- e) **Fully Audited CFRs for OMH, OPWDD, and OASAS** for the prior year with an extension submitted for OMH and OPWDD and/or an Estimated OASAS CFR supplied to the **County** by April 15<sup>th</sup> are required to be received by the **County** by May 15<sup>th</sup>.
- f) **OASAS Mid-Year Claim** for the current year is required to be received by the **County** by August 1<sup>st</sup>.
- g) **OASAS Consolidated Budget Report (CBR)** for the next year is (with scope) required to be received by the **County** by September 15<sup>th</sup>.
- h) **OMH CBRs** for the current year are required to be received by the **County** by October 15<sup>th</sup>.

11. The **Provider Agency** shall submit a copy of the following reports during the first quarter of each Fiscal Year:

- a) Disaster Response Plan. In addition the **Provider Agency** will participate in the development of an Oneida County plan to respond to man-made or natural disasters.
- b) Accounting System & Financial Capability Questionnaire (where applicable).
- c) Corporate Compliance Plan. The plan will reflect efforts to ensure that personnel are aware of and in compliance with relevant laws and regulations.
- d) Annual Audit and Financial Reports.
- e) Federal Single Audit Report. If the **Provider Agency** is scheduled to receive funds in excess of \$300,000.00 or more in a year in federal funds, exclusive of Medicaid and Medicare. The Single Audit shall be conducted in accordance with OMB Circular A-133, OMB Circular A-110, the A-102 Common Rule and such other circulars, interpretations, opinions, rules or regulations that may be issued in connection with the single Audit Act Amendments of 1996.
- f) An Annual School District Service Report indicating which School Districts the **Provider Agency** is providing services, what services are being provided, and the budget breakdown for each School District. The Annual School District Service Report will be due no later than August 1<sup>st</sup> prior to the beginning of the new school year. In addition, the **Provider Agency** agrees to notify the **County** of any changes to the original submitted Annual School District Service Report within 10 (ten) days of any changes.

12. The **Provider Agency** shall operate all programs in compliance with the laws, rules and regulations as passed and /or promulgated by the **County**, State or Federal governments. It is further understood by the **Provider Agency** that agencies and departments of New York State other than OMH, Office of Alcoholism & Substance Abuse Services (OASAS), and Office of Persons with Developmental Disabilities (OPWDD) may promulgate these rules and regulations.

13. **The Provider Agency further covenants and agrees to indemnify, defend and hold harmless the County, its officers, agents and employees, from and against any and all loss or expenses that may arise by reason of liability for damage, injury or death, or for invasion of personal or property rights, of every name and nature, and whether casual or continuing trespass or nuisance, and any other claims for damages arising at law and equity alleged to have**

been caused or sustained in whole or in part by or because of any omission of duty, negligence or wrongful act on the part of the Provider Agency and the County, their officers, agents or employees, in connection with this Agreement. In addition, the Provider Agency shall obtain and maintain comprehensive general liability insurance satisfactory to the County with a minimum of \$1,000,000 per occurrence coverage. The County of Oneida must be named as an "Additionally Insured" as part of the Provider Agency's insurance policy. Proof of same must be provided to the County at the time of the execution of this contract. It is expressly understood that if during the course of this Agreement, said insurance policy is canceled or otherwise allowed to lapse, the Provider Agency must provide the County proof of insurance consistent with the stipulations listed above. Failure to do may result in the immediate termination of this Agreement.

14. Either party may terminate this Agreement by giving thirty (30) days prior written notice of such termination to the other party. Notwithstanding the above, if, through any cause, the **Provider Agency** fails to comply with legal, professional, **County** or **State** requirements for the provision of the services covered under this Agreement, or if the **Provider Agency** becomes bankrupt or insolvent or falsify their records or reports, the **County** may terminate this Agreement effective immediately, or, at its option, effective at a later date after sending notice of such termination to the **Provider Agency**.

The **County** shall be released from any and all responsibilities and obligations arising from the services covered by this Agreement, effective as of the date of termination. The **County** shall be responsible for payment of all claims for services provided and costs incurred by the **Provider Agency** prior to the termination of this Agreement that are pursuant to and after **Provider Agency** compliance with the terms and conditions herein.

Notice of termination must be in writing, signed by an authorized official, and sent to the other party by certified mail or messenger, and receipt shall be requested. Notice of termination shall be deemed delivered as of the date of its posting by certified mail or at the time it is delivered to the other party by messenger.

If any term or provision of this Agreement shall be found to be illegal or unenforceable, then, notwithstanding the Agreement shall remain in full force and effect and such term or provision shall be deemed stricken. The laws of the State of New York shall govern this contract and jurisdiction and venue shall lie within the State of New York.

15. The **Provider Agency** agrees to maintain files in a confidential manner pursuant to the applicable statutes contained in New York State Mental Hygiene Law and any Federal Law regulating such files. Information contained in these files shall be released only upon the written consent of the client being served or to the Oneida County Department of Mental Health as outlined below.

It is expressly understood that as a **Provider Agency** for the Oneida County Department of Mental Health, it may and will receive confidential information from the Department of Mental Health and this information may have been received from other independent contractors and/or licensed agencies. The **Provider Agency** agrees that all such information will be considered as being confidential and shall not be re-disclosed without the written consent of the individual.

Accordingly, as a condition of and in consideration of access to confidential information, the **Provider Agency** promises that:

A. They will use confidential information only as needed to perform the legitimate duties as outlined above for the Oneida County Department of Mental Health and the Tier I program. This means, among other things, that:

1. The **Provider Agency** will only access confidential information for which there is a need to know; and
2. The **Provider Agency** will not in any way divulge, copy, release, sell, loan review, alter or destroy any confidential information except as properly authorized.
3. The **Provider Agency** will not misuse confidential information or carelessly handle confidential information.

B. The **Provider Agency** will safeguard and will not disclose any access code or any other authorization that allows access to confidential information. The **Provider Agency** accepts responsibility for all activities undertaken using any access code and other authorization.

C. The **Provider Agency** will report activities by any individual or entity that is suspected of or may compromise the confidentiality of confidential information. Reports made in good faith about suspect activities will be held in confidence to the extent permitted by law, including the name of the individual reporting the activities.

D. The **Provider Agency** understands that the obligations under this Agreement will continue after termination of employment and that it is further understood that any privileges hereunder are subject to periodic review, revision and if appropriate, renewal.

E. The **Provider Agency** understands that there is no right or ownership interest in any confidential information referred to in this Agreement. The Oneida County Department of Mental Health may at any time revoke any access code, other authorization, or access to confidential information. At all times during the course of providing services under this Agreement, the **Provider Agency** will safeguard the confidentiality of all confidential information.

F. The **Provider Agency** will be responsible for any misuse or wrongful disclosure of confidential information and for any failure to safeguard an access code or other authorization access to confidential information. It is expressly understood that any failure to comply with this Agreement may result in immediate termination of access to the information system and legal action against the **Provider**.

16. The **Provider Agency** agrees not to discriminate or refuse assistance to individuals diagnosed with AIDS or an HIV infection or an HIV related illness. If the **Provider Agency** is provided with any confidential HIV related information during the course of providing services and in accordance with 403 of Title 18 of the NYSDSS regulation and Section 2782 of the Public Health Law, they shall be informed of the penalties and fines for any redisclosure found to be in violation of New York State Law and/or Regulation.

The **Provider Agency** shall 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.”**

17. The **Provider Agency** agrees that as mandated reporters, 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 2221 A to the local Department of Social Services. The family will be informed in advance of the decision to file a report with the Central Register. The **Provider Agency** shall also notify the Commissioner of Oneida County Department of Mental Health of any and all reports made to the Child Abuse Registry.

18. It is understood that this instrument represents the entire Agreement of the parties hereto; both parties shall execute that all previous understandings are merged herein; and that no modifications hereof shall be valid unless written evidence shall be executed thereof.

19. **Miscellaneous Provisions:** Annexed hereto and made a part hereof as Appendix A and Appendix B are additional terms, covenants and conditions which the respective parties agree to be bound by and follow as part of this Agreement.

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

**COUNTY OF ONEIDA**

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

\_\_\_\_\_  
Date

By: Linda M. Nelson  
Linda M. Nelson  
Commissioner, Department of Mental Health

9/3/13  
Date

**PROVIDER AGENCY**

By: Carl DelBuono  
Carl DelBuono, President  
Board of Directors  
Insight House Chemical Dependency Services, Inc.

8/13/13  
Date

By: Donna M. Vitagliano  
Donna Vitagliano, President & CEO  
Insight House Chemical Dependency Services, Inc.

8/12/13  
Date

Approved as To Form Only:  
Oneida County Attorney:

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

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

Updated 06/11/2013

**APPENDIX A  
CONTRACT BUDGET 2014 - 2016**

	2014
OMH	\$0.00
OPWDD	\$0.00
OASAS	\$1,476,612.00
Total State Aid	\$1,476,612.00
County Funds	\$36,000.00
<b>TOTAL FUNDING</b>	<b>\$1,512,612.00</b>

		# Payments	Total Amount
Monthly Voucher Amount January - December	\$126,051.00	12	<b>\$1,512,612.00</b>

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## APPENDIX B

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, thereafter,

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

### **1. Executor or Non-Appropriation Clause.**

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

---

### **2. Oneida County Board of Legislators: Resolution #249 Solid Waste Disposal Requirements.**

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

### **3. Certification Regarding Lobbying; Debarment, Suspension and other Responsibility Matters; and Drug-Free Workplace Requirements.**

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
  1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal Grant, the entering into of any cooperative agreement, and

- the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.
2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
  3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
1. The Contractor certifies that it and its principals:
    - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
    - b. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contracts under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
    - c. Are not presently indicated or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1(b) of this certification; and
    - d. Have not within a three-year period preceding this Contract had one or more public transactions (Federal, State, or local) for cause or default; and
  2. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. The Contractor will or will continue to provide a drug-free workplace by:
    - a. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
    - b. Establishing an on-going drug-free awareness program to inform employees about:
      1. The dangers of drug abuse in the workplace;
      2. The Contractor's policy of maintaining a drug-free workplace;
      3. Any available drug counseling, rehabilitation, and employee assistance program; and
      4. The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;



- c. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (a);
- d. Notifying the employee in the statement required by paragraph (a) that as a condition of employment under the Contract, the employee will:
  - 1. Abide by the terms of the statement; and
  - 2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- e. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
- f. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted;
  - 1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the Requirements of the Rehabilitation Act of 1973, as amended; or
  - 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
- g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a),(b),(c),(d),(e),(f).

- 2. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.  
Place of Performance (street, address, city, county, state, zip code).

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- d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F. for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
  - 1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
  - 2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

**4. Health Insurance Portability and Accountability Act (HIPAA).**

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
  - 1. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
  - 2. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
  - 3. Utilize an adequate amount of physical hardware, including but not limited to filing cabinets, and locks on drawers, cabinets, and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:
  - 1. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
  - 2. The Contractor may provide data aggregation services relating to the health care operations of the County.
- c. The Contractor shall:
  - 1. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
  - 2. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
  - 3. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
  - 4. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of, the County agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
  - 5. Make available protected health information in accordance with 45 CFR § 164.524;
  - 6. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR § 164.528;
  - 7. Make available the information required to provide an accounting of

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

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**5. Non-Assignment Clause.**

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

**6. Worker's Compensation Benefits.**

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

**7. Non-Discrimination Requirements.**

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status.

Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

#### **8. Wage and Hours Provisions.**

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

#### **9. Non-Collusive Bidding Certification.**

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

#### **10. Records.**

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails and attachments, rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in

this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

#### **11. Identifying Information and Privacy Notification.**

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

b. Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

#### **12. Conflicting Terms.**

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

#### **13. Governing Law.**

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

#### **14. Prohibition on Purchase of Tropical Hardwoods.**

The Contractor certifies and warrants that all wood products to be used under this Contract award will be

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

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

**15. Compliance with New York State Information Security Breach and Notification Act.**

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

**16. Gratuities and Kickbacks.**

a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

**17. Audit**

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

Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

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

**18. Certification of compliance with the Iran Divestment Act.**

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

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

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

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

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

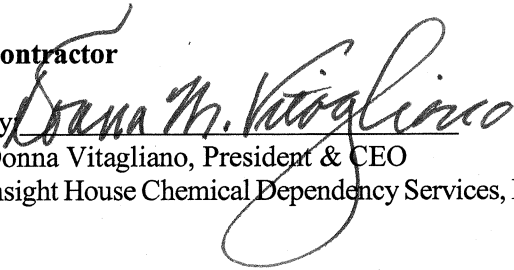
**County of Oneida**

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

Approved as to Form only

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

**Contractor**

By:   
Donna Vitagliano, President & CEO  
Insight House Chemical Dependency Services, Inc.

Anthony J. Picente Jr.  
County Executive

Lucille A. Soldato  
Commissioner



**ONEIDA COUNTY DEPARTMENT OF SOCIAL SERVICES**

County Office Building, 800 Park Avenue, Utica, NY 13501

Phone (315) 798-5733 Fax (315) 798-5218

September 30, 2013

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

FN 20 13-339

HEALTH & HUMAN SERVICES

**WAYS & MEANS**



Dear Mr. Picente:

I am submitting the following Purchase of Services Agreement for review and approval by the Board of Legislators per Board Resolutions and Local Law #3 of 2001, amending Article VIII, Section 802 of the Administrative Code.

This Purchase of Services Agreement with the Neighborhood Center, Inc. ensures that the individuals providing advocacy services are competent and trained in the area of Child Sexual Abuse Investigation. The Advocates will provide child victims or alleged victims and their non-offending family members, with supportive services in a compassionate and understanding matter, to enable them to begin healing from the trauma of child sexual abuse and/or severe physical abuse.

The Child Advocacy Center has proven itself to be a model program and has been effective in the team-approach of investigation and conviction or perpetrators.

The cost of this Agreement is \$ 76,305 from the October 1, 2013 through September 30, 2014. There is no local cost to support this agreement.

I am respectfully requesting that this matter be forwarded to the Board of Legislators for action. Thank you for your consideration.

Sincerely,

Lucille A. Soldato  
Commissioner

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

Anthony J. Picente, Jr.  
County Executive

Date 10/2/13

LAS/tms  
attachment



9/30/13  
# 18606

Oneida Co. Department Social Services

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

**Oneida County Board of  
Legislators Summary**

**Name of Proposing Organization:** Neighborhood Center, Inc.  
293 Genesee Street  
Utica, New York 13501

**Title of Activity or Services:** Advocacy Services to provide advocacy and guidance for Child Sexual Abuse victims or alleged victims and their families, of Child Sexual Abuse.

**Proposed Dates of Operation:** October 1, 2013 through September 30, 2014

**Client Population/Number to be Served:** Children and their families who are victims or alleged victims of Child Sexual Abuse

**SUMMARY STATEMENTS**

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

The Agreement is to assist child victims and their non-offending family members to move forward in their lives following the horrendous crime of child sexual abuse and /or severe physical abuse. The Contractor will provide child victims and their non-offending family members with supportive services in a compassionate and understanding matter, which will enable them to begin healing from the trauma of child sexual abuse and/or severe physical abuse.

The Children who have been sexually abused and/or severely physically abused and have disclosed, need to feel safe when telling of these horrendous acts. The Child Sexual Abuse Advocates will accompany the children and their non-offending family members throughout all processes of this disclosure during medical interview, exam, law enforcement and judicial proceedings. The role of the advocate is supportive, informative and continuous. The Advocates are also active participates with the Child Advocacy Center.

**2). Program/Service Objectives and Outcomes**

**Outcome:** Assist child victims and non-offending family members to deal with victimization in the most positive and healing manner possible to minimize trauma associated with child sexual and/or severe physical abuse.

**Performance:** Victim advocates will be present at initial interviews, medical interviews and examinations, law enforcement and judicial proceedings, or other such meetings in order to support the victims, facilitate future disclosures and promote a coordinated response by the CAC team in

regards to serious abuse cases. In their role the advocates will provide 24 hour crisis intervention as well as maintain regular contact with the victim and/or family. These services will be offered in a manner that reflects cultural competence and family focused planning.

**3). Program Design and Staffing Level - Two full-time Child Sexual Abuse Advocates.**

**Total Funding Requested:** \$ 76,305

**Oneida County Dept. Funding Recommendation:** Account #: A6011.49537

**Mandated or Non-mandated Service:** Mandated

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

Federal	0.00 %	= \$	0
State	100.00 %	= \$	67,305
Local	0.00 %	= \$	0
Other	0.00 %	= \$	9,000

**Cost Per Client Served:**

**Past performance Served:** The Neighborhood Center, Inc. has provided this service to the Department since 2009. The contract cost from October 1, 2012 through September 30, 2013 was \$73,600.

**O.C. Department Staff Comments:** The Department is satisfied with the provider's service and this is a community wide service not just limited to public assistance recipients. This service went out to RFP and had three respondents and the Neighborhood Center was awarded the Contract.

## AGREEMENT

THIS AGREEMENT, made and entered in to, by and between the Oneida County through its Department of Social Services, a municipal corporation organized and existing under the laws of the State of New York and having its principal offices at the Oneida County Office Building, 800 Park Avenue, Utica, New York 13501, (hereinafter called Department), and The Neighborhood Center, Inc., 293 Genesee Street, Utica, New York 13501 (hereinafter called Contractor).

WHEREAS, the Department has the need to provide advocacy and guidance for Child Sexual Abuse victims and/or some family members for individual family in Oneida County,

WHEREAS, the Department has determined that the amount of funds to be paid to the Contractor is fair and reasonable to provide such services,

NOW THEREFORE, the Contractor agrees to provide two Child Sexual Abuse Victim Advocates which have earned a four year degree in one of the following subjects: Psychology, human development, childhood development, social work, human services, sociology or a related field for victims referred by the Department,

The purpose of this Agreement is to assist child victims and their non-offending family members move forward in their lives following the horrendous crime of child sexual abuse and/or severe physical abuse. The Contractor will provide child victims and their non-offending family members with supportive services in a compassionate and understanding matter, which will enable them to begin healing from the trauma of child sexual abuse and/or severe physical. They will also develop and promote a coordinated response to child sexual abuse and or severe physical abuse; facilitate future disclosures; and collaborate efforts with other CAC team members, including law enforcement, child protective workers, medical personnel and mental health providers, utilizing trained New York State Department of Health certified sexual violence advocates; specifically family advocates.

The Children who have been sexually abused and/or severely physically abused and have disclosed, need to feel safe when telling of these horrendous acts. Disclosures happen at all different times of the day and night. The Child Sexual Abuse Advocates will accompany the children and their non-offending family members throughout all processes of this disclosure, whether it is with an investigator and/or Child Protective Service worker. The role of the advocate is supportive, informative and continuous.

The Child Sexual Abuse Advocates will assist children and their non-offending family members heal from the trauma of child sexual abuse.

The following is a list of services to be provided but not limited to:

- a) Respond to victims and their non-offending family members at the initial reporting of

- alleged child sexual abuse and/or severe physical abuse
- b) Provide crisis intervention, advocacy/accompaniment and information/referrals to child victims and their non-offending family members throughout the initial interview/investigation process.
  - c) Provide supportive information in regards to the interview process; investigation process, criminal justice process; medical services; and all follow-up proceedings pertaining to the allegation of child sexual abuse/severe physical abuse to victims and their non-offending family members.
  - d) Schedule and accompany on-site forensic medical exams for child sexual abuse victims.
  - e) Schedule initial on-site counseling appointments with Child Advocacy Center mental health sub-contractors for child sexual abuse victims and their non-offending family members.
  - f) Provide advocacy/accompaniment and support, after-hours/weekends during the initial disclosure/interview and forensic medical exam to child sexual abuse victims and their non-offending family members as needed.
  - g) Provide follow-up services to include but not limited to monthly home visits and weekly phone contact to child sexual abuse victims and their non-offending family members.
  - h) Participate in Child Advocacy Center meetings, case reviews, case planning discussion and training as directed by the Child Advocacy Center supervisory staff.
  - i) Provide progress notes detailing pertinent case related contacts and information.
  - j) Active participation in the Child Advocacy Center in meetings, planning and case discussion as called for or directed by the Child Advocacy Center. Two advocates will be co-located at the Child Advocacy Center to perform said services. The Child Advocates will be supervised by the provider's supervisory staff and overseen by the Child Advocacy Center and the Child Advocacy Center supervisory staff will direct daily activities.
  - k) Advocates will make contacts with victims and families independent of medical exams, court appearances, interviews and counseling sessions as directed by Child Advocacy Center staff. Generally, Advocates will have contact with victims and their families in the home at least once a month for the duration of the open case. In addition, Advocates will have weekly phone contact with victims and families for the duration of the open case.
  - l) Advocates will keep the caseworker and investigator assigned to the case informed of case developments.
  - m) Advocates will attend training as provided by the County of Oneida.
    - a. Program Service Given: While Oneida County is particularly interested in innovative approaches to improving outcomes for families and children, all laws, regulations and Oneida County Department of Social Services procedures must be complied with including the following:
      - i. For Child Sexual Abuse Victims Advocacy services, contractor will cooperate with Oneida County Department of Social Services and will provide the necessary services and documentation to ensure compliance with standards prescribed by federal, state, and local law.
      - ii. The contractor shall not sub-contract any part of this contract award to another agency without written approval from Oneida County Department of Social Services.

- n) Advocates will build an effective relationship by establishing trust, empowering the victim/survivor, encouraging candor and providing clear, honest, supportive and accurate information
- o) Advocates will act as the voice for the victim/survivor until she/he can speak for self
- p) Advocates will respect the rights of the victim/survivor and non-offending family members
- q) Advocates will provide support, coaching and direction through home visits and telephone calls
- r) Advocates will provide referrals, facilitate access and coordinate services for victim/survivor and non-offending family members
- s) Advocates will obtain language translation or interpretation when needed
- t) Advocates will assist victim//survivor and non-offending family members in advocating for self to strengthen and reclaim control
- u) Advocates will share and help victim/survivor recognize hope, positive experiences and to identify and build on strengths.

The advocates assigned to the CAC will submit a fingerprint check and along with a SCR/Connections Check (cost will be covered by the Department).

The Child Advocacy Center will provide the advocates on-site supervision and will hold meetings with Contractor on a regular basis and/or as needed. The Contractor will be responsible for any disciplinary issues, if issues are identified and not corrected. The Child Advocacy Center Supervisors will be notified in writing of any disciplinary action taken, including counseling memos, for an advocate assigned within this contract.

The Department must be notified as soon as possible and made aware of when a advocate submits leave requests for example vacation, medial leave, leaving employment etc... and would need to know who would be filling in the slot and/or replacement during any extended absences.

The Contractor agrees that an advocate slot will not be vacant for more than two weeks at any time, even if they would have to use a temporary qualified individual for a short time to achieve a permanent advocate.

The Commissioner reserves the right to evaluate the Advocates performance and request the replacement of an advocate should he/she deem such action in necessary.

The Contractor agrees to provide any training deemed necessary by the Department.

The Contractor and the Department agree to meet as necessary but at least every 3 months to discuss systems and program issues.

The Department agrees to refer appropriate Child Sexual Abuse Victims and families on a timely basis to utilize the Contractors services,

The Department and the Contractor agree that the goals of this Project are:

The goal is to help child victims and their non-offending family members deal with the victimization, through a team approach, with compassion and understanding, in a positive and healing manner.

#### Outcome/Measurements

**Outcome:** Assist child victims and non-offending family members to deal with victimization in the most positive and healing manner possible to minimize trauma associated with child sexual and/or severe physical abuse.

**Performance:** Victim advocates will be present at initial interviews, medical interviews and examinations, law enforcement and judicial proceedings, or other such meetings in order to support the victims, facilitate future disclosures and promote a coordinated response by the CAC team in regards to serious abuse cases. In their role the advocates will provide crisis intervention as well as maintain regular contact with the victim and/or family. These services will be offered in a manner that reflects cultural competence and family focused planning.

**Measurement:** 100% of the victim and families served at the CAC will be offered the services of a victim advocate and referred to a victim advocate for follow up.

**Measurement:** Victim advocates will engage 80% of the victims and families referred for services.

**Measurement:** 80% of the individuals who received services from the victim advocates will report satisfaction with the quality and availability of the services provided as measured by a client satisfaction survey given after the first 72 hours of service and at the conclusion of their services.

Contractor agrees advocates will apply best practice to meet outcomes established by the Department of Social Services:

- To Provide compassion and understanding to enable individuals to recover from the trauma of child sexual abuse and receive assistance they need to progress forward with their lives:
  - Build an effective relationship by
    - Establishing trust,
    - Empowering the victim/survivor
    - Encouraging candor
    - Providing clear, honest, supportive, and accurate information
- To foster additional disclosure by victim/survivor who might otherwise go without assistance
  - Develop an individual plan with each child and family
  - Create an environment that allows for healing and recovery for each child
    - Know and understand victim's rights
    - Know and understand potential issues associated with survivors of child sexual assault
    - Assist victim/survivor through legal and medical systems
    - Know and understand potential issues associated with family/criminal court

- Learn and understand culture and mores of family
  - Demonstrate empathy and resourcefulness
  - Know and be able to access community resources
  - Educate community about the impact of child sexual abuse, severe child abuse and maltreatment on the child, the family and the community.
- To develop and promote a more coordinated response through participation with the Child Advocacy Center.
- Respond to all initial reports of alleged child sexual abuse and/or severe physical abuse
  - Coordinate response between medial and legal systems to reduce intrusion, increase disclosure and promote open communication
  - Actively participate in morning meetings and Multi-Disciplinary Team Meetings
  - Attend training specific to advocacy work in order to provide a foundation for understanding the role of the Advocate on the team
  - Cultivate an atmosphere of professionalism through demonstration of skill, knowledge, initiative, effective communication and accountability.

### Reporting Requirements

The Contractor agrees to submit a Quarterly Program Report every three months for the duration of the contract. The Contractor must provide statistics report on a monthly basis which must be received monthly no later than the 5<sup>th</sup> day of the following month of service which will include the following information:

Number of victims and secondary victims served, monthly case load, type of services provided including number and type of contacts per case and comments.

Report must also include section for number of families served each month (broken out by TA-Temporary Assistance and 200% Poverty). In order to have consistent reporting in this section, the number of families reported each month is to be unduplicated within the contract. A family that is served more than once per month within the contract should be counted only once. If a family receives services from more than one contract with your agency should be counted once per month in each contract that service was received.

The Department must receive monthly reports no later than the 5<sup>th</sup> day of the following month of service. Reports must be submitted to the Oneida County Contract Administration Office located at 800 Park Avenue, 4<sup>th</sup> Floor, Utica, New York 13501.

The liaisons for this Contract are:

Jim Brognano ---- Oneida County Department of Social Services,  
Patrice VanNortwick ----- Neighborhood Center

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The term of this Agreement shall be from October 1, 2013 through September 30, 2014 and maybe renewed agreeable to each party, and completed prior to the end of the term of this agreement. It is agreed by the Contractor that performance without this agreement will not be paid for by the Department.

The Department agrees to pay the Contractor monthly upon submission of a County Voucher and data to verify claimed expenditures. The total cost of services provided not to exceed \$ 76,305.00 per the attached Budget.

The Agency agrees to prepare and provide any and all monthly reports required by the County and State Governments pertaining to this contract.

The Contractor agrees to provide an Annual Certification as attached pertaining to this Contract as part of the Contractor's Annual Independent audit.

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.

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.



This Agreement shall be binding upon both parties when fully signed and executed and upon approval of the appropriate legislative bodies where required.

\*\*\*\*\*

Date: \_\_\_\_\_  
Oneida County Executive: \_\_\_\_\_

Anthony J. Picente Jr., Oneida County Executive

\*\*\*\*\*

Approved as to Form \_\_\_\_\_

Oneida County Attorney

\*\*\*\*\*

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

Oneida County Department of Social Services: \_\_\_\_\_

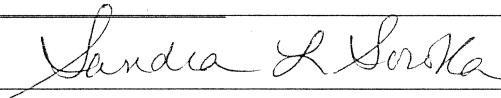
Lucille A. Soldato, Commissioner

\*\*\*\*\*

Date: 9/24/13.

Agency: \_\_\_\_\_

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



Sandra L. Soroka  
Executive Director

Print Authorized Name: \_\_\_\_\_

Neighborhood Center, Inc.

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

The Neighborhood Center, Inc.  
Child Sexual Abuse Victim Advocacy  
October 1, 2013 through September 30, 2014

Salaries	
Case Planner (1)	\$ 27,810
Case Planner (2)	\$ 27,810
After Hours Differential	\$ 2,400
Total Salary Costs	\$ 58,020
Fringe Benefits	\$ 14,505
<b>Total Personnel Services</b>	<b>\$ 72,525</b>
Admin & Overhead	\$ 0
Supplies	\$ 0
Travel/Conference	\$ 3,780
<b>Total General Operating</b>	<b>\$ 3,780</b>
<b>Total Expenses</b>	<b>\$ 76,305</b>

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 five 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 of 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 or 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)

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**\*\*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 County laws and regulations.
- b. It is the policy of the Department to encourage the employment of qualified applicants for, 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:
  - 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 Contractor 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 register 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 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 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 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 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 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
  - 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 Agreement, where applicable. The Contractor specifically agrees that he 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, 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 the 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
- j. If the Contractor intends to use materials, equipment or personnel paid for under this contract 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 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 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 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 Contractor certifies that within the past three 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 Contract. The actions that would potentially establish a basis for a finding by Department that the contractor is a non-responsible vendor include:

- The Contractor has had a license or contract suspended, revoked or terminated by a governmental agency.
- The Contractor has had a claim, lien, fine, or penalty imposed or secured against the Contractor by a governmental agency.
- The Contractor has initiated a bankruptcy proceeding or such a proceeding has been initiated against the Contractor
- 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.
- 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
- The contractor has not paid all due and owed local, state and federal taxes to the proper authorities
- 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, Department may require as a condition precedent to entering into the contract 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 contract, the Contractor agrees to comply with any such additional conditions that have been made a part of this contract.

By signing this contract, the contractor also agrees that during the term of the contract, 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 contract, the contractor agrees to comply with State Tax Law section 5-a
- p. Contractors must maintain Workers Compensation Insurance in accordance with the Workers Compensation Law. If a 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](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 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 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 ON 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 County 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 a 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 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 other 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 a Employee Confidentiality Certification before any such employees and volunteers are permitted access to any financial and/or client identifiable information concerning such youth.

- c. Contractor and any subsequent sub-contractor shall not discriminate or refuse assistance to individuals with AIDS or an HIV infection or an HIV - related illness.

The Contractor and any subsequent sub-contractor 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 redisclosure in violations of State Law and Regulations.

The Contractor and any subsequent sub-contractor 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 Contractors, or it's 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 Contractor 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, 4<sup>th</sup> 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 and 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 contract period or deem this contract 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



operations as related to this AGREEMENT, or 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 :

- 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 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 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, contractors may be placed on fiscal sanction when the Department identifies any of the following issues:

- 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;
- An Department or other audit identifies significant fiscal irregularities and/or that funds are due to the Department
- The Contractor has not provided satisfactory services as required under the terms of this or another Department agreement;
- The Contractor has not provided fiscal or program reports as required under the terms of this or another Department agreement;
- A County, State or Federal prosecutorial or investigative agency identifies possible criminal activity, or significant fiscal or programmatic irregularities on the part of the Contractor;
- The Contractor is not in compliance with State, 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 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 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 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 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

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 Contractor 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 Contractor, if a municipal corporation, represents that it is a self-insured entity. If a not-for-profit Corporation or entity other than a self-insured municipal Corporation, the Contractor agrees to obtain and maintain in effect a general policy of liability insurance in an amount not less than one million dollars (\$ 1,000,000). The Contractor agrees that it will require any and all Subcontractors with whom it subcontracts pursuant to this contract to obtain and maintain a general policy of liability insurance in an amount not less than one million dollars (\$ 1,000,000). The Contractor further agrees to procure and maintain in force, for the duration of this Agreement, insurance in types and in the amounts as determined by the Department. Such coverage must be identified and entered upon a Standard Insurance Certificate or its acceptable substitute and be signed by the Contractor's Agency's insurance company, agent or broker.

The Contractor 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/death with regard to any property of persons. The liability and property damage coverage of such insurance shall not be less than One Million dollars (\$ 1,000,000). The Contractor agrees to have the Department and Oneida County added to said insurance policies as named additional insured, as their interest may appear, and to provide the Department and/or Oneida County with a certificate from said insurance company, or companies, showing coverage as herein before required, such certification to show the Department and the Oneida County as additional insured and to provide that such coverage shall not be terminated without written prior notice to the to the Department and/or Oneida County of at least thirty (30) days.

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 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 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 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 Contractor attest they have not been disbarred 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.

NAME OF CONTRACTED AGENCY Sandra L. Soroka  
Executive Director  
Neighborhood Center, Inc.

PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE  
Sandra L. Soroka 9/24/13  
SIGNATURE DATE

**Oneida County Department of Social Services  
Contractor and Contract Staff  
Confidentiality and Non-Disclosure Agreement**

I, the undersigned, an employee of \_\_\_\_\_, (the  
Name of Contract Agency

“Service Provider”), hereby state that I understand and agree that all information provided to the Service Provider from the Oneida County Department of Social Services staff by paper copies, computer systems or databases, electronic communication or otherwise obtained pursuant to the Agreement entered between the Oneida County Department of Social Services and the Service Provider indicated above, is CONFIDENTIAL, is to be used only for the purposes of performing services required by the Agreement, and must be safeguarded from unauthorized disclosure.

I further understand that such information includes, but is not limited to, any and all information regarding parents or guardians and their children, and all employment, financial, and personal identifying data, including Protected Health Information (PHI) as set forth in HIPAA regulations.

I agree to maintain all such information as CONFIDENTIAL, and I agree to use such information only in the performance of my official duties to perform the functions required by the Agreement, unless otherwise authorized in writing by the Department of Social Services.

I understand that confidential information maintained in and/or obtained from systems/databases such as, but not limited to the Welfare Management system (WMS), Child Support Management System (CSMS/ASSETS), Benefits Issuance Control System (BICS), COGNOS, and Connections are protected by Federal and State statutes and regulations. Access and disclosure of confidential information is strictly limited to authorized employees and legally designated agents, for authorized purposes only in the delivery of program services.

I understand that service providers may not access their own active, closed or archived records or those involving a relative, friend, acquaintance, neighbor, partner or co-worker or other individuals to whom they have no official assignment.

I understand that if my employment is terminated by resignation, retirement or for other reasons or the Service Provider Contract is not renewed, the terms of this Confidentiality and Non-Disclosure Agreement are still binding.

I understand that if I disclose CONFIDENTIAL information in violation of the requirements stated herein, any individual who incurs damages due to the disclosure may recover such damage in a civil action.

I understand that, in addition to any other penalties provided by law, any person who willfully releases or willfully permits the release of any CONFIDENTIAL information as described herein to persons or agencies not authorized under New York State law to receive it shall be guilty of a class A misdemeanor.

Print Name: \_\_\_\_\_

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

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

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

Witness: \_\_\_\_\_

Created 4-24-12

**ADDENDUM**

THIS ADDENDUM, entered into on this 1st day of October, 2013, between the County of Oneida, hereinafter known as COUNTY, and a contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as CONTRACTOR.

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

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

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

**1. Executor or Non-Appropriation Clause.**

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

**2. Oneida County Board of Legislators: Resolution #249 Solid Waste Disposal Requirements.**

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

**3. Certification Regarding Lobbying; Debarment, Suspension and other Responsibility Matters; and Drug-Free Workplace Requirements.**

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer

- or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal Grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.
2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
  3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
1. The Contractor certifies that it and its principals:
    - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
    - b. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contracts under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
    - c. Are not presently indicated or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1(b) of this certification; and
    - d. Have not within a three-year period preceding this Contract had one or more public transactions (Federal, State, or local) for cause or default; and
  2. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. The Contractor will or will continue to provide a drug-free workplace by:



- a. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- b. Establishing an on-going drug-free awareness program to inform employees about:
  1. The dangers of drug abuse in the workplace;
  2. The Contractor's policy of maintaining a drug-free workplace;
  3. Any available drug counseling, rehabilitation, and employee assistance program; and
  4. The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (a);
- d. Notifying the employee in the statement required by paragraph (a) that as a condition of employment under the Contract, the employee will:
  1. Abide by the terms of the statement; and
  2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- e. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
- f. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
  1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the Requirements of the Rehabilitation Act of 1973, as amended; or
  2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
- g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a),(b),(c),(d),(e),(f).

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

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

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

1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

**4. Health Insurance Portability and Accountability Act (HIPPA).**

When applicable to the services provided pursuant to the Contract:

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

1. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
2. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
3. Utilize an adequate amount of physical hardware, including but not limited to filing cabinets, and locks on drawers, cabinets, and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.

- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any

manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

1. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
  2. The Contractor may provide data aggregation services relating to the health care operations of the County.
- c. The Contractor shall:
1. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
  2. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
  3. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
  4. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of, the County agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
  5. Make available protected health information in accordance with 45 CFR § 164.524;
  6. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR § 164.528;
  7. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
  8. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by the Contractor on behalf of, the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
  9. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by the Contractor on behalf of, the County that the Contractor still maintains in any form and retain no copies of such information or, if such return or destruction is not feasible, extend the protections of this Contract to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
1. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;

2. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
  3. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

**5. Non-Assignment Clause.**

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

**6. Worker's Compensation Benefits.**

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

**7. Non-Discrimination Requirements.**

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

intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

#### **8. Wage and Hours Provisions.**

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

#### **9. Non-Collusive Bidding Certification.**

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

#### **10. Records.**

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails and attachments, rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above for the purposes of inspection,

auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

#### **11. Identifying Information and Privacy Notification.**

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

b. Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

#### **12. Conflicting Terms.**

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

#### **13. Governing Law.**

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

**14. Prohibition on Purchase of Tropical Hardwoods.**

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

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

**15. Compliance with New York State Information Security Breach and Notification Act.**

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

**16. Gratuities and Kickbacks.**

a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

**17. Audit**

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

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

**18. Certification of compliance with the Iran Divestment Act.**

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

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

During the term of the Contract, should the County receive information that a Bidder/Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within 90 days after the determination of such violation, then the County shall take such action as may be



appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor in default.

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

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

**County of Oneida**

**Contractor**

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

Oneida County Executive

By: 

Sandra L. Soroka  
Executive Director  
Neighborhood Center, Inc.

Approved as to Form only

\_\_\_\_\_

Oneida County Attorney

ANTHONY J. PICENTE, JR.  
County Executive



ROBERT J. ROTH  
Director

**ONEIDA COUNTY YOUTH BUREAU**  
County Office Building ♦800 Park Avenue ♦Utica, New York 13501  
Phone: (315) 798-5027 ♦Fax: (315) 798-6438

September 4, 2013

FN 20 13-340

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

HEALTH & HUMAN SERVICES and Approved for submittal to the  
Oneida County Board of Legislators by

Anthony J. Picente, Jr.  
County Executive

**WAYS & MEANS**

Date 9/13/13

Dear Mr. Picente:

Re: Purchase of Service Agreement # Y12400

Attached for your review and approval is a Purchase of Service Agreement between the Oneida County Youth Bureau and the Town of New Hartford through its Senior Center per Board Resolutions and Local Law # 3 of 1991, amending Article VIII, Section 802 of the Administration Code.

The Town of New Hartford through its Senior Center program provides youth help with reading, math, reading comprehension, writing and printing. The program familiarizes youth with the local library and teaches them how to utilize the resources available through the library.

The term of this agreement is January 1, 2013 through December 31, 2013. This service agreement uses funding from the New York State Office of Children and Family Services in the amount of \$ 500.00. *There is no County match for these funds.*

I am respectfully requesting your approval of this Purchase of Service Agreement between the Oneida County Youth Bureau and the Town of New Hartford through its Senior Center.

Very truly yours,

Robert J. Roth  
Director

Attachment



Oneida Co. Department: Youth Bureau  
#Y12400

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

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name of Proposing Organization:** Town of New Hartford through its Senior Center

**Title of Activity or Service:** Mentoring/Tutoring

**Proposed Dates of Operation:** January 1, 2013 to December 31, 2013

**Client Population/Number to be Served:** 35 Youth, 5 – 14 years old

**Summary Statements:**

**1) Narrative Description of Proposed Services**

The Program will help students with reading, math, reading comprehension, writing and printing. The program familiarizes youth with the Local library and teaches them how to utilize the resources available through the library.

**2) Program/Service Objectives and Outcomes**

The Program is designed to help students with reading, math, reading comprehension, writing and printing. The program familiarizes youth with the Local library and teaches them how to utilize the resources available through the library and educational games that give them confidence working with their peers.

**3) Program Design and Staffing**

Students learn from the older students, many who are honor roll students. By giving of their time to help others is a great climate to have the younger ones be part of and seeing these older students out in the community or at their schools and seeing them be able to continue their education by working hard.

**Total Funding Requested:** \$ 500.00 Account # A8830.49557

**Oneida County Dept. Funding Recommendation:** \$ 500.00

**Proposed Funding Sources (Federal \$/ State \$/County \$):** New York State Office of Children and Family Services

**Oneida County Tax Match:** 0.00

**Cost Per Client Served:** \$ 14.28 per youth

**Past Performance Data:** This program will be reviewed by the Oneida County Youth Bureau and to ensure it has met performance standards.

O.C. Department Staff Comments:

ONEIDA COUNTY YOUTH BUREAU SERVICE AGREEMENT

COUNTY

County of Oneida  
800 Park Avenue  
Utica, New York 13501  
acting through Oneida  
County Youth Bureau

(Hereinafter referred to  
as the County and/or Department)

SERVICE PROVIDER

Town of New Hartford  
through its Senior Center  
1 Sherman Street,  
New Hartford, New York 13413

Mentoring/Tutoring

(Hereinafter referred to as the Contractor)

PERIOD OF AGREEMENT:

From: January 1, 2013  
To: December 31, 2013

COUNTY RESOLUTION NO.

Adopted on

FINANCIAL TERMS OF AGREEMENT:

Total Program	Approved O.C.F.S.	Matching Funds
Budget:	Funds:	
\$ 3,825.92	\$500.00	<i>No County Funds are Required</i>

GENERAL LIABILITY INSURANCE:

\$ 1 Million

This agreement is made between the County, a municipal corporation of the State of New York, identified above, acting through its duly constituted Oneida County Youth Bureau, and the Service Provider referred to above.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement for the consideration and in accordance with the terms, provisions and conditions of the Agreement as set forth within the following pages, as of the first day of the period of agreement.

COUNTY OF ONEIDA

By: \_\_\_\_\_  
County Executive

By: *Mary Eileen Spellman*  
Executive Director

By: \_\_\_\_\_  
Commissioner of Social Services

By: \_\_\_\_\_  
Youth Bureau Director

Approved as to form

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

STANDARD CLAUSES FOR ALL ONEIDA COUNTY DEPARTMENT OF SOCIAL SERVICES AND YOUTH  
BUREAU 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 County laws and regulations.
- b. It is the policy of the Department to encourage the employment of qualified applicants for, 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:
  - 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 Contractor 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 register 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 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 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 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 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 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
  - 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 Agreement, where applicable. The Contractor specifically agrees that he 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, 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 the 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
- j. If the Contractor intends to use materials, equipment or personnel paid for under this contract 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 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 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 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 Contractor certifies that within the past three 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 Contract. The actions that would potentially establish a basis for a finding by Department that the contractor is a non-responsible vendor include:
- The Contractor has had a license or contract suspended, revoked or terminated by a governmental agency.
  - The Contractor has had a claim, lien, fine, or penalty imposed or secured against the Contractor by a governmental agency.
  - The Contractor has initiated a bankruptcy proceeding or such a proceeding has been initiated against the Contractor
  - 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.
  - 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
  - The contractor has not paid all due and owed local, state and federal taxes to the proper authorities
  - 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, Department may require as a condition precedent to entering into the contract 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 contract, the Contractor agrees to comply with any such additional conditions that have been made a part of this contract.

By signing this contract, the contractor also agrees that during the term of the contract, 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 contract, the contractor agrees to comply with State Tax Law section 5-a
- p. Contractors must maintain Workers Compensation Insurance in accordance with the Workers Compensation Law. If a 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](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 Office'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 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 ON 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 County 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 a 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 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 other 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 a Employee Confidentiality Certification before any such employees and volunteers are permitted access to any financial and/or client identifiable information concerning such youth.
- c. Contractor and any subsequent sub-contractor shall not discriminate or refuse assistance to individuals with AIDS or an HIV infection or an HIV - related illness.

The Contractor and any subsequent sub-contractor 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 redisclosure in violations of State Law and Regulations.

The Contractor and any subsequent sub-contractor 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 Contractors, or it's 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 Contractor 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, 4<sup>th</sup> 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 and 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 contract period or deem this contract 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 their 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 the contract. 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 Contract 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, or 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 :

- 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 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 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, contractors may be placed on fiscal sanction when the Department identifies any of the following issues:

- 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;
- An Department or other audit identifies significant fiscal irregularities and/or that funds are due to the Department
- The Contractor has not provided satisfactory services as required under the terms of this or another Department agreement;
- The Contractor has not provided fiscal or program reports as required under the terms of this or another Department agreement;
- A County, State or Federal prosecutorial or investigative agency identifies possible criminal activity, or significant fiscal or programmatic irregularities on the part of the Contractor;
- The Contractor is not in compliance with State, 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 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 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 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 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 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 Contractor 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 Contractor, if a municipal corporation, represents that it is a self-insured entity. If a not-for-profit Corporation or entity other than a self-insured municipal Corporation, the Contractor agrees to obtain and maintain in effect a general policy of liability insurance in an amount not less than one million dollars (\$ 1,000,000). The Contractor agrees that it will require any and all Subcontractors with whom it subcontracts pursuant to this contract to obtain and maintain a general policy of liability insurance in an amount not less than one million dollars (\$ 1,000,000). The Contractor further agrees to procure and maintain in force, for the duration of this Agreement, insurance in types and in the amounts as determined by the Department. Such coverage must be identified and entered upon a Standard Insurance Certificate or its acceptable substitute and be signed by the Contractor's Agency's insurance company, agent or broker.

The Contractor 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/death with regard to any property of persons. The liability and property damage coverage of such insurance shall not be less than One Million dollars (\$ 1,000,000). The Contractor agrees to have the Department and Oneida County added to said insurance policies as named additional insured, as their interest may appear, and to provide the Department and/or Oneida County with a certificate from said insurance company, or companies, showing coverage as herein before required, such certification to show the Department and the Oneida County as additional insured and to provide that such coverage shall not be terminated without written prior notice to the to the Department and/or Oneida County of at least thirty (30) days.

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 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 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 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 Contractor attest they have not been disbarred 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 wavier, 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.

*New Hartford Senior Center*

NAME OF CONTRACTED AGENCY

*Mary Eileen Speltman*

PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

*Mary Eileen Speltman*

SIGNATURE

*8-26-13*

DATE

**ADDENDUM**

THIS ADDENDUM, entered into on this 1st day of January, 2013, between the County of Oneida, hereinafter known as COUNTY, and a contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as CONTRACTOR.

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

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

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

**1. Executor or Non-Appropriation Clause.**

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

**2. Oneida County Board of Legislators: Resolution #249 Solid Waste Disposal Requirements.**

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

**3. Certification Regarding Lobbying; Debarment, Suspension and other Responsibility Matters; and Drug-Free Workplace Requirements.**

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

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

2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
  3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
1. The Contractor certifies that it and its principals:
    - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
    - b. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contracts under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
    - c. Are not presently indicated or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1(b) of this certification; and
    - d. Have not within a three-year period preceding this Contract had one or more public transactions (Federal, State, or local) for cause or default; and
  2. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. The Contractor will or will continue to provide a drug-free workplace by:
    - a. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
    - b. Establishing an on-going drug-free awareness program to inform employees about:
      1. The dangers of drug abuse in the workplace;
      2. The Contractor's policy of maintaining a drug-free workplace;
      3. Any available drug counseling, rehabilitation, and employee assistance program; and



4. The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (a);
- d. Notifying the employee in the statement required by paragraph (a) that as a condition of employment under the Contract, the employee will:
  1. Abide by the terms of the statement; and
  2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- e. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
- f. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted;
  1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the Requirements of the Rehabilitation Act of 1973, as amended; or
  2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
- g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a),(b),(c),(d),(e),(f).

2. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.  
Place of Performance (street, address, city, county, state, zip code).

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- d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F. for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
  1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
  2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants

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

**4. Health Insurance Portability and Accountability Act (HIPAA).**

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
  1. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
  2. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
  3. Utilize an adequate amount of physical hardware, including but not limited to filing cabinets, and locks on drawers, cabinets, and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:
  1. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
  2. The Contractor may provide data aggregation services relating to the health care operations of the County.
- c. The Contractor shall:
  1. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
  2. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
  3. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
  4. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of, the County agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
  5. Make available protected health information in accordance with 45 CFR § 164.524;

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

**5. Non-Assignment Clause.**

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

**6. Worker's Compensation Benefits.**

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

**7. Non-Discrimination Requirements.**

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

#### **8. Wage and Hours Provisions.**

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

#### **9. Non-Collusive Bidding Certification.**

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

#### **10. Records.**

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this Contract (hereinafter,

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

#### **11. Identifying Information and Privacy Notification.**

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

b. Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

#### **12. Conflicting Terms.**

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

**13. Governing Law.**

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

**14. Prohibition on Purchase of Tropical Hardwoods.**

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

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

**15. Compliance with New York State Information Security Breach and Notification Act.**

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

**16. Gratuities and Kickbacks.**

a. **Gratuities.** It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

b. **Kickbacks.** It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

**17. Audit**

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

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

#### **18. Certification of compliance with the Iran Divestment Act.**

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

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

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

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

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

**County of Oneida**

**Contractor**

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

By: Mary Eileen Sullivan  
Name:

Oneida County Executive

Approved as to Form only

\_\_\_\_\_

Oneida County Attorney



NEW YORK STATE  
OFFICE OF CHILDREN AND FAMILY SERVICES  
**INDIVIDUAL PROGRAM APPLICATION**  
*Program Information*

Program Title: <b>Mentoring/Tutoring</b>	QYDS ID# (For County Use Only):	Program Year: <b>2013</b>
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Direct Services will NOT be provided by this program

<b>FUNDING INFORMATION</b>	
Funding Category:	County: <b>Oneida</b>
Funding Type:	Sponsoring County/Municipality: <b>Town of New Hartford, NY</b>

<b>FUND AMOUNTS</b>	<b>AUTHORIZED VOUCHER SIGNEE</b>
Total Program Amount: <b>\$3825.92</b>	1. Last Name: <b>Tyksinski</b>
OCFS Funds Requested: <b>\$500. is what they received</b>	
Youth Bureau Allocated [Youth Bureau ONLY]:	Title: <b>Supervisor</b>
60% State Aid [RHYA Programs ONLY]    % Tax Match	2. Last Name: <b>Spellman</b>
% Agency Cash:    % In Kind	
	Title: <b>Sr Center Coordinator</b>

<b>AGENCY/MUNICIPALITY INFORMATION:</b>	
This Agency is:	
<input type="checkbox"/> Private, Not for Profit <input checked="" type="checkbox"/> Public <input type="checkbox"/> Religious Corporations	

Federal ID #: <b>15-100-1062</b>	Charities Reg.#:
Agency Website: <b>www.newhartfordtown.com</b>	Contact Person for Agency/Municipality:
Implementing Agency/Municipality: <b>Town of New Hartford Senior Center</b>	Last Name: <b>Spellman</b>
Mailing Address: <b>1 Sherman St., New Hartford, NY 13413</b>	First Name: <b>Mary</b>
Address Line 2:	Title: <b>Senior Center Coordinator, Dir. of Sr. Services</b>
City:	Phone Number: <b>315-724-8966</b>
State:	Extension:
Zip Code:	Fax Number: <b>315-733-7589</b>
	E-Mail: <b>espellman@town.new-hartford.ny.us</b>

<b>PERIOD OF ACTUAL PROGRAM OPERATION:</b>	
FROM: <b>June 24th to</b>	TO: <b>July 24th</b>

<b>EXECUTIVE DIRECTOR FOR AGENCY/MUNICIPALITY</b>	<b>HOURS OF OPERATION:</b>
Last Name: <b>Spellman</b>	FROM: <b>9a.m. to</b>
First Name: <b>Mary</b>	TO: <b>11:30 a.m.</b>
Title: <b>Senior Center Coordinator, Dir of Sr. Services</b>	<input type="checkbox"/> Daily <input checked="" type="checkbox"/> Other (Explain) <b>Monday, Tuesday, Wednesday</b>
Phone Number: <b>315-724-8966</b>	
Extension:	
Fax Number: <b>315-733-7589</b>	
E-Mail: <b>espellman@town.new-hartfod.ny.us</b>	

**Check if:**     Joint Program

1. Name of participating municipalities: \_\_\_\_\_

2. Name of primary disbursing municipality: Town of New Hartford

**Check if:**     Purchase of Service

1. Agency providing service: New Hartford Senior Center, Town of New Hartford, NY

2. Agency purchasing service: New Hartford Senior Center, Town of New Hartford, NY

  
\_\_\_\_\_  
EXECUTIVE DIRECTOR/BOARD CHAIRPERSON SIGNATURE

**Disclaimer:** Please note that submission of these forms to the County/Municipal Youth Bureau does NOT guarantee funding will be allocated to your program.

NEW YORK STATE  
OFFICE OF CHILDREN AND FAMILY SERVICES  
**PROGRAM BUDGET**

QYDS ID: 

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FISCAL YEAR: 

2	0	1	3
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AGENCY/MUNICIPALITY: Town of New Hartford

PROGRAM TITLE: Tutoring - Mentoring

FUND TYPE:

**FISCAL CONTACT INFORMATION:**

Include Name, Phone Number, E-mail address:

Eileen Spellman 315-724-8966 [espellman@town.new-hartford.ny.us](mailto:espellman@town.new-hartford.ny.us)

**PERSONAL SERVICES:**

POSITION TITLE	RATE OF PAY	BASIS (H, W, BW, SM)	TOTAL OCFS PROGRAM AMOUNT (1)	TOTAL OCFS FUNDS REQUESTED FOR THIS PROGRAM
Director of Senior Services	\$ 19.35	BW	\$ 1161.00	
Meal Site Manager	\$ 12.00	BW	\$ 360.00	
Clerk PT	\$ 7.98	BW	\$ 119.70	
	\$		\$	
	\$		\$	
	\$		\$	
	\$		\$	
<b>TOTAL SALARIES AND WAGES</b>			\$ 1640.70	\$
<b>TOTAL FRINGE BENEFITS</b>			\$ 862.22	\$
<b>TOTAL PERSONAL SERVICES (1)</b>			\$ 2502.92	\$ 1000.00 \$ 500

**CONTRACTED SERVICES AND STIPENDS**

TYPE OF SERVICE OR CONSULTANT TITLE	RATE OF PAY	BASE (S, M, HR)	TOTAL OCFS PROGRAM AMOUNT (1)	
Use of Rooms	\$ 32,342.	\$29.40 hr.	\$ 1,323.	
	\$		\$	
	\$		\$	
<b>TOTAL CONTRACTED SERVICES (2)</b>			\$	\$
<b>TOTAL MAINTENANCE &amp; OPERATION (3)</b>			\$ 1,323.	\$

LIST EQUIPMENT TO BE PURCHASED OR RENTED:

(UNIT COST OVER \$500 AND LIFE EXPECTANCY OF OVER TWO YEARS)

**FACILITY REPAIRS**

PROGRAM SITE ADDRESS		
1 Sherman St. New Hartford, NY 13413	\$	
	\$	
<b>TOTAL FACILITY REPAIRS (4)</b>	\$	\$

**TOTAL OCFS PROGRAM AMOUNT** 3825.92 \$

**+ TOTAL OCFS FUNDS REQUESTED** \$ 4000.00 \$ 500

LIST OF OTHER FUNDING SOURCES		
	\$	REIMBURSABLE TOTAL
	\$	MUNICIPAL FUNDING
	\$	OTHER SOURCES

\* USE AN ASTERISK NEXT TO THE FIGURES LISTED TO IDENTIFY THOSE ITEMS FOR WHICH OCFS REIMBURSEMENT IS NOT BEING REQUESTED.

NEW YORK STATE  
OFFICE OF CHILDREN AND FAMILY SERVICES  
**AGENCY- PROGRAM PROFILE**

IMPLEMENTING AGENCY: <b>Town of New Hartford</b>
PROGRAM TITLE: <b>Tutoring-Mentoring</b>

<b>Projected Total Program Enrollment</b> 35	<b>Projected Daily Attendance</b> 25
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**PROGRAM SUMMARY:** (Maximum of 100 words) Helping students with reading, math, reading comprehension, writing and printing. We bring the students one day to the NH Library to learn their programs and get library cards. Reading and math is one hour and then they play educational games, chess, bingo, and checkers ect. We have them use the microphone to call out numbers and this gives them confidence with their peers and they are learning as most have learning problems and need this extra support This program helps our volunteers as they are learning. We had 40 this past year.

PROGRAM SITES Most Significant (3 Maximum)		Assembly Dist. No.	NYS Senate Dist. No.	Local Planning Board	City Council District
Type	Address (Street, City, State, Zip)				
Sr Center	1 Sherman St. New Hartford, NY 13413	116			

Use whole numbers when entering information for Gender, Ethnicity, Ages, and Target Population areas, NOT percentages.

**GENDER OF PROGRAM PARTICIPANTS:** (Enter number participants per gender)      MALE 16      FEMALE 19

ETHNICITY: (Enter number of participants per ethnic group)	WHITE <u>32</u>	BLACK OR AFRICAN AMERICAN <u>1</u>	HISPANIC OR LATINO _____
	AMERICAN INDIAN OR ALASKAN NATIVE _____	ASIAN <u>2</u>	TWO OR MORE RACES _____
	NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER _____		

**AGES**    0-4 \_\_\_\_\_    5-9 16    10-14 19    15-17 \_\_\_\_\_    18-20 \_\_\_\_\_    21 + \_\_\_\_\_

**IS TARGET POPULATION SERVING DISCONNECTED YOUTH:** (Enter number of participants per population described)       No       Yes

IF "YES",    Youth aging out of foster care 2      Children of incarcerated parents 1

Youth in the juvenile justice system who re-enter the community \_\_\_\_\_      Runaway and Homeless Youth \_\_\_\_\_

Please describe (in 100 words maximum per feature) how the program for which you are requesting funding addresses each of the Features of Positive Youth Development settings below.

Features of Youth Development Settings (School, Home and Community)	Please describe how the program for which you are requesting funding addresses each of the Features of Positive Youth Development settings.
<b>Physical &amp; Psychological Safety</b> Safe and health-promoting facilities; practices that increase safe peer group interaction and decrease unsafe or confrontational peer interactions.	Our building is located in a safe neighborhood, well lit and the exit and entrance door is monitored. Staff is CPR/AED trained and we have a fire drill the first week. We have parents and guardians fill out emergency contact forms at registration, so we can readily contact them. This includes any medical problems that we need to be aware of and who to call.

IMPLEMENTING AGENCY: Town of New Hartford Senior Center PROGRAM TITLE: Mentoring/Tutoring
--

<p><b>Appropriate Structure</b>                  Limit setting; clear and consistent rules and expectations; firm enough control; continuity and predictability; clear boundaries, and age appropriate monitoring.</p>	<p>Staff is trained in how to maintain control and develop boundaries. Staff is aware of and provides age appropriate monitoring. We do one to one if possible. Parents or guardians list what the student needs help in and teachers will send school work for those who need extra help in certain areas.</p>
<p><b>Supportive Relationship</b>                  Warmth; closeness; connectedness; good communication; caring; support; guidance; secure attachment, and responsiveness.</p>	<p>The students know we care as we try to make this program interesting and enjoyable with them learning at the same time. Each child signs in every day and we learn their names.</p> <p>We make a effort to find out what the child is interested in and find reading material on that subject.</p> <p>The schools provide the age appropriate reading material.</p> <p>The parent or guardian is also aware of what the student is doing, as they each have work packets.</p>
<p><b>Opportunities to Belong</b>                  Opportunities for meaningful inclusion, regardless of one's gender, ethnicity, sexual orientation, or disabilities; social inclusion, social engagement, and integration; opportunities for socio-cultural identity formation; and support for cultural and bicultural competence.</p>	<p>The meeting with their age group helps them feel welcome and they look forward to being with their new friends and the instructor.</p>
<p><b>Positive Social Norms</b>                  Rules of behavior, expectations, injunctions, ways of doing things, values and morals, and obligations for service.</p>	<p>Theare is no bad language permitted. We are very fair and try to build the confidence of each student. They are praised and we enjoy having them here and they know they are welcome. I watch to make sure everyone sits right on the chairs as we don't want accidents They enjoy being with th older students and appreciate the volunteers giving of their time to help them. These children are pleasure to be with We love having them here. .</p>

IMPLEMENTING AGENCY: <b>Town of New Hartford, NY 13413</b>
PROGRAM TITLE: <b>Mentoring/Tutoring</b>

<p><b>Support for Efficacy &amp; Mattering</b>                  Youth-based; empowerment practices that support autonomy; making a real difference in one's community, and being taken seriously. Practices that include enabling, responsibility granting, and meaningful challenge. Practices that focus on improvement rather than on relative current performance levels.</p>	<p>Our young students learn from the older students, many who are honor roll students. By giving of their time to help others is a great climate to have the younger ones be part of and seeing these older students out in the community or at their schools and seeing them be able to continue their education by working hard.</p> <p>We have wonderful roll models for the younger ones. The Parents and guardians send the children here for several years because the children request it.</p>
<p><b>Opportunities for Skill Building</b>                  Opportunities to learn physical, intellectual, psychological, emotional, and social skills; exposure to intentional learning experiences, opportunities to learn cultural literacy, media literacy, communication skills and good habits of mind; preparation for adult employment, and opportunities to develop social and cultural capital.</p>	<p>These children will hopefully volunteer their time, when they are in the upper grades to help others with reading and math. It is by showing by example that influences the lives of all of us. We had 40 volunteers in 2012 and many came in every day.</p> <p>They were kind, understanding and helpful.</p>
<p><b>Integration of Family, School &amp; Community Efforts</b>                  Concordance; coordination and synergy among family, school and community.</p>	<p>This is a community effort. I work for the Town of New Hartford as Director of Senior Services.</p> <p>Students volunteer from area schools. teachers provide books, and work sheets for the classes to be copied here at the center</p> <p>We have our Police Chief and Assemblywoman Tenney hand out the recognition certificates.</p> <p>Parents and guardians transport the students to the site. The New Hartford Library Childrens Dept sets aside a day that we can come in and Ruth Cook presents a informational program for the children We also receive 36 books every year on loan from the library and text reading books from Higby school</p>

<p><b>Monitoring &amp; Evaluation Methods</b></p>	<p>(Please describe in 100 words or less)</p>
<p><b>Monitoring</b> is defined as a systematic review of a funded program based upon the requirements of a contract, rules, regulations, policies and/or State and Local laws. It identifies the degree to which a program or operation accomplishes the activities specified in a contract/application and how it complies with requirements. Describe your process to be used to monitor on a regular basis. Include who will be responsible, frequency, and documentation of monitoring activities.</p>	<p>Eileen Spellman and Paul Hernon will monitor the program. Eileen and Paul who is a student at Wells College and is doing intern work at the center for this program. We will oversee the daily sign in sheets, assign students to Volunteers and oversee the program and make sure all have what they need to do their work. Each student has a work packet and uses this every day.</p> <p>We also have the parent or guardian sign in as well as the volunteers every day when present The Parent can see the work packet and also knows what books the child is reading..</p>
<p><b>Evaluation Methods</b> is the process to determine the value or amount of success in achieving a pre-determined program or operational goal. Evaluations can identify program strengths and weaknesses to improve the program. Evaluations can verify if the program is really running as originally planned. Describe the process to be used to evaluate the attainment of the objectives. Include what will be measured, who will conduct the evaluation, when it will be conducted, and how results will be used.</p>	<p>Our evaluation is the attendance of the students at our program. We have been doing this thirteen years now and it is popular.</p>

# ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5<sup>th</sup> Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.  
ONEIDA COUNTY EXECUTIVE

PHYLLIS D. ELLIS, BSN, MS, F.A.C.H.E.  
DIRECTOR OF HEALTH

## CANCER SERVICES PROGRAM

Phone: (315) 798-5248 • Fax: (315) 798-5071

October 3, 2013

FN 20 13 341

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

HEALTH & HUMAN SERVICES

**WAYS & MEANS**

Dear Mr. Picente:

Attached are five (5) copies of an agreement between Oneida County through its Health Department and Faxton St. Luke's Healthcare Center for the purposes of providing breast, cervical and colorectal screenings through the Cancer Services Program.

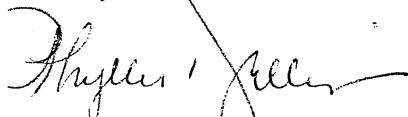
Goals of this program are to build and maintain collaborative relationships with health, human service, education and other community organizations to provide and promote utilization of cancer screening services among the priority populations throughout the entire proposed service area, enroll members of the priority populations into comprehensive, age-appropriate breast, cervical and colorectal cancer screening services, establish systems and procedures for the provision of breast, cervical, and colorectal cancer screening and diagnostic services to eligible populations, ensure that all men and women with abnormal screening results are assessed for their need for case management services and are provided with services.

The term of this contract shall be effective April 1, 2012 through October 31, 2013. It is anticipated that this contract will not exceed \$75,000. Reimbursement is 100% funded by New York State Department of Health.

This is not a program mandated by Public Health Law.

If this meets with your approval, please forward to the Board of Legislators.

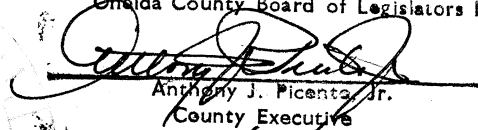
Sincerely,



Phyllis D. Ellis, BSN, MS, F.A.C.H.E.  
Director of Health

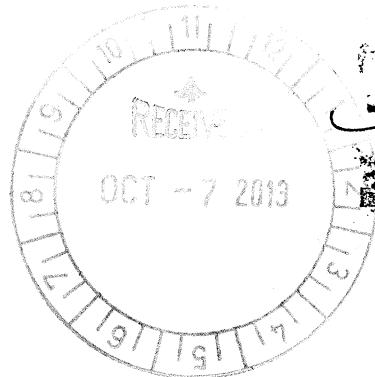
Attachments

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



Anthony J. Picente, Jr.  
County Executive

Date 10/2/13



Oneida County Department: Health

Competing Proposal \_\_\_\_\_

Only Respondent \_\_\_\_\_

Sole Source RFP \_\_\_\_\_

Other   x   \_\_\_\_\_

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**NAME AND ADDRESS OF VENDOR:** Patricia Roach  
Faxton-St. Luke's Healthcare  
1656 Champlin Ave.  
Utica, NY 13502

**SUMMARY STATEMENT:** The Oneida County Health Department through a grant from the New York State Department of Health provides comprehensive breast, cervical and colorectal screening/diagnostic services to uninsured or underinsured individuals residing in Oneida, Herkimer and Madison counties. Faxton-St. Luke's Healthcare Center will participate in the Oneida County Health Department's Cancer Services Program to provide breast, cervical and colorectal cancer screening services and/or diagnostic services.

**DATES OF OPERATION:** April 1, 2012 to October 31, 2013

**TOTAL FUNDING REQUESTED:**

   NEW      X   RENEWAL       AMENDMENT       APPLICATION

**FUNDING SOURCE: (Federal \$ - State \$ - County \$):**

Funding is wholly through Federal and State grants. The amount paid to the facility depends on the number of services provided during the time frame. Reimbursement rates as set by New York State range from \$10 to \$1,650.

**PAST PERFORMANCE DATA:** Program Year 11/12 expenditures to Faxton St. Luke's Healthcare were approximately \$38,000.

**O.C. DEPARTMENT STAFF COMMENTS:** Faxton St. Luke's Healthcare is the facility that we utilize the most often.

**Expense Account:** A4091.495

**Revenue Account:** A3451



**Cancer Services Program of  
Oneida-Herkimer-Madison Counties**

**PROVIDER SERVICE AGREEMENT**

**THIS AGREEMENT** by and between ONEIDA COUNTY, a municipality 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", through its Health Department, with offices located at Adirondack Bank Building, 5<sup>th</sup> Floor, 185 Genesee Street, Utica, New York 13501, and **Faxton St. Luke's Healthcare., 1656 Champlin Ave., Utica, NY 13502**, hereinafter referred to as the "Provider."

**WITNESSETH**

**WHEREAS**, the County, through its Health Department, is the recipient of a grant from the New York State Department of Health to operate the Integrated Cancer Services Program of Oneida, Herkimer, and Madison Counties, hereinafter referred to as the "Program," through a grant from the New York State Department of Health and by which certain preventive and diagnostic breast, cervical and colorectal screening services are provided to those residing in Oneida, Madison, and Herkimer counties who are uninsured or underinsured.

**WHEREAS**, the Provider warrants that it is presently qualified to provide breast, cervical and colorectal cancer screenings and/or diagnostic services within New York State; and

**WHEREAS**, the Provider is willing to participate in the County's Cancer Services Program to provide breast, cervical and colorectal cancer screening services and/or diagnostic services, and to abide by all provisions set for by the New York State Department of Health regarding the Provider's participation in this program; and

**NOW, THEREFORE** the parties make this agreement and agree to the following terms:

1. **TERM.** This agreement shall go into effect upon execution and shall be in effect from **April 1, 2012, until October 31, 2013.**
2. **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.
3. **CONTRACT DEPENDING ON GRANT FUNDING.** The obligations of the parties hereunder are conditioned upon the continued availability of Federal and/or New York State funds for the purpose set forth in this Agreement. Should the funds become unavailable or should appropriate Federal or New York State officials fail to approve sufficient funds for completion of the services set forth in the Agreement, the County shall have the option to immediately terminate the Agreement upon providing written notice to the Provider. In such an event, the County shall be under no further obligation to the Provider 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.** The Provider shall:

- a. Abide by the policies and procedures contained within the New York State Department of Health's Cancer Services Program Operations Manual;
- b. Provide clients of the program with the same quality of care as afforded to any other patient in its care;
- c. Request reimbursement for clinical services ONLY for clients who meet the program's eligibility criteria as defined in the Operations Manual;
- d. Treat the Program as a payor of last resort. The Provider agrees to first bill the client's other insurance and/or third part payor for services provided through the program. The Provider further agrees that it may only seek program reimbursement from the County through its Health Department and may not submit claims for reimbursement directly to the state;
- e. Accept reimbursement rates established by the Program as payment in full for all services that are covered by the Program or their primary insurance coverage. The reimbursement rates for each fiscal year will be mailed to the Provider when such rates are determined by the State Department of Health. The Provider shall not charge clients for the difference between the Program's reimbursement and the Provider's usual fees;
- f. Promptly refer Program clients for all needed and appropriate diagnostic and treatment services without consideration of their ability to pay. This assurance includes any and all necessary services NOT covered by the Program;
- g. Under no circumstances, charge Program clients for services that are covered by the Program;
- h. Obtain signed annual consent forms from all Program clients for the release of their medical information to the Program and the State Department of Health for the purposes of case management, tracking, and reimbursement;
- i. Submit accurate demographic, screening, diagnostic, treatment, and any other data required by the State Department of Health in a timely manner and in the format required by the State. The Provider agrees that the reimbursement for clinical services will not be provided by New York State until such data has been submitted and accepted on the Program's data system;
- j. Maintain adequate business, financial, personnel, and other records that may be applicable to the program. The Provider shall make such records available to the State Department of Health and other authorized governmental agencies for inspection and copying at no charge;
- k. Assure that all licensed health care professionals at its facility are appropriately licensed to practice their profession in the State of New York, and maintain the appropriate credentials for the service they are providing;

- l. Immediately notify the State Department of Health if the Provider, or any employee thereof, has its professional license or certification voluntarily surrendered, restrict temporarily or permanently, reclassified, suspended, or revoked for any reason. If the Provider is indicted or convicted of a criminal offense, regardless of the nature of the offense, or if the Provider becomes subject to any disciplinary action taken by a governmental program, hospital, managed care organization, or licensing authority, the Provider shall also immediately notify the State Department of Health;
  - m. Provide all information necessary to comply with the State Department of Health credentialing and recredentialing activities, and further to provided such information within a reasonable time period ;
  - n. Accept, as payment in full, fund raising money, which may include Susan Komen Funds or donations from individuals or other organizations, for services related to breast procedures not covered by Program funds. The reimbursement rate for such services will be approximately 10% below the current New York State Medicare rate;
  - o. Notify the designated care manager at the Program, via telephone, of all abnormal breast and/or cervical screening or diagnostic results of Program clients within 24 hours of receiving such abnormal results. The Provider shall designate a nurse to be the primary contact for the case manager and shall promptly notify the case manager in this contact person changes.
  
5. **INSURANCE.** The Provider shall maintain a professional liability policy and will provide the Health Department with proof of coverage in the amount of \$1,000,000 per incident and \$3,000,000 aggregate. The Provider shall also maintain general liability insurance and will provide the Health Department with proof of coverage in the amount of \$1,000,000 per incident and \$3,000,000 Aggregate. The Provider agrees to have the County and the Oneida County Health Department named as additional insured 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.
  
6. **INDEMNIFICATION.** The Consultant agrees that it shall defend, indemnify and hold harmless the Health Department and 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 Consultant and its agents, servants or employees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the Consultant or failure on the part of the Consultant to comply with any of the covenants, terms or conditions of this agreement.
  
7. **EXCLUSIVITY.** The County, through its Health Department retains the right to reassign patients to other Providers or its own employees. The County, through its Health Department retains the right to contract with other independent Providers for such services which are the same as or similar to those provided by the Provider, or to provide such services to its patients through its own employees. The Provider retains the right provide services directly or indirectly through contract with another agency, to persons who are not patients of the County.

8. **INDEPENDENT CONTRACTORS STATUS.** Both the Provider and the County intend that the Provider's status be that of an independent contractor, and that nothing in this agreement be construed to create an employer/employee relationship between the Provider and the County. The Provider covenants and agrees that its officers, agents, directors, employees or members, in accordance with the status of the Provider as an independent contractor, will conduct themselves consistent with such status; that they shall neither hold themselves out as, nor claim to be, officers or employees of the County and/or the Health Department, nor shall they make any claim, demand or application to, or for, any right or privilege applicable to any officer or employee of the County and/or its Health Department, including but not limited to Worker's Compensation coverage, unemployment insurance benefits, Social Security coverage or retirement membership credit.
9. **SUBCONTRACT.** The Provider may not assign the Provider's rights or obligations under this Agreement, or subcontract with or employ another to provide the services described above of this Agreement, without the prior written consent of the County.
10. **PERFORMANCE MONITORING.** The County, through its Health Department shall monitor the performance of services by the Provider to ensure that the County is receiving the provision of services to designated patients.
11. **TERMINATION.** This Agreement may be terminated at any time by either party giving to the other at least thirty (30) calendar days prior written notice of termination. However, in the event the Provider defaults in the performance of any of the Providers obligations under this Agreement, the County may terminate the Agreement effective upon written notice served at any time upon the Provider, upon notice of termination the Provider shall immediately submit to the County all required documentation for services rendered up to the date of termination before a final reimbursement for services rendered can occur.

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

ONEIDA COUNTY

DATE: \_\_\_\_\_

BY: \_\_\_\_\_

Anthony J. Picente, Jr.  
Oneida County Executive

Approved As To Form  
ONEIDA COUNTY ATTORNEY  
By \_\_\_\_\_

PROVIDER

DATE: 9/23/13

BY: Patricia Roach

Print Name: Patricia Roach

Title: Senior Vice President

& Chief Nursing Officer

**APPROVED AS TO FORM ONLY  
ONEIDA COUNTY ATTORNEY**

**BY:** \_\_\_\_\_  
**Nichole Hinman**  
**Asst. Oneida County Attorney**

## 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, thereafter,

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

**1. Executor or Non-Appropriation Clause.**

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

**2. Oneida County Board of Legislators: Resolution #249 Solid Waste Disposal Requirements.**

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

**3. Certification Regarding Lobbying; Debarment, Suspension and other Responsibility Matters; and Drug-Free Workplace Requirements.**

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal Grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.
  2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
  3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
1. The Contractor certifies that it and its principals:
    - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
    - b. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contracts under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
    - c. Are not presently indicated or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1(b) of this certification; and
    - d. Have not within a three-year period preceding this Contract had one or more public transactions (Federal, State, or local) for cause or default; and

2. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. The Contractor will or will continue to provide a drug-free workplace by:
    - a. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
    - b. Establishing an on-going drug-free awareness program to inform employees about:
      1. The dangers of drug abuse in the workplace;
      2. The Contractor's policy of maintaining a drug-free workplace;
      3. Any available drug counseling, rehabilitation, and employee assistance program; and
      4. The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
    - c. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (a);
    - d. Notifying the employee in the statement required by paragraph (a) that as a condition of employment under the Contract, the employee will:
      1. Abide by the terms of the statement; and
      2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
    - e. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
    - f. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
      1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the Requirements of the Rehabilitation Act of 1973, as amended; or
      2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;



- g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a),(b),(c),(d),(e),(f).

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

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

**139 Fields Dr., Oneida, NY 13421**

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

1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

#### **4. Health Insurance Portability and Accountability Act (HIPAA).**

When applicable to the services provided pursuant to the Contract:

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

1. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
2. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
3. Utilize an adequate amount of physical hardware, including but not limited to filing cabinets, and locks on drawers, cabinets, and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.

- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:
  - 1. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
  - 2. The Contractor may provide data aggregation services relating to the health care operations of the County.
- c. The Contractor shall:
  - 1. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
  - 2. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
  - 3. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
  - 4. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of, the County agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
  - 5. Make available protected health information in accordance with 45 CFR § 164.524;
  - 6. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR § 164.528;
  - 7. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
  - 8. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by the Contractor on behalf of, the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
  - 9. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by the Contractor on behalf of, the County that the Contractor still maintains in any form and retain no copies of such information or, if such return or destruction is not feasible, extend the protections of this Contract to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
  - 1. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
  - 2. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or

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

**5. Non-Assignment Clause.**

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

**6. Worker's Compensation Benefits.**

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

**7. Non-Discrimination Requirements.**

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

**8. Wage and Hours Provisions.**

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

**9. Non-Collusive Bidding Certification.**

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

**10. Records.**

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

contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

**11. Identifying Information and Privacy Notification.**

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

b. Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

**12. Conflicting Terms.**

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

**13. Governing Law.**

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

**14. Prohibition on Purchase of Tropical Hardwoods.**

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

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

**15. Compliance with New York State Information Security Breach and Notification Act.**

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

**16. Gratuities and Kickbacks.**

a. **Gratuities.** It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

b. **Kickbacks.** It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

## **17. Audit**

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

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

## **18. Certification of compliance with the Iran Divestment Act.**

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

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

During the term of the Contract, should the County receive information that a Bidder/Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within 90

days after the determination of such violation, then the County shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor in default.

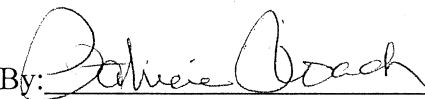
The County reserves the right to reject any bid or request for assignment for a Bidder/Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any Bidder/Contractor that is awarded a Contract and subsequently appears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

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

**County of Oneida**

**Contractor**

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

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

Oneida County Executive

Name:

Approved as to Form only

\_\_\_\_\_

Oneida County Attorney





Anthony J. Picente Jr.  
County Executive

Mello J. Testa  
Director

Greg E. Grower  
Asst. Director

## Oneida County Department of Purchasing

800 Park Avenue Utica, New York 13501  
Phone (315) 798-5883 FAX (315) 798-4042

September 25, 2013  
Hon. Anthony J. Picente, Jr.  
County Executive  
800 Park Avenue  
Utica, New York 13501

FN 20 13342 - Reviewed and Approved for submittal to the  
Oneida County Board of Legislators by

GOVERNMENT OPERATIONS   
Anthony J. Picente, Jr.  
County Executive

Date 9/27/13

**WAYS & MEANS**

Dear Mr. Picente,

In accordance with the terms of the Procurement Policy of Oneida County, which was approved and adopted by the Board of Legislators on August 26, 2009, Resolution #293, you will find the recently updated version herein enclosed. The changes and updates contained within have been made to maintain compliance with NYS General Municipal Law and to incorporate other changes as needed.

This policy establishes the laws, rules or regulations governing the procurement of goods and services for Oneida County for the purpose of providing fair and equitable treatment of all persons involved with public purchasing, to maximize the purchasing value of public funds used in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity. This policy applies to contracts for the procurement of all supplies, services, materials and equipment and for professional service contracts entered into by the County which applies to every expenditure of public funds, regardless of the source of the funds.

If this document meets with your approval, I am respectfully requesting that you forward this updated policy to the Board of Legislators for their consideration and adoption. If there are any questions or concerns regarding this update, please contact me at your convenience.

Sincerely,



Mello J. Testa, Sr.  
Director of Purchasing

Encl.

## ARTICLE 1 – GENERAL PROVISIONS

### *PART A – Purpose and Applications*

#### **1-101 Purpose**

The purpose of this Policy is to provide for the fair and equitable treatment of all persons involved in public purchasing with the County of Oneida, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

#### **1-102 Application**

This Policy applies to contracts for the procurement of all supplies, services, materials and equipment; as well as professional service contracts entered into by the County of Oneida after the effective date of this Policy. It shall apply to every expenditure of public funds by a public agency for public purchasing irrespective of the source of the funds. When the procurement involves the expenditure of federal and/or state grant monies or contract funds, the procurement shall be conducted in accordance with any mandatory applicable federal and/or state laws and regulations. Nothing in this Policy shall prevent any public agency from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

### *Part B –Definitions*

#### **1-201 Definitions**

- 1) *Architect-Engineer and Land Surveying Services.* Those professional services within the scope of the practice of architecture, professional engineering, or land surveying, as defined by the laws of the State of New York.
- 2) *Brand Name or Equal Specification.* A specification limited to one or more items by manufacturers' names or catalogue numbers to describe the standard of quality, performance, and other salient characteristics needed to meet County requirements, and which provides for the submission of equivalent products.
- 3) *Brand Name Specification.* A specification limited to one or more items by manufacturers' names or catalogue numbers.
- 4) *Business.* Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
- 5) *Change Order.* A written order signed and issued by the Director of Purchasing or his or her designee directing the contractor to make changes in relation to a specific purchase order or county contract.
- 6) *Contract Modification (bilateral change).* Any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

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- 7) *Confidential Information.* Any information which is available to an employee only because of the employee's status as an employee of the County and is not a matter of public knowledge or available to the public on request.
- 8) *Construction.* The process of building, altering, repairing, improving, or demolishing any public structure, building, road, highway, bridge or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.
- 9) *Contract.* All types of County agreements, regardless of what they may be called, for the procurement of supplies, services or construction.
- 10) *Contractor.* Any person, firm or corporation having a contract with the county or a using agency thereof.
- 11) *Cost Analysis.* The evaluation of cost data for the purpose of arriving at costs actually incurred or estimates of costs to be incurred, prices to be paid, and costs to be reimbursed.
- 12) *Cost Data.* Factual information concerning the cost of labor, material, overhead, and other cost elements which are expected to be incurred or which have been actually incurred by the contractor in performing the contract.
- 13) *Cost-Reimbursement Contract.* A contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and the provisions of this Policy, and a fee for profit, if any.
- 14) *Direct or Indirect Participation.* Involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.
- 15) *Employee.* An individual drawing a salary or wages from the County, whether elected or not; any non-compensated individual performing personal services for the County or any department, agency, commission, council, board, or any other entity established by the executive or legislative branch of the County.
- 16) *Financial Interest.*
  - a) Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive more than \$100.00 per year, or its equivalent;
  - b) Ownership of 25% of any property or business; or
  - c) Holding a position in a business such as officer, director, trustee, partner, employee, or the like or holding any position of management.
- 17) *Gratuity.* A payment, loan, subscription, advance, deposit of money, service, or anything else with a nominal value of \$25.00 or more.

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- 18) *Immediate Family.* A spouse, children or step-children, parents, or step-parents, brothers or step-brothers, and sisters or step-sisters.
- 19) *Invitation for Bids.* All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.
- 20) *Person.* Any business, individual, union, committee, club, other organization, or group of individuals.
- 21) *Price Analysis.* The evaluation of price data, without analysis of the separate cost components and profit as in cost analysis, which may assist in arriving at prices to be paid and costs to be reimbursed.
- 22) *Pricing Data.* Factual information concerning prices for items substantially similar to those being procured. Pricing in this definition refers to offered or proposed selling prices, historical selling prices and current selling prices. The definition refers to data relevant to both prime and subcontract prices.
- 23) *Procurement.* The buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection, and solicitation of sources, preparation and award of contract, and all phases of contract administration.
- 24) *Public Agency.* A public entity subject to or created by the County or created under State law.
- 25) *Request for Proposals.* All documents, whether attached or incorporated by reference, utilized for soliciting proposals.
- 26) *Responsible Bidder of Offeror.* A person who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, and credit which will assure good faith performance.
- 27) *Responsive Bidder.* A person who has submitted a bid that conforms in all material respects to the requirements set forth in the invitation for bids.
- 28) *Services.* The furnishing of labor, time or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements.
- 29) *Specification.* Any description of the physical or functional characteristics or of the nature of a supply, service, equipment or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, equipment or construction item for delivery.

- 30) *Supplies.* All property, including but not limited to equipment, materials, and printing, excluding land or a permanent interest in land.
- 31) *Surplus.* Any unused, obsolete or excess materials, equipment or supplies no longer needed for public use as determined by the Director of Purchasing or his or her designee after consultation with and upon the recommendation of the relevant department head.
- 32) *Using Agency.* Any department, commission, board, or public agency requiring supplies, services, equipment, or construction procured pursuant to this Policy.

**Part C – Public Access to Procurement Information**

**1-301 Public Access to Procurement Information**

Procurement information shall be a public record to the extent provided in the New York State Freedom of Information Law (Public Officers Law,–Article 6), and shall be available to the public as provided in such statute.

**ARTICLE 2 – OFFICE OF THE DIRECTOR OF PURCHASING**

**2-101 Authority and Duties**

- 1) *Principal Public Purchasing Official.* Except as otherwise provided herein, the Director of Purchasing shall serve as the principal public purchasing official for the County, and shall be responsible for the procurement of supplies, services, equipment, and public works projects in accordance with this Policy, as well as the management and disposal of supplies, services, and equipment.
- 2) *Duties.* In accordance with this Policy the Director of Purchasing or his or her designee shall:
  - a) Procure or supervise the procurement of all supplies, services, materials and equipment, as well as professional services up to \$50,000.00 as needed by the County;
  - b) Sell, trade, or otherwise dispose of surplus supplies belonging to the County; and shall, with the prior approval of the County Executive, provide electronic notification to the members of the Board of Legislators of any sale, trade or disposition of surplus property with an original value in excess of \$10,000.
  - c) Establish and maintain programs for specification development, contract administration and inspection and acceptance, in cooperation with the public agencies using the supplies, services, and construction.
- 3) *Operational Procedures.* Consistent with this Policy the Director of Purchasing may adopt operational procedures relating to the execution of his or her duties.

- 4) *In accordance with General Municipal Law §104-b (2)(f) the Procurement Policies of Oneida County will include the names and titles of the individuals responsible for purchasing at the end of this document. This list will be updated biennially as required.*

## **2-102 Delegations to Other County Officials**

With the approval of the County Executive, the Director of Purchasing may delegate authority to purchase certain supplies, services, equipment, or construction items to other County officials, if such delegation is deemed necessary for the effective procurement of those items.

## **ARTICLE 3 – SOURCE SELECTION AND CONTRACT FORMATION**

### **PART A – Methods of Source Selection**

#### **3-101 Competitive Sealed Bidding.**

- 1) *Conditions for Use.* All contracts of the County of Oneida shall be awarded by competitive sealed bidding, and in accordance with Section 103 of the General Municipal Law and any applicable federal or state laws, rules or regulations governing same, except as otherwise provided in Sections 3-102 (Competitive Sealed Proposals), 3-102 (Contracting for Designated Professional Services), 3-104 (Small Purchases), 3-105 (Sole Source Procurement), 3-106 (Emergency Procurements), and 5-401 (Public Announcement and Selection Process) of this Policy. No later than ten (10) days prior to the invitation for bids being issued, the specifications for equipment with anticipated costs in excess of \$50,000 shall be provided to the appropriate Legislative Committee for its review and comment.
- 2) *Invitation for Bids.* An invitation for bids shall be issued and shall include specifications, and all contractual terms and conditions applicable to the procurement.
- 3) *Public Notice.* Adequate public notice of the invitation for bids shall be given, not less than fifteen (15) calendar days prior to the date set forth therein for the opening of bids, unless it is determined by the Director of Purchasing, in writing that a public notice of less than fifteen (15) days is adequate. In no instance shall the public notice be less than five (5) business days. Such notice shall be in the public notice section of the official newspapers as designated by the Board of Legislators for a period of one (1) business days. The public notice shall state the place, date, and time of the bid opening.
- 4) *Bid Opening.* Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as the Director of Purchasing deems appropriate, together with the name of each bidder shall be recorded; the record and each bid shall be open to public inspection in accordance with Section 1-301 (Public Access to Procurement Information).
- 5) *Bid Acceptance and Bid Evaluation.* Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Policy. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery,

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and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluations that are not set forth in the invitation for bids.

- 6) *Correction or Withdrawal of Bids; Cancellation of Awards.* Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written notice received in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, correction of bids shall not be permitted. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the county or fair competition shall be permitted. In lieu of bid correction, a bidder alleging a material mistake of fact may be permitted to withdraw his bid if
  - a) The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
  - b) The bidder submits evidence that clearly and convincingly demonstrates that a mistake was made. All decisions to permit correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by written determination made by the Director of Purchasing.
- 7) *Award.* The contract shall be awarded with reasonable promptness by appropriate written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids.
- 8) *Multi-Step Sealed Bidding.* When it is considered impractical to prepare initially a purchase description to support an award based on price, an invitation for bids may be issued requesting submission of un-priced offers to be followed by an invitation for bids based on the product information received from the first solicitation.
- 9) *Piggybacking.* Pursuant to Subsection 16 of Section 103 of the General Municipal Law, purchases of apparatus, materials, equipment or supplies or contracts for such services related to the installation, maintenance or repair of apparatus, materials, equipment, and supplies, provided such purchases are pursuant to a contract let by the County, let in a manner that constitutes competitive bidding consistent with state law, shall be made available for use by other governmental entities. The following certification is mandatory in every bid or proposal made available for use by other governmental entities pursuant to Subsection 16 of Section 103 of the General Municipal Law:

**Certification to Allow Future 'Piggybacking' by Other Governmental Entities**

Pursuant to Subsection 16 of Section 103 of the General Municipal Law, by submission of this bid or proposal, the Bidder certifies the terms and conditions of this bid or proposal are made available for future use by other governmental entities. The terms and conditions of this bid or proposal are extended to, and made available for, other local government in New York State pursuant to Subsection 16 of Section 103 of the General Municipal Law.

**3-102 Contracting for Designated Professional Services**

- 1) *Authority.* For the purpose of procuring the services of accountants, physicians, lawyers, engineers, land surveyors, architects and other professional services as defined by the laws of the State of New York, any using agency requiring such services may procure them on its own behalf, in accordance with the selection procedures specified in this section.
- 2) *Selection Procedure.*
  - a) *Conditions for Use.* Except as provided under Section 3-105 (Sole Source Procurement) or Section 3-106 (Emergency Procurements), the professional services designated in subsection (1) of this Section shall be procured in accordance with this Subsection.
  - b) *Request for Proposals.* Proposals shall be solicited via a formal Request for Proposals (RFP) document. The using agency shall make every reasonable effort to obtain at least (3) proposals.
  - c) *Statement of Qualifications.* Persons solicited for providing the designated types of professional services may submit statements of qualifications or expressions of interest in providing such professional services. An agency using such professional services may specify a uniform format for statements of qualifications and may request submittal of fee estimates with statements of qualifications. Persons may amend these statements at any time prior to the request for proposals due date by filing a new statement.
  - d) *Discussions.* The head of a using agency procuring the required professional services or a designee of such officer may conduct discussions with any offeror who has submitted a Statement of Qualifications to determine such offeror's qualifications for further consideration. Discussions shall not disclose any information derived from Statements of Qualification's submitted by other offerors.
  - e) *Award.* Award shall be made to the offeror determined in writing by the head of the using agency procuring the required professional services or a designee of such officer, to be best qualified based on the agency's evaluation of the Statement of Qualifications, and negotiation of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best-qualified offeror, the negotiations will be formally terminated with the selected offeror. If Statements of Qualifications were submitted by one or more other offerors determined to be qualified, negotiations may be conducted with such other offeror or offerors, in the order of their respective qualification ranking, and the contract may be awarded to the offeror then ranked best qualified if the amount of compensation is determined to be fair and reasonable. Awards in excess of \$50,000 must be approved by the Oneida County Board of Legislators.

**3-103 Purchases not subject to Competitive Bidding**



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- Purchases of \$20,000 or less for commodities, equipment, materials, supplies and services.
- Purchases of \$35,000 or less for public works projects.
- Pursuant to Subsection 16 of Section 103 of the General Municipal Law, purchases of apparatus, materials, equipment or supplies or contracts for such services related to the installation, maintenance or repair of apparatus, materials, equipment, and supplies, provided such purchases are pursuant to a contract let by the United States of America or any agency thereof, any state or any other county or political subdivision or district therein, let in a manner that constitutes competitive bidding consistent with state law, and made available for use by other governmental entities. The following certification is mandatory in every bid or purchase utilized pursuant to Subsection 16 of Section 103 of the General Municipal Law:

**Certification of Permissible 'Piggybacking' by the County**

Pursuant to Subsection 16 of Section 103 of the General Municipal Law, by submission of this bid or proposal, the Bidder certifies that the terms and conditions of this bid or proposal are pursuant to a contract that was:

1. Let by the United States of America or any agency thereof, any state or any other county or political subdivision or district therein;
  2. Let in a manner that constitutes competitive bidding consistent with state law; and
  3. Made available for use by other governmental entities.
- Pursuant to Subsection 1-b of Section 103 of the General Municipal Law, the County shall have the option of purchasing information technology and telecommunications hardware, software and professional services through cooperative purchasing permissible pursuant to federal General Services Administration information schedule 70 and any successor schedule, provided the County complies with federal schedule ordering procedures as provided in the applicable federal acquisition regulation(s).
  - Pursuant to Section 381 of Title 10 of the United State Code and the procedures for procurement made in accordance therewith, federal supply schedule 1122 and any successor schedule of the General Services Administration may be used by the County to procure supplies of such schedule(s), provided the County complies with federal schedule ordering procedures as provided in the applicable federal acquisition regulation. This includes, but is not limited to, procurements from the Minnesota Multistate Contracting Alliance for Pharmacy.

Section 104-b of New York State General Municipal Law requires that procedures for purchasing goods and services that fall below the monetary bid limits be established and approved by the governing board. The following shall constitute Oneida County Policy:

- 1) *Cumulative Purchases.*
  - a) Purchases shall be evaluated with attention given to cumulative dollar amounts expected in a given fiscal year. The Director of Purchasing shall canvas using agencies to determine yearly value of a commodity or service. Past history can

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be taken into consideration when evaluating yearly costs associated with the purchase of a commodity or service. If the bid limit is suspected to be exceeded, competitive bidding shall be used. This decision shall rest with the Director of Purchasing.

- b) If there are several comparable separate public works projects for the same or various locations, in a foreseeable time frame, whose expected cumulative total is \$5,000 or more, written quotes must be obtained from a minimum of three suppliers.

2) *Methods of Procurement Not Covered By Competitive Bidding.*

- a) Purchases for **commodities, equipment, supplies, materials and services** under \$1,000 shall be awarded at the discretion of the Director of Purchasing; Purchases from \$1,000 to \$2,999.99 will require a minimum of three telephone, facsimile or e-mail quotes; Purchases from \$3,000 to \$20,000 will require a minimum of three written quotes. All purchases of more than \$20,000 will be Competitively Bid,
- b) Purchases that are defined as **Public Works Projects** under \$4,999.99 will be awarded at the discretion of the Director of Purchasing; Purchases from \$5,000 to \$35,000 will require a minimum of three written quotes. All purchases of more than \$35,000 will be Competitively Bid.
- c) Purchases and contracts defined as **Professional Services** up to \$50,000 will be awarded by the Board of Acquisition and Contract, upon the advice of the Director of Purchasing and the Commissioner or Director of the using Agency. Purchases and contracts of more than \$50,000 will require the issuing of a formal Request for Proposal; and the approval of the County Legislature.

3) *Award.* All awards from telephone, facsimile, e-mail or written quotes shall be made to the supplier offering the best value to the County. In determining the best value for the County, the purchase price and whether the goods or services meet specifications are the most important considerations. However, the Director of Purchasing may consider other relevant factors, including:

- a) installation costs;
- b) life cycle costs;
- c) the quality and reliability of the goods and services;
- d) the delivery terms;
- e) indicators of probable supplier performance under the contract such as past supplier performance, proximity to source of need, the supplier's financial resources and ability to perform, the supplier's experience or demonstrated capability and responsibility, and the supplier's ability to provide reliable maintenance agreements and support;
- f) the cost of any employee training associated with a purchase;
- g) the effect of a purchase on agency productivity and other factors relevant to determining the best value for the County in the context of a particular purchase;

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- h) the completion of a certified "Statement of Good Standing," indicating that the supplier does not owe any outstanding taxes or municipal/governmental fees (e.g. school, property, water, sewer, utilities).
  - i) Oneida County vendors whose proposal to provide goods or services is within five per cent (5%) of the lowest proposal submitted may be entitled to preferential consideration in the awarding of a contract. "Oneida County vendor" shall mean any vendor doing business in Oneida County and employing Oneida County residents.
- 4) *Documentation.* All quotes (written or telephone) shall be documented on existing quote forms and shall be filed in the respective year's quote files or attached to the Purchasing Divisions copy of the Purchase Order. All purchases resulting from a written or telephone quote shall have the quote number referenced on the electronic purchase order or voucher, thus creating an audit trail.

**3-104 Preferred Sources**

a) All bidders should note that certain legally established preferred source suppliers, such as Correctional Industries (Corcraft), Industries for the Blind of NYS, and NYS Industries for the Disabled have expressed an interest in supplying products/services covered by this solicitation. Therefore, one or more of these suppliers may be designated as a "Preferred Source" and as a result, we may issue no award for the products/services affected.

(In accordance with Section 162 of the State Finance Law which requires that agencies afford first priority to the products/services of preferred source suppliers such as Correctional Industries (Corcraft), Industries for the Blind of NYS, and NYS Industries for the Disabled, when such products/services meet the form, function and utility of the agency).

b) **Other County Agencies Bids** as allowed Under NYS General Municipal Law section (103), subdivision (3), section (1).

**3-105 Sole Source Procurement**

A contract may be awarded without competition when the Director of Purchasing, after conferring with the County Attorney, determines in writing and after conducting a good faith review of available resources and the specifications for the particular good or service being required, that there is only one source for the required commodity, supply, and service or construction item. The Director of Purchasing shall conduct negotiations, as appropriate, as to price, delivery and terms. A record of sole source procurements shall be maintained as a public record and shall list each suppliers name, the amount and type of each contract, a listing of the item(s) procured under each contract, and the identification number of each contract file. The Director of Purchasing shall provide the County Executive and the members of the Board of Legislators with a copy of such record upon determination that a vendor or contractor is a sole source provider

In determining whether procurement qualifies as a sole source, the Purchasing Division and the agency requesting the procurement shall show at a minimum:

- (a) the unique benefits to the County of the item as compared to other products available in the marketplace;
- (b) that no other product provides substantially equivalent or similar benefits;
- (c) and that, considering the benefits received, the cost of the item is reasonable in comparison to other products in the marketplace.
- (d) That there is no possibility of competition, as from competing dealers or distributors.

### **3-106 Property Leases**

The Purchasing Director shall survey available property and obtain at least three (3) written proposals for lease based on the following factors: proximity to origin of need, square footage, availability date for occupancy, building condition and review of suitability for occupancy including access for the handicapped and presence of any hazardous materials on site, landlord provided amenities, e.g., security, janitorial, parking and public access to the building. Final recommendations as to choice of properties shall be made by the Commissioner of Public Works. This procedure shall only apply to the County as Lessee.

Prospective property lease solicitations shall be provided to the Executive Director of the Utica-Rome Board of Realtors and the relevant Chambers of Commerce via e-mail from the Purchasing Director or the requesting Department head.

Proposals shall be solicited via a formal Request for Proposals (RFP) document. Each RFP shall be published for a period of (5) business days in the public notice section of the official papers as designated by the Board of Legislators. The RFP shall also be posted on the Oneida County website from the time of the publication of the RFP notice through the deadline for response. Additionally, the Purchasing Director shall provide each County legislator a copy of the RFP via the legislator's electronic mailbox.

In the event that at least three (3) proposals are not obtained, the Purchasing Director shall re-advertise the RFP for period of (2) business days in the public notice section of the official papers as designated by the Board of Legislators. A second failure to obtain at least three (3) proposals in response to the RFP shall allow the Purchasing Director or the requesting Department head to make a recommendation based on the proposals received.

Each RFP must contain language offering the unsuccessful proponent(s) an opportunity to be advised of the reasons why an award was not made to them based on their response to the RFP. Upon request, either the Purchasing Director or the relevant County department shall provide such information in writing to the unsuccessful proponent within a reasonable time after the award of the contract.

The County shall only enter into leased property with owners who can provide verification to the County that all of the applicable property taxes and municipal, governmental or district fees levied against such property have been paid to date and that the subject property is not in violation of any New York State or local building and fire code regulations or ordinances.

### **3-107      Emergency Procurements**

Notwithstanding any other provisions of this Policy, the Director of Purchasing, with the approval of the County Executive, the Commissioner of Public Works, and the County Attorney may make or authorize others to make emergency procurements of commodities, supplies, services, or construction items when there exists a threat to public health, welfare, or safety; or county property; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular supplier shall be included in the contract file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the supplier's name, the amount and type of contract, a listing of the item(s) procured under the contract; and the identification number of the contract file.

The Board of Legislators shall be provided with electronic notification of each instance in which an emergency procurement has been required and has been approved by the County Executive.

### **3-108      Cancellation of Invitations for Bids or Request for Proposals**

An invitation for bids, a request for proposal, or other solicitation may be cancelled, or any or all proposals may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause and in the best interests of the County. The reasons therefor shall be made part of the contract file. Each solicitation issued by the County shall state that the solicitation may be cancelled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interests of the County. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurement of similar items. Reasons for rejection shall be provided upon request by unsuccessful bidders or offerors.

**PART B – Qualifications and Duties**

**3-201 Responsibility of Bidders and Offerors**

- 1) *Determination of Non-responsibility.* If a bidder or offeror who otherwise would have been awarded a contract is found non-responsible, a written determination of non-responsibility, setting forth the basis of the finding, shall be prepared by the Director of Purchasing or his or her designee. The unreasonable failure of a bidder or offeror to supply promptly information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such bidder or offeror. The final determination shall be made part of the contract file and be made a public record.

**3-301 Contract Clauses and Their Administration**

- 1) *Contract Clauses.* All County of Oneida contracts for supplies, services, materials and equipment as well as public works projects shall include provisions necessary to define the responsibilities and rights of the parties to the contract. The Director of Purchasing, after consultation with the County Attorney, may issue clauses appropriate for supply, service, or public works contracts, addressing among others the following subjects:
  - a) the unilateral right of the County of Oneida to order in writing the changes in the work within the scope of the contract;
  - b) the unilateral right of the County of Oneida to order in writing temporary stopping of the work or delaying performance that does not alter the scope of the contract;
  - c) variations occurring between estimated quantities of work in contract and actual quantities;
  - d) defective pricing;
  - e) liquidated damages;
  - f) specified excuses for delay or nonperformance;
  - g) termination of the contract for default;
  - h) termination of the contract in whole or in part for the convenience of the County of Oneida;
  - i) suspensions of work on a construction project or by the County of Oneida; and
  - j) site conditions differing from those indicated in the contract, or ordinarily encountered, except that a differing site conditions clause need not be included in a contract:
    - (i) when the contract is negotiated;
    - (ii) when the contractor provides the site or design; or
    - (iii) when the parties have otherwise agreed with respect to the risk of differing site conditions.
- 2) *Price Adjustments*
  - a) Adjustments in price resulting from the use of contract clauses required by Subsection (1) of this Section shall be computed in one or more of the following ways:

- (i) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
  - (ii) by unit prices specified in the contract or subsequently agreed upon;
  - (iii) by the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;
  - (iv) in such other manner as the contracting parties may mutually agree;
- b) A contractor shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of Section 3-202 (Cost or Pricing Data).
- 3) *Standard Clauses and Their Modification.* The Director of Purchasing or his or her designee, after consultation with the County of Oneida, County Attorney, may establish standard contract clauses for use in County of Oneida contracts. If the Director of Purchasing establishes any standard clauses addressing the subjects set forth in Subsection (1) of this Section, such clauses may be varied provided that any variations are supported by a written determination that states the circumstances justifying such variations, and provided that notice of any such material variation be stated in the invitation for bids or requests for proposals.

**3-302 Contract Administration.**

A contract administration system designed to insure that a contractor is performing in accordance with the solicitation under which the contract was awarded, and the terms and conditions of the contract, shall be maintained. This shall include a documented review and approval process which insures that all contracts have been examined by the relevant departments including, but not limited to the County Attorney, Budget, the Board of Legislators (when appropriate) and the County Executive.

**3-303 Approval of Accounting System**

Except with respect to firm fixed-price contracts, no contract shall be awarded unless it has been determined in writing by the Director of Purchasing that:

- a) the proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated; and
- b) the proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted cost accounting principles.

**3-304 Right to Inspect Plant.**

The County of Oneida may, at reasonable times, inspect the part of the plant, place of business, or worksite of a contractor or subcontractor at any tier which is pertinent to the performance of any contract awarded or to be awarded by the County of Oneida.

**3-305 Right to Audit Records.**

- 1) *Audit of Cost or Pricing Data.* The County of Oneida may at reasonable times and places, audit the books and records of any contractor who has submitted cost or pricing data pursuant to Section 3-202 (Cost or Pricing Data) to the extent that such books, documents, papers, and records are pertinent to such cost or pricing data. Any person who receives a contract, change order, or contract modification for which cost or pricing data is required, shall maintain such books, documents, papers, and records that are pertinent to such cost or pricing data for three (3) years from the date of final payment under the contract.
- 2) *Contract Audit.* The County of Oneida shall be entitled to audit the books and records of a contractor or subcontractor at any tier under any negotiated contract or subcontract other than a form fixed-price contract to the extent that such books, documents, papers, and records are pertinent to the performance of such a contract or subcontract. Such books and records shall be maintained by the contractor for a period of three (3) years from the date of final payment under the contract and by the subcontractor for a period of three (3) years from the date of final payment under the subcontract.

**3-306 Reporting of Anti-competitive Practices.**

When for any reason collusion or other anti-competitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the State Attorney General, County Attorney and District Attorney.

**3-307 County of Oneida Procurement Records.**

- 1) *Contract File.* All determinations and other written records pertaining to the solicitation, award, or performance of a contract shall be maintained by the County of Oneida in a contract file by the Director of Purchasing.
  - 2) *Retention of Procurement Records.* All procurement records shall be retained and disposed of by the County of Oneida in accordance with record retention guidelines and schedules approved by the State of New York.
- 
- 1) **Competition.** The Director of Purchasing shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 3-105 (Sole Source Procurement).

**PART C – Fiscal Responsibility**

**ARTICLE 4 – DEBARMENT OR SUSPENSION**



**4-101 Authority to Debar or Suspend.**

After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Director of Purchasing, after consultation with the County Attorney, is authorized to debar a person for cause from consideration for award of contracts. The debarment shall be for a period of not more than three years. After consultation with the County Attorney, the Director of Purchasing is authorized to suspend a person from consideration for award of contracts if there is a probable cause to believe that the person has engaged in any activity that might lead to debarment.

The suspension shall be for a period not to exceed three years. The causes for debarment include:

- a) conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such a contract or subcontract;
- b) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which
- c) currently, seriously, and directly affects responsibility as a County of Oneida contractor;
- d) conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;
- e) violation of contract provisions, as set forth below, of a character which is regarded by the Director of Purchasing to be so serious as to justify debarment action:
  - i) deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
  - ii) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;
- f) any other cause the Director of Purchasing determines to be so serious and compelling as to affect responsibility as a County of Oneida contractor, including debarment by another governmental entity for any cause listed in this Policy; and
- g) for violation of the ethical standards set forth in Article 6 (Ethics in Public Contracting).

**4-102 Decision to Debar or Suspend**

The Director of Purchasing shall issue a written decision to debar or suspend. The decision shall state the reasons for action taken and inform the debarred or suspended person involved of its rights concerning judicial or administrative review. The Board of Legislators shall receive electronic notification of each decision to debar or suspend issued by the Director of Purchasing.

**4-103 Notice of Decision**

A copy of the decision required by Section 4-102 (Decision to Debar or Suspend) shall be mailed or otherwise furnished immediately to the debarred or suspended person.

**4-104 Finality of Decision**

A decision under Section 4-102 (Decision to Debar or Suspend) shall be final and conclusive, unless fraudulent, or unless the debarred or suspended person within 10 days after receipt of the decision takes an appeal to the County Executive or commences a timely action in court in accordance with applicable law.

**ARTICLE 5 – APPEALS AND REMEMDIIES**

**5-101 Bid Protests.**

- 1) *Right to Protest.* Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the County Executive. Protestors are urged to seek resolution of their complaints initially with the Director of Purchasing. A protest with respect to an invitation for bids or request for proposals shall be submitted in writing prior to the opening of bids or the closing date of proposals, unless the aggrieved person did not know and should not have known of the facts giving rise to such protest prior to bid opening or the closing date for proposals. The protest shall be submitted within 3 calendar days after such aggrieved person knows or should have known of the facts giving rise thereto.
- 2) *Stay of Procurements during Protests.* In the event of a timely protest under Subsection (1) of this Section, the Director of Purchasing shall not proceed further with the solicitation or award of the contract until all administrative and judicial remedies have been exhausted or until the County Executive makes a determination on the record that the award of a contract without delay is necessary to protect substantial interests of the County of Oneida.

The Board of Legislators shall receive electronic notification of each bid protest and any stays of procurement issued during the pendency of such protest or other action taken by the County Executive under this section of the procurement policy.

**5-102 Contract Claims**

- 1) *Decision of the Director of Purchasing.* All claims by a contractor against the County of Oneida relating to a contract, except bid protests, shall be submitted in writing to the Director of Purchasing for a decision. The contractor may request a conference with the Director of Purchasing on the claim. Claims include, without limitation, disputes arising under a contract, and those based upon breach of a contract, mistake, misrepresentation, or other causes for contract modification or rescision.
- 2) *Notice to the Contractor of the Director of Purchasing's Decision.* The decision of the Director of Purchasing shall be promptly issued in writing, and shall be immediately mailed or otherwise furnished to the contractor. The decision shall state the reasons for

the decision reached, and shall inform the contractor of its appeal rights under Subsection (3) of this Section.

- 3) *Finality of Director of Purchasing's Decision; Contractor's Right to Appeal.* The Director of Purchasing's decision shall be final and conclusive unless, within, 5 calendar days from the date of receipt of the decision, the contractor mails or otherwise delivers a written appeal to the County Executive or commences an action in a court of competent jurisdiction.
- 4) *Failure to Render Timely Decision.* If the Director of Purchasing does not issue a written decision regarding any contract controversy within 20 days after written request for a final decision, or within such longer period as may be agreed upon between parties, then the aggrieved party may proceed as if an adverse decision had been received.

**5-103 Authority of the Director of Purchasing to Settle Bid Protests and Contract Claims.**

The Director of Purchasing is authorized to settle any protest regarding the solicitation or award of a County of Oneida contract, or any claim arising out of the performance of a County of Oneida contract, prior to an appeal to the County Executive or the commencement of an action in a court of competent jurisdiction.

**5-104 Remedies for Solicitations or Awards in Violation of Law.**

- 1) *Prior to Bid Opening or Closing Date for Receipt of Proposals.* If prior to the bid opening or closing date for receipt of proposals, the Director of Purchasing, after consultation with the County Attorney, determines that a solicitation is in violation of federal, state, or municipal law, then the solicitation shall be cancelled or revised to comply with applicable law.
- 2) *Prior to Award.* If after bid opening or the closing date for receipt of proposals, the Director of Purchasing, after consultation with the County Attorney, determines that a solicitation or a proposed award of a contract is in violation of federal, state, or municipal law, then the solicitation or proposed award shall be cancelled.
- 3) *After Award.* If, after an award, the Director of Purchasing, after consultation with the County Attorney, determines that a solicitation or award of a contract was in violation of applicable law, then:
  - (a) If the person awarded the contract has not acted fraudulently or in bad faith:
    - (i) the contract may be ratified and affirmed, provided it is determined that doing so is in the best interests of the County of Oneida; or
    - (ii) the contract may be terminated and the person awarded the contract shall be compensated for the actual costs reasonably incurred under the contract, plus a reasonable profit, prior to the termination; or
  - (b) If the person awarded the contract has acted fraudulently or in bad faith, the contract may be declared null and void or voidable, if such action is in the best interests of the County of Oneida.

## ARTICLE 6 – ETHICS IN PUBLIC CONTRACTING

### 6-101 Criminal Penalties.

To the extent that violations of the ethical standards of conduct set forth in this Article constitute violations of any New York State or Oneida County law they shall be punishable as provided therein. Such penalties shall be in addition to the civil sanctions set forth in this Part. Criminal, civil, and administrative sanctions against employees or non-employees which are in existence on the effective date of this Policy shall not be impaired.

### 6-102 Employee Conflicts Of Interest

It shall be unethical for any County of Oneida employee to participate directly or indirectly in a procurement contract when the County employee knows that:

- a) the County of Oneida employee or any member of the County employee's immediate family has a financial interest pertaining to the procurement contract;  
or
- b) any other person, business, or organization with which the County employee or any member of a County employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement contract. A County of Oneida employee or any member of a County employee's immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest.

### 6-103 Gratuities and Kickbacks

- 1) *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.
- 2) *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.
- 3) *Contract Clause.* The prohibition against gratuities and kickbacks prescribed in this section shall be conspicuously set forth in every contract and solicitation therefor.

### 6-104 Prohibition Against Contingent Fees

It shall be unethical for a person to be retained, or to retain a person, to solicit or secure a County contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

**6-105 Contemporaneous Employment Prohibited**

It shall be unethical for any County employee who is participating directly or indirectly in the procurement process to become or to be, while such a County employee, the employee of any person contracting with the governmental body by which the employee is employed.

**6-106 Waivers for Contemporaneous Employment Prohibition and Other Conflicts of Interest.**

The County Board of Ethics may grant a waiver from the employee conflict of interest provision (Section 6-102; Employee Conflict of Interest) or the contemporaneous employment provision (Section 6-105; Contemporaneous Employment Prohibited) upon making a written determination that:

- a) the contemporaneous employment or financial interest of the County employee has been publicly disclosed; and
- b) the County employee will be able to perform its procurement functions without actual or apparent bias or favoritism; and
- c) the award will be in the best interests of the County of Oneida.

**6-107 Use of Confidential Information**

It shall be unethical for any county employee or former county employee to knowingly use confidential information for actual or anticipated personal gain, or for the actual or personal gain of any other person.

**6-108 Sanctions**

- 1) *Employees.* Sanctions against employees shall be in accordance with Chapter 66 of the Laws of Oneida County. (Code of Ethics)
- 2) *Non-Employees.* The Director of Purchasing may impose any one or more of the following sanctions on a non-employee for violations of ethical standards:
  - a) written warnings or reprimands;
  - b) termination of contracts; or
  - c) debarment or suspension as provided in Section 4-101 (Authority to Debar or Suspend).

## **ARTICLE 7 – DISPOSITION OF SURPLUS PERSONAL PROPERTY**

### **7-101 Purpose**

The method chosen for sale is within the sound discretion of the Director of Purchasing, subject to the approval of the County Executive. However, in order to fill a fiduciary duty, the method of sale adopted should be one which is thought to bring the best price or maximum benefits and may include sale by public auction or the use of online auction services such as e-Bay.

### **7-102 Methods of Competition to be used for Non-Bid or Auction Dispositions**

The methods of disposition to be used are as follows:

1. For dispositions with an estimated value greater than one thousand (\$1,000) dollars will be offered to the public via public auction;
2. For dispositions with an estimated value less than or equal to one thousand (\$1,000) dollars, will be left to the discretion of the Director of Purchasing.
3. A good faith effort shall be made to sell all surplus items, if the County is unable to sell said items via public auction it may at that time dispose of items any way deemed responsible by the Director of Purchasing. The attempts made shall be documented and become part of the disposition record.
4. The above notwithstanding, the Director of Purchasing, at his/her discretion, may require standards which exceed those presented in this policy.

### **7-103 Adequate Documentation**

Documentation of actions taken in connection with each method of disposition is required, as follows, and will be maintained as part of the disposition record.

1. Any memorandums, forms, notations, or other documentation used in establishing the basis of the disposition decision.
2. No documentation other than the independent estimate itself is required when the disposition is left to the discretion of the Director of Purchasing.

### **7-104 Awards to Other than Highest Responsible Dollar Offer**

Whenever any disposition is awarded to other than the highest responsible dollar offerer, the reasons such an award furthers the purpose of the County as set forth herein above shall be documented by the Director of Purchasing and be maintained as part of the disposition record.

### **7-105 Items Exempted From Disposition Policies and Procedures**

The Legislature will set forth, by resolution, circumstances when, or types of dispositions for which, in the sole discretion of the governing body, the solicitation of alternative offers to purchase will not be in the best interest of the County. Such resolution will state the reasons for such conclusion, and will become an attachment to the disposition record.

## **ARTICLE 8 – ADDITIONAL REQUIREMENTS FOR FEDERAL TRANSIT ADMINISTRATION FUNDED CONTRACTS**

### **8-101 Disadvantaged Business Enterprise Program**

The County of Oneida's Department of Planning has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U. S. Department of Transportation (DOT), 49 CFR Part 26. The County of Oneida's Department of Public Transportation has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the County of Oneida's Department of Planning acknowledges that the requirements of 49CFR part 26, as amended, shall be complied with.

It is the policy of the County of Oneida and its Department of Planning to ensure that DBE's, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts.

### **8-102 Required Contract Clauses**

It is the policy of the County of Oneida and its Department of Planning to ensure that the most current FTA required contract clauses will be used in all FTA funded contracts and that the FTA Website and other appropriate sources shall be checked prior to the undertaking of each procurement action.

## **ARTICLE 9 – ADDITIONAL REQUIREMENTS FOR NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES FUNDED CONTRACTS**

### **9-101 Minority and Women-Owned Business Enterprises Participation Goals and Equal Employment Opportunity Policy Statement**

The County of Oneida has received and will receive New York State financial assistance from the Office of Children and Family Services, and as a condition of receiving this assistance, the County of Oneida acknowledges that the requirements of OCFS-3460 shall be complied with.

The County of Oneida adopts and agrees to comply with the Policy Statement required by OCFS-3460 for all contracts funded by the New York State Office of Children and Family Services. The County of Oneida designates XXXXXX as the Minority Business Enterprise Liaison.

## ARTICLE 10 – IRAN DIVESTMENT ACT

Pursuant to General Municipal Section 103-g, the following certification of compliance is mandatory in every bid or proposal where competitive bidding is required for work or services performed or to be performed or goods sold or to be sold:

### Certification of Compliance with the Iran Divestment Act

Pursuant to Section 103-g of the General Municipal Law, by submission of this bid or proposal, each Bidder and each person signing on behalf of any Bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each Bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law.

A bid or proposal shall not be considered for award nor shall any award be made where the bidder or proposer fails to submit a signed and verified bidder's certification. In any case where 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. The County may award a bid to a Bidder who cannot make the certification on a case-by-case basis if:

1. The investment activities in Iran were made before the effective date of Section 103-g of the General Municipal Law, the investment activities in Iran have not been expanded or renewed since such date, and the Bidder has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or

2. The County makes a determination that the goods or services are necessary for the County to perform its functions and that, absent such an exemption, the County would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.

## ARTICLE 11- PROHIBITION ON PURCHASE OF TROPICAL HARDWOOD

Pursuant to State Finance Law Section 165(c)(ii), the following certification is mandatory in every bid proposal, solicitation, request for bid or proposal and contract for the construction of any public work, building maintenance or improvement:

### Certification of the Prohibition on Purchase of Tropical Hardwoods

Pursuant to Section 165 of the State Finance Law, any bid, proposal or other response to a solicitation for bid or proposal which proposes or calls for the use of any tropical



hardwood or wood product as defined by Section 165 of the State Finance Law in performance of the contract shall be deemed non-responsive.

This prohibition shall not apply to:

1. To bid packages advertised and made available to the public or any competitive and sealed bids received or entered into prior to August twenty-fifth, nineteen hundred ninety-one; or
2. To any amendment, modification or renewal of a contract, which contract was entered into prior to August twenty-fifth, nineteen hundred ninety-one, where such application would delay timely completion of a project or involve an increase in the total monies to be paid under that contract; or
3. Where the contracting officer finds that:
  - a. No person or entity doing business in the state is capable of performing the contract using acceptable non-tropical hardwood species; or
  - b. The inclusion or application of such provisions will violate or be inconsistent with the terms or conditions of a grant, subvention or contract with an agency of the United States or the instructions of an authorized representative of any such agency with respect to any such grant, subvention or contract; or
  - c. The use of tropical woods is deemed necessary for purposes of historical restoration and there exists no available acceptable non-tropical wood species.

## ARTICLE 12-COUNTY RECYCLING AND SOLID WASTE MANAGEMENT PROGRAM

Pursuant to Oneida County Board of Legislators Resolution No. 249 of 1999, the following certification is mandatory in every bid or proposal where competitive bidding is required for work or services performed or to be performed or goods sold or to be sold:

### Certification of the County Recycling and Solid Waste Management Program

Pursuant to the Oneida County Board of Legislators Resolution No. 249 of May 26, 1999, Bidder certifies that all waste and recyclables generated within the Oneida-Herkimer Solid Waste Authority's service area in connection with the bid or proposal will be delivered exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority.

Upon award, Bidder will be required to provide the County with proof that Resolution No. 249 of 1999 will be complied with; that all waste and recyclables in the Oneida-Herkimer Solid Waste Authority's service area that are generated by the Bidder and any

subcontractors will be delivered exclusively to the Oneida-Herkimer Solid Waste Authority facilities.

### **ARTICLE 13 – NON COLLUSIVE BIDDING**

Pursuant to General Municipal Section 103-d(1), the following certification is mandatory in every bid or proposal where competitive bidding is required for work or services performed or to be performed or goods sold or to be sold:

#### **Certification of Non-Collusive Bidding**

Pursuant to Section 103-d of the General Municipal Law, by submission of this bid or proposal, 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 knowledge and belief:

1. The price in this bid has been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such price with any other bidder or with any competitor; and
2. Unless otherwise required by law, the price which has been quoted in this bid has not been knowingly disclosed by the Bidder and shall 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 shall 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.

A bid or proposal shall not be considered for award, nor shall any award be made where 1, 2, and 3 above have not been complied with. In any case the Bidder cannot make the foregoing certification, the Bidder shall so state and shall furnish a signed statement which sets forth in detail the reasons therefore.

### **ARTICLE 14 – NAMES AND TITLES OF ONEIDA COUNTY PURCHASING STAFF**

Effective January 1, 2009, General Municipal Law §104-b (2) (f) requires that the procurement policies and procedures of each political subdivision and district therein will identify the individual or individuals responsible for purchasing and their respective titles. This information is required to be updated biennially.

**COUNTY OF ONEIDA  
PROCUREMENT POLICY**

August 2013

Page 26

The following individuals are the individuals responsible for purchasing in Oneida County as of January 1, 2009:

Director of Purchasing:	Mello Testa
Assistant Director of Purchasing:	Greg Grower
Senior Buyer:	Shelley Nowak
Buyer:	Ron Ling
Buyer:	Sam Trapanick
Senior Clerk:	Diana Pierce

Sandra J. DePerno  
County Clerk

Diane B. Abraham  
1st Deputy Clerk



Deputy County Clerks  
Gary Artessa  
Brenda Breen  
Patricia Ferrone  
Lynarda J. Girmonde

## CLERK OF ONEIDA COUNTY

County Office Building ♦ 800 Park Avenue ♦ Utica, New York 13501

Phone: (315) 798-5776 ♦ Fax: (315) 798-6440

September 25, 2013

FN 20 13-343

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

GOVERNMENT OPERATIONS  
**WAYS & MEANS**

Reviewed and Approved for submittal to the  
County Board of Legislators by  
  
Anthony J. Picente Jr.  
County Executive

RE: DMV Hours *Tony*

Date 9/27/13

Dear County Executive Picente:

I respectfully request the Board of Legislators consideration and approval to change the hours of operation at the Utica and Rome Department of Motor Vehicles.

The New York State Department of Motor Vehicles has extended its hours of operation at several state run locations. New York State also provides the opportunity for customers to perform various transactions on their website. Through these initiatives, the State of New York, has proceeded to take away revenue from our counties.

The Utica and Rome Department of Motor Vehicles needs to change the way we do business. The Utica and Rome DMV needs to adjust their hours of operation (see attached), therefore making this department easily accessible for all Oneida County residents and putting it on a level playing field with New York State.

My staff at the Utica and Rome DMV always strive to provide the upmost in customer service to our Oneida County residents. Upon Board approval these new hours will provide a more easily accessible Utica and Rome DMV. The change in hours will not impact expenses incurred by the Department of Motor Vehicles, but will increase the revenue received. Upon Board approval the new hours will commence January 1, 2014.

Respectfully submitted,

Sandra J. DePerno  
Oneida County Clerk

Cc: Hon. Gerald J. Fiorini, Chairman of the Board  
Hon. Michael Waterman, Chairman, Government Operations

Oneida County DMV Hours of Operation 2014

Utica and Rome DMV

Monday Wednesday Friday

9:00AM – 4:30PM

1 Asst. Supervisor to open 8:30AM – 4:30PM

1 Asst. Supervisor to close 9:00AM – 5:00PM

Workers – 8:50AM – 4:50PM

Tuesday Thursday

10:00AM – 6:00PM

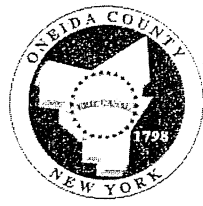
1 Asst. Supervisor to open 9:30AM – 5:30PM

1 Asst. Supervisor to close 10:30AM – 6:30PM

Workers – (2 shifts) 9:50AM – 5:50PM

10:20AM – 6:20PM

Anthony J. Picente Jr.  
County Executive



### ONEIDA COUNTY DEPARTMENT OF CENTRAL SERVICES

Oneida County Office Building ♦ 800 Park Avenue ♦ Utica, New York 13501  
(315) 798-5905 ♦ Fax: (315) 797-3047 ♦ Email: helpdesk@ocgov.net

August 12, 2013

FN 20 13-344

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

### GOVERNMENT OPERATIONS

*[Signature]*  
Anthony J. Picente, Jr.  
County Executive  
Date 9/11/13

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

### WAYS & MEANS

Subject: Contract Recommendation – General Code Professional Services for Implementation of Enterprise Content Management System

Dear Mr. Picente:

Oneida County established Capital Project #H-472 in 2013 entitled Enterprise Content Management (ECM). The software product selected to form the basis of ECM in Oneida County is **Laserfiche Rio**. **Laserfiche Rio** was selected because it combines comprehensive ECM functionality with business process management, security and the auditing tools necessary to serve as the foundation of a solid ECM infrastructure. More specifically, **Laserfiche Rio**:

- Manages .pdf content
- Offers central control over standards, security and auditing and
- Provides individual departments the flexibility needed to customize filing structures and workflows

Once implemented, county users licensed for **Laserfiche Rio** will be able to scan paper records into .pdf format, store and share those records electronically and be able to conduct digital searches to identify and retrieve the specific records required to satisfy business needs. General Code of Rochester, NY, an authorized reseller of **Laserfiche Rio**, has begun implementing Enterprise Content Management for the Oneida County District Attorney (DA) under New York State (NYS) Contract Number PT65191. Through this NYS Contract, Oneida County has already purchased:

- 50 licenses plus the first year of support for **Laserfiche Rio** base software
- Plug-ins to enable scanning, electronic search and a public portal to enable eDiscovery by the District Attorney's (DA) office;
- Installation, workflow development and training for the District Attorney's staff

Under the terms of NYS Contract Number PT65191, General Code cannot provide services exceeding 20% of the total contract. To obtain services for the Oneida County Clerk and other county departments interested in scanning, retrieving, sharing and managing electronic records under the Enterprise Content Management Capital Project, Oneida County issued a competitive RFP for installation, training and workflow development services. The RFP was released in April 2013. The only respondent to the RFP was General Code of Rochester, NY.

It is envisioned that all County departments will benefit by implementing Enterprise Content Management because it will help protect important records in the event of flood, fire or other disaster and will improve department efficiency when attempting to find and share important documents. Each department is expected to use **Laserfiche Rio** Enterprise Content Management in their own unique way because the mission of each department tends to be

unique. Implementation for County departments will be treated as a separate "mini-projects" to ensure the specific needs of each department are met. General Code and Central Services will meet with key staff within each department and will then develop a written cost estimate for labor hours and licenses required for successful implementation for each "mini-project". The "mini-projects" will be funded by H472. General Code's labor hours for implementation under this contract have been proposed as:

- \$1,500 per person day for all on-site work at Oneida County
- \$125 per hour for work done at General Code Offices
- Software from Laserfiche will be provided at the current prevailing pricing (see pages 19 - 21 of the attached General Code contract)

Electronic records management is expected to enhance Oneida County's ability to store, retrieve and share important records in a timely and efficient manner. It is also expected to reduce the need to retain paper records which will have a positive impact on facilities costs and reduce the cost of paper and copying. Based on these anticipated positive outcomes, I request your approval of this Enterprise Content Management Services contract with General Code in the amount of \$100,000.

Respectfully submitted,



Anne B. Hartman  
Director, Central Services

Cc: (Electronic Copies Only)  
Sandy DePerno, Oneida County Clerk

Attachments:

1. 3 Copies of General Code Contract including Oneida County Standard Clauses signed by General Code
2. 3 Copies of Laserfiche Software License Agreement

Oneida Co. Department: Central Services

Competing Proposal – YES

Only Respondent – YES

Sole Source RFP - N/A

### Oneida County Board of Legislators

**Name of Proposing Organization:** Central Services Department

**Title of Activity or Service:** Implementation of Enterprise Contract  
System Management

**Proposed Dates of Operation:** September 12, 2013 – September 11, 2016

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

#### Summary Statements:

- 1. Narrative Description of Proposed Services:** County wide implementation of LaserFiche RIO including licenses and training.
- 2. Program/Service Objectives and Outcomes:** Scanned files will allow for digital search; reduce number of paper files and enable county departments to operate more efficiently.
- 3. Program Design and Staffing:** N/A

**Total Funding Requested:** \$100,000.00

**Account #:** H-472

**Oneida County Dept. Funding Recommendation:** Paid for by H-472 Capital Funds.

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

**Cost per Client Served:** \$2,842 per person for initial implementation. \$443.12 per person for annual maintenance. Cost will decline as number of licenses increases

**Past Performance Data:** General Code has begun work on DA's project. Experience so far has been good.

**O.C. Departmental Staff Comments:** Recommend contract approval.



# GENERAL CODE PROPOSAL *for*

## Professional Services for Implementation of Enterprise Content Management System

RFP # 2013-116

Oneida County, New York

RFP Due Date: May 9, 2013

*Pricing valid for 36 months*

PRESENTED BY

**GENERAL  
CODE**

*Information made civil.*

Solutions Account Executive: Liz Mistretta

585/705-7412

Email: LMistretta@generalcode.com



# CONTENTS

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## EXECUTIVE OVERVIEW

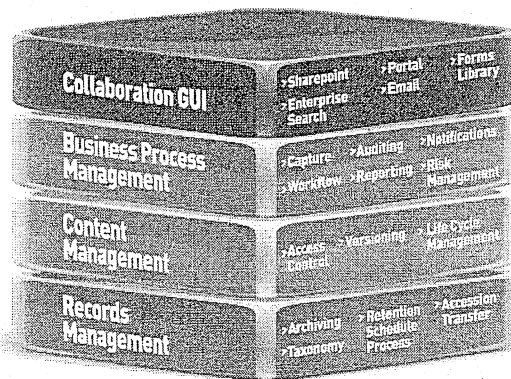
General Code is an Upstate New York company who, for over 50 years, has specialized in providing services to County and municipal governments. Our solutions make information more accessible for the government organizations and their constituents.

General Code looks forward to working with the County to implement its Pilot Content Management project. We have found that many of our clients take a similar approach – begin with a target department, then move to other departments and other types of records gradually, until the Content Management application is used throughout the enterprise.

Even though the continuing expansion project will deal with different departments, the comfort, consistency and working knowledge to be gained between General Code’s staff and County IT, Finance, and other staff involved during the Pilot Project carries over throughout enterprise expansions. For this reason, General Code feels we are uniquely qualified to provide continuing services to the County throughout the expansion.

As demonstrated through the plan for the Pilot Project, Enterprise Content Management is much more than providing documentation electronically. It involves a holistic approach to records – incorporating document imaging (getting paper documents electronic), document and records management (ensuring that documents are organized and available and that record policies are enforced), automation of document-centric business processes, and integration of your content with other critical business applications.

General Code and Laserfiche share a vision of Enterprise Content Management with Records Management as the foundation. This vision is illustrated in the diagram below.



As General Code guides the County through your implementation of Enterprise Content Management, we help the County build a solid foundation on which to build for decades to come, even as technology changes. Our goal is to be a partner with the County – To help you become as self-sufficient as you wish, but to be there for you as you need us.

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## PROJECT APPROACH – IMPLEMENTATION METHODOLOGY

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Fifty years of experience working with county and local governments has sharpened General Code's passion for understanding and supporting the care of government records and documents. It's what we've been doing since 1962. The expansion of our business from codification to also include the broader document and content management fields, while engendering growing professional skills and expertise in business process automation and software integration to meet our customers' needs, has not lessened our focus on the care of all of the important documents, information and records managed and protected by our government clients. As noted in our Executive Overview, General Code views records management as foundational to our Content Management Solutions. All of the documents and records created, shared, updated and filed must end up in a place that is easily understood and managed. Protection of those records is at the top of our priority list when building and expanding a Content Management Solution.

As we move into a more technological environment, more of the content that an organization generates on a daily basis is not physical paper, but electronic documents. Word documents, Excel files, and Email are becoming the predominant forms of content that we have to manage. Therefore, it is extremely important to have sound policies for access control, versioning, and the lifecycle management of this electronic content in addition to the backlog of physical paper files.

General Code's approach is to consolidate your records/content in one centralized "repository" serving the entire enterprise. This approach greatly enhances the ability to create and enforce enterprise policies regarding managing and protecting your invaluable content. With your content organized and located in one place, you avoid "information silos" that can reduce the ability to share information as appropriate. Also, by taking the "central repository" approach, there is an increased emphasis on security rights and protocols, which is an important piece of General Code's Enterprise Content Management strategy.

To implement a central content repository, you must have a sound "capture" strategy. How is all of the content brought into the central repository? The capture strategy that an organization chooses to implement is often the most complicated part of an ECM solution. General Code excels at helping our clients develop a "content onboarding" strategy. We have experience from several hundred government clients to call upon to assist you in automating the capture and indexing processes wherever possible. Sometimes this is merely thinking through where the document comes from and the format. Sometimes it is implementing barcode recognition, zone OCR, or lookups from external databases. And, sometimes it may even entail going back to document creation – using electronic forms or other methods to enable automated content management (document capture, indexing, routing) from the very beginning.

After we have all of the content centralized, organized, secure and automated, the "final" step is ensuring appropriate access to the content. Many users will directly interact with Laserfiche to access and manage their documents. However, often a very effective use of Laserfiche is not as a forward-facing program, but rather as "integrative middleware," working with other information assets and software applications in the County. In this way, your documents/records sit in your central (Laserfiche) repository and can be accessed while users are in these other business applications, or data can be transferred from these applications into Laserfiche or vice versa, or Laserfiche workflow can communicate with some other applications. General Code has the expertise and resources to help you create this truly "enterprise" content environment.

A sample Preliminary ECM Project Plan and Workflow Implementation Plan can be reviewed in General Code's proposal/agreement for the Pilot Project.

As noted above, General Code has the expertise to guide our clients through all phases of implementation of ECM. During the early stages, General Code does most of the development work and training, collaborating with County departments and IT staff. However, as we move deeper into the project, incorporating more departments, it is very likely that the County will take over many of the functions initially performed by General Code personnel, with General Code available to assist you as needed. We find that most organizations want this transferral of knowledge/responsibility to make your ECM sustainable and affordable for decades to come.

The County asks in its RFP for us to “Summarize all resources, assumed or expected, to be provided by Oneida County, or any other party essential to the success of this contract.” Given the approach outlined above, we anticipate the following County staff resources to be needed:

- During the initial phases:
  - IT staff to be available for any server reboots or access, for any infrastructure questions/issues, and to assist in installation of client software, as needed.
  - (Recommended) IT or other designated staff to shadow General Code staff during information/requirements gathering, development (e.g., of folder structures, templates, Workflows, Quick Fields sessions, etc.), and end user training sessions as part of a “train the trainer” plan. (This will enable the County to do some on-going end user training – refresher, advanced, or for new users – and requirements gathering for new departments, if desired by the County.)
  - (Recommended) IT or other designated staff to be trained by General Code in use of the Laserfiche Workflow Designer and Quick Fields design. (This will enable the County to “tweak” existing Quick Fields sessions or Workflows as situations evolve, as well as to design new workflows or Quick Fields sessions as needs are identified.)
- Later phases: After IT or other designated staff members are trained and comfortable with end user training and/or building of workflows, the County can take on a more active role in enhancing ECM capabilities in departments already using Laserfiche and also in rolling it out to new departments. In this case, General Code would play more of a resource/consulting role. This would obviously reduce Vendor expenditures, but it would also increase time demands on staff.

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## TRANSITION PLAN

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As stated in the RFP, General Code will be working with the County on the initial Pilot implementation. Therefore, no transition plan would be required for General Code to continue with the enterprise rollout of the Content Management program.

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## DESCRIPTION OF PRACTICE/EXPERIENCE

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As noted previously, General Code has been working primarily with county and local governments since our inception in 1962. We have worked with approximately 3,000 government clients during this time, with approximately 1/3 of these clients in New York State.

General Code became a Laserfiche Value-Added Reseller in 1998, and we have consistently been in the Laserfiche Winners Circle (the elite Laserfiche VARs throughout the world) for over a decade. General Code is consistently recognized as a Top-5 Laserfiche government reseller.

Our 400+ Laserfiche clients vary in size from small Town offices with a couple of users to large implementations with several hundred users and many workflows, eForms, Quick Fields sessions, integrations, etc. The common denominator in all of our Laserfiche ECM implementations is our attention to what each client needs. We are able to bring our vast experience to each client, and combine it with good listening, planning and project management capabilities, to provide you with the software, processes and services that will provide you with an ECM System that will live for decades.

In addition to our vast ECM experience with government clients, we also provide other services to government clients, most notably codification of resolutions, local laws, and ordinances. Not only does this line of business provide us with additional knowledge of the workings of local government, it also provides us with editorial expertise that can enhance our ability to document the County's processes/procedures within each department (End User documentation; System documentation; and Records Manager documentation).

General Code has one of the highest client-retention rates in the industry. Although we feel that this validates our experience, we do not take this for granted, and we work hard every day to maintain this high level of client satisfaction.

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## KEY PERSONNEL RESUMES

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Following are resumes of some of General Code's staff who are likely to be participating in the County's Enterprise Content Management Project.

<p><b>Liz Mistretta</b> Solutions Account Executive</p>	<p>Liz Mistretta came to General Code in 2003, serving as an Account Representative for Pennsylvania, Virginia and the education market. Liz was promoted to Solutions Account Executive for Western and Central New York and Pennsylvania in 2007. She has extensive experience in project management, customer service and marketing, along with working with both codification and electronic records/content management in the government and education sectors. Liz is a graduate of SUNY Fredonia with a B.A. in Political Science and a minor in Legal Philosophy.</p>
<p><b>Kent Michels</b> Director of Content Management Solutions Operations</p>	<p>Kent Michels joined General Code in 2010. Kent oversees General Code's Content Management Operations, supervising project managers, installer/trainers, presales and helpdesk support. Kent ensures that the proper resources are allocated to projects and provides resource support to staff and clients alike. Prior to coming to General Code, Kent worked at Element K – a learning solutions organization - for 13 years. While at Element K, he held numerous positions, including Director of Business Development and Director of Product Planning. Kent is a graduate of St. John Fisher College in Rochester with a B.S. in Management Information Systems. He also has an M.S. in Strategic Leadership from Roberts Wesleyan College in Rochester.</p>
<p><b>Ken Koppenhaver</b> Director of Solutions Architecture; Project Manager</p>	<p>Ken Koppenhaver joined General Code in 2006 as Director of Document Management Operations and currently is Director of Solutions Architecture. Ken works closely with General Code's sales team and clients to design and implement enterprise content management solutions and also serves as a project manager for various major accounts. Ken's prior experience included over 20 years of IT experience, ranging from analysis, development and project management to Director level activities. He has a background in public and private sector environments, having worked at various Federal sites and Eastman Kodak Company. Ken was also IT Director for over 4 years at the Town of Irondequoit, NY, one of the largest Town governments in the metropolitan Rochester area. Ken led the expansion efforts of Laserfiche in the Town in multiple departments. Ken Koppenhaver is a graduate of Penn State University and has a B.S. in Business Management.</p>



<p><b>Sandy Brennan</b> Project Manager</p>	<p>Sandy Brennan has been with General Code since 1996, starting out as network administrator. In 1999 Sandy assumed responsibility for the Laserfiche product line and over the years has led the rollout for more than 150 Laserfiche installations. In 2007 she also took on the role of Project Manager for General Code’s Muncity Building, Planning and Zoning Application and continues to serve as a Project Manager for various Laserfiche projects. Prior experience includes network administrator for Xerox, CAD operator for The Switzer Group and design associate for MIA Inc. Sandy is a graduate of the Art Institute of Atlanta with a degree in Interior Design. She also holds a number of certifications in network administration.</p>
<p><b>Donald Brewer</b> Installer/Trainer</p>	<p>Donald Brewer joined General Code in 2008. He provides installation and training for many of General Code’s Laserfiche implementations. Donald has prior experience as a trainer and educator, with 11 years’ experience working with diverse audiences in such subjects as computer science, multimedia and critical thinking. He earned an A.B.D. in Organization and Management from Capella University in Minneapolis, MN and an M.A. in Adult Education and Communications Technology from Indiana University of Pennsylvania.</p> <p>Laserfiche Certifications:</p> <ul style="list-style-type: none"> <li>▪ Laserfiche Admin I</li> <li>▪ Records Management Specialist</li> <li>▪ Business Process Management</li> <li>▪ Laserfiche Repository Architect</li> </ul> <p>Brainbench Certifications:</p> <ul style="list-style-type: none"> <li>▪ HTML 4.0</li> <li>▪ Computer Fundamentals (Windows XP)</li> <li>▪ Computer Literacy</li> <li>▪ MS Excel 2003 Fundamentals</li> <li>▪ Information Technology Terminology</li> <li>▪ MS Windows XP Desktop Administration</li> <li>▪ MMOUS Master (Expert in Word, Excel, Power Point, and Access)</li> </ul>
<p><b>Mike Rizzo</b> Strategic Account Support Desk Technician</p>	<p>Mike Rizzo joined General Code in 2005. He serves in a variety of software Help Desk and Trainer roles. He has been working on Laserfiche installations and migrations since 2006. Mike also has participated in numerous Laserfiche Rio installations and serves as Lead Support person for our largest accounts. He has experience with network technologies, business applications, and Enterprise Content Management Systems.</p> <p>Laserfiche Certifications</p> <ul style="list-style-type: none"> <li>▪ Laserfiche Admin I</li> </ul>

<p><b>Brian Hoody</b> Solutions Architect</p>	<p>Brian Hoody came to General Code in 2004 with almost 20 years of support, customer training and quality assurance experience. Brian served as General Code’s Senior Helpdesk Technician/Strategic Account Support Technician prior to accepting the position of Solutions Architect, where he works closely with General Code’s sales team to design efficient and effective solutions for our clients. Previously, Brian worked for Advanced High Tech and Xerox extensively with printing systems, digital printing and scanners, and in that capacity worked with high profile clients, such as Pitney Bowes, Minolta, Konica, Canon and Imation. Brian is a graduate of Canisius College in Buffalo, where he holds a B.A. in History and a B.S. in Anthropology.</p> <p>Laserfiche Certifications:</p> <ul style="list-style-type: none"> <li>▪ ECM 101</li> <li>▪ Admin I</li> <li>▪ Admin II</li> <li>▪ Capture I</li> <li>▪ Capture II</li> <li>▪ Laserfiche Specialist</li> </ul>
<p><b>Mike Kochan</b> Manager of elming</p>	<p>Mike Kochan joined General Code in 2012 as Manager of our elming services. In addition to supervising our scanning and indexing staff, Mike also works very closely with sales and clients to ensure that they receive the highest quality services and output. Prior to coming to General Code, Mike held positions in operations, finance and management serving commercial and government markets. He has taught school and has held positions with KPMG, Eastman Kodak and some small privately held entities. Mike is a graduate of SUNY Oswego with a B.S. in Business Administration /Finance with concentrations in statistics and economics. He also has an M.S. in Education from SUNY College at Brockport.</p>
<p><b>Dan Foster</b> Vice President, Business Strategy and Development</p>	<p>Dan Foster came to General Code in 2002 with a wealth of experience in client relationships and business management. During his time at General Code, Dan has been responsible for expanding the company’s relationships with current and new customers in the Enterprise Content Management market. He has provided leadership in developing ECM and software strategies for General Code’s customers. Through Dan’s extensive business and strategic planning experience, as well as experience working with our public sector clients, he provides insight in understanding and mapping business process and document workflows. Dan has a BS in Marketing from Ferris State University in Michigan.</p>

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## CORPORATE OVERVIEW; OUTLINE OF COMPANY SERVICES

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As noted in the previous section on General Code's experience/practice, we are a solid, values-based company with a proud tradition of serving over 3,000 government clients over our 50+-year history.

General Code was incorporated in 1962 and has grown to a company of approximately 100 people. "People" are a key to everything we do – both internally and externally. While we feel that it is extremely important to have the highest level of expertise in all of our lines of business, we also feel it is extremely important to understand that the clients we work with are not "entities," but people. Therefore, we ensure that our employees are not only technically proficient, but also that they are personable and can relate to high-level technical people as well as the "average" end user who may not be overly technical. General Code receives many accolades from clients for our Line-of-Business expertise and knowledge, but even more about our people – How they are a pleasure to work with and how they always seem to go the extra mile to ensure that the client is best served. We are very proud of this.

In many ways, General Code is a "one stop shop" for solutions that make government information more accessible to citizens and staff alike. Our various lines of business include:

- Laserfiche® Enterprise Content Management software and related services
- Web-based forms and related services
- Document imaging/scanning services
- Business Process consulting
- NovusAGENDA® meeting management software and related services
- Municipity® Integrated Parcel Management software and related services
- Codification of Bylaws, Local Laws and Ordinances (including editorial analysis, organization and editorial services)
- Electronic Code options (eCode 360®)

General Code adheres to a "code" in our delivery of Content Management Services that demonstrates our commitment to excellence, as follows:

*Digital information must be designed and implemented in ways that support the success of the entire organization.*

*Our content management solutions must run on a platform that we believe in.*

*The quality of our service and support determines the ultimate value of the solution we develop.*

*Our content management solutions are based on the practical—if there is a better way to do something we will design and implement it.*

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## MISCELLANEOUS DOCUMENTATION

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### PROOF OF LASERFICHE VALUE-ADDED RESELLER STATUS

General Code has been a Laserfiche Value-Added Reseller for over 14 years. We work with over 400 Laserfiche clients throughout the United States, primarily in the Northeast. We are consistently one of the Top 5 Laserfiche Government Resellers in the US, and our LSAP retention rate is one of the highest in the industry. Included below is a copy of a letter of verification of VAR status from Compulink Laserfiche:



Run Smarter®

3945 Long Beach Blvd., Long Beach, CA 90807  
tel: 562-988-1688 fax: 562-988-1806  
[www.laserfiche.com](http://www.laserfiche.com)

May 1, 2013

Oneida County  
800 Park Avenue  
Utica, NY 13501

To Whom It May Concern,

I am writing in regards to the VAR status of General Code, LLC. General Code is a current VAR in good standing. They have been a Laserfiche Reseller for over 10 years and are one of our top VARs in the north eastern United States. If you have any further questions, please do not hesitate to contact myself or the manager for New York state, Maria Kennedy at 562-988-1688 x107.

Thank you,

Jeréb Cheatham  
Vice President, Laserfiche Strategic Services  
(562)988-1688 x 141  
[Jeréb.cheatham@laserfiche.com](mailto:Jeréb.cheatham@laserfiche.com)

### SAMPLE STANDARD CONTRACT

General Code worked with the Oneida County Legal Staff to develop the contract for the Pilot Content Management Project. We refer the County to that document for purposes of reviewing the Standard Contract that would be used for the terms of agreement between General Code and Oneida County for the expansion project.

**SAMPLE MONTHLY STATUS REPORT**

We have inserted below two types of sample status reports used in different projects. *These are examples only* – At the start of your project, General Code's Project Manager and the person serving as the County's Project Manager will discuss the County's reporting requirements and design a mutually acceptable monthly status report format, which will be used throughout the project.

**Sample 1:****Client X Scanning Project****Time Detail Report**

	Begin:	9/1/2012		
	End:	9/30/2012		
<b>Total Billable Days:</b>			<b>1.7</b>	
<b>Name</b>	<b>Time_Date</b>	<b>Function_Code</b>	<b>Total Hrs</b>	<b>Total Days</b>
Ken Koppenhaver	9/13/2012	Project Mgmt	2.00	0.25
	9/17/2012	Project Mgmt	2.00	0.25
	9/18/2012	Project Mgmt	1.00	0.13
	9/19/2012	Project Mgmt	1.00	0.13
	9/26/2012	Project Mgmt	1.00	0.13
	9/27/2012	Project Mgmt	1.00	0.13
<b>Ken Koppenhaver Total</b>			<b>8.00</b>	<b>1.00</b>
Sandra Brennan	9/4/2012	Laserfiche Consulting	5.50	0.69
	9/6/2012	Laserfiche Consulting	0.10	0.01
<b>Sandra Brennan Total</b>			<b>5.60</b>	<b>0.70</b>
<b>Grand Total</b>			<b>13.60</b>	<b>1.70</b>

(end of Sample 1)

**Sample 2:**

## Meeting Minutes

Meeting Date: January 17, 2013  
 Project: Sample Project  
 Attendees:

Previous Action Items

Item #	Description	Owner	Due Date	Completion
24	Re-work and redistribute project timeline	Ken / Marianne		Open pending finalization of next depts and server upgrades
37	Verify what department the work for Student Records / Transcripts would fall under	Mary Ellen		
39	Marianne to let Ken know when LPS would like to re-engage Sandy for additional consulting	Marianne		
40	Marianne to review Workflow with Mary Ellen	Marianne	6/7/12	Complete???
50	Meet with Town staff to determine potential forms from Town side to be implemented in eForms. Provide this information to Ken	Donna	1/31/13	
78	Ken to keep the team apprised of new information related to Laserfiche version 9 as it becomes available.	Ken	1/31/13	
87	Clarify with Assessor's department on need for electronic signatures on the electronic forms.	Donna	1/31/13	
90	LPS team to document the workflow process related to each of the 6 initial LPS forms	Marianne	3/1/13	First 3 done. Next 3 remain.

(Sample 2 continued)



## Meeting Minutes

### Minutes

Donna mentioned that there was some additional Annual Report scanning that the Town desired to have done. However, the Community Development cleanup work needs to be completed first. Bruce thought that the Com Dev re-work was near completion. He will get an updated status and provide that to Donna and Dorinda.

Marianne will be meeting with the technical team on the LPS side to review the Laserfiche Forms server requirements that Ken forwarded. Marianne will follow up with Ken if there are any questions from the team.

Laserfiche's recommendations that were passed along during the conference in LA were that separate Laserfiche Forms servers would be needed for each repository both internally and externally. Thus, this would imply that 4 total Forms servers would be needed. Ken will contact Laserfiche technical support to get clarification as to whether the Forms servers can be combined with other servers in use or if the servers truly needed to be separate physical/virtual machines.

Adrienne and Deb will be meeting to review the follow up questions that Ken sent regarding the Workflow write-ups done for the first 3 LPS forms. They hope to have the questions answered by the end of the week. They can contact Ken if any clarification is needed on the follow up questions.

Ken suggested that the LPS team begin to work on documenting the forms and related processes for the next three LPS forms to be implemented.

Ken has a question into the General Code technical team as to when the upgrade to the Town's Laserfiche system could be scheduled, how long it is expected to take, and what the expected down time on the production side would be for the customer. Once he has an update, he'll pass it along.

Donna mentioned that the Town team is still working to identify the forms they wish to tackle first. Once they have that together, they will provide it to Ken. Donna thinks that the initial forms might be cross-organizational forms such as EAF. They will discuss this more with LPS. Ken suggested that in addition to the forms, the Town provide the related workflow write up as well so that General Code can provide a more accurate estimate of the effort it will take to get the forms implemented. Since any forms implemented on the Town side are outside of the original scope of work of the contract, a Change Order will need to be done.

(Sample 2 Continued)



## Meeting Minutes

New Action Items

Item #	Description	Owner	Target Due Date	Completion
96	Review Laserfiche Forms server specs with LPS team and get back to Ken with any questions.	Marianna	1/21/13	
97	Contact Laserfiche technical support to get clarification on the Laserfiche Forms server requirements	Ken	1/31/13	
98	Provide answers to the follow up questions for the first 3 LPS forms	Deb	1/21/13	
99	Provide an update on the Com Dev scanning rework	Bruce	1/21/13	
100	Provide clarification around the version 9 upgrade activities and any impact on the production environment	Ken	1/31/13	

*The next regularly scheduled status meeting will take place on Thursday, January 31<sup>st</sup> at 10 a.m.*

(end of Sample 2)



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## CLIENT REFERENCES

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Following are 3 examples of General Code implementations of Laserfiche Rio in government clients similar to the Oneida County project. Additional references are available on request.

### *Tompkins County, New York*

Contact: Greg Potter, Director of ITS  
(607) 274-5417  
gpotter@tompkins-co.org

For more details regarding Tompkins County, visit: <http://www.laserfiche.com/SolutionExchange/Article/6144>

Tompkins County currently uses Laserfiche Rio in 17 departments, with expansion of functionality and users growing constantly. The County's Laserfiche Rio system includes 50 named users, the Laserfiche Records Management Module, Unlimited Public Portal, Laserfiche Quick Fields, Import Agent, and the Laserfiche SDK (Integrator's Toolkit).

Tompkins County began using Laserfiche in 2009 to simply track boxes in the old Records Center. As Maureen Reynolds, Deputy County Clerk, stated, "Once we saw what Laserfiche could do, we decided to scan all boxes in the Record Center, destroy the paper, and eventually tear down the building, saving \$5.5 million in the process." [The County indicated that Building/renovation costs would have ranged between \$2.3 and \$5.5 million, and they also realized savings from utility costs for an inefficient building, personnel time saved, office space reclaimed, and reduced paper costs, plus IT was able to get rid of several small databases.]

Since the Records Center project, the County has expanded use of Laserfiche to 16 other departments, including many different types and sizes of records, and uses the Laserfiche Records Management Module to help enforce County-wide Retention Schedules.

### *Franklin County, Pennsylvania*

Contact: Ed Yonker, Laserfiche IT Administrator  
(717) 261-3149  
[elyonker@franklincountypa.gov](mailto:elyonker@franklincountypa.gov)

For more details regarding Franklin County, visit: [www.laserfiche.com/SolutionExchange/Article/11656](http://www.laserfiche.com/SolutionExchange/Article/11656)

Franklin County currently uses Laserfiche Rio to serve 36 of the County's 52 Departments, with implementation of Laserfiche in the Justice System underway currently. The County's Laserfiche Rio system includes more than 225 named users, The Laserfiche Records Management Module, Unlimited Laserfiche Public Portal, Laserfiche Quick Fields, and eForms.

Franklin County began its Laserfiche journey in 2000 with a small Laserfiche installation in the County Commissioners' Office. Because of their focus on compliance and prudent financial management, the County Controller's Office and the Fiscal Office deployed Laserfiche in 2004. Other departments took notice of the efficiencies and best practices that were happening in these 3 areas, and soon other departments began "lining up" to use Laserfiche. Human Services (with 18 different offices and agencies) and Human Resources implemented Laserfiche in 2006. From that point, the expansion took off, and more than ¾ of the County's Departments are using Laserfiche, with more planning to participate in the near future.

Once the County upgraded to Laserfiche Rio in 2010, it began to increase efficiencies even more with the use of web-based eForms and Laserfiche Automated Workflow. The County has developed and implemented many workflows and designed many eForms on its own, using a "sustainable" model where County staff learned to map and design the workflows and now does this function themselves.

Eaton County, Michigan

Contact: Dr. Robert Sobie, Director of IT  
(517) 543-4704  
[rsobie@eatoncounty.org](mailto:rsobie@eatoncounty.org)

For more details regarding Eaton County's Laserfiche system, visit:  
<http://www.laserfiche.com/SolutionExchange/Article/12638> and  
<http://www.laserfiche.com/NewsPortal/Article/2009/05/22/mighty-it>

Eaton County currently has the Laserfiche Rio Records Management Edition with 220 named users, as well as the Rio SDK (Integrator's Toolkit) and Laserfiche Forms.

Eaton County began using Laserfiche in 1995 as a single-user application in the IT Department. Laserfiche then was used as a document imaging system in 1997 in the Construction Code Department.

However, the system didn't really take off until 2000, when the County Prosecuting Attorney, Jeffrey Sauter, embraced the concept of moving to a paperless PA office. The partnership between IT and the PA Office resulted in an approximated annual savings of \$95,000 in staffing and supply costs. Laserfiche is also integrated with the Prosecuting Attorneys Association of Michigan (PAAM) Case Management System, and attorneys and staff can access documentation residing in Laserfiche from within the PAAM system. The extensive use of Laserfiche within the Prosecutor's Office continued, with constant improvements through the years.

In late 2012, the County upgraded from Laserfiche "Classic" to Laserfiche Rio with specific intentions to use the Laserfiche Automated Workflow to increase efficiencies in many County processes.

One of the primary needs was to automate the Accounts Payable Process. The County was challenged by having 25 different operating departments, geographically dispersed, which resulted in physical movement of reams of paper – by car or by foot – a very time consuming and costly effort. The County created and implemented an Enterprise Workflow process using Laserfiche. Within 3 months after beginning the work on the AP process, nearly 2 dozen departments were up and running using the strength of Laserfiche. County IT is now viewing other processes "through a workflow lens" to determine other potential efficiencies to be gained from Laserfiche Workflow.

Eaton County's Accounts Payable Process Automation was selected as the Michigan Government Management Information Services (GMIS) 2012 IT Project of the Year – a testament to the vision of the County and the power of Laserfiche Workflow.

## GENERAL CODE SERVICES AND SOFTWARE PRICING

### SERVICES PRICING:

General Code's services fees, which will be held for 36 months after award of the services contract, are as set forth below. The number of hours/days required for various projects will obviously vary, and the scope of work for each project (determined through collaboration between the County and General Code after initial requirements analysis) will be outlined and pricing provided at that time.

- On-site work (all-inclusive pricing; no additional travel expenses), typically in minimum of 2-day visits: \$1,500 per "person day." (e.g., one person for a day = \$1,500; 2 people for 1 day = \$3,000.)
- Work done at General Code Offices: \$125/hour.

### LASERFICHE SOFTWARE PRICING:

The County's RFP requests licensing charges for Laserfiche Base Software, Add-Ons/Plug-Ins, and any other non-labor charges associated with implementation of the Expansion of ECM throughout the County.

General Code's charges to the County for the Laserfiche software licensing and LSAP (support and maintenance program) will be at General Code's prevailing pricing schedule for these items at such time as the County authorizes purchase of the items. General Code does not anticipate changes in these prices unless increases are established by the software developer (Compulink Laserfiche), in which case General Code shall advise the County of any applicable price increases.

Following are tables outlining General Code's current prevailing pricing for Laserfiche Rio software and LSAP:

#### Laserfiche software:

Component	Unit Price	Notes
Laserfiche Rio Named Users: (per license)		
50 – 99 User Tier	\$833	
100 – 199 User Tier	\$700	
200 – 499 User Tier	\$600	
500 – 999 User Tier	\$500	
Additional tier price reductions are available if/when needed		
Laserfiche Unlimited Public Portal – single processor Laserfiche server	\$45,000	The County will be starting with the Pilot Public Portal, which comes with 25 read-only concurrent WebLink user licenses. If the County chooses to upgrade to any of the Unlimited Public Portal options, you will receive a credit for the software price of the Pilot Public Portal.
Laserfiche Unlimited Public Portal – dual processor Laserfiche server	\$50,000	
Laserfiche Unlimited Public Portal – multi-processor Laserfiche server	\$75,000	
Records Management Licensing	10% of named user license	The County will have the Laserfiche Records Management Module as part of the Pilot. The Records Management Module is priced by the number of named users for the system. Therefore, this will need to be added to any named user purchase.

Laserfiche Forms – Basic	10% of named user license	Forms Basic is required in order to acquire the Forms Portal Add-On.
Laserfiche Forms Portal Add-On	\$7,995	
Laserfiche Rio Quick Fields Packages (licensed per installation):		
Laserfiche Quick Fields Basic Package	\$2,500	Includes Quick Fields foundation and Validation Packs for Bar Code and Real-Time Lookup
Laserfiche Quick Fields Core Package	\$5,000	Includes Quick Fields foundation, Quick Fields Scripting Kit and Validation Packs for Bar Code, Real-Time Lookup and Zone OCR
Laserfiche Quick Fields Classify Package	\$7,500	Includes Quick Fields Core package plus Quick Fields Document Classification
Laserfiche Quick Fields Context Package	\$10,000	Includes Quick Fields Core Package, plus Quick Fields Forms Alignment, Forms ID, Forms Extractor, Optical Mark Recognition, and Auto Stamp/Redaction/Bates numbering
Laserfiche Quick Fields Complete Package	\$15,000	Includes all components in the Basic, Core, Classify and Context packages
Laserfiche Plus for Digital Archiving (up to 5 seats, internal business use only)	\$10,000	
Laserfiche Plus for Publishing (royalty-free distribution of published materials)	\$3,800	One seat
Laserfiche Import Agent	\$1,500	
Laserfiche SDK (formerly Integrator’s Toolkit)	\$2,500	
Laserfiche ScanConnect, single license	\$165	A ScanConnect license is required for each scanner connection directly into Laserfiche.
Laserfiche ScanConnect, 5-pack	\$660	
Laserfiche ScanConnect, 10-pack	\$915	

**LSAP:**

Component	Unit Price	Notes
Laserfiche Rio Named Users (per license):		
50 – 99 User Tier	\$184	
100 – 199 User Tier	\$154	
200 – 499 User Tier	\$132	
500 – 999 User Tier	\$110	
Laserfiche Unlimited Public Portal – single processor Laserfiche server	\$9,000	
Laserfiche Unlimited Public Portal – dual processor Laserfiche server	\$11,000	
Laserfiche Unlimited Public Portal – multi-processor Laserfiche server	\$16,500	
Records Management Licensing	\$19 - \$11	Depending on user tier
Laserfiche Forms – Basic	\$\$19 - \$11	Depending on user tier
Laserfiche Forms Portal Add-On	\$1,759	

Laserfiche Rio Quick Fields Packages (licensed per installation):		
Laserfiche Quick Fields Basic Package	\$550	
Laserfiche Quick Fields Core Package	\$1,100	
Laserfiche Quick Fields Classify Package	\$1,650	
Laserfiche Quick Fields Context Package	\$2,200	
Laserfiche Quick Fields Complete Package	\$3,300	
Laserfiche Plus for Digital Archiving (up to 5 seats, internal business use only)	\$2,200	
Laserfiche Plus for Publishing (royalty-free distribution of published materials)	\$1,760	
Laserfiche Import Agent	\$330	
Laserfiche SDK (formerly Integrator's Toolkit)	\$825	
Laserfiche ScanConnect, single license	\$37	
Laserfiche ScanConnect, 5-pack	\$146	
Laserfiche ScanConnect, 10-pack	\$202	



# AUTHORIZATION & AGREEMENT

The County of Oneida, New York hereby agrees to the procedures outlined above and General Code's Document Management Solution Terms & Conditions which are available at: [www.generalcode.com/TCdocs](http://www.generalcode.com/TCdocs) and are incorporated with Addendum herein by reference, and authorizes General Code to proceed with the project.

## Electronic Document Management Solution Service

### COUNTY OF ONEIDA, ONEIDA COUNTY, NEW YORK

By: \_\_\_\_\_ In the Presence of: \_\_\_\_\_  
 Title: \_\_\_\_\_ Title: \_\_\_\_\_  
 Date: \_\_\_\_\_ Date: \_\_\_\_\_

### GENERAL CODE, LLC

By: Lynn Martin  
 LYNN MARTIN  
 Title: VICE PRESIDENT, FINANCE  
 Date: 8/8/13

In the Presence of: Sherry Duchyns  
 SHERRY DUCHYNS  
 Title: PRICING & CUSTOMER ACCT. COORDINATOR  
 Date: 8/8/13

Please sign, fax and mail this page to General Code at (585) 328-8189.  
A signed copy of this agreement will be mailed back to the municipality for its records.

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## APPENDIX A – COUNTY ADDENDUM

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THIS ADDENDUM, entered into on this 8<sup>th</sup> day of AUGUST, 2013, between the County of Oneida, hereinafter known as COUNTY, and a contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as CONTRACTOR.

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

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

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

**1. Executor or Non-Appropriation Clause.**

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

**2. Oneida County Board of Legislators: Resolution #249 Solid Waste Disposal Requirements.**

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

**3. Certification Regarding Lobbying; Debarment, Suspension and other Responsibility Matters; and Drug-Free Workplace Requirements.**

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

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



2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
  3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
1. The Contractor certifies that it and its principals:
    - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
    - b. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contracts under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
    - c. Are not presently indicated or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1(b) of this certification; and
    - d. Have not within a three-year period preceding this Contract had one or more public transactions (Federal, State, or local) for cause or default; and
  2. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. The Contractor will or will continue to provide a drug-free workplace by:
    - a. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
    - b. Establishing an on-going drug-free awareness program to inform employees about:
      1. The dangers of drug abuse in the workplace;
      2. The Contractor's policy of maintaining a drug-free workplace;
      3. Any available drug counseling, rehabilitation, and employee assistance program; and

4. The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
  - c. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (a);
  - d. Notifying the employee in the statement required by paragraph (a) that as a condition of employment under the Contract, the employee will:
    1. Abide by the terms of the statement; and
    2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
  - e. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
  - f. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted;
    1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the Requirements of the Rehabilitation Act of 1973, as amended; or
    2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
  - g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a),(b),(c),(d),(e),(f).
2. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

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

General Code Offices  
781 Elmgrove Road  
Rochester, NY 14624

Oneida County Office Building  
800 Park Avenue  
Utica, New York 13501

- d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F. for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
  2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.
4. **Health Insurance Portability and Accountability Act (HIPAA).**  
When applicable to the services provided pursuant to the Contract:
- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
1. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
  2. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
  3. Utilize an adequate amount of physical hardware, including but not limited to filing cabinets, and locks on drawers, cabinets, and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:
1. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and

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

**5. Non-Assignment Clause.**

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and attempts to do so are null and void. The Contractor

may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

**6. Worker's Compensation Benefits.**

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

**7. Non-Discrimination Requirements.**

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

**8. Wage and Hours Provisions.**

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

**9. Non-Collusive Bidding Certification.**

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

**10. Records.**

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

**11. Identifying Information and Privacy Notification.**

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payees, on its invoice or claim for payment, must give the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

**12. Conflicting Terms.**

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

**13. Governing Law.**

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

**14. Prohibition on Purchase of Tropical Hardwoods.**

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

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

**15. Compliance with New York State Information Security Breach and Notification Act.**

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

**16. Gratuities and Kickbacks.**

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

**17. Audit**

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

payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

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

**18. Certification of compliance with the Iran Divestment Act.**

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

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

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

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



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

County of Oneida

Contractor

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

Oneida County Executive

By: *Lynn Martin*

Name: LYNN MARTIN  
VICE PRESIDENT, FINANCE

Approved as to Form only

\_\_\_\_\_

Oneida County Attorney



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## TERMS AND CONDITIONS

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### GENERAL CODE, LLC. CONTENT MANAGEMENT SOLUTIONS

These Terms and Conditions, together with General Code, LLC's Proposal (the "Proposal") constitute a legal agreement between the Client/Licensee (Client) and General Code, LLC (General Code)

#### 1. Definitions.

For purposes of these Terms and Conditions, the terms below shall have the meanings defined below. Additional terms are defined throughout these Terms and Conditions.

- A. "Client Content" means any data, information, files, images, text or other content that may be provided by Client or its authorized users for use in conjunction with the Software or Services.
- B. "Services" means the services provided by General Code or its vendors pursuant to this agreement.
- C. "Software" means the software product or products delivered to Client pursuant to this agreement.

#### 2. Responsibility of General Code.

General Code shall be responsible for the performance of the services provided for in this agreement in accordance with the "Performance Schedule." General Code shall be responsible for the correctness and accuracy of its work, based upon the material and information supplied by the Client. Regardless of the Client's acceptance of completed materials when delivered, General Code shall correct errors found either by the Client or General Code. See "Warranties; Limitations" for General Code's liability for all services.

#### 3. Responsibility of Client.

The Client shall be responsible for the correctness and accuracy of the information it supplies to General Code, for providing General Code with timely decisions and answers to questions raised by General Code, for inclusion of sufficient funds in the budget to pay General Code for services, and for the prompt payment of invoices. The Client shall also be responsible for completing its work in accordance with the "Performance Schedule." Client is responsible for maintaining its user desktops and providing users network access to the Software. Client is also responsible for ensuring that its users comply with these Terms and Conditions with respect to use of the Software and Services. Client shall provide connectivity and security to the Internet for its location(s) for purposes of providing adequate access to Software hosted at the Hosting Site. General Code shall not be responsible for the reliability or continued availability of the communications lines, or the corresponding security configurations, used by Client in accessing the Internet to access the Software. Client shall provide adequate industry "best practice" standards to ensure reasonable security for integration between applications at the Client site and Software. Client shall provide accurate input information in the manner reasonably prescribed by General Code in connection with the Software and Services provided under these Terms and Conditions. Client shall advise General Code of any changes to Client's operations, Primary Contact, or other information that would require a change in the support, operation, or configuration of the hosted Software. Client shall be responsible for establishing any merchant accounts necessary for credit card transactions, if applicable. Client shall be responsible for ensuring that any Client Content is accurate, not corrupt in any way, and does not contain any viruses. The Software or Services may contain links to other Internet sites owned by third parties. Client's use of each of those sites is subject to the conditions, if any, that each of those sites have posted. General Code has no control over those sites, and General Code and its suppliers are not responsible for any use of such sites or content on them.

#### 4. Protection of Confidential Information.

During the time this agreement is in effect, both the Client and General Code may have access to or receive information that is of a confidential nature. This information may include data relating to client information, products, product development, designs, processes, systems, computer software, computer hardware, methods of production, costs, pricing, finances, sales or marketing plans, customers, business partners, vendors, vendor prospects, employees and municipal records and data. All such information, including any materials embodying such information, whether disclosed orally or otherwise and whether or not marked "Confidential" or "Proprietary," will be considered by officials of the Client and by General Code and General Code's employees as proprietary and confidential. Both the Client and General Code will use reasonable efforts to protect the confidentiality of the other's Confidential Information but in no case less than the same efforts as it uses to protect its own confidential information, and will not use any Confidential Information of the other for any purpose other than fulfilling its obligations under this agreement.

#### **5. Adjustments to Performance Schedule; Delays.**

- A. Adjustments to Schedule. Upon the mutual consent of the Client and General Code, the "Performance Schedule" may be changed or extended as provided under "Changes" below.
- B. Delays. Client must notify General Code, in writing, immediately upon learning or otherwise becoming aware, of any difficulties that may delay the delivery of services or deliverables. Such notification must identify the reason for the delay, as well as the anticipated period of delay. General Code may require a payment of 50% of the balance due under the contract for any delay on Client's part.
- C. Unauthorized Delays. In the event of any unauthorized delay on the part of the Client, General Code may impose delay charges upon providing notice thereof to the Client. An "unauthorized delay" shall mean any delay not authorized by both General Code and the Client.

#### **6. Variations from Standard Methods or Procedures.**

Variations from General Code's standard methods and procedures must be requested by the Client, in writing, specifying the exact nature of the desired variations. General Code will accommodate such variations wherever possible, with any additional charges for such variations, as determined by General Code and approved by the Client, to be paid by the Client.

#### **7. Additional Products and Services.**

As part of this Agreement, the Client may choose to purchase additional products or services offered by General Code, including but not limited to codification services, consulting, document management software, agenda management software, building, planning and zoning software, scanning services and electronic forms. Purchase of additional services may be subject to "Changes" below, or may require a new Agreement, dependent upon the type of product or service purchased.

#### **8. Payment Terms.**

- A. All invoices will be processed in accordance with the Payment Schedule set forth in the Proposal. However, the Client may choose to pay in advance of Payment Schedule for products and services provided in this agreement, if so desired. In such a case, General Code shall hold the funds on account and draw from them in accordance with the Payment Schedule until the Contract is completed, or for up to 12 months, whichever is later. If any funds remain on account after 12 months, or end of Contract, General Code will contact the Client regarding disposition of said funds.
- B. Unless otherwise specified in the Payment Schedule, all payments shall be made within 30 days of receipt of the invoice/voucher. The Client shall not discount nor withhold any portion of the amount for any reason. General Code reserves the right to issue progress billings for services that span several months.
- C. Late payments will be charged interest at the rate of 1.5% for each month or part thereof that such payment is in arrears. For Laserfiche® licensees, should late payment cause the Laserfiche Software Assurance Program (LSAP) to lapse, General Code reserves the right to charge, in addition to the original LSAP fee, a reinstatement fee that is equal to 10% of the annual LSAP fee times the number of months the payment was in arrears.

**9. Software.**

- A. Any Software being delivered pursuant to this agreement is being licensed to the Client pursuant to the applicable license agreement or agreements between the respective publishers of the software and the Client, attached hereto and made part hereof. The Client agrees that all terms, conditions and limitations set forth in such license agreement(s) shall apply to this agreement as it relates to the Software.
- B. If as part of this agreement, the Client purchases the Laserfiche SDK, the SDK Confidentiality and Software License Agreement will need to be fully executed by the Client and Compulink Management Center, Inc., before the Integrator Toolkit can be provided to the Client. If it cannot be fully executed, the SDK shall be severable from the project as set forth in this proposal without affecting the validity of the remainder of the agreement.
- C. If this agreement relates to hosted Services, General Code will make the Software available for Client's use during the term of this agreement on Client's computer systems that meet the General Code System Recommendations for the Software, as specified in General Code's proposal. General Code will provide Client with access to the latest General Code supported version of the Software via the Internet from a third-party hosting vendor.

**10. Computer Hardware.**

Any computer hardware being delivered in accordance with this agreement is being delivered with the manufacturer's warranty. The manufacturer's warranty is in lieu of all other warranties, express or implied, and General Code shall have no obligation or liability under "Warranties; Limitations" or otherwise with respect to hardware.

**11. Document Scanning Services.**

If applicable, the following provisions shall apply to document scanning services to be provided by General Code or its designated subcontractor:

- A. The Client shall be responsible for ensuring that each records storage box slated for conversion is marked with the main category describing its contents and that each file within each box is labeled with a description of its contents.
- B. General Code or its designated subcontractor shall use reasonable care in the handling of your documents.
- C. Upon return of the documents, the Client shall promptly inspect the documents to determine whether all documents have been returned. Unless the Client informs General Code of a discrepancy within 10 days, all claims with respect to completeness or condition of the documents shall be waived.

**12. Delivery of Completed Materials.**

General Code will deliver completed materials via USPS, UPS, motor freight, airfreight, FTP or whichever method offers the most efficient delivery at the time. Delivery, handling, packaging, insurance and/or shipping charges will be prepaid by General Code and added to the invoice/voucher for services to be paid by the Client.

**13. Support.**

- a. If this agreement includes support, General Code will provide online, telephone and e-mail support to Client as follows: General Code Product Support is available 9:00 a.m. to 5:00 p.m. U.S. Eastern Time, Monday through Friday, excluding holidays. Support is not available after 3 p.m. U.S. Eastern Time the day before Thanksgiving, Christmas Eve, and New Year's Eve.
- b. If this agreement includes support, General Code will remotely install minor releases of the Software which are generally made available to its other subscribers, including patches and/or fixes, as they are made available at no charge during the term of this agreement. Major releases and upgrades of the Software will be available at no charge for the software, but additional service charges may apply.

**14. Intellectual Property Rights.**

All Software and Services are proprietary products and services and that all right, title and interest in and to the Software and Services, including all associated intellectual property rights, are and shall at all times remain with General Code and its third party vendors. The Software contains trade secret and proprietary information owned by General Code or its third party vendors and is protected by United States copyright laws and international trade provisions. Client must treat the Software like any other copyrighted material and Client may not copy or distribute the Software, electronically or otherwise, for any purpose. Client hereby grants to General Code a nonexclusive right to use all Client Content as necessary solely for the purposes of providing the Software and Services to Client and its authorized users pursuant to these Terms and Conditions.

#### **15. Other Restrictions.**

Client may not, directly or indirectly, sublicense, assign, transfer, sell, rent, lend, lease or otherwise provide the Software, Services (or any portion thereof, including without limitation any capacity), or any portions thereof, to any third party, and any attempt to do so is null and void. Client may not reverse engineer, disassemble, decompile or make any attempt to ascertain, derive or obtain the source code for the Software. Software and Client Content shall not be used for any commercial purpose beyond the functionality driven by the Software. Client will not use the Software or Services to take any actions that (i) infringe on any third party's copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity or privacy; (ii) violate any applicable law, statute, ordinance or regulation (including those regarding export control); (iii) are defamatory, trade libelous, threatening, harassing, or obscene; or (iv) constitute unauthorized entry to any machine accessible via the network. Client shall not interfere with or disrupt network users, services or equipment and will comply with the usage policies of General Code's suppliers.

#### **16. Indemnification.**

A. Client hereby agrees to indemnify, defend and hold General Code harmless from and against any and all liability, losses, costs, and expenses (including reasonable attorneys' fees) incurred by General Code in connection with any claim arising out of or relating to:

1. Client's use of the Software or Services;
2. Any use or alleged use of Client's accounts or passwords by any person, whether or not authorized by Client;
3. The content, the quality, or the performance of Client Content;
4. Client's connection to the Services;
5. Client's violation of this agreement; or
6. Client's violation of the rights of any other person or entity.

#### **17. Term and Termination.**

- A. Unless otherwise specific in the Proposal, the initial term of this agreement, unless sooner terminated as hereafter provided, shall be for one year, commencing on the date hereof, and will then be automatically extended for additional successive one-year periods unless either party notifies the other in writing not less than 90 days prior to the end of the initial term or any extension period that this agreement will not be extended.
- B. If this agreement relates to Hosted eForms, this Section 17B will apply instead of Section 17A. In such event, unless otherwise provided in the Proposal, the initial term of this agreement, unless sooner terminated as hereafter provided, shall be for one month, commencing on the date hereof, and will then be automatically extended for additional successive one-month periods unless either party notifies the other in writing not less than 30 days prior to the end of the initial term or any extension period that this agreement will not be extended.
- C. Either party shall have the right to terminate this agreement with immediate effect if the other party fails to cure to such party's reasonable satisfaction any material breach or violation of this agreement within 60 days after such party has given the other written notice thereof.

- D. Upon termination, all work prepared by General Code shall, at the option of the Client, become its property, and General Code shall be entitled to receive just and equitable compensation for all services performed.
- E. Section 3, 9, 10 and 14 through 31 shall survive any expiration or termination of this agreement.

#### 18. Warranties; Limitations.

- A. General Code warrants that the services provided hereunder will be performed by qualified personnel in a good and workmanlike manner and that any deliverables will be free of material defects. General Code's liability and the *Client's exclusive remedy for failure of any service or deliverable to meet this warranty shall be limited to re-performance*, at General Code's cost, of such service or deliverable. General Code's warranty does not extend to failures arising out of (i) incorrect or insufficient data, specifications or instructions provided by the Client or (ii) work or services performed by others.
- B. **GENERAL CODE DOES NOT WARRANT THAT SOFTWARE WILL BE ERROR FREE OR WILL OPERATE UNINTERRUPTED. THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, WHETHER ORAL, WRITTEN, EXPRESS, IMPLIED OR STATUTORY. IMPLIED WARRANTIES OF FITNESS AND MERCHANTABILITY SHALL NOT APPLY. GENERAL CODE'S WARRANTY OBLIGATIONS AND THE CLIENT'S REMEDIES HEREUNDER ARE SOLELY AND EXCLUSIVELY AS STATED HEREIN.**
- C. The limitations and protections against liability afforded General Code herein shall apply to any action or claim in connection with the services, whether based on contract, tort, statute or otherwise (including negligence, warranty and strict liability). The cumulative liability of General Code for all obligations, warranties and guaranties, whether express or implied, with respect to services performed hereunder shall be limited to the amount paid to General Code pursuant to this agreement. General Code shall not be liable to the Client or any other person or entity for lost profits, lost data, indirect, special, incidental, punitive or consequential damages arising from the performance or nonperformance of services or the use or inability to use any software or product, irrespective of whether the claims or actions for such damages are based upon contract, tort, negligence, strict liability, warranty or otherwise.
- D. No action may be maintained or proceeding commenced by the Client or others against General Code with respect to services unless such action or proceeding is commenced within one year after completion by General Code of the particular services to which such action or proceeding relates.

#### 19. Responsibility of Client's Counsel.

In conjunction with the services rendered by General Code and the work of the Client and General Code, any and all questions requiring legal advice or opinion, analysis of legislation for legal sufficiency, interpretation of cases or statute, etc., shall be directed by the Client and General Code to the Client's counsel. At the request of the Client or its counsel, General Code shall make available to the Client's counsel information in its possession relating to legal issues or opinions obtained during its work with other clients, as well as sample copies of legislation as requested by the Client.

#### 20. Client Primary Contact.

Client shall identify, and name, an appropriate individual, with corresponding contact information, including electronic mail address, as the "Primary Contact" with whom General Code should communicate matters regarding the Software and Services, such as maintenance notifications, and who has the authority to make Services requests including release of Client data, both internally to General Code and to the Client, restoration of data, and other configuration changes.

#### 21. System Monitoring.

General Code will not systematically monitor Client Content, but General Code reserves the right to review Client Content from time to time at its discretion. General Code reserves the right to (a) disable access to or delete any Client Content which it determines in its sole discretion (such discretion to be exercised in good faith) to be illegal, obscene, threatening, defamatory, fraudulent, infringing, harassing, or otherwise offensive,

and (b) disable access to or delete any other Client Content under justified exigent circumstances, as such circumstances are determined in good faith by General Code. General Code also reserves the right to monitor, the use of the Software if Client is using excessive computing resources which are impacting the performance of the Software for other subscribers.

## **22. Changes.**

The Client may at any time request changes in the scope of this agreement. Moreover, General Code may suggest changes. Where changes are agreed to by the parties, General Code shall issue a Change Order for the Client's review and signature describing the changes as well as the adjustments in schedule and fees occasioned by the changes in scope. General Code shall not be required to implement any change until the Client has signed and returned the Change Order.

## **23. Notices.**

All notices and other communications which are required or permitted to be given pursuant to this agreement shall be in writing and shall be delivered either personally, by facsimile, by reputable overnight courier or by registered or certified mail and shall be deemed effectively received (i) if delivered in person, on the date of such delivery, (ii) if transmitted by facsimile, on the date indicated on the sender's receipt of confirmation, (iii) if delivered by overnight courier, on the next business day following deposit thereof with such overnight courier, or (iv) if sent by mail, upon the third business day following the deposit thereof, postage prepaid.

## **24. Force Majeure.**

If any performance by any party shall be prevented, hindered or delayed by reason of any cause beyond the reasonable control of such party (such event being hereafter called an "event"), including, without limitation, acts of God, riots, fires, floods, unusually severe weather, curtailment or termination of sources or supplies of energy or power, inability to obtain or delay in obtaining materials or supplies, strikes or other disputes involving such party or its subcontractors or suppliers, acts of war, insurrection, civil unrest, terrorism, elevated risk of terrorism, riot or disorder, acts of governmental authorities, changes in law or regulation, or any other cause beyond the reasonable control of such party, whether similar or dissimilar to those expressed hereinabove, such party shall be excused from performance to the extent that its performance is so prevented, hindered or delayed. Such excuse from performance shall extend so long as the event continues to prevent, hinder or delay the performance by such party. The party whose performance is affected shall give the other parties notice within 15 days of the event specifying the event, the performance affected and the anticipated date, if any, performance can be made.

## **25. Disclaimer of Association.**

This agreement shall not be construed as creating a partnership, joint venture, agency or any other association that would impose upon one party liability for the acts or omission of the other, and neither party shall have the right to bind the other.

## **26. No Waiver.**

Any failure by either party hereto to enforce at any time any term or condition shall not be considered a waiver of that party's right thereafter to enforce each and every term and condition.

## **27. Severability of Provisions.**

If any part of this Agreement is found or deemed by a court of competent jurisdiction to be invalid or unenforceable, that part shall be severed from this Agreement and shall be deemed to have never been a part of this Agreement and shall not affect the validity of the remainder of this Agreement.



**28. Entire Agreement.**

This agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter.

**29. Dispute Resolution.**

The parties mutually agree to seek mediation as the preferred alternative of dispute resolution in the event of any disagreement over the terms of this agreement.

**30. Governing Law; Jurisdiction.**

This agreement is governed by the laws of New York, without regard to its conflict of laws doctrine. Each party consents to the exclusive jurisdiction of the courts sitting in Monroe County, State of New York with respect to any disputes arising out of this agreement. In any action or proceeding arising out of this agreement, the prevailing party shall be entitled to recover its reasonable legal fees and expenses.

**31. Counterparts; Signatures.**

This Agreement may be executed in any number of counterparts with the same effect as if all of the parties hereto had signed the same document. All counterparts shall be construed together and shall constitute one agreement. Signatures delivered by facsimile or by electronic mail shall be deemed original signatures for all purposes of this Agreement.

## ADDENDUM TO TERMS AND CONDITIONS

ADDENDUM TO TERMS AND CONDITIONS dated as of August 8, 2013 (this "Addendum") between General Code, LLC ("General Code") and Oneida County, New York ("Client").

### WITNESSETH

WHEREAS, Client wishes to retain General Code to perform the services described in General Code's Proposal to Client, but it will only do so if certain provisions of General Code's Terms and Conditions for Document Management Solutions (the "Terms & Conditions") are amended in certain respects; and

WHEREAS, General Code is willing to amend the Terms & Conditions as provided in this Addendum;

NOW, THEREFORE, the parties agree as follows:

1. Amendments to the Terms & Conditions. The parties agree that the Terms & Conditions are hereby amended, effective immediately, in each of the following respects:

1.1. Section 16 of the Terms and Conditions is hereby amended to add a new subsection 16B to read in its entirety as follows:

"B. General Code hereby agrees to indemnify, defend and hold Client harmless from and against any and all third party liability, losses, costs, and expenses (including reasonable attorneys' fees) incurred by Client in connection with any claim arising out of or relating to:

1. The negligence or willful misconduct of General Code; or
2. General Code's violation of this Agreement."

1.2 Section 17A of the Terms & Conditions is hereby amended to delete Section 17A in its entirety and to substitute the following in its place:

"A. The term of this Agreement, unless sooner terminated as hereafter provided, shall be for thirty-six (36) months, commencing on the date hereof"

1.3 Section 18C of the Terms and Conditions is hereby amended to delete the second sentence of Section 18C in its entirety and to substitute in its place the following:

"The cumulative liability of General Code for all obligations, warranties and guaranties, whether express or implied, with respect to this Agreement shall be limited to the amount of valid and collectible insurance available to General Code."

1.4 Section 18D of the Terms & Conditions is hereby amended to delete Section 18D in its entirety.

1.5 Section 30 of the Terms & Conditions is hereby amended to delete the phrase "Monroe County, State of New York" and to insert the phrase "Oneida County, State of New York" in its place.

1.6 The Terms and Conditions are amended to add a new Section 32 to read as follows:

"32. Insurance. General Code shall maintain, at its sole cost, at all times while performing services under this Agreement, Commercial General Liability Insurance with limits of not less than

\$1,000,000 each occurrence and \$2,000,000 general aggregate, naming Client as an additional insured."

- 2. Section Headings. The section headings in this Addendum are for convenience of reference only and are not a part of this Addendum.
- 3. Governing Law. This Addendum shall be governed by and construed in accordance with the Laws of the State of New York, without regard to its choice of law doctrine. In any action or proceeding arising out of this Addendum, the prevailing party shall be entitled to recover its reasonable legal fees and expenses.
- 4. Effect of Addendum. Except as amended by this Addendum, all of the terms, conditions, provisions and covenants of the Terms & Conditions shall remain and continue in full force and effect and are hereby ratified, repeated and confirmed in all respects.
- 5. Entire Agreement. The Terms & Conditions, as amended by this Addendum, together with General Code's Proposal, constitute the entire agreement and understanding among General Code and Client and supersede any and all prior agreements and understandings relating to the subject matter hereof.
- 6. Counterparts; Effectiveness. This Addendum may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. The exchange of copies of this Addendum, including executed signature pages, by electronic transmission will constitute effective execution and delivery of this Addendum for all purposes, Signatures transmitted electronically will constitute original signatures for all purposes.

IN WITNESS WHEREOF, the parties have caused this Addendum to be duly executed, as of the date first above written,

GENERAL CODE, LLC

By: [Signature]

Name: LYNN MARTIN

Its: VICE PRESIDENT, FINANCE

ONEIDA COUNTY, NEW YORK

By: \_\_\_\_\_  
Anthony J. Picente, Jr.  
County Executive

Approved as to Form

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

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# LASERFICHE SOFTWARE LICENSE AGREEMENT

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## LASERFICHE SOFTWARE LICENSE AGREEMENT

This Software License Agreement ("License Agreement") is made between Compulink Management Center, Inc., a California corporation doing business as Laserfiche and whose principal place of business is in Long Beach, California ("Laserfiche"), and the party (referred to as the "Licensee"), who has lawfully acquired the Software.

PLEASE READ THIS LICENSE AGREEMENT CAREFULLY. BY INSTALLING, COPYING OR USING THE SOFTWARE OR THE DOCUMENTATION THAT ACCOMPANIES THIS LICENSE AGREEMENT, YOU AGREE TO THE TERMS OF THIS LICENSE AGREEMENT. IF YOU DO NOT AGREE, DO NOT INSTALL, COPY OR USE THE SOFTWARE OR THE DOCUMENTATION AND, IF APPLICABLE, RETURN IT TO YOUR SUPPLIER FOR A FULL REFUND.

### RECITALS

- A. Laserfiche has developed certain document imaging and management software programs which it markets under the trademark Laserfiche ("Software").
- B. The Software constitutes valuable proprietary products and trade secrets of Laserfiche embodying substantial creative efforts and confidential information, ideas, and expressions. Laserfiche has invested large amounts of capital and time to develop and promote the Software. Laserfiche claims copyrights and proprietary trade secrets in the Software.
- C. Licensee understands that the Software is compatible only with certain types of computers and operating systems and that Licensee is responsible for assuring the compatibility between its computer systems, its software solutions, if any, and the Software.

THEREFORE, in consideration of the premises and covenants contained this License Agreement, Laserfiche and Licensee agree as follows:

### **Terms of License Agreement**

#### 1. Grant of License.

A. Description. Laserfiche grants Licensee a limited, non-exclusive, non-transferable license to use all of the Software described on the purchase order accompanying the Software, subject to the terms and conditions of this License Agreement and the Licensing File which accompanies the Software. The Software includes, without limitation express or implied, some or all of the following types of software: (a) "Server Software" that provides document management services to other programs, and "Client Software" that allows a computer or workstation to access or utilize the services provided by the Server Software; (b) "Stand-alone Software" that operates on a single computer; and (c) "Plug-in Software Modules" that can be added to the previously mentioned Software packages.

#### B. Limitations and Requirements.

- i. The Licensing File accompanying the Software or associated with the Licensing Key accompanying the Software defines the scope and limitations of the Software license for this product. You may only use the License File issued by Laserfiche to fulfill the license purchase described on the purchase order accompanying the Software.

- ii. Licensee may install one copy of the Server Software on a single physical or a single virtual operating system environment (the instance of the running Server Software shall be referred to as the "Server"), unless the licensee is acquiring a license to the Laserfiche Rio product. If Laserfiche Rio is being licensed, Licensee may install up to the maximum number copies of the Server Software listed in the License File (labeled as "instances") to multiple physical or virtual operating system environments so long as those installations have continuous network access to a running instance of the included License Manager program. Licensee may install only one copy of the License Manager program on a single physical or a single virtual operating system environment.
- iii. The Server Software may only be operated with the database system(s) (Microsoft SQL or Oracle) listed in the Licensing File. If no database system is listed in the License File, then the Server Software may only be operated with Microsoft SQL Express.
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- v. Named user connections are allocated to specific individuals or devices at the choice of the Licensee. When a named user connection is allocated to a specific individual person's Laserfiche or external directory account, that individual may not share the use of that named user connection by sharing the use of their account with others. When a named user connection is allocated to a device, the connection may only be used from that device and various individuals may share the use of that device so long as only one individual is accessing the Server Software from that device at a time. There are two types of named user connections – named user connections capable of modifying a repository governed by the Server (referred to as "Named Full User" connections and listed in the License File as "named read-write objects") and named user connections capable of only read-only access (referred to as "Named Retrieval" connections and listed in the License File as "named read-only objects"). Only the maximum number of each type of named user connection listed in the License File may be allocated to individuals or devices. Named user connections may not be routinely reallocated for the purpose of lessening the number of named user connections required.
- vi. Concurrent user connections are shared among individuals. There are two types of concurrent user connections – concurrent user connections capable of modifying a repository governed by the Server (referred to as "Full User" connections and listed in the License File as "read-write users") and concurrent user connections capable of only read-only access (referred to as "Retrieval" connections and listed in the License File as "read-only users"). Once the maximum number of read-write or read-only concurrent user connections specified in the License File is reached, no additional user connections of that type may be made, until some user connections of that type are closed. Individuals who require write access in the course of their work must use a Full User connection at all times; thus, individuals assigned to use a Full User connection may not use a Retrieval connection to perform read-only tasks which do not require a Full User connection. Hardware or software may not be used to reduce the number of concurrent user connections required for individuals to access or otherwise utilize Server services (sometimes called "multiplexing").
- vii. Public Portal connections allow read-only access to the Server Software only using a Laserfiche application known as WebLink. If the license file lists a maximum number of Public Portal connections (listed as "read-only public portals"), then once the maximum number of Public Portal connections specified in the License File is reached, no additional Public Portal connections may be made, until some Public Portal connections are closed. If the license file lists a maximum number of CPU sockets that may be utilized to support Public Portal access (listed as "read-only CPU limit"), then Public Portal connections may be made only if the physical or virtual machine on which the Server Software is running has the listed number of CPUs or fewer. If neither a maximum number of Public Portal connections nor a maximum number of CPUs for Public Portal access is listed in the License File, then no Public Portal connections may be made.
- viii. Licensee may not install a version of the Server Software later than the version listed in the License File.
- ix. If the License File lists an expiration date, the Server Software may not be run after that date.
- x. If the License File specifies one or more languages, then the Laserfiche user interface may only be run in those languages.
- xi. Add-ons and additional features that the Server Software can support may only be used when listed in the License File.
- xii. If Licensee desires to upgrade or enhance the capabilities of the Software or the numbers of users, connections or other features, Licensee must acquire the appropriate license(s) from Laserfiche to do so by updating the License File.

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- B. Upon termination of this License Agreement, Licensee shall immediately cease all use of the Software and the Documentation and return to Laserfiche all versions and copies of the Software and the Documentation. Licensee shall remove and uninstall all such programs and materials from all hard drives and other devices on which the Software or the Documentation may be found.
- C. The termination of this License Agreement shall not terminate Licensee's obligations under this License Agreement, nor shall it release Licensee from the obligation to pay any monies that it may owe Laserfiche or operate to discharge any liability that Licensee incurs before termination.

6. LIMITED WARRANTY; DISCLAIMER. THE MEDIA (NOT SOFTWARE) IS WARRANTED TO THE ORIGINAL

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10. No Waiver. No failure to exercise or delay in exercising any right, power, or privilege under this License Agreement on the part of either party shall operate as a waiver of any right, power, or privilege under this License Agreement. No single or partial exercise of any right, power, or privilege under this License Agreement shall preclude further exercise thereof.

11. Severability. If any part of this License Agreement is found or deemed by a court of competent jurisdiction to be invalid or unenforceable, that part shall be severed from this License Agreement and shall be deemed to have never been a part of this License Agreement and shall not affect the validity of the remainder of this License Agreement.

12. Governing Law. This License Agreement shall be deemed to have been made in, and shall be construed pursuant to the laws of, the State of California, as if all parties were resident in California and the License Agreement were to be wholly performed within the State of California.

13. Jurisdiction and Venue. Each party consents to the jurisdiction of the California Superior Court and United States District Court for the Central District of California. All judicial actions and proceedings shall be conducted only in, and each party consents to exclusive venue in, Los Angeles County, California. This paragraph shall not apply to the federal government or to any state, county or municipal government or any department or agency of any such governmental body.

14. Entire Agreement. This License Agreement, including the Licensing File, the Readme file, and the documentation which accompanies the Software and the installation, constitute the complete and exclusive statement of the mutual understanding of the parties, and supersede and cancel all previous written and oral agreements, representations, warranties, statements and other

communications relating to the subject matter of this License Agreement. No course of performance, course of dealing, or usage of trade shall override the written terms of this License Agreement.

15. Limitation on Actions. No action or proceeding based on this License Agreement or arising out of its performance or breach shall be instituted by Licensee more than one year after Licensee first discovers, or should have discovered, any of the material facts upon which the cause of action is based. Licensee waives the benefit of any statute of limitations which specifies a period longer than one year for filing an action.

16. U.S. Government Restricted Rights Notice. All software products provided to the United States Government pursuant to solicitations issued prior to December 1, 1995, are subject to restrictions as set forth in FAR, 48 CFR 52.227-14 (June 1987) or FAR, 48 CFR 252.227-7013 (October 1988), as applicable. All software products provided to the United States Government pursuant to solicitations issued on or after December 1, 1995 are provided with the commercial rights and restrictions described in this License Agreement. The Contractor/ Manufacturer is Laserfiche, a division of Compulink Management Center, Inc., 3545 Long Beach Blvd., Long Beach, California 90807.

17. Export Restrictions. The Software is subject to United States export jurisdiction. Licensee shall comply with all applicable federal and international laws and regulations, including U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by the United States and other governments.

18. Captions. The captions used on this License Agreement are for convenience only and shall not be a part of this License Agreement.

Should you have any questions concerning this Agreement, or if you desire to contact Laserfiche for any reason, please write:  
Laserfiche, 3545 Long Beach Blvd., Long Beach, CA 90807, U.S.A.

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**ADDENDUM TO LASERFICHE SOFTWARE LICENSE AGREEMENT**

This is an Addendum (Addendum") to the Laserfiche Software License Agreement ("License Agreement") between Compulink Management Center, Inc., a California corporation doing business as Laserfiche, whose principal place of business is in Long Beach, California ("Laserfiche"), and Oneida County, New York (referred to as the "Licensee").

This Addendum modifies the License Agreement as follows:

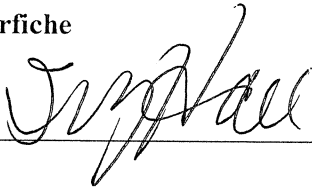
1. The cumulative liability of Laserfiche to Licensee for all obligations, warranties and guaranties, whether express or implied, with respect to the License Agreement shall be limited to the amount of valid and collectible insurance available to Laserfiche.
2. If a conflict arises between the language of this Addendum and that of the License Agreement, this Addendum shall govern.

Except as expressly modified or amended by this Addendum, the License Agreement between the parties shall remain in full force and effect. This Addendum will be effective as of the last date that it is executed by the parties.

**Laserfiche**

**County of Oneida**

By



By

Name:

Stephen Uz Hall

Name:

Title:

VP of sales

Title:

Date:

September 5, 2013

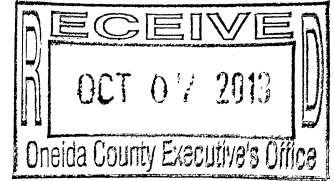
Date:



Undersheriff Robert Swenszkowski  
Chief Deputy Jonathan G. Owens

Chief Deputy Gabrielle O. Liddy  
Chief Deputy Dean Obernesser

*Sheriff Robert M. Maciol*



FN 20 13-345

October 3, 2013

Oneida County Executive Anthony Picente  
Oneida County Office Bldg.  
800 Park Avenue  
Utica, New York 13501

**PUBLIC SAFETY**

**WAYS & MEANS**

Dear County Executive Picente:

In an effort to be in full compliance with our Civil Division Policy and Procedures, the hours of operation of the division needs to be set by resolution. I am specifically referring to Standard #98 of our manual. I have attached all of the supporting information so that you have the appropriate background information regarding my request.

I am respectfully requesting that a board resolution be passed setting the Sheriff's Civil Office hours to be "in conjunction" with those of the Oneida County Courthouse.

In closing, thank you for your assistance with this matter and please let me know if you have any questions.

Sincerely,

Robert M. Maciol  
Oneida County Sheriff

Cc/file



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

Anthony J. Picente, Jr.  
County Executive

Date 10/7/13

**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

ROBERT M. MACIOL  
SHERIFF

ROBERT S. SWENZKOWSKI  
UNDERSHERIFF

## Memorandum

To: Chief Owens  
From: Lt. Easton  
Date: September 23, 2013  
Subj: **Standard 98 – Hours of Operation**

Chief,

Please find attached the Standard that concerns hours of operation.

I spoke to Judy Smith from the County Attorney's Office who advised that there is not a resolution in place concerning business hours of the Civil Office.

County Attorney Amoroso stated that per Oneida County Personnel Rules – Section B – *Attendance ..the basic work week for employees in county office forces, other than employees on an hourly or per diem basis, shall be as contractual agreement. (see attached)*

Local 1249 Contract **does not** provide hours of operation.

X Even if we were to change our office hours till 5:00 p.m.; we still would not be in compliance as the public does not have access to our office once the County Courthouse is closed.

Other counties have had this issue and resolved it by a resolution from the Board of Legislatures.

X **Recommendation: A resolution needs to be passed by the Board of Legislatures to set Oneida County Sheriff's Civil Office Hours in conjunction with those of the Oneida County Courthouse.**

Thank you.

Lt.

**Administrative Office**  
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**New York County - Article 5 - § 206 Hours of Work  
and Office Hours**

ⓧ § 206. Hours of work and office hours. 1. Subject to the constitution and general laws of this state and to the rules and regulations made pursuant thereto, the board of supervisors may fix the number of hours constituting a legal day's work for all classes of employees of the county and grant to the employing officer or board the power to stagger working hours. Time lost in any week because of inclement weather may be made up during that week and the succeeding three weeks. Nothing herein shall impair the effect of any official proclamation during an emergency.

ⓧ 2. The board of supervisors may fix the hours that the offices of the county clerk, county treasurer, clerk of the board of supervisors and civil office of the sheriff shall be kept open for the transaction of business. If the board of supervisors does not fix the hours that the offices described in this subdivision shall be kept open for the transaction of business, then those offices shall be kept open for the transaction of business every day from at least nine o'clock in the forenoon to five o'clock in the afternoon, except Saturdays, Sundays and holidays. During the months of July and August, such offices shall be kept open from at least nine o'clock in the forenoon to four o'clock in the afternoon of each day, except Saturdays, Sundays and holidays.

3. If a holiday falls on a Saturday, the offices described in subdivision two hereof may close on the day before.

4. The board of supervisors may fix office hours not inconsistent with this chapter or other law.

*Last modified: February 15, 2012*

**ONEIDA COUNTY DEPARTMENT OF PERSONNEL  
PER BOARD OF COUNTY LEGISLATORS**

**COUNTY OF ONEIDA PERSONNEL RULES  
RESOLUTION # 164 EFFECTIVE MAY 24, 1995**

**SECTION A - PROCEDURE AND ADMINISTRATION**

**1. SALARY**

The payment of salaries and the granting of annual salary increments shall be pursuant to the plan of class titles and salary ranges and increment rules as established by contractual agreements with negotiating units and approved and adopted by the Board of Legislators. All other salary actions for non-bargaining unit personnel will be approved by the Board of Legislators based on recommendations from the County Executive.

- a. Employees hired prior to September 30 of any calendar year will be paid at Step 1 for the calendar year of hire.
- b. Employees hired subsequent to September 30 of any calendar year shall remain at Step 1 of the second calendar year following the calendar year of hire.

**2. CIVIL SERVICE PROCEDURES**

Appointment, probation, transfer, reinstatement, disciplinary action, leaves of absence, retirement and other Civil Service Procedures shall be pursuant to the Civil Service Laws and Rules for the classified Civil Service of Oneida County, as issued by the Commissioner of Personnel and approved by the State Civil Service Commission.

**3. ADMINISTRATION**

The administration and interpretation of provisions in these rules shall be the responsibility of the Commissioner of Personnel.

**4. APPLICATION**

These rules and regulations shall apply to all personnel appointed to budgeted positions. Those budgeted to less than full-time shall have vacation, sick time and personal time prorated.

Per Diem employees and elected officials are excluded.

It shall be the duty of the Commissioner of Personnel and the County Executive to make further regulations deemed necessary to carry out the intent of the formal rules found in the following sections.

**SECTION B - ATTENDANCE**

**1. BASIC WORK WEEK**

(X) The basic work week for employees in county office forces, other than employees on an hourly or per diem basis, shall be as per contractual agreement.

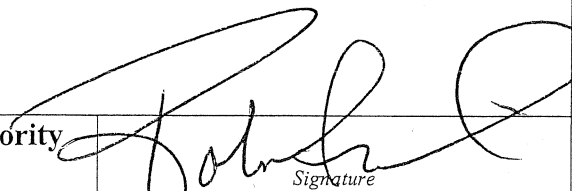
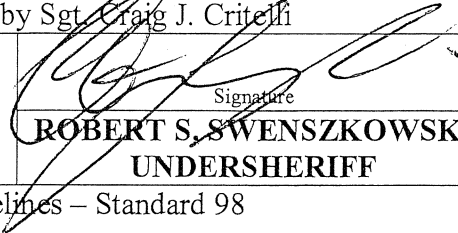
Employees subject to assignment on shifts or work schedules other than the normal day work-hours for their department will be notified by lists posted in the proper place at least two weeks in advance. Such schedules may be modified by the Administrative Unit Head in cases of emergency, personal absences and other reasonable needs of the departments.

A 40-hour work week will be in effect for the following departments:

- Department of Public Works, all divisions, all locations, except clerical.
- Oneida County Airport, except clerical.
- Mohawk Valley Community College, Maintenance and Security, except clerical.

A 40-hour work week will be in effect for all employees at Broadacres Skilled Nursing Facility.

Oneida County Sheriff's Office  
Policy and Procedure

<b>Division</b>	Civil	<b>Number</b>	98 - 2011
Subject			
Hours of Operation		<b>Effective Date</b>	1/1/2011
		<b>Supersedes</b>	ALL PREVIOUS
		<b>Revised Date</b>	08/20/2012
		Reviewed by Sgt.	Craig J. Critelli
<b>Authority</b>	 <i>Signature</i>	<b>Issued by</b>	 <i>Signature</i>
	<b>ROBERT M. MACIOL</b> <b>ONEIDA COUNTY SHERIFF</b>		<b>ROBERT S. SWENSKOWSKI</b> <b>UNDERSHERIFF</b>
<b>References</b>	NYS Sheriff's Association – Standards & Guidelines – Standard 98 <b>County Law – Section 206</b>		

**POLICY**

The Oneida County Sheriff's Office – Civil Division has a written policy to establish hours of operation for the Civil Offices located in both Rome and Utica.

**PURPOSE**

To ensure compliance with the provisions of law and coverage, exclusive of Sundays, sufficient to serve and execute all mandates and other process delivered to the Civil Office.

**PROCEDURE**

Pursuant to County Law, Section 206; the Board of Supervisors may fix the hours that the Civil Office of the Sheriff be kept open for the transaction of business.

The Oneida County Sheriff's – Civil Division will conduct business from 8:30 a.m. through 4:30 p.m. daily, except Saturday, Sunday and Holidays.

The Chief Deputy of Operations will prepare the summer work schedule which will coincide with the requirements of the Oneida County Combined Courts.

**New York County - Article 5 - § 206 Hours of Work  
and Office Hours**

§ 206. Hours of work and office hours. 1. Subject to the constitution and general laws of this state and to the rules and regulations made pursuant thereto, the board of supervisors may fix the number of hours constituting a legal day's work for all classes of employees of the county and grant to the employing officer or board the power to stagger working hours. Time lost in any week because of inclement weather may be made up during that week and the succeeding three weeks. Nothing herein shall impair the effect of any official proclamation during an emergency.

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3. If a holiday falls on a Saturday, the offices described in subdivision two hereof may close on the day before.

4. The board of supervisors may fix office hours not inconsistent with this chapter or other law.

*Last modified: February 15, 2012*

Office of the Sheriff

Undersheriff Robert Swenszkowski  
Chief Deputy Jonathan G. Owens



County of Oneida

Chief Deputy Gabrielle O. Liddy  
Chief Deputy Dean Obernesser

*Sheriff Robert M. Maciol*

Standard 98  
Hours of Operation  
09/18/13

Per telephone conversation with Judy Smith from the Oneida County Attorney's Office; in reference to Standard 98; there is **not** a resolution in place by the Board of Legislators for fixed hours of operation.

① Per County Attorney Greg Amoroso; according to Oneida County Personnel Rules - Section B- Attendance...*the basic work week for employees in county office forces, other than employees on an hourly or per diem basis, shall be as per contractual agreement.*

The Oneida County Sheriff's Office – Civil Division is under the **Agreement Between The County of Oneida and Oneida County Sheriff's Department, Employees Local 1249 (attached).**

The Oneida County Courthouse is closed to the public at 4:30 p.m. It is opened at 8:30 a.m. on Monday through Friday, not including holidays.

**Administrative Office**

6065 Judd Road Oriskany, NY 13424  
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**Law Enforcement Division**

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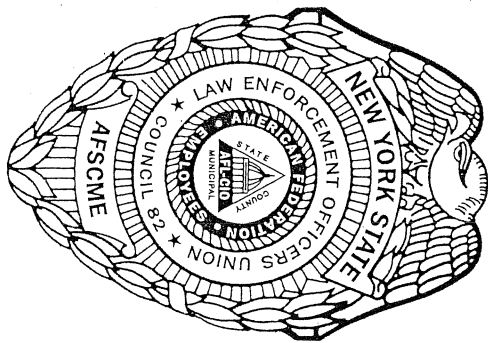
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**Civil Division**

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



AGREEMENT  
BETWEEN  
THE COUNTY OF ONEIDA  
AND  
ONEIDA COUNTY SHERIFF'S DEPARTMENT  
EMPLOYEES LOCAL 1249



LT. EASTON

FOR THE PERIOD  
January 1, 2004- December 31, 2010



time including regular duty, vacation and personal leave equals or exceeds forty (40) hours in that work week.

**7.9 Court Appearance**

Employees required to appear in court on Department-related business at times other than during, or contiguous to, their regularly scheduled hours shall receive a minimum of three (3) hours pay.

**7.10 Pager Coverage**

Any employee assigned to carry a Department pager on his/her off-duty time will be paid \$300 per annum. Payment is to be made the first payday following December 1<sup>st</sup> of the calendar year. Prorated payments will be in weekly increment amounts.

**7.11 Out-of-Title Work**

a. Any employee assigned, in writing, by the Sheriff or his designee to fulfill the responsibilities of a higher paying Civil Service position, may only be assigned while such other person is absent. That employee shall be paid at the higher rate on a per diem basis for all days that he/she is assigned to the higher paying position.

For the purpose of this section, any employee paid in this manner shall be paid in the step in the higher paying position, following the same step movement as

if the employee had been promoted. Per Diem rates shall be calculated by dividing the appropriate annual salary by 260.

**7.12 Distribution of Paychecks**

Paychecks will be placed in individual envelopes before being distributed to employees. Upon the advance request of an employee, and subject to approval of the Sheriff or his designee, the employee's paycheck may be distributed to a relative or co-worker. The relative or co-worker shall be required to provide identification and to sign a receipt for the employee's paycheck. It is understood that the County assumes no liability, and shall be held harmless, in the event the relative or co-worker absconds with the paycheck.

**7.13 Compensation Limitation**

Compensation shall not be paid (or compensatory time taken) more than once for the same hours under any provision of this Article or Agreement.



**ARTICLE VIII**  
**HOURS OF WORK AND WORK WEEK**

**8.1** This Article defines the normal hours of work, and establishes the basis for the calculation of overtime pay. The normal work week for unit employees shall be a seven (7) day period starting on Thursday and ending

does not provide specific hours

on Wednesday and consist of five (5) consecutive workdays and two (2) consecutive pass days during each seven (7) day period. The normal workday will consist of eight (8) hours, inclusive of a thirty (30) minute paid meal period. The County agrees that the work week and work day, as defined in this paragraph, shall not be modified, changed or amended without written mutual agreement of the parties.

**8.2** Any County employees subject to assignment on shifts or work schedules other than the normal work hours for their department, will be notified by lists posted in the proper place at least two (2) weeks in advance. Such schedules may be modified by the Department Head in cases of emergency, personal absences and other reasonable needs of the Department.

**ARTICLE IX  
OVERTIME PAY**

**9.1** a. Each employee shall receive one and one-half (1 1/2) times his/her straight hourly rate for all work over eight (8) hours per day and/or forty (40) hours per week. Each employee shall have the option of receiving his/her time and his/her pay either in cash or in compensatory time off and if he/she chooses compensatory time off, the employee shall receive one and one-half (1 1/2) hours off for each hour of overtime worked. Any overtime compensatory time which was

electd but not taken by the end of the first pay date period in November shall be converted to cash and paid out to the employee at his/her regular hourly rate in the paycheck covering the first pay date in December.

b. Effective with calendar year 2003, in September of 2003, and in May of each year thereafter, each employee shall also be afforded an opportunity to convert some or all of the employee's then accrued compensatory time under any provision of this Article to a monetary payment to the employee for such time, such payment to be included in the employee's regular paycheck for the first full pay period in June. To take advantage of this opportunity, the employee must deliver by September 30<sup>th</sup> in 2003, and by May 31<sup>st</sup> each year thereafter, a written election to the County, on a standard form to be promulgated by the County.

**9.2** All paid time off will be considered as time worked for the purposes of calculating overtime. Such time will include, but not be limited to, vacation, holiday, compensatory time and bereavement leave. Worker's Compensation, 207(c), or sick leave will be excluded from counting as time worked for the purpose of this article.

**9.3** An employee who is not scheduled to work Thanksgiving, Christmas or New Year's Day, but who is called into work and does work on any of these



County of Oneida

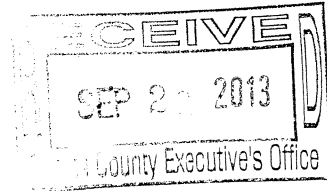
Undersheriff Robert Swenszkowski  
Chief Deputy Jonathan G. Owens

Chief Deputy Gabrielle O. Liddy  
Chief Deputy Dean Obernesser

*Sheriff Robert M. Maciol*

September 20, 2013

FN 20 13-346



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

**PUBLIC SAFETY**

**WAYS & MEANS**

Dear County Executive Picente:

Several months ago, a local law was passed to regulate the dealers of secondhand articles. Since then, the Sheriff's Office has been administering and enforcing the local law and we feel strongly that it is very effective.

We have come across a couple of areas that I am recommending be deleted and a couple of recommended additions to make this local law more effective to administer and enforce. Therefore, I am requesting your review of them and if you agree, I request that they be forwarded to the Board of Legislators for their approval. The amendments that I am proposing were prepared by the County Attorney's Office and a copy is attached.

As always, if you have any questions please do not hesitate to contact me.

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 9/23/13

Cc/file

**Administrative Office**

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

**Law Enforcement Division**

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

**Correction Division**

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

**Civil Division**

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

# ONEIDA COUNTY BOARD OF LEGISLATORS

RESOLUTION NO. \_\_\_\_

INTRODUCED BY: \_\_\_\_\_

2<sup>ND</sup> BY: \_\_\_\_\_

**RE: LOCAL LAW INTRODUCTORY “\_\_” AMENDING LOCAL LAW NO. \_\_ OF 2013  
REGULATING DEALERS OF SECONDHAND ARTICLES**

Legislative Intent: To allow for electronic filing of required reports, per the recommendation of the Oneida County Sheriff. Also, to allow the Oneida County Sheriff to charge a fee for the required criminal background checks, per the recommendation of the Oneida County Sheriff. The amendments will make the regulations more effective and more cost efficient.

BE ENACTED BY THE COUNTY LEGISLATURE OF ONEIDA COUNTY AS FOLLOWS:

That section 4(b) of Local Law No. \_\_ of 2013 shall be amended by the deletion of all matters that are in ~~striketrough~~ and the addition of all matters in double underlined as set forth below, and the amended law, in its entirety, shall now read as set forth below:

## Section 1. Definitions

(A) “Secondhand Dealer”

Means any person, corporation, partnership, unincorporated association and the agents or employees or such entities, engaged in the commercial exchange, purchase and/or sale of secondhand articles for any purpose and of whatever nature, including but not limited to any person dealing in the purchase or sale of any secondhand radios, televisions, household appliances, either electric or mechanical, automobile accessories or parts, including tires, office furniture, business machines and secondhand articles of whatsoever nature, or dealing in the purchase or sale of any secondhand manufactured article composed wholly or in part of gold, silver, platinum or other metal, or in the purchase or sale of old gold, silver or platinum, or dealing in the purchase of articles or things comprised of gold, silver or platinum for the purpose of melting or refining, or engaged in melting precious metals for the purpose of selling, or in the purchase or sale of pawnbrokers' tickets or other evidence of pledged articles or, not being a pawnbroker, who deals in the redemption or sale of pledged articles.

**Exemption:** This ordinance shall not apply to or include the following:

(a) The sale of secondhand goods where all of the following are present:

- (1) The sale is held on property occupied as a dwelling by the seller or owner or rented or leased by a charitable or non-profit organization (i.e. – yard sale, moving sale, garage sale and the like); AND

- (2) The items offered for sale are owned by the occupant or seller; AND
- (3) That no sale exceeds a period of ninety-six (96) consecutive hours; AND
- (4) That no more than three (3) sales are held in any twelve (12) month period; AND
- (5) That none of the items offered for sale shall have been purchased for resale or received on consignment for purpose of resale.

(b) The sale of secondhand books or magazines.

(c) The sale of goods at an auction held by a (*licensed*) auctioneer, provided the auctioneer complies with all requirements of Article 3 of the New York State General Business Law and any other applicable statutes, rules and regulations pertaining to auctions and auctioneers.

(d) Goods sold as bona fide antique, used furniture, used clothing or used baby/children store (i.e. – a business in which at least seventy-five percent (75%) of the business’ revenue is derived through the sale of antiques, used furniture or used clothes or used baby/children’s (under the age of ten (10)) items-, such as rattles, dolls, trucks, playpens, bouncy seats, strollers, toys, etc.). Electronic items and games for electronic items are NOT part of this exemption.

(e) Any transaction involving secondhand items regulated by state or federal law, or regulated by any city, town or village law.

(f) Any not-for-profit or charitable organization that receives or sells secondhand articles.

~~(g) Any junk dealer licensed pursuant to article 6 and/or article 6-C of the New York General Business Law.~~

(g) ~~(h)~~ Coin Shows, where

- (1) the term “coin show” is defined as “a gathering of coin dealers and collectors with the purpose of dealers displaying their merchandise for the general public to view and/or purchase;”
- (2) where the coin show is conducted by a New York State coin club, such as the Mohawk Valley Coin Club or the Empire State Numismatic Association;
- (3) where the coin club holds the coin show for one day and only once per calendar year; and
- (4) where the coin club conducting the coin show provides the Oneida County Sheriff’s Office with written notice of the time and place of the coin show at least ten (10) business days prior to the coin show.

(B) “Applicant”

Mean any owner(s) of the secondhand dealer business.

(C) “Identification”

Means an official document issued by the United States government, any state, county, municipality or any public agency of department thereof or any public employer, which contains a photographic image of said person.

## Section 2. Legislative Finding and Purpose

The residents of the County of Oneida have a significant interest in discouraging theft and the sale of secondhand stolen articles. There has been an increase in incidents of property theft and with the increase in

price of precious metals and gems and the ease with which some secondhand dealers buy and sell precious metals or gems without requiring identification or proof of ownership, there is significant opportunity for persons involved in property theft to dispose of stolen property to these secondhand dealers. Since secondhand dealers, while serving a legitimate function, are often used by persons to dispose of stolen goods, there must be controls and regulations placed on the purchase of such articles in order to protect the property rights for the residents of Oneida County and aid law enforcement in their efforts to recover stolen property and identify suspects. It the intent of this Local Law to regulate these commercial outlets by requiring these individuals to register their businesses and to keep records of transactions relating to the merchandise herein specified. These requirements would assist in the recovery of stolen items, the detection and apprehensions of persons involved in various crimes and discourage secondhand dealers from accepting property they suspect to be stolen; thereby greatly reducing the market for stolen goods and discouraging theft.

### **Section 3. Written Records**

#### **(a) Information required.**

Except as otherwise provided in Section 4, no Secondhand Dealer may acquire an item specified herein, whether within the physical place of business or off site, within Oneida County, unless such Secondhand Dealer has requested, obtained and recorded the following information in English:

- (1) The amount paid, advanced or loaned for the article;
- (2) A detailed, complete and accurate description of the article including identifying marks;
- (3) If applicable, the article's serial number, make and model number;
- (4) In the case of precious metals, jewelry, gems or precious stones, a photograph of the article;
- (5) Identification information, as described in Section 3b, of the person offering the article for sale;
- (6) The date, time and place of the transaction;
- (7) A bill of sale and/or receipt MUST be given. Any bill of sale and/or receipt must be numbered in consecutive order and issued in the same order.

#### **(b) Identification Information**

Every Secondhand Dealer MUST request identification from the seller and compare the photographic image to the seller to verify the identity when acquiring an item specified herein. The Secondhand Dealer shall record the name, date of birth, address or current address (if different than that on the identification) and the identification number (i.e. – motorist identification number on a driver's license) of the seller. For all acquisitions the Secondhand Dealer, whether on or off premises, MUST make a photocopy of the front of the identification. However; if the acquisition is made from another Secondhand Dealer, then the Secondhand Dealer purchasing the item shall record the date, time, business name and address of the Secondhand Dealer selling the item and the number of days the item was held prior to the acquisition. Purchases between Secondhand Dealers do not require photographic identification as stated above.

#### **(c) Records Retention/Inspections**

- (1) Every Secondhand Dealer shall maintain the information required pursuant to this section in a secure location for minimum period of five (5) years. Every Secondhand Dealer shall allow any records kept pursuant to this Local Law and all article of secondhand merchandise therein, to be examined during normal business hours by any member of the Oneida County Sheriff's Office (OCSO) or other police agency. Computerized records can be used to satisfy the requirements of this Local Law provided that such records include the information herein and are available for inspection in printed format upon request.

- (2) Additionally, every Secondhand Dealer shall electronically report each article purchased using a computer program approved by the OCSO. Such reporting will include the required information described in subsections (a) and (b) of this section of this Local Law. In the absence of an approved real time reporting system, the reporting shall occur every Friday, before the hour of 10:00 AM, on electronic forms provided by the OCSO, forward a correct copy of records as detailed by Section 3, subparagraphs (a) and (b), of all articles purchased within the preceding seven (7) day time period and MUST deliver this form via e-mail to an address designated by the OCSO. Photographs, jewelry, gems and precious stones are NOT to be transmitted with these records. Further, nothing in this section shall be construed as to prevent the OCSO from requesting the form required hereunder to be filed on such other date or at such other times and frequency as exigency or law enforcement need may require. The Sheriff shall establish by rule the format and requirements of the transmission of data and may restrict the scope of the items that are to be electronically reported.

A Secondhand Dealer, when notified by the OCSO or other law enforcement agency that property in his/her possession is stolen or alleged to be stolen, shall take immediate steps to secure that property and such item shall be marked "POLICE STOP". Thereafter, such property shall not be sold or removed from the premises until notification is made to the dealer in writing by the OCSO or other law enforcement agency allowing such removal or sale.

#### **Section 4. Application for Secondhand Dealers License**

- (a) Every Secondhand Dealer as defined in Section 1 herein, shall apply for a Secondhand Dealer's license with the Oneida County Sheriff's Office. The fee for this application will be \$75.00 and is renewable on a calendar year basis. Where a secondhand dealer is engaged in business at more than one location, a separate license shall be secured for each place of business, including the payment of a separate license fee for each place of business. The application shall be made on a form supplied by the Sheriff of Oneida County and shall include but not be limited to the following information; the name, address and telephone number of the business owner, the name, address and telephone number of the operator of such business; if different than the owner. The application shall also include the location and telephone number of the business and a statement of the days and hours during which such business shall be customarily open to the public. Any change in such information shall be immediately transmitted to the Sheriff of Oneida County in the same manner as the original application. The applicant shall also provide a certificate from the sealer of weights and measures of the County of Oneida certifying that all weighing and measuring devices have been examined and approved pursuant to law.
- (b) When an application is filed, a criminal background check of the applicant will be completed by the OCSO. The applicant must submit to fingerprinting, if so requested by the Oneida County Sheriff's Office, for the purpose of obtaining a criminal history record check through the New York State Division of Criminal Justice Services/FBI. The OCSO is hereby authorized to require from such applicants fingerprint identification cards, signed waivers or consents permitting inquiry into the criminal history of applicants and to pay fees required by ~~both the New York State Division of Criminal Justice Services and the OCSO~~ to conduct such background checks.
- (c) Where such applicant(s) has been convicted of a crime that involves theft, larceny, burglary, robbery, and possession of stolen property or any other fraudulent dealing



within the past ten (10) years, said application is subject to denial upon a review consistent with the provisions of article 23-A of the New York Corrections Law.

- (d) Any Secondhand Dealer license holder that is convicted for crimes as described in section 4, subparagraph (c) above is subject to forfeiture and revocation of such license upon a review consistent with the provisions of article 23-A of the New York Corrections Law.
- (e) The OCSO may deny an application, and any Secondhand Dealer license holder may have their license revoked, for any of the following reasons:
  - (i) Fraud, misrepresentation or false statements in the application for license;
  - (ii) Fraud, misrepresentation or false statements made in the course of carrying on the licensed business;
  - (iii) Any violation of this Local Law;
  - (iv) conviction of a crime that involves theft, larceny, burglary, robbery, and possession of stolen property or any other fraudulent dealing within the past ten (10) years, subject to a review consistent with the provisions of article 23-A of the New York Corrections Law.
  - (v) Conducting the licensed business in an unlawful manner, or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- (f) Upon a denial or revocation of a license, the application fee shall not be refunded. Any applicant refused a license, or any licensee whose license is revoked, may apply in writing within five (5) business days to the OCSO for a hearing before a hearing officer appointed by the Oneida County Sheriff. The hearing officer shall conduct a hearing and shall issue a written recommendation to the Sheriff within five (5) business days of the hearing. The Sheriff shall review the written decision of the hearing officer and inform the applicant or licensee in writing whether the initial decision of denial or revocation shall stand or shall be reversed.
- (g) Every person to whom a license has been granted pursuant to this Local Law, while exercising or utilizing his/her license, shall exhibit said license on request of any individual.
- (h) A license issued under this Local Law shall not be assignable. Any holder of such a license who permits it to be used by any other person, and any person who uses such license granted to any other person, shall be guilty of a violation of this Local Law and shall be subject to the penalties set forth here within.
- (i) No applicant to whom a license has been refused or who has had a license revoked shall make further application until a period of at least one (1) year shall have elapsed since the last previous revocation or rejection, unless the applicant can show that the reason for such revocation or rejection no longer exists.

## **Section 5. Disposal, Re-sale, Alteration**

Until the seventh (7<sup>th</sup>) day next following its acquisition, no Secondhand Dealer shall; (a) sell, trade, transfer, remove from the local business premises or otherwise dispose of any item specified herein; (b) alter in any fashion any item specified herein, or (c) commingle any such item with similar

items, but shall maintain all such items in a manner so as to be easily identified as to the transaction in which it was acquired.

### **Section 6. Penalty**

A Secondhand Dealer who willfully fails to comply with the provisions of Section 3, 4, or 5 shall be guilty of a Class A misdemeanor and subject to a penalty as set forth in the applicable provisions of New York State Penal Law. Any business licensed as a Secondhand Dealer business that has a repeat conviction of this law by anybody working for such business, including the applicant(s) themselves and any employees or associates will be grounds to revoke the license of the individual, association, corporation or business that is licensed as a Secondhand Dealer. In addition to the above-provided penalties, the OCSO may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with the provisions of this Local Law or to restrain by injunction any offense against the provisions of this Local Law.

### **Section 7. Severability**

If any provision, sentence or clause of the local law is held unconstitutional, illegal or invalid, such findings shall not affect or impair any the remaining provisions, sentences or clauses or their application to persons and circumstances.

### **Section 8. Effective Date**

The local law shall become effective immediately pursuant to the provisions of the Municipal Home Rule.

APPROVED: Ways & Means Committee (October 10, 2012)

DATED: November 14, 2012

Adopted by the following roll call vote:

AYES 29 NAYS 0 ABSENT 0



Undersheriff Robert Swenszkowski  
Chief Deputy Jonathan G. Owens

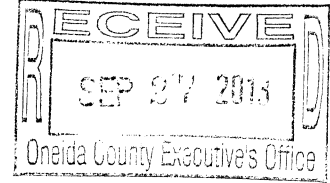
Chief Deputy Gabrielle O. Liddy  
Chief Deputy Dean Obernesser

*Sheriff Robert M. Maciol*

September 25, 2013

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

FN 20 13-347



**PUBLIC SAFETY**

**WAYS & MEANS**

Dear County Executive Picente:

The Sheriff's Office would like to request a year 2013 supplemental appropriation of \$8,841 to cover the cost of wiring the facility in support of the Video Visitation project in the Jail. The cost of the wiring will be paid out of the Inmate funds account . County funds will not be used.

<u>Transfer from Revenue Account</u>	<u>Amount</u>
A1525 Prisoner Charges Commissary	\$8,841.00
<u>Transfer to Expense Account</u>	<u>Amount</u>
A3152.493 Maintenance, Repair & Service Contracts	\$8,841.00

If I can be of further assistance, please feel free to contact me. Thank you for your cooperation.

Sincerely,

Robert M. Maciol,  
Sheriff

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

Anthony J. Picente, Jr.  
County Executive

Date 9/27/13

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  
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Fax (315) 765-2327

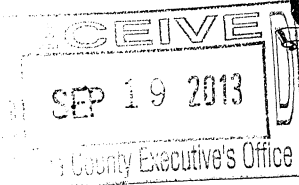
**Civil Division**  
200 Elizabeth Street Utica, NY 13501  
Voice (315) 798-5862  
Fax (315) 798-6495



Dan Patrick Sullivan  
Assistant Pistol Licensing Officer

# OFFICE OF PISTOL LICENSING

Oneida County Office Building ~ 6th Floor  
800 Park Avenue • Utica, New York 13501  
E-mail: dsullivan@ocgov.net  
Phone: (315) 798-5821  
Fax: (315) 731-3430



September 18, 2013

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

FN 20 13-348

**PUBLIC SAFETY**

**WAYS & MEANS**

Dear County Executive:

The Pistol Permits Office has been very busy processing all the Pistol Permit Amendments as per new, New York State regulations. As a result of the unforeseen increase in filings it was necessary to hire some help through the Workforce Development Program which split the cost with Oneida County.

It is now necessary to reimburse Workforce Development for the County share of the cost incurred. Fortunately, due to the increase in the Pistol Permits and Amendments there is a surplus in revenue to more than cover this increase in expenditures.

I therefore request your Board's approval for the following 2013 supplemental appropriation:

**TO:**

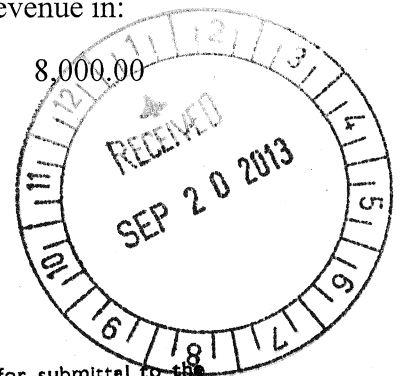
AA#A1110.109 – Salaries, Other..... \$ 8,000.00

This supplemental appropriation will be 100% supported by unanticipated revenue in:

A2546 –Pistol Permits & Amendments.....\$ 8,000.00

Respectfully,

Dan Patrick Sullivan



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

Anthony J. Picente, Jr.  
County Executive

Date 9/19/13



# INVOICE

## 2013 Oneida County College Internship Program

DATE: SEPTEMBER 11, 2013

Oneida County Workforce Development  
209 Elizabeth Street - 2<sup>nd</sup> floor  
Utica, NY 13501  
(315) 798-5908

TO ONEIDA COUNTY OFFICE OF PISTOL LICENSING  
Attn: Dan Sullivan  
800 Park Avenue  
Utica NY 13501



PROGRAM YEAR	INTERN	PAYMENT TERMS
2013 (through September 4, 2013)	Joseph Sullivan	Due on receipt

QTY	DESCRIPTION	UNIT PRICE	LINE TOTAL
401	Training Wages	9.00	3,609.00
1	FICA (7.65%)	276.09	276.09
1	Workers' Compensation (2.9%)	104.66	104.66

SUBTOTAL 3,989.75

**TOTAL REIMBURSEMENT DUE ONEIDA COUNTY WORKFORCE DEVELOPMENT**

**3,989.75**

Make all checks payable to:  
ONEIDA COUNTY WORKFORCE DEVELOPMENT  
209 Elizabeth Street - 2<sup>nd</sup> floor  
Utica, NY 13501

**THANK YOU PARTICIPATING IN THE 2013 ONEIDA COUNTY COLLEGE INTERNSHIP PROGRAM**

# Oneida County Department of Public Works

ANTHONY J. PICENTE JR.  
County Executive

DENNIS S. DAVIS  
Commissioner

6000 Airport Road  
Oriskany, New York 13424  
Phone: (315) 793-6235  
Fax: (315) 768-6299

DIVISIONS:  
Buildings & Grounds  
Engineering  
Highways, Bridges & Structures  
Reforestation

September 13, 2013

FN 20 13 349

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

**PUBLIC WORKS**

**WAYS & MEANS**

Dear County Executive Picente,

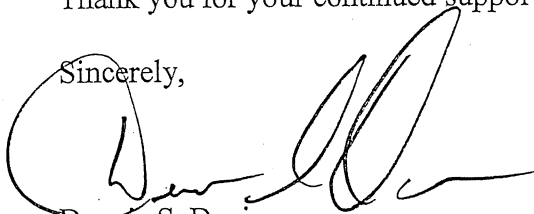
In accordance with NYS General Municipal Law and Oneida County Procurement Policy, proposals were solicited for the implementation of energy conservation measures on a Performance Contracting Basis. The sole respondent was Johnson Controls, Incorporated (JCI).

On February 13, 2013 Oneida County and JCI executed a Project Development Agreement. This agreement authorized Johnson Controls to perform a detailed energy audit and preliminary design for selected energy conservation measures. JCI has completed this work and identified energy conservation measures with a total design and construction cost of \$3,400,000.00. Capital Project H474, Energy Performance Improvements, would provide necessary funding.

Please consider the enclosed Performance Contract with JCI for \$3,400,000.00 to perform specified energy conservation measures. If acceptable, please forward to the Oneida County Board of Legislators for consideration.

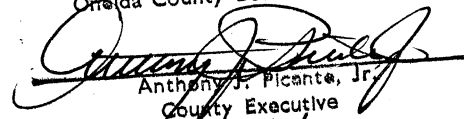
Thank you for your continued support.

Sincerely,



Dennis S. Davis  
Commissioner

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



Anthony J. Picente, Jr.  
County Executive

Date 9/13/13

cc: Mark E. Laramie, PE, Deputy Commissioner

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

## ONEIDA COUNTY BOARD OF LEGISLATORS

**Name of Proposing Organization:** Johnson Controls, Inc.  
105 Twin Oaks Drive  
Syracuse, NY 13206

**Title of Activity or Service:** Performance Contract

**Proposed Dates of Operation:** N/A

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

### Summary Statements

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

In accordance with NYS General Municipal Law and Oneida County Procurement Policy, proposals were solicited for the implementation of energy conservation measures on a Performance Contracting Basis. The sole respondent was Johnson Controls, Incorporated (JCI).

On February 13, 2013 Oneida County and JCI executed a Project Development Agreement. This agreement authorized Johnson Controls to perform a detailed energy audit and preliminary design for selected energy conservation measures. JCI has completed this work and identified energy conservation measures with a total design and construction cost of \$3,400,000.00. Capital Project H474, Energy Performance Improvements, would provide necessary funding.

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

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

**Total Funding Requested:** \$3,400,000.00      **Account #:** H-374

**Oneida County Dept. Funding Recommendation:** \$3,400,000.00

**Proposed Funding Sources (Federal \$/ State \$/County \$):** \$3,400,000.00 County

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

**Past Performance Data:** N/A

**O.C. Department Staff Comments:** None

# PERFORMANCE CONTRACT

This Performance Contract (this "Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ between:

## PARTIES

JOHNSON CONTROLS, INC. ("JCI")  
105 TWIN OAKS DRIVE  
SYRACUSE, NY 13206

and

ONEIDA COUNTY ("Customer")  
800 PARK AVENUE  
UTICA, NY 13501

## RECITALS

**WHEREAS**, Customer desires to retain JCI to perform the work specified in Schedule 1 (Scope of Work) hereto (the "Work") relating to the installation of the improvement measures (the "Improvement Measures") described therein; and

**WHEREAS**, Customer is authorized and empowered under applicable Laws (as defined below) to enter into this Agreement, and has taken all necessary action under applicable Laws to enter into this Agreement; and

**WHEREAS**, Customer has selected JCI to perform the Work after it determined JCI's proposal was the most advantageous to Customer in accordance with all applicable procurement and other Laws.

**NOW, THEREFORE**, in consideration of the mutual promises set forth herein, the parties agree as follows:

## AGREEMENT

- 1. SCOPE OF THE AGREEMENT.** JCI shall perform the Work set forth in Schedule 1. After the Work is Substantially Complete (as defined below) and the Certificate of Substantial Completion is executed by Customer and JCI, JCI shall provide the assured performance guarantee (the "Assured Performance Guarantee") and the measurement and verification services (the "M&V Services") set forth in Schedule 2 (Assured Performance Guarantee). Customer shall make payments to JCI for the Work and the M&V Services in accordance with Schedule 4 (Price and Payment Terms).
- 2. AGREEMENT DOCUMENTS:** In addition to the terms and conditions of this Agreement, the following Schedules are incorporated into and shall be deemed an integral part of this Agreement:

Schedule 1 – Scope of Work  
Schedule 2 – Assured Performance Guarantee  
Schedule 3 – Customer Responsibilities  
Schedule 4 – Price and Payment Terms  
Attachment 1 –Certificate of Substantial Completion  
Attachment 2 – Oneida County Standard Contract Clauses



3. **NOTICE TO PROCEED; SUBSTANTIAL COMPLETION; M&V SERVICES.** This Agreement shall become effective on the date of the last signature on the signature page below. JCI shall commence performance of the Work within ten (10) business days of receipt of Customer's Notice to Proceed, a form of which is attached hereto as Attachment 1, and shall achieve Substantial Completion of the Work by the Substantial Completion date, which shall be the earlier of:

- (a) the date on which Customer executes a Certificate of Substantial Completion substantially in the form attached hereto as Attachment 3;
- or
- (b) Twelve (12) after JCI's receipt of Customer's Notice to Proceed, subject to adjustments set forth in Section 4 and Section 5 below.

For purposes of this Agreement, "Substantial Completion" means that JCI has provided sufficient materials and services to permit Customer to operate the Improvement Measures for their intended use. The M&V Services shall commence on the first day of the month following the month in which Customer executes a Certificate of Substantial Completion and shall continue throughout the Guarantee Term, subject to earlier termination of the Assured Performance Guarantee as provided herein. Customer acknowledges and agrees that if, for any reason, it (i) cancels or terminates receipt of M&V Services, (ii) fails to pay for M&V Services in accordance with Schedule 4, (iii) fails to fulfill any of Customer's responsibilities necessary to enable JCI to complete the Work and provide the M&V Services, or (iv) otherwise cancels, terminates or materially breaches this Agreement, the Assured Performance Guarantee shall automatically terminate and JCI shall have no liability thereunder.

4. **DELAYS AND IMPACTS.** If JCI is delayed in the commencement, performance, or completion of the Work and/or M&V Services by causes beyond its control and without its fault, including but not limited to inability to access property; concealed or unknown conditions encountered at the project, differing from the conditions represented by Customer in the bid documents or otherwise disclosed by Customer to JCI prior to the commencement of the Work; a Force Majeure (as defined below) condition; failure by Customer to perform its obligations under this Agreement; or failure by Customer to cooperate with JCI in the timely completion of the Work, JCI shall provide written notice to Customer of the existence, extent of, and reason for such delays and impacts. Under such circumstances, an equitable adjustment in the time for performance, price and payment terms, and the Assured Performance Guarantee shall be made.
5. **ACCESS.** Customer shall provide JCI, its subcontractors, and its agents reasonable and safe access to all facilities and properties in Customer's control that are subject to the Work and M&V Services. Customer further agrees to assist JCI, its subcontractors, and its agents to gain access to facilities and properties that are not controlled by Customer but are necessary for JCI to complete the Work and provide the M&V Services. An equitable adjustment in the time for performance, price and payment terms, and Assured Performance Guarantee shall be made as a result of any failure to grant such access.
6. **PERMITS AND FEES.** Unless otherwise specified in Schedule 3 (Customer Responsibilities), JCI shall be responsible for obtaining all building permits required for it to perform the Work. Unless otherwise specified in Schedule 1 (Scope of Work), Customer shall be responsible for obtaining all other permits, licenses, approvals, permissions and certifications, including but not limited to, all zoning and land use changes or exceptions required for the provision of the Work or the ownership and use of the Improvement Measures. JCI shall not be obligated to provide any changes to or improvement of the facilities or any portion thereof required under any applicable building, fire, safety, sprinkler or other applicable code, standard, law, regulation, ordinance or other requirement unless the same expressly regulates the installation of the Improvement Measures. Without limiting the foregoing, JCI's obligations with respect to the Work is not intended to encompass any changes or improvements that relate to any compliance matters (whether known or unknown) that are not directly related to the installation of the Improvement Measures or which have been imposed or enforced because of the occasion or opportunity of review by any governmental authority. Customer represents that it is a tax-exempt entity.

7. **WARRANTY.** JCI will perform the Work in a professional, workman-like manner. JCI will promptly re-perform any non-conforming Work for no charge, as long as Customer provides written notice to JCI within one (1) year following Substantial Completion or such other period identified in Schedule 1. If JCI installs or furnishes goods or equipment under this Agreement, and such goods or equipment are covered by an end-user warranty from their manufacturer, JCI will transfer the benefits of such warranty to Customer. The foregoing remedy with respect to the Work, together with any remedy provided by goods or equipment manufacturers, shall be Customer's sole and exclusive remedies for warranty claims. Customer agrees that the one (1) year period following Substantial Completion, or such other period identified in Schedule 1, shall be a reasonable time for purposes of submitting valid warranty claims with respect to the Work. These exclusive remedies shall not have failed of their essential purpose so long as JCI transfers the benefits of any goods or equipment end-user warranty to Customer and remains willing to re-perform any non-conforming Work for no charge within the one (1) year period described above or such other period identified in Schedule 1. **NO OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE PROVIDED BY JCI.** This warranty does not extend to any Work that has been abused, altered, or misused, or repaired by Customer or third parties without the supervision or prior written approval of JCI. Except with respect to goods or equipment manufactured by JCI and furnished to Customer hereunder, for which JCI shall provide its express written manufacturer's warranty, JCI shall not be considered a merchant or vendor of goods or equipment.
8. **CLEANUP.** JCI shall keep the premises and the surrounding area free from accumulation of waste materials or rubbish caused by the Work and, upon completion of the Work, JCI shall remove all waste materials, rubbish, tools, construction equipment, machinery, and surplus materials.
9. **SAFETY; COMPLIANCE WITH LAWS.** JCI shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Work and M&V Services. Each of JCI and Customer shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities (collectively, "Laws") in connection with its performance hereunder.
10. **ASBESTOS-CONTAINING MATERIALS AND OTHER HAZARDOUS MATERIALS.**

Asbestos-Containing Materials: Neither party desires to or is licensed to undertake direct obligations relating to the identification, abatement, cleanup, control, removal or disposal of asbestos-containing materials ("ACM"). Consistent with applicable Laws, Customer shall supply JCI with any information in its possession relating to the presence of ACM in areas where JCI undertakes any Work or M&V Services that may result in the disturbance of ACM. It is JCI's policy to seek certification for facilities constructed prior to 1982 that no ACM is present, and Customer shall provide such certification for buildings it owns, or aid JCI in obtaining such certification from facility owners in the case of buildings that Customer does not own, if JCI will undertake Work or M&V Services in the facility that could disturb ACM. If either Customer or JCI becomes aware of or suspects the presence of ACM that may be disturbed by JCI's Work or M&V Services, it shall promptly stop the Work or M&V Services in the affected area and notify the other. As between Customer and JCI, Customer shall be responsible at its sole expense for addressing the potential for or the presence of ACM in conformance with all applicable Laws and addressing the impact of its disturbance before JCI continues with its Work or M&V Services, unless JCI had actual knowledge that ACM was present and acted with disregard of that knowledge, in which case (i) JCI shall be responsible at its sole expense for remediating areas impacted by the disturbance of the ACM, and (ii) Customer shall resume its responsibilities for the ACM after JCI's remediation has been completed.

Other Hazardous Materials: JCI shall be responsible for removing or disposing of any Hazardous Materials (as defined below) that it uses in providing Work or M&V Services ("JCI Hazardous Materials") and for the remediation of any areas impacted by the release of JCI Hazardous Materials. For other Hazardous Materials that may be otherwise present at Customer's facilities ("Non-JCI Hazardous Materials"), Customer shall supply JCI with any information in its possession relating to

the presence of such materials if their presence may affect JCI's performance of the Work or M&V Services. If either Customer or JCI becomes aware of or suspects the presence of Non-JCI Hazardous Materials that may interfere with JCI's Work or M&V Services, it shall promptly stop the Work or M&V Services in the affected area and notify the other. As between Customer and JCI, Customer shall be responsible at its sole expense for removing and disposing of Non-JCI Hazardous Materials from its facilities and the remediation of any areas impacted by the release of Non-JCI Hazardous Materials, unless JCI had actual knowledge that Non-JCI Hazardous Materials were present and acted with disregard of that knowledge, in which case (i) JCI shall be responsible at its sole expense for the remediation of any areas impacted by its release of such Non-JCI Hazardous Materials, and (ii) Customer shall remain responsible at its sole expense for the removal of Non-JCI Hazardous Materials that have not been released and for releases not resulting from JCI's performance of the Work or M&V Services. For purposes of this Agreement, "Hazardous Materials" means any material or substance that, whether by its nature or use, is now or hereafter defined or regulated as a hazardous waste, hazardous substance, pollutant or contaminant under applicable Law relating to or addressing public or employee health and safety and protection of the environment, or which is toxic, explosive, corrosive, flammable, radioactive, carcinogenic, mutagenic or otherwise hazardous or which is or contains petroleum, gasoline, diesel, fuel, another petroleum hydrocarbon product, or polychlorinated biphenyls. "Hazardous Materials" specifically includes mold and lead-based paint and specifically excludes ACM. JCI shall have no obligations relating to the identification, abatement, cleanup, control, removal, or disposal of mold, regardless of the cause of the mold.

Environmental Indemnity: To the fullest extent permitted by Law, Customer shall indemnify and hold harmless JCI and JCI's subcontractors, and their respective directors, officers, employees, agents, representatives, shareholders, affiliates, and assigns and successors, from and against any and all losses, costs, damages, expenses (including reasonable legal fees and defense costs), claims, causes of action or liability, directly or indirectly, relating to or arising from the Customer's use, or the storage, release, discharge, handling or presence of ACM, mold (actual or alleged and regardless of the cause of such condition) or Non-JCI Hazardous Materials on, under or about the facilities, or Customer's failure to comply with this Section 10. JCI shall indemnify and hold harmless County for 1) JCI's use, storage, release, discharge, handling, or presence of "JCI Hazardous Materials"; 2) JCI's disturbance or release of "Asbestos Containing Materials" and/or "Non-JCI Hazardous Materials" when JCI had knowledge of the presence of the materials and acted in disregard of said knowledge in breach of this Section 10; and 3) JCI's failure to comply with Section 10.

**11. CHANGE ORDERS.** The parties, without invalidating this Agreement, may request changes in the Work to be performed under this Agreement, consisting of additions, deletions, or other revisions to the Work ("Change Orders"). The price and payment terms, time for performance and, if necessary, the Assured Performance Guarantee, shall be equitably adjusted in accordance with the Change Order. Such adjustments shall be determined by mutual agreement of the parties. JCI may delay performance until adjustments arising out of the Change Order are clarified and agreed upon. Any Change Order must be signed by an authorized representative of each party. If concealed or unknown conditions are encountered at the project, differing from the conditions represented by Customer in the bid documents or otherwise disclosed by Customer to JCI prior to the commencement of the Work, price and payment terms, time for performance and, if necessary, the Assured Performance Guarantee shall be equitably adjusted. Claims for equitable adjustment may be asserted in writing within a reasonable time from the date a party becomes aware of a change to the Work by written notification. Failure to promptly assert a request for equitable adjustment, however, shall not constitute a waiver of any rights to seek any equitable adjustment with respect to such change.

**12. CUSTOMER FINANCING; TREATMENT; TAXES.** The parties acknowledge and agree that JCI is not making any representation or warranty to Customer with respect to matters not expressly addressed in this Agreement, including, but not limited to:

- (a) Customer's ability to obtain or make payments on any financing associated with paying for the Improvement Measures, related services, or otherwise;

- (b) Customer's proper legal, tax, accounting, or credit rating agency treatment relating to this Agreement; and
- (c) the necessity of Customer to raise taxes or seek additional funding for any purpose.

Customer is solely responsible for its obligations and determinations with respect to the foregoing matters. In addition, the parties acknowledge and agree that Customer shall be responsible to comply, at its cost and expense, with all Laws that may be applicable to it relating to performance contracting, including, without limitation, any requirements relating to the procurement of goods and/or services and any legal, accounting, or engineering opinions or reviews required or obtained in connection with this Agreement.

**13. INSURANCE.** JCI and JCI's subcontractors shall maintain insurance in amounts no less than those set forth below in full force and effect at all times until the Work has been completed, and shall provide a certificate evidencing such coverage promptly following Customer's request therefor.

COVERAGES	LIMITS OF LIABILITY
Workmen's Compensation Insurance or self-insurance, including Employer's Liability	Statutory
Commercial General Liability Insurance	\$5,000,000 Per Occurrence \$5,000,000 Aggregate
Comprehensive Automobile Liability Insurance	\$5,000,000 Combined Single Limit
Workers Compensation and Employer's Liability	Statutory Limits

The above limits may be obtained through primary and excess policies, and may be subject to self-insured retentions.

Customer shall be added as an additional insured to General, Auto, and Excess Liability policies on a primary basis, except to the extent any loss, claim or action is caused by the negligence of Customer.

**14. INDEMNIFICATION.** To the fullest extent permitted by applicable Law, each party shall indemnify the other with respect to any third party claim alleging bodily injury, including death, or property damage to the extent such injury or damage is caused by the negligence or willful misconduct of the indemnifying party.

**15. LIMITATION OF LIABILITY.** NEITHER JCI NOR CUSTOMER WILL BE RESPONSIBLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, REMOTE, LOSS OF PROFITS OR REVENUE, LOSS OF USE, OR SIMILAR DAMAGES, REGARDLESS OF HOW CHARACTERIZED AND REGARDLESS OF A PARTY HAVING BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSSES OR RELIEF, ARISING IN ANY MANNER FROM THIS AGREEMENT, THE WORK, THE IMPROVEMENT MEASURES, THE PREMISES, THE M&V SERVICES, OR OTHERWISE. . If this Agreement covers fire safety or security equipment, Customer understands that JCI is not an insurer regarding those services, and that JCI shall not be responsible for any damage or loss that may result from fire safety or security equipment that fails to prevent a casualty loss. The foregoing waivers and limitations are fundamental elements of the basis for this Agreement between JCI and Customer, and each party acknowledges that JCI would not be able to provide the work and services contemplated by this Agreement on an economic basis in the absence of such waivers and limitations, and would not have entered into this Agreement without such waivers and limitations.

**16. FORCE MAJEURE.** Neither party will be responsible to the other for damages, loss, injury, or delay caused by conditions that are beyond the reasonable control, and without the intentional misconduct or negligence of that party. Such conditions (each, a "Force Majeure") include, but are not limited to: acts of God; acts of government agencies; strikes; labor disputes; fires; explosions or other

casualties; thefts; vandalism; riots or war; acts of terrorism; electrical power outages; interruptions or degradations in telecommunications, computer, or electronic communications systems; changes in Laws; or unavailability of parts, materials or supplies.

- 17. JCI'S PROPERTY.** All materials furnished or used by JCI personnel and/or JCI subcontractors or agents at the installation site, including documentation, schematics, test equipment, software and associated media remain the exclusive property of JCI or such other third party. Customer agrees not to use such materials for any purpose at any time without the express authorization of JCI. Customer agrees to allow JCI personnel and/or JCI subcontractors or agents to retrieve and to remove all such materials remaining after installation or maintenance operations have been completed. Customer acknowledges that any software furnished in connection with the Work and/or M&V Services is proprietary and subject to the provisions of any software license agreement associated with such software.
- 18. DISPUTES.** JCI and Customer will attempt to settle any controversy, dispute, difference, or claim between them concerning the performance, enforcement, or interpretation of this Agreement (collectively, "Dispute") through direct discussion in good faith, but if unsuccessful, will submit any Dispute to non-binding mediation in the nearest major metropolitan area of the state where the project is performed. If the parties are unable to agree on a mediator or a date for mediation, either party may request JAMS, Inc. to appoint a mediator and designate the time and procedure for mediation. Such mediator shall be knowledgeable, to each party's reasonable satisfaction, with respect to matters concerning construction law. Neither JCI nor Customer will file a lawsuit against the other until not less than sixty (60) days after the mediation referred to herein has occurred, unless one or both parties is genuinely and reasonably concerned that any applicable statute of limitations is on the verge of expiring. JCI AND CUSTOMER HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL AS TO ANY CLAIM OR CAUSE OF ACTION BASED UPON, ARISING OUT OF OR DIRECTLY OR INDIRECTLY RELATED TO THIS AGREEMENT, INCLUDING CONTRACT, TORT AND STATUTORY CLAIMS, AND EACH OF THE PARTIES HERETO ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS RELIED ON THIS WAIVER IN ENTERING INTO THIS AGREEMENT, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN THEIR RELATED FUTURE DEALINGS UNDER THIS AGREEMENT.
- 19. GOVERNING LAW.** This Agreement and the construction and enforceability thereof shall be interpreted in accordance with the laws of the state where the Work is conducted.
- 20. MODIFICATIONS.** Additions, deletions, and modifications to this Agreement may be made upon the mutual agreement of the parties in writing. The parties contemplate that such modifications may include, but are not limited to, the installation of additional improvement measures, energy conservation measures, facility improvement measures, and operational efficiency improvements or furnishing of additional services within the identified facilities, as well as other facilities owned or operated by the Customer. These modifications may take the form of additional phases of work or modifications to the original scope of Work or Services.
- 21. CONSENTS; APPROVALS; COOPERATION.** Whenever Customer's consent, approval, satisfaction or determination shall be required or permitted under this Agreement, and this Agreement does not expressly state that Customer may act in its sole discretion, such consent, approval, satisfaction or determination shall not be unreasonably withheld, qualified, conditioned or delayed, whether or not such a "reasonableness" standard is expressly stated in this Agreement. Whenever Customer's cooperation is required by JCI in order to carry out JCI's obligations hereunder, Customer agrees that it shall act in good faith and reasonably in so cooperating with JCI and/or JCI's designated representatives or assignees or subcontractors. Customer shall furnish decisions, information, and approvals required by this Agreement in a timely manner so as not to delay the performance of the Work or M&V Services.

- 22. FURTHER ASSURANCES.** The parties shall execute and deliver all documents and perform all further acts that may be reasonably necessary to effectuate the provisions of this Agreement.
- 23. INDEPENDENT CONTRACTOR.** The relationship of the parties hereunder shall be that of independent contractors. Nothing in this Agreement shall be deemed to create a partnership, joint venture, fiduciary, or similar relationship between the parties.
- 24. POWER AND AUTHORITY.** Each party represents and warrants to the other that (i) it has all requisite power and authority to execute and deliver this Agreement and perform its obligations hereunder, (ii) all corporate, board, body politic, or other approvals necessary for its execution, delivery, and performance of this Agreement have been or will be obtained, and (iii) this Agreement constitutes its legal, valid, and binding obligation.
- 25. SEVERABILITY.** In the event that any clause, provision, or portion of this Agreement or any part thereof shall be declared invalid, void, or unenforceable by any court having jurisdiction, such invalidity shall not affect the validity or enforceability of the remaining portions of this Agreement unless the result would be manifestly inequitable or materially impair the benefits intended to inure to either party under this Agreement.
- 26. COMPLETE AGREEMENT.** It is understood and agreed that this Agreement contains the entire agreement between the parties relating to all issues involving the subject matter of this Agreement. No binding understandings, statements, promises or inducements contrary to this Agreement exist. This Agreement supersedes and cancels all previous agreements, negotiations, communications, commitments and understandings with respect to the subject matter hereof, whether made orally or in writing. Each of the parties to this Agreement expressly warrants and represents to the other that no promise or agreement which is not herein expressed has been made to the other, and that neither party is relying upon any statement or representation of the other that is not expressly set forth in this Agreement. Each party hereto is relying exclusively on the terms of this Agreement, its own judgment, and the advice of its own legal counsel and/or other advisors in entering into this Agreement. Customer acknowledges and agrees that any purchase order issued by Customer associated with this Agreement is intended only to establish payment authority for Customer's internal accounting purposes. No purchase order shall be considered a counteroffer, amendment, modification, or other revision to the terms of this Agreement.
- 27. HEADINGS.** The captions and titles in this Agreement are for convenience only and shall not affect the interpretation or meaning of this Agreement.
- 28. COUNTERPARTS.** This Agreement may be executed in any number of counterparts, all of which when taken together shall constitute one single agreement between the parties.
- 29. NOTICES.** All notices or communications related to this Agreement shall be in writing and shall be deemed served if and when sent by facsimile or mailed by certified or registered mail: to Johnson Controls, Inc. at the address listed on the first page of this Agreement, ATTN: Regional Solutions Manager, with a copy to Johnson Controls, Inc., ATTN: General Counsel – Building Efficiency Americas, 507 East Michigan Street, Milwaukee, Wisconsin, 53202: and to Customer at the address listed on the first page of this Agreement.
- 30. ENERGY LAW.** Energy Law 9-103: "This contract shall be deemed executory only to the extent of the monies appropriated and available for the purpose of the contract, and no liability on account thereof shall be incurred beyond the amount of such monies. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate, or make available monies for the purpose of the contract". If funds are not appropriated, or otherwise become unavailable to fund this Agreement, any performance guarantee shall terminate and all of JCI's obligations respecting the same shall extinguish.

ONEIDA COUNTY, NY

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

Printed Name: \_\_\_\_\_

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

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

JOHNSON CONTROLS, INC.

Signature: Wendy Buchholz

Printed Name: Wendy Buchholz

Title: Area General Manager

Date: 9-9-13



## SCOPE OF WORK

Table 1

Oneida County, NY Facility Information	
Facility	Square Feet
County Office Building 800 Park Ave Utica, NY 13501	256,243
Oneida County Courthouse - Utica 200 Elizabeth St. Utica, NY 13501	143,208
Union Station 321 Main St Utica, NY 13501	80,000
Law Library 235 Elizabeth St Utica, NY 13501	25,000
Health Clinic 406 Elizabeth St Utica, NY 13501	10,512
Public Safety Complex 6065 Judd Rd Oriskany, NY 13424	313,842
DPW Carle Complex 6000 Airport Rd, Oriskany, NY 13424	62,878
Former Federal Reserve Building 120 Airline St, Oriskany, NY 13424	75,516
Oneida County Courthouse - Rome 302 N. James St. Rome, NY 13440	20,698
Oneida County Office Building – Rome 300 300 W. Dominick St. Rome, NY 13440	47,000
Oneida County Office Building – Rome 301 301 W. Dominick St Rome, NY 13440	24,000
DPW Taberg Maintenance Facility 4260 Lee Ctr-Taberg Rd Taberg, NY 13471	17,671
DPW Barneveld Maintenance Facility 8515 St Rte. 28 Barneveld, NY 13304	19,393
<b>Total Area (Sq. Ft)</b>	<b>1,095,961</b>



**SCOPE OF WORK**

**SUMMARY OF MEASURES:** Table 2 summarizes the Facility Improvement Measures (FIMs) included in the Energy Performance Contract for Oneida County facilities.

**Table 2**

<p><b>County Office Building</b>                  FIM 2 Building Envelope                  FIM 3 Water Conservation                  FIM 4 Vending Control                  FIM 5 Pipe &amp; Valve Insulation                  FIM 7 Variable Speed Drives                  FIM 8 Domestic Water Booster Control                  FIM 11 Chiller Plant Optimization                  FIM 16 Web-based Access to EMS</p>	<p><b>Oneida County Courthouse - Utica</b>                  FIM 2 Building Envelope                  FIM 3 Water Conservation                  FIM 4 Vending Control                  FIM 5 Pipe &amp; Valve Insulation                  FIM 16 Web-based Access to EMS</p>
<p><b>Union Station</b>                  FIM 2 Building Envelope                  FIM 3 Water Conservation                  FIM 4 Vending Control                  FIM 5 Pipe &amp; Valve Insulation                  FIM 9 Direct Digital Control (DDC)                  FIM 16 Web-based Access to EMS</p>	<p><b>Law Library</b>                  FIM 1 Lighting Retrofit                  FIM 2 Building Envelope                  FIM 3 Water Conservation                  FIM 4 Vending Control                  FIM 5 Pipe &amp; Valve Insulation                  FIM 16 Web-based Access to EMS</p>
<p><b>Health Clinic</b>                  FIM 1 Lighting Retrofit                  FIM 2 Building Envelope                  FIM 3 Water Conservation                  FIM 5 Pipe &amp; Valve Insulation</p>	<p><b>Public Safety Complex</b>                  FIM 1 Lighting Retrofit                  FIM 2 Building Envelope                  FIM 3 Water Conservation                  FIM 4 Vending Control                  FIM 5 Pipe &amp; Valve Insulation                  FIM 12 Cogeneration</p>
<p><b>DPW Carle Complex</b>                  FIM 1 Lighting Retrofit                  FIM 2 Building Envelope                  FIM 3 Water Conservation                  FIM 4 Vending Control                  FIM 5 Pipe &amp; Valve Insulation</p>	<p><b>Former Federal Reserve Building</b>                  FIM 1 Lighting Retrofit                  FIM 2 Building Envelope                  FIM 3 Water Conservation                  FIM 4 Vending Control                  FIM 5 Pipe &amp; Valve Insulation                  FIM 9 Direct Digital Control (DDC)</p>

**SCOPE OF WORK**

**Table 2 (continued)**

<p><b>Oneida County Courthouse - Rome</b>                  FIM 1 Lighting Retrofit                  FIM 2 Building Envelope                  FIM 5 Pipe &amp; Valve Insulation</p>	<p><b>Oneida County Office Building - Rome 300</b>                  FIM 1 Lighting Retrofit                  FIM 2 Building Envelope                  FIM 3 Water Conservation                  FIM 4 Vending Control                    FIM 16 Web-based Access to EMS</p>
<p><b>Oneida County Office Building - Rome 301</b>                  FIM 1 Lighting Retrofit                  FIM 2 Building Envelope                  FIM 3 Water Conservation                  FIM 4 Vending Control                  FIM 5 Pipe &amp; Valve Insulation                  FIM 9 Direct Digital Control (DDC)                  FIM 16 Web-based Access to EMS</p>	<p><b>DPW Taberg Maintenance Facility</b>                  FIM 1 Lighting Retrofit                  FIM 2 Building Envelope                  FIM 4 Vending Control                  FIM 5 Pipe &amp; Valve Insulation</p>
<p><b>DPW Barneveld Maintenance Facility</b>                  FIM 1 Lighting Retrofit                  FIM 2 Building Envelope                  FIM 5 Pipe &amp; Valve Insulation</p>	

**FIM 1 Lighting Retrofit**

Law Library  
 Health Clinic  
 Public Safety Complex  
 DPW Carle Complex

Former Federal Reserve Building  
 Oneida County Courthouse – Rome  
 Oneida County Office Building – Rome 300  
 Oneida County Office Building – Rome 301  
 DPW Taberg Maintenance Facility  
 DPW Barneveld Maintenance Facility

Johnson Controls has performed a detailed room-by-room survey of existing lighting systems for specific locations at the buildings listed above (10) within Oneida County and has identified opportunities for energy savings through the installation of new high efficiency lighting and automatic lighting controls as well as the modification of existing lighting layouts.

Lighting energy efficiency upgrades and occupancy sensors provide a substantial energy benefit and quality of light improvement in most facilities. Facility owners realize significant operating utility savings, reduced maintenance costs, and improved overall lighting systems performance, visual comfort and acuity. In addition to saving energy and reducing costs, the lighting upgrades will:

- Improve lighting quality through designs that meet or exceed current Illuminating Engineering Society (IES) recommendations while addressing specific illumination requirements for task/area functions. The scope will provide a quality of light superior to what is currently installed.
- Be economically viable and meet customer financial requirements.
- Improve lighting inventory standardization for long term maintenance improvements.
- Be environmentally sustainable via reduced greenhouse gas emissions and lower levels of hazardous materials including mercury and PCBs

Johnson Controls has developed the efficiency and technology improvement solutions through conducting site audits in cooperation with site personnel providing valuable support and insights for the project, including a description of which buildings should be excluded from the audits, identification of current lighting deficiencies and initiatives, ongoing energy efficiency initiatives, building access and escort requirements, utility data, operating schedules, and other priorities.

In an effort to reduce electricity consumption, we are proposing to retrofit the existing lighting systems with newer technology energy efficient lamps, ballasts, and light fixtures. The lighting retrofit design incorporates the replacement of lamps and ballasts as well as the replacement of light fixtures when the fixtures are in poor condition. New fixtures may also be designed into areas where greater fixture efficiency is required to properly illuminate a space. Every effort has been made to standardize the installed components to reduce operational and maintenance costs over the life of the installed system.

Energy savings calculations are based upon hours of operation for each area surveyed. These hours are determined through a combination of information obtained from site personnel during the survey as well as commonly accepted industry standards. Ballast wattages presented within the energy savings analysis are based upon the manufacturers' reported technical data. Occupancy sensors and Bi-Level controls may be designed into the lighting system where applicable to further enhance the overall system design and maximize the energy savings.

**FIM 1 Lighting Retrofit (continued)**

**Garages and Maintenance Areas:**

The garages and maintenance area in the county contain HID and linear fluorescent fixtures. We propose to replace the interior HID fixtures with new fluorescent fixtures, and a portion of those fixtures will be occupancy controlled. We propose to replace the barn HID fixtures with new LED fixtures and a portion of those fixtures will be occupancy controlled. The linear fluorescent fixtures will be getting re-lamped and re-ballasted.

**Offices:**

The offices throughout the county contain linear fluorescent fixtures. We propose to re-lamp and re-ballast the majority of the fixtures with T8 electronic ballasts and 25-watt F32T8 lamps. Please refer to the line-by-line for details.  
 Note: Occupancy sensors will be installed in offices where it would enhance energy savings.

**Hallways and lobbies:**

The hallways and lobbies in the county contain a combination of incandescent, compact fluorescent and linear fluorescent fixtures. We propose to re-lamp and re-ballast the majority of the linear fluorescent fixtures with T8 electronic ballasts and 25-watt F32T8 lamps. The incandescent fixtures will be re-lamped with either compact fluorescent lamps or LED. The majority of the compact fluorescents will not be addressed since they are already energy efficient.

**Courtrooms:**

The courtrooms in the county contain a combination of HID, compact fluorescent and linear fluorescent fixtures. We propose to re-lamp and re-ballast the linear fluorescent fixtures with T8 electronic ballasts and 25-watt F32T8 lamps. The majority of the other fixtures will not be address due to the decorative nature of the fixtures.

**Jail Cells:**

The majority of jail cells contain one fixture that will not be addressed. Other cells have multiple linear fluorescent fixtures that will be retrofitted.

**Exterior:**

The exterior lighting is a combination of HID fixtures, incandescent fixtures, and compact fluorescent lanterns.

**FIM 2 Building Envelope**

County Office Building	Former Federal Reserve Building
Oneida County Courthouse - Utica	Oneida County Courthouse - Rome
Union Station	Oneida County Office Building – Rome 300
Law Library	Oneida County Office Building – Rome 301
Health Clinic	DPW Taberg Maintenance Facility
Public Safety Complex	DPW Barneveld Maintenance Facility
DPW Carle Complex	

The buildings experience heat loss through the envelopes (doors, windows, attic insulation, roof-wall joints, and penetrations). Opportunities were identified to control air leakage by weather-stripping around exterior doors, sealing roof top ventilators and relief vents, and sealing roof-wall joints and soffits as identified in below descriptions.

**FIM 2 Building Envelope (continued)**

**County Office Building**

- 7 Single Commercial Doors to be weather-stripped
- 6 Double Commercial Doors to be weather-stripped
- 2 Interior Boiler Room Doors to be weather-stripped
- 2 Single Commercial Interior Garage Doors to be weather-stripped
- 3 Double Commercial Interior Garage Doors to be weather-stripped
- 3 Overhead Garage Doors to be weather-stripped, 124 linear feet (2 in garage, 1 in (receiving)
- 20 Interior Stairwell Doors to be weather-stripped (floors 1-10, stairwells vented to exterior at top level)
- 3 Duct Chases (Floor Penetrations) to be sealed in penthouse, 40 linear feet (located at top of each stairwell)
- 10 Duct Chases (Wall Penetrations) to be sealed in mechanical space floors 1-10, 80 linear feet
- 720 Windows to be caulked at perimeters from interior, 16,080 linear feet

**Oneida County Courthouse - Utica**

- 4 Single Commercial Doors to be weather-stripped (bronze carrier)
- 4 Double Commercial Doors to be weather-stripped (bronze carrier)
- 1 Single Commercial Roof Access Door to be weather-stripped
- 4 Roof Top Ventilators to be opened, dampers lubed and perimeters sealed, 20 linear feet

**Union Station**

- 10 Single Commercial Doors to be weather-stripped (bronze carrier, main building)
- 7 Double Commercial Doors to be weather-stripped (bronze carrier, main building)
- 2 Single Commercial Roof Access Doors to be weather-stripped (stairwells)
- 2 Double Commercial Roof Access Doors to be weather-stripped (lower roof)
- 2 Roof Top Ventilators to be opened, dampers lubed and perimeters sealed, 8 linear feet
- 1 Roll-Up Garage Door to be weather-stripped, 24 linear feet
- Union Station Crosswalk to Tracks
- 5 Single Commercial Doors to be weather-stripped (bronze carrier, crosswalk to tracks)
- 11 Double Commercial Doors to be weather-stripped (bronze carrier, crosswalk to tracks)

**Law Library**

- 1 Single Commercial Door to be weather-stripped
- 1 Double Commercial Door to be weather-stripped
- 1 Single Commercial Roof Access Door to be weather-stripped
- 1 Single Commercial Interior Boiler Room Door to be weather-stripped

Wall/Column in rear right corner of boiler room has bricks missing and is providing air-infiltration to boiler room, unable to determine location of infiltration from exterior or rooms above. It is recommended that this penetration be repaired by Oneida County.

**Health Clinic**

- 4 Single Commercial Doors to be weather-stripped

**Public Safety Complex**

- 39 Single Commercial Doors to be weather-stripped
- 3 Single Commercial Interior Sally Port Doors to be weather-stripped
- 2 Interior Sally Port Sliding Doors to be weather-stripped
- 2 Double Commercial Doors to be weather-stripped
- 5 Single Commercial Penthouse/Roof Access Doors to be weather-stripped
- 1 Roll-Up Garage Door to be weather-stripped, 28 linear feet

**FIM 2 Building Envelope (continued)**

**DPW Carle Complex**

- 12 Single Commercial Doors to be weather-stripped (2 bronze carrier)
- 1 Double Commercial Doors to be weather-stripped
- 4 Single Commercial Interior Garage Doors to be weather-stripped
- 1 Single Commercial Interior Boiler Room Door to be weather-stripped
- 13 Overhead Doors to be weather-stripped, 756 linear feet
- 12 Roof Top Ventilators to be opened, dampers lubed and perimeters sealed, 48 linear feet
- 23 Linear Feet interior caulking at perimeters between garage and 2<sup>nd</sup> story office space

**Former Federal Reserve Building**

- 4 Single Commercial Doors to be weather-stripped
- 4 Double Commercial Doors to be weather-stripped
- 3 Single Commercial Roof Access Doors to be weather-stripped
- 18 Roof Top Ventilators to be opened, dampers lubed and perimeters sealed, 160 linear feet
- 2 Exhaust fans to be semi-permanently sealed from interior, exhaust fans to be left in place (old kitchen area)

**Oneida County Courthouse – Rome**

- 2 Single Doors to be weather-stripped (Oak carrier) (caulk doors as necessary)
- 2 Double Doors to be weather-stripped (Oak carrier) (caulk doors as necessary)

**Oneida County Office Building – Rome 300**

- 6 Single Commercial Doors to be weather-stripped
- 1 Double Commercial Doors to be weather-stripped
- 3 Roof Top Ventilators to be opened, dampers lubed and perimeters sealed, 20 linear feet

**Oneida County Office Building – Rome 301**

- 7 Single Commercial Doors to be weather-stripped
- 2 Double Commercial Doors to be weather-stripped
- 1 Double Commercial Interior Door to be weather-stripped (loading dock)
- 2 Roof Top Ventilators to be opened, dampers lubed and perimeters sealed, 12 linear feet
- 224' Linear feet roof/wall-soffit joint to be sealed from interior, includes truss penetrations

**DPW Taberg Maintenance Facility**

- 6 Single Commercial Doors to be weather-stripped
- 4 Overhead Doors to be weather-stripped, 229 linear feet
- 5' Wall Joint caulking between front and back garage, at block wall only  
\*exterior wall in parts storage should be re-pointed by Oneida County

**DPW Barneveld Maintenance Facility**

- 4 Single Commercial Doors to be weather-stripped
- 8 Overhead Doors to be weather-stripped, 428 linear feet

**FIM 3 Water Conservation**

County Office Building  
 Oneida County Courthouse - Utica  
 Union Station  
 Health Clinic  
 Public Safety Complex  
 DPW Carle Complex

Former Federal Reserve Building  
 Oneida County Office Building – Rome 300  
 Oneida County Office Building – Rome 301

All of the retrofits meet or exceed the Energy Act of 1992 which limits water use for toilets to 1.6 gallons per flush, showerheads to 2.5 gallons per minute, and faucets to 2.0 gallons per minute.

The retrofit upgrades are as follows:

Staff and Public Restroom Faucets (Retro Code – A1): Installation of 0.5 GPM flow restrictors on faucets currently equipped with 2.0 to 3.0 GPM flow restrictors. The current faucets will also be repaired / replaced as necessary to eliminate leaks. These flow restrictors will be tamper proof so that users cannot remove them. Special keys, used to remove the flow restrictors for any necessary maintenance, will be supplied to the maintenance group.

General Purpose Sinks (Retro Code – A2): Installation of 1.5 GPM flow restrictors on faucets currently equipped with 2.0 to 3.0 GPM flow restrictors. The current faucets will also be repaired / replaced as necessary to eliminate leaks. These flow restrictors will be tamper proof so that users cannot remove them. Special keys, used to remove the flow restrictors for any necessary maintenance, will be supplied to the maintenance group.

Single Spigot Cold Only Faucets (Retro Code - F1): Remove single spigot, cold only faucets and install delay close (push button) faucet. These new push button type faucets are designed to deliver ample water for washing hands and eliminate the possibility of the user leaving the faucet running.

Double Spigot Faucets (Retro Code – F2): Remove double spigot, independent hot/cold faucets and install 2 delay close (push button) faucets. These new push button type faucets are designed to deliver ample water for washing hands and eliminate the possibility of the user leaving the faucet running.

Hot/Cold 8-inch Widespread Faucets (Retro Code – F8): Remove existing faucet incapable of accepting a flow restrictor and install a new 8-inch hot/cold center-set faucet with a 0.5 GPM aerator. These flow restrictors will be tamper proof so that users cannot remove them. Special keys, used to remove the flow restrictors for any necessary maintenance, will be supplied to the maintenance group.

Water Closet (Retro Code – T1): Installation of 1.6 gallons per flush (GPF) water closet and flush valve in place of existing equipment that currently consumes 3.5 to 5.0 GPF. These new fixtures with Sloan flush valves are engineered to ensure that they provide flushing performance that meets or exceeds ASME and ANSI performance standards for low-consumption toilets. These toilets are designed with large fully glazed trap-ways and a state-of-the-art siphon jet system to break up and keep the waste moving without blockage.

Water Closet – concealed flush valve (Retro Code – T2): Installation of 1.6 gallons per flush (GPF) water closet in place of existing equipment that currently consumes 3.5 to 5.0 GPF. These new fixtures are engineered to ensure that they provide flushing performance that meets or exceeds ASME and ANSI performance standards for low-consumption toilets. These toilets are designed with large fully glazed trap-ways and a state-of-the-art siphon jet system to break up and keep the waste moving without blockage. The existing concealed flush valves will be retrofitted with a new 1.6 diaphragm to match toilet flow design.

**FIM 3 Water Conservation (continued)**

Urinal (Retro Code – U1): Installation of 0.5 or 1.0 GPF flush valve (dependent on urinal type). Urinals that receive this retrofit are currently consuming 1.5 GPF or more. The new flush valves will cut the current consumption in half and still provide ample water for flushing the fixture.

Urinal with concealed flush valve (Retro Code – U2): Installation of 1.0 GPF flush valve diaphragm in existing concealed flush valves. Urinals that receive this retrofit are currently consuming 1.5 GPF or more. The new flush valve diaphragms will reduce the current consumption and still provide ample water for flushing the fixture.

Showers (Retro Code – S1): Installation of high performance, low flow showerheads. The existing 2.5 to 5.0 GPM showerheads will be replaced with 1.5 GPM heads and the shower valves will be repaired / replaced as necessary to eliminate leaks.

Hand Wash / Medical Style Service Sinks (Retro Code – P2): Installation of *Pedal Valve*™ controls on sinks. The medical service sinks will be retrofitted with hands free foot pedal faucet controllers and a 1.5 GPM flow restrictor. These pedals will eliminate existing faucet leaks as well as help prevent the user from walking away from the sink and leaving the water running. *Pedal Valve*™ controls eliminate the need to touch the faucet controls and so effectively reduce hand contamination at the faucets. The medical service *Pedal Valve*™ controls will be equipped with a locking mechanism for those applications where an unattended constant flow is necessary.

Food Service Sinks (Retro Code – P1): Installation of *Pedal Valve*™ controls on Sinks. The food service sinks will be retrofitted with hands free foot pedal faucet controllers. These pedals will eliminate existing faucet leaks as well as help prevent the user from walking away from the sink and leaving the water running. *Pedal Valve*™ controls eliminate the need to touch the faucet controls and so eliminate hand contamination at the faucets. The food preparation and pot washing services' *Pedal Valve*™ controls will be equipped with a locking mechanism for those applications where an unattended constant flow is necessary.

Ice Machines (Retro Code – ICE-1000): Installation of Vizion Chill heat exchanger on ice machine. The Vizion Chill retrofit pre-cools the incoming water to an ice machine by recovering the energy from the purged ice water exiting the ice machine. Reducing the incoming water temperature directly lowers the cooling load of the icemaker's refrigeration system and improves performance.

Disposition of Removed Equipment: All existing equipment will be removed and properly disposed or recycled by the contractor. Due to the probability and nature of contamination of the removed equipment, future use of the materials is not recommended and the material will not be made available for surplus.

**Table 3**

Facility	Existing Fixtures Analyzed	A1	F1	T1	U1	A2	F2	S1	P1	P2	F8	ICE 1000	T2	U2	NOSAV /DONOT	Upgrade
Public Safety Complex	1521	54	0	5	1	2	0	6	14	4	0	1	0	0	143	1291
County Office Building	227	79	2	10	2	2	0	1	12	0	0	0	40	15	62	2
Law Library	31	0	0	0	0	0	0	0	3	0	0	0	0	0	27	1
Health Clinic	23	0	6	5	0	0	1	0	1	5	1	0	0	0	4	0
Former Federal Reserve	53	24	0	2	7	0	0	0	1	0	0	0	16	0	3	0
Union Station	76	24	3	0	4	7	0	0	3	0	0	0	0	0	35	0
Court House Utica	203	77	6	11	1	0	0	0	11	0	0	0	0	0	85	12
DPW Carle Complex	35	10	0	4	3	0	0	0	1	0	0	0	10	0	6	1
Oneida County Office Building – Rome 300	32	7	0	0	1	0	0	0	1	0	0	0	0	0	23	0
Oneida County Office Building – Rome 301	23	4	0	8	1	1	0	0	2	0	0	0	0	0	7	0
<b>Total</b>	<b>2224</b>	<b>279</b>	<b>17</b>	<b>45</b>	<b>20</b>	<b>12</b>	<b>1</b>	<b>7</b>	<b>49</b>	<b>9</b>	<b>1</b>	<b>1</b>	<b>66</b>	<b>15</b>	<b>395</b>	<b>1307</b>



FIM 3 Water Conservation (continued)

Table 3a – Legend

Code	Upgrade Type
A1	Restroom Faucet - Installation of 0.5 GPM flow restrictor and repair or replace leaking faucet as needed
F1	Faucet - Replace Std & Single Spigot, cold only with Delay Close (push button) Faucet
T1	Water Closet - Installation of new 1.6 GPF water closet and flush valve
U1	Urinals - Installation of new 0.5 or 1.0 GPF flush valve (dependent on urinal type)
A2	General Purpose Faucet - Installation of 1.5 GPM flow restrictor and repair or replace leaking faucet as needed
F2	Double Spigot Faucet - Replace Double Spigot with 2 Delay Close (push button) Faucets
S1	Showers - Replace with new low flow shower heads and repair/replace shower valves as needed
P1	Sinks - Installation of Pedal Valve on Sink
P2	Sinks - Installation of Pedal Valve on Sink + 1.5 GPM flow restrictor
F8	Faucet - Replace 8" faucets that are not low flow but cannot accept aerators, with new 8" widespread faucet
Ice-1000	Installation of Vizion Chill ICE-1000 unit on ice machine
T2	Water Closet - Installation of new 1.6 GPF water closet and new 1.6 diaphragm in existing concealed flush valve
U2	Urinals - Installation of new 1.0 GPF diaphragm in existing concealed flush valve
NOSAV	No Savings to be gained by doing a retrofit - already low flow or low usage
DONOT	Do Not Retrofit (no retrofit available or inadequate information for retrofit or bad payback)

FIM 4 Vending Controls

County Office Building  
 Oneida County Courthouse - Utica  
 Union Station  
 Law Library  
 Public Safety Complex

DPW Carle Complex  
 Former Federal Reserve Building  
 Oneida County Office Building – Rome 300  
 Oneida County Office Building – Rome 301

The Oneida County Facilities have a total of 23 cold beverage vending machines located throughout the facilities. The machines have internal fluorescent lighting that operates continuously. The beverage machines have refrigeration compressors that are controlled by a cycle timer that operates the compressors approximately 33% of the time. Electricity use by vending machines may be reduced by installing controls that sense building occupancy and reduce energy use accordingly. The interior fluorescent lights will be turned off if the occupancy sensor has not detected activity for a certain period of time. This would allow the lights to be turned off for as many as 50% of all hours for these buildings. The refrigeration compressors will be controlled to operate less frequently, approximately 13% of the time, during periods sensed as unoccupied to reduce refrigeration compressor energy use.

**FIM 5 Pipe & Valve Insulation**

County Office Building  
 Oneida County Courthouse - Utica  
 Union Station  
 Law Library  
 Health Clinic  
 Public Safety Complex

DPW Carle Complex  
 Former Federal Reserve Building  
 Oneida County Courthouse - Rome  
 Oneida County Office Building – Rome 301  
 DPW Taberg Maintenance Facility  
 DPW Barneveld Maintenance Facility

Johnson Controls will insulate the exposed piping and valves and equipment in county facilities as indicated in the table below. The insulation will prevent the loss of heat from the pipes, thereby saving boiler energy as well as reducing overheating conditions in adjacent spaces. This will result in improved comfort conditions.

Fiberglass Insulation at least 2" thick will be installed on the hot water piping greater than 1.5" in diameter. The domestic hot water lines noted will have at least 1" of fiberglass insulation. The hot water lines noted will have at least 1.5" of fiberglass insulation on lines less than or equal to 1.5" in diameter.

Table below shows the square footage (Sq. / Ft.) and quantities of piping and equipment that will be insulated.

**Table 4**

Building	Fittings (#)	Valves (#)	Flange Pairs (#)	Bonnets (#)	In-Line Pumps (#)	Centrifugal Pumps (#)	Air Separators (#)	Total Equip (Sq. / Ft.)
DPW Carle Complex	446	209	1	9	3	0	0	1220
County Office Building	92	118	46	31	3	7	0	272
DPW Barneveld Maint. Facility	57	59	17	0	2	0	1	44
Former Federal Reserve Building	38	48	29	19	2	2	1	96
Health Clinic	70	58	0	2	2	0	0	77
Law Library	29	24	6	0	2	0	1	46
Public Safety Building	109	104	52	13	9	11	0	291
Oneida County Courthouse - Rome	68	78	15	4	5	0	1	91
Union Station	142	142	37	15	3	2	1	364
Oneida County Courthouse - Utica	200	133	33	1	5	2	1	457
DPW Taberg Maint Facility	50	34	3	0	1	0	0	57
Oneida County Office Building – Rome 301	42	42	13	5	4	0	1	44
<b>Totals</b>	<b>1343</b>	<b>1049</b>	<b>252</b>	<b>99</b>	<b>41</b>	<b>24</b>	<b>7</b>	<b>3059</b>

**FIM 7 Variable Speed Drives (VSD)****VSD for Air Handling Units at Union Station**

The existing VSD that serves the air handler on the 2<sup>nd</sup> floor mechanical room is not functional and is running in bypass. The air handler motor is running at full speed and is not modulating based on static pressure as it is designed to do.

We will replace the existing VSD and reconnect the existing controls system. The air handler VSD will be placed back in automatic operation.

- Furnish and install (1) 10 HP 208v/3ph JCI Series II Intellipass variable speed drives with NEMA 1 enclosure, bypass, drive isolation contactor and N2 communication card (JCI model VS031111B-0P600).
- Disconnect and reconnect existing control points to the VSD.
- Extend existing N2 communication bus wiring to each new VSD

**VSD for Chilled Water Pumps at County Office Building**

The existing chilled water pumps operate at full speed regardless of the chilled water system load. We are proposing to install VSDs on the chilled water pumps to be controlled by Air Handler discharge temperature.

Three pumps circulate chilled water from the primary chilled water loop to cooling coils of two air handlers (one pump serves as a standby for the other two). The pumps are constant flow and a 3-way valve mixes primary water to regulate coil water temperature to maintain the cooling coils' discharge air temperature at setpoint. This measure would vary the flow of chilled water through the coils instead of the temperature thereby saving pump energy.

Provide VSD for cooling coil Chilled Water Pumps, Basement Mechanical Equipment Room

- Reuse existing DX9100 DDC controller and reprogram as required for the new chilled water pump VSD installation.
- Furnish and install (3) 15 HP 460v/3ph JCI Series II Intellipass variable speed drives with NEMA 1 enclosure, bypass, drive isolation contactor and N2 communication card (JCI model VS021411B-0P600).
- Install and wire devices for enable/disable of (3) variable speed drives, speed output, status monitoring and VSD fault alarm points.
- Extend existing N2 communication bus wiring to each new VSD.

Provide manual switching such that the third pump can be used for either coil.

Close/open isolation valves to bypass the 3-way control valve for full flow to the coil. Open fully the triple duty valves on the discharge of each pump. Attach a tag to the valves indicating "Normally Closed" or "Normally Open" as applicable.

**FIM 8 Domestic Water Booster Control****County Office Building**

Existing domestic water pressure boosting system consists of a single 15 hp centrifugal pump sized for 650 gpm and 76 Foot Head serving floors B2 to 10. The pump is uncontrolled and runs continuously regardless of the current flow requirements. We propose to install a new pump with variable speed drive and pressure control system. Pump operation and speed will be controlled to maintain system pressure set point.

Remove existing domestic water pressure booster pump and abandoned controls. Provide a new EnviroSep, UL Listed, Variable Speed Simplex Booster Packaged Pumping System, rated for 600 GPM @ 72TDH boosting capacity, consisting of:

- One (1) EnviroSep 4280, 5x4x10 End Suction, Close Coupled Pumps with Premium Efficiency, 15 HP ODP, 1800 RPM Motor, 460/3/60
- One (1) 6" Mueller Pump Suction Isolation Butterfly Valves;
- One (1) TDV 6AF, 6" Pump Discharge Triple Duty Valve;
- One (1) 132 Gallon Bladder Expansion Tank
- 6" Stainless Steel 150# Flanged System Connections;

**FIM 8 Domestic Water Booster Control (continued)**

- Two (2) 4" Pressure Gauges with Isolation Ball Valves on Pump Inlet & Outlet;
- One (1) ABB ACH550 PDR, 15 HP, NEMA 1, 460/3/60, Variable Frequency Drives;
- One (1) Differential Pressure Transmitter at System Outlet for System Control;
- System shall be fabricated with ASME Section IX Certified Welding and coated with High Temperature Enamel.
- Full system operational test prior to shipment.
- Structural Steel Frame.

**FIM 9 Direct Digital Controls (DDC)**

1. **Electric Heat Control at Union Station**
2. **Disable Cooling in Stairwell at Union Station**
3. **Recommissioning DDC system at Oneida County Office Building – Rome 301**
4. **Pneumatic to Direct Digital Controls (DDC) Conversion at Former Federal Reserve Building**

**1) Electric Heat Control at Union Station**

Currently the baseboard heat in the cross over to the train platform is controlled by local control located on the individual baseboard heaters. The set points are adjusted individually at each baseboard heater. We are proposing installing a control panel in the electric room to control the baseboard heaters. The new control will ensure that the electric heaters are disabled when the outside air is above set point and the space temperature is above set point.

Electric Heat Control, 1st & 2nd Floor Walkway

- Install a new DX9100 DDC controller in electric room and provide 120 VAC. Extend N2 communication bus from main building across the 2nd floor walkway down to DX9100 panel.
- Install devices for enable/disable of fin radiation and cabinet unit heater heating circuits located in Power Panel PWH.
- Install (1) new space temperature sensor on the 2nd floor walkway to monitor space temperature.
- Install (1) new space temperature sensor adjacent to the 1st floor elevators to monitor space temperature.
- Install (1) outside air temperature adjacent to electric room.
- Control to 50 F set point. Disable above 50 F outside air temperature.

**2) Disable Cooling in Stairwell at Union Station**

VAV Box 2-19 currently is serving a space that is not a conditioned space. The space was previously conditioned; prior to the installation of the stair well that leads to the upper passenger walk way (near overpass). There are also two return air diffusers located in the area that serve un-conditioned space. The VAV Box and return air diffusers put an unnecessary load on AHU-2.

We will cap the duct work to VAV Box 2-19 and disable the VAV Box. We will also cap the two return air ducts that serve the area.

**3) Recommissioning DDC system at Oneida County Office Building – Rome 301****Ground Floor AHU System, Lower Level Mechanical Room**

- Provide retro-commissioning services for the AHU System for verification of device operation, accuracy and reporting into the existing DDC panel. Replace faulty control devices as required.
- Verify AHU sequence of operation based on 2009 JCI control drawings (attached). Reprogram controller as necessary.
- Provide retro-commissioning services for (13) reheat coil control valves and space temperature sensors for verification of device operation, accuracy and reporting into the existing DDC panel.
- Furnish and install (6) reheat coil 3-way control valves for replacement of faulty control valves.

**FIM 9 Direct Digital Controls (DDC) (continued)****4) Pneumatic to Direct Digital Controls (DDC) Conversion at Former Federal Reserve Building**

The existing controls that control the air handler, chiller, boiler and pumps are a combination of pneumatic, electric and Direct Digital Controls (DDC). The controls act independently without consideration for the operation of the system as a whole. Many of the systems are operated in "Hand" to compensate for the lack of interaction between the HVAC systems.

Johnson Controls will install a DDC system to control the air handler, chiller, boiler and pumps located in the basement mechanical room.

- Install a new NCE DDC controller. Provide 120 VAC power and CAT5 cable from NCE to customer's Ethernet switch located on the 1st floor.
- Install and wire devices for the following control and monitoring points:

**Chilled Water System Control, Basement Mechanical Equipment Room**

Chiller Alarm	Condenser Water Pumps Command
Chiller enable	Condenser Water Pump 1 Status
Chiller Status	Condenser Water Pump 2 Status
Chiller Setpoint Output	Chilled Water Pumps Command
Tower Fan 1 Hi Speed Command	Chilled Water Pump 1 Status
Tower Fan 1 Lo Speed Command	Chilled Water Pump 2 Status
Tower Fan 1 Status	Condenser Water Supply & Return Temperature
Tower Fan 2 Hi Speed Command	Chilled Water Supply & Return Temperature
Tower Fan 2 Lo Speed Command	Outside Air Temperature & Humidity
Tower Fan 2 Status	

**Hot Water System Control, Basement Mechanical Room**

Boiler 1 Alarm	Boiler 4 Status
Boiler 1 Enable	Boiler 4 Setpoint Output
Boiler 1 Status	Mixing Valve Output
Boiler 1 Setpoint Output	Outdoor Air Humidity
Boiler 2 Alarm	Outdoor Air Temperature
Boiler 2 Enable	Primary HW Pump 1 Command
Boiler 2 Status	Primary HW Pump 1 Status
Boiler 2 Setpoint Output	Primary HW Pump 2 Command
Boiler 3 Alarm	Primary HW Pump 2 Status
Boiler 3 Enable	Primary HW Pump 3 Command
Boiler 3 Status	Primary HW Pump 3 Status
Boiler 3 Setpoint Output	Primary HW Return Temperature
Boiler 4 Alarm	Primary HW Supply Temperature
Boiler 4 Enable	

**Air Handler Unit System, Basement Mechanical Room**

Cooling Output	Preheat Output
Discharge Air High Duct Pressure	Preheat Temperature
Discharge Air Temperature	Return Air Damper Output
Exhaust Air Damper Output	Return Air Humidity
Final Filter Status	Return Air Low Duct Pressure
Low Temperature Alarm	Return Air Temperature
Mixed Air Temperature	Return Fan Command
Min Outdoor Air Damper Output	Return Fan Status
Min Outdoor Air Damper Status	Supply Fan Command
Outdoor Air Damper Output	Supply Fan Status
PreFilter Status	

**FIM 11 Chiller Plant Optimization****County Office Building**

There is currently a Carrier 23XL Screw chiller and a Carrier 19XR centrifugal chiller with a Variable Frequency Drive that serve the Oneida County Office Building. The chillers' chilled water piping is connected in parallel, with either chiller capable of serving the building load. The chillers are connected to the existing Johnson Controls Control system. Due to some past operational conditions the chillers have been operated manually, with little consideration for energy savings. At the time of the audit the 23XL had 27,596 run hours on the compressor, the 19XR had 6,556 run hours on the compressor.

We will be installing a "Low Tower Water Temperature option" on the 19XR chiller to optimize the performance of the chiller. The 19XR performance will be increased by lowering the condenser water temperature whenever possible. The chiller controls will set the 19XR as the primary chiller taking advantage of its better part load efficiency due to the variable frequency drive and condenser water reset.

**FIM 12 Cogeneration****Public Safety Complex**

Johnson Controls is proposes to install a Turnkey Cogeneration System. This system will include:

One (1) 75 kW PowerSynch Module located in the boiler room.

One (1) Pump & Valve Module complete with circulating pumps and thermostatic mixing valves.

Oneida County Correctional Facility will be provided with one (1) PowerSynch 75 kW Module. One module will be located in the new boiler room displacing domestic hot water and space heating. Thermal output will operate in conjunction with the existing boiler and domestic hot water systems. The control system will insure that recovered thermal energy will be the first source of heat utilized. In the event of any maintenance, current utility service will provide the additional electric load while the existing boiler system will continue providing all thermal needs.

Modules are provided with vibration isolation mounts, a silencer, a sound attenuating enclosure, insulation and thermal expansion connections for plumbing, fuel, electrical feeds and exhaust piping. Factory tested noise levels will not exceed 70 dba at 20 feet.

The Cogeneration module consists of a naturally aspirated, natural gas fueled, low-emissions reciprocating engine with a synchronous generator. Solid state controls are used for automated and unattended operation with an electrical interface to interconnect with current utility services. The module's heat recovery equipment includes an oil cooler, engine jacket, engine manifold and exhaust gas heat exchangers to recover all possible thermal energy. This allows the transfer of thermal heat to your current system. Equipped with remote adjustable parameter, alarm and pre-alarm notifications, all appropriate modifications and updates are easily accessible to the co-generation unit operation services department.

Work scope to include:

- Engineering, design, supply, and installation of Load Module with interface with both domestic hot water and space heating
- Natural gas piping from existing utility service to the Cogeneration Module with all necessary equipment.
- Complete exhaust system with silencer and hose assembly.
- Necessary module power feeder wiring, conduit, fuse disconnects or circuit breakers with adequate fault duty utilizing the standard electrical interface with a utility grade relay which will interconnect and run parallel with current utility services. Electrical interconnection points will be located in the electric room.
- Electrical panel with protected circuit for all pumps, electric devise, variable speed drives, and communication devices for live, automated monitoring and operations.
- Proper ventilation for the cogeneration modules.
- System startup with factory authorized technicians.
- Professional engineered and stamped drawings including shop-drawings, submittals, and as-built drawings.

**FIM 12 Cogeneration (continued)**

This measure is incentivized through a program with NYSERDA, which provides a rebate to the system supplier. This measure is contingent on the securing of NYSERDA funds. The terms of the rebate require the County to enter into a 5 year maintenance/service agreement with the supplier, who is required to keep the equipment maintained and operable. A copy of that agreement is attached.

**FIM 16 Web-Based Access to Energy Management System**

County Office Building	Oneida County Courthouse - Rome
Oneida County Courthouse - Utica	Oneida County Office Building – Rome 300
Union Station	Oneida County Office Building – Rome 301
Law Library	
Former Federal Reserve, Bank of NY	

The existing Johnson Controls Systems on the buildings listed above (7) have been installed over many years. Some of the systems' architecture is outdated and not as functional and useful to the building operators as it could be. The existing systems only provide for limited remote access.

The existing system will be upgraded to a Johnson Controls WEB based system. This will allow the building operators to view, operate and trouble-shoot the systems on a common platform, both locally and remotely.

**County Office Building**

Upgrade of existing Legacy JCI system to Metasys Extended Architecture

- Provide (1) NAE-4510 Network Automation Engine to replace the existing NC-3 Supervisory Controller
- Backup the existing NCM Database and any existing trend data and convert to extended architecture
- Load new converted database into new NAE
- Verify converted database for proper operations and modify programming as required to replicate existing control sequences and logic
- Establish Ethernet network communications with existing County ADX Server located at the County Office Building in Utica, NY
- Replace existing M5 Operators Workstation (OWS-3) with new Personal Computer with Internet Browser Interface to existing ADX Server
- Convert Existing Graphics to New Extended Architecture Graphics and load on the existing ADX Server
- Verify proper operation and mapping of new graphics

**Oneida County Courthouse – Utica**

Upgrade of existing Legacy JCI system to Metasys Extended Architecture

- Provide (3) NAE-4510 Network Automation Engines to replace the existing NC Supervisory Controllers (NC-2, NC-5 and NC-6)
- Backup the existing NCM Database and any existing trend data and convert to extended architecture
- Load new converted database into new NAE
- Verify converted database for proper operations and modify programming as required to replicate existing control sequences and logic
- Ethernet network communications with existing County ADX Server located at the County Office Building in Utica, NY
- Replace existing M5 Operators Workstation (OWS-2) with new Personal Computer with Internet Browser Interface to existing ADX Server
- Convert Existing Graphics to New Extended Architecture Graphics and load on the existing ADX Server
- Verify proper operation and mapping of new graphics

**FIM 16 Web-Based Access to Energy Management System (continued)**

**Union Station**

Upgrade of existing Legacy JCI system to Metasys Extended Architecture

- Provide (1) NAE-4510 Network Automation Engine to replace the existing NC-1 Supervisory Controller
- Backup the existing NCM Database and any existing trend data and convert to extended architecture
- Load new converted database into new NAE
- Verify converted database for proper operations and modify programming as required to replicate existing control sequences and logic
- Ethernet network communications with existing County ADX Server located at the County Office Building in Utica, NY
- Replace existing M5 Operators Workstation (OWS-1) with new Personal Computer with Internet Browser Interface to existing ADX Server
- Convert Existing Graphics to New Extended Architecture Graphics and load on the existing ADX Server
- Verify proper operation and mapping of new graphics

**Law Library**

Upgrade of existing Legacy JCI system to Metasys Extended Architecture

- Provide (1) NAE-4510 Network Automation Engine to replace the existing NC-4 Supervisory Controller
- Backup the existing NCM Database and any existing trend data and convert to extended architecture
- Load new converted database into new NAE
- Verify converted database for proper operations and modify programming as required to replicate existing control sequences and logic
- Establish Ethernet network communications with existing County ADX Server located at the County Office Building in Utica, NY
- Replace existing M5 Operators Workstation (OWS-4) with new Personal Computer with Internet Browser Interface to existing ADX Server
- Convert Existing Graphics to New Extended Architecture Graphics and load on the existing ADX Server
- Verify proper operation and mapping of new graphics

**Former Federal Reserve, Bank of NY**

As part of the Direct Digital Controls (DDC) system installation, a Network Automation Engine will be installed

- Upgrade software on existing NAE to current revision of the ADX Server located at the County Office Building in Utica, NY
- Establish Ethernet network communications with existing County ADX Server located at the County Office Building in Utica, NY
- Generate graphics of existing Mechanical Systems and load on the existing ADX Server located at the Count Office Building in Utica, NY
- Verify proper operation and mapping of new graphics

**Oneida County Office Building – Rome 300**

Existing Commercial Comfort System Controls by JCI

- Install Ethernet cable from basement Ethernet switch to the Mezzanine Level. Establish Ethernet network communications on the County Wide Area Network to (4) CCS Zone Coordinators located on the Mezzanine Level.
- Verify remote connectivity to Zone Coordinators via browser interface with PCs connected to the county network



FIM 16 Web-Based Access to Energy Management System (continued)

Clarifications:

JCI Commercial Comfort Systems are designed as a stand-alone control system independent from the Metasys Extended Architecture Platform. Interoperability between the two systems is not available. The intent of this scope is to provide a means to remotely communicate with these systems via any browser enabled PC on the county network. Users with the proper credentials shall be able to navigate to these systems to monitor and/or troubleshoot using an internet browser.

Oneida County Office Building – Rome 301

Software Upgrade of existing Network Automation Engine

- Upgrade software on existing NAE to current revision of the ADX Server located at the County Office Building in Utica, NY
- Establish Ethernet network communications with existing County ADX Server located at the County Office Building in Utica, NY
- Generate graphics of existing Mechanical Systems and load on the existing ADX Server located at the Count Office Building in Utica, NY
- Verify proper operation and mapping of new graphics

JCI Institute Operator Training

- Provide on-site certified instructional training in a classroom setting for (4) County Personnel for 5 days to teach the operators how to make the most effective and efficient use of the features of their Metasys System Extended Architecture Facility Management System.
- Provide three (3) days of on-site training with building operators provided by the local branch staff in addition to certified classroom training.

ONEIDA COUNTY, NY

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

Printed Name: \_\_\_\_\_

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

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

JOHNSON CONTROLS, INC.



Signature: Wendy Buchholz

Printed Name: Wendy Buchholz

Title: Area General Manager

Date: 9-9-13

## ASSURED PERFORMANCE GUARANTEE

### I. PROJECT BENEFITS

**A. Certain Definitions.** For purposes of this Agreement, the following terms have the meanings set forth below:

**Annual Project Benefits** are the portion of the projected Total Project Benefits to be achieved in any one year of the Guarantee Term.

**Annual Project Benefits Realized** are the Project Benefits actually realized for any one year of the Guarantee Term.

**Annual Project Benefits Shortfall** is the amount by which the Annual Project Benefits exceed the Annual Project Benefits Realized in any one year of the Guarantee Term.

**Annual Project Benefits Surplus** is the amount by which the Annual Project Benefits Realized exceed the Annual Project Benefits in any one year of the Guarantee Term.

**Baseline** is the mutually agreed upon data and/or usage amounts that reflect conditions prior to the installation of the Improvement Measures as set forth in Section IV below.

**Guarantee Term** will commence on the first day of the month next following the Substantial Completion date and will continue through the duration of the M&V Services, subject to earlier termination as provided in this Agreement.

**Installation Period** is the period beginning on JCI's receipt of Customer's Notice to Proceed and ending on the commencement of the Guarantee Term.

**Measured Project Benefits** are the utility savings and cost avoidance calculated in accordance with the methodologies set forth in Section III below.

**Non-Measured Project Benefits** are identified in Section II below. The Non-Measured Project Benefits have been agreed to by Customer and will be deemed achieved in accordance with the schedule set forth in the Total Project Benefits table below. Customer and JCI agree that: (i) the Non-Measured Project Benefits may include, but are not limited to, future capital and operational costs avoided as a result of the Work and implementation of the Improvement Measures, (ii) achievement of the Non-Measured Project Benefits is outside of JCI's control, and (iii) Customer has evaluated sufficient information to conclude that the Non-Measured Project Benefits will occur and bears sole responsibility for ensuring that the Non-Measured Project Benefits will be realized. Accordingly, the Non-Measured Project Benefits shall not be measured or monitored by JCI at any time during the Guarantee Term, but rather shall be deemed achieved in accordance with the schedule set forth in the Total Project Benefits table below.

**Project Benefits** are the Measured Project Benefits plus the Non-Measured Project Benefits to be achieved for a particular period during the term of this Agreement.

**Total Project Benefits** are the projected Project Benefits to be achieved during the entire term of this Agreement.

**B. Project Benefits Summary.** Subject to the terms and conditions of this Agreement, JCI and Customer agree that Customer will be deemed to achieve a total of **\$1,107,087** in Non-Measured Project Benefits and JCI guarantees that Customer will achieve a total of **\$3,181,769** in Measured Project Benefits during the term of this Agreement, for Total Project Benefits of **\$4,288,856** as set forth in the Total Project Benefits table below.

### Total Project Benefits

Table 6

Year	Measured Energy Cost Avoidance <sup>1</sup>	Non-Measured Energy Cost Avoidance <sup>2</sup>	Operations & Maintenance Cost Avoidance	Annual Guaranteed Savings
1	\$172,332	\$52,371	\$7,591	\$232,294
2	\$177,329	\$53,890	\$7,811	\$239,030
3	\$182,472	\$55,453	\$8,038	\$245,962
4	\$187,763	\$57,061	\$8,271	\$253,095
5	\$193,208	\$58,716	\$8,510	\$260,434
6	\$198,811	\$60,418	\$8,757	\$267,987
7	\$204,576	\$62,170	\$9,011	\$275,758
8	\$210,509	\$63,973	\$9,273	\$283,755
9	\$216,613	\$65,829	\$9,541	\$291,983
10	\$222,895	\$67,737	\$9,818	\$300,450
11	\$229,359	\$69,702	\$10,103	\$309,163
12	\$236,010	\$71,723	\$10,396	\$318,129
13	\$242,854	\$73,803	\$10,697	\$327,354
14	\$249,896	\$75,943	\$11,007	\$336,847
15	\$257,143	\$78,145	\$11,327	\$346,615
<b>TOTAL</b>	<b>\$3,181,769</b>	<b>\$966,936</b>	<b>\$140,151</b>	<b>\$4,288,856</b>

<sup>1</sup>Measured Energy Cost Avoidance figures in the table above are based on anticipated increases in unit energy costs as set forth in the table in Section IV below.

<sup>2</sup>Non-Measured Energy Cost Avoidance and Operations & Maintenance Cost Avoidance are Non-Measured Project Benefits. Non-Measured Cost Avoidance figures in the table above are based on a mutually agreed fixed annual escalation rate of three percent (3%).

Within ninety (90) days of the commencement of the Guarantee Term, JCI will calculate the Measured Project Benefits achieved during the Installation Period plus any Non-Measured Project Benefits applicable to such period and advise Customer of same. Any Project Benefits achieved during the Installation Period may, at JCI's discretion, be allocated to the Annual Project Benefits for the first year of the Guarantee Term. Within ninety (90) days of each anniversary of the commencement of the Guarantee Term, JCI will calculate the Measured Project Benefits achieved for the applicable year plus any Non-Measured Project Benefits applicable to such period and advise Customer of same.

Customer acknowledges and agrees that if, for any reason, it (i) cancels or terminates receipt of M&V Services, (ii) fails to pay for M&V Services in accordance with Schedule 4, (iii) fails to fulfill any of its responsibilities necessary to enable JCI to complete the Work and provide the M&V Services, or (iv) otherwise cancels, terminates or materially breaches this Agreement, the Assured Performance Guarantee shall automatically terminate and JCI shall have no liability hereunder.

**C. Project Benefits Shortfalls or Surpluses.**

- (i) Project Benefits Shortfalls. If an Annual Project Benefits Shortfall occurs for any one year of the Guarantee Term, JCI shall, at its discretion and in any combination, (a) set off the amount of such shortfall against any unpaid balance Customer then owes to JCI, (b) where permitted by applicable law, increase the next year's amount of Annual Project Benefits by the amount of such shortfall, (c) pay to Customer the amount of such shortfall, or (d) subject to Customer's agreement, provide to Customer additional products or services, in the value of such shortfall, at no additional cost to Customer.\*
- (ii) Project Benefits Surpluses. If an Annual Project Benefits Surplus occurs for any one year of the Guarantee Term, JCI may, at its discretion and in any combination, (a) apply the amount of such surplus to set off any subsequent Annual Project Benefit Shortfall during the Guarantee Term, or (b) bill Customer for the amount of payments made pursuant to Section C(i)(c) above and/or the value of the products or services provided pursuant to clause C(i)(d) above, in an amount not to exceed the amount of such surplus.\*
- (iii) Additional Improvements. Where an Annual Project Benefits Shortfall has occurred, JCI may, subject to Customer's approval (which approval shall not be unreasonably withheld, conditioned, or delayed), implement additional Improvement Measures, at no cost to Customer, which may generate additional Project Benefits in future years of the Guarantee Term.

\*In the event JCI is providing an Assured Performance Guarantee under Schedule 2, Annual Project Benefits Shortfalls and Annual Project Benefits Surpluses under each such Schedule shall be reconciled against one another.

## II. NON-MEASURED PROJECT BENEFITS

There are two categories of Non-Measured Project Benefits:

- A. Non-Measured Energy Project Benefits
- B. Non-Measured Operations & Maintenance (O&M) Project Benefits

### A. Non-Measured Energy Project Benefits

Non-Measured energy project benefits from facility improvement measure performance can be calculated based on the results of the potential to perform and generate savings, and through engineering calculations. Customer agrees that the Non-Measured project benefit calculations are reasonable and that savings will be achieved without validation through measurement and verification service. The figures shown in tables within this section are based on JCI's reasonable calculations and measurements of available information, and applied industry standard energy calculations but should not be relied upon as exact figures.

Inspections may be conducted to check a FIM's continued potential to perform and generate savings, yet actual achieved energy or cost savings are not verified; they are predicted using engineering methods in the project development period and do not involve short/long term or continual measurements.

The Project Benefits identified in Table 7 shall be Non-Measured project benefits as defined above under this Schedule. The amount of the Non-Measured energy project benefits shall be deemed to increase during each year of the Guarantee Term by the escalation percentages set forth below.

**Table 7**

<b>Oneida County Non-Measured Benefits Summary</b>			
<b>Energy Cost Avoidance</b>			
<b>FIM Description</b>	<b>FIM Identification</b>	<b>First Year Project Benefits</b>	<b>Annual Escalation Rate</b>
Building Envelope	FIM-2	\$15,684	3%
Vending Control	FIM-4	\$2,338	3%
Domestic Booster Control	FIM-8	\$1,708	3%
Direct Digital Control (DDC)	FIM-9	\$19,375	3%
Chiller Plant Optimization	FIM-11	\$13,266	3%
<b>Non-Measured Total Energy</b>		<b>\$52,371</b>	
<b>Operations &amp; Maintenance Cost Avoidance</b>			
Lighting Material Savings	FIM-1	\$7,591	3%
<b>Total O&amp;M</b>		<b>\$7,591</b>	
<b>Total Non-Measured Energy and O&amp;M</b>		<b>\$59,962</b>	

Non-Measured Energy Savings Project Benefit Details

FIM-2 Building Envelope

Heat is lost from various door locations throughout the buildings due to infiltration. The heat losses and heat gains occur due to gaps and openings that allow the building's conditioned (heated or cooled) air to mix with the outside ambient air. This measure will weatherproof these leaks, resulting in energy savings and improved comfort in the areas and occupied spaces which are subjected to outside air infiltration. The energy cost avoidance from this measure by utility-type is listed below:

Table 8

FIM-2 Building Envelope							
Energy Savings / Cost Avoidance							
Facility	Electric*		Natural Gas*		#2 Fuel Oil*		Total \$ Savings
	Electric Savings (kWh)	Electric Rate \$/kWh	Natural Gas Savings (Therms)	Natural Gas Savings \$	Fuel Oil Savings (Gallons)	Fuel Oil Savings \$	
County Office Building Utica	638	\$0.073	6,152	\$3,641	-	-	\$3,688
Court House Utica	89	\$0.074	674	\$413	-	-	\$419
Union Station	13,429	\$0.073	1,289	\$817	-	-	\$1,798
Law Library	17	\$0.073	165	\$130	-	-	\$132
Health Clinic	14	\$0.083	122	\$93	-	-	\$94
DPW Carle Complex	30	\$0.073	3,873	\$2,615	-	-	\$2,617
Former Federal Reserve	185	\$0.071	1,355	\$901	-	-	\$914
Court House Rome	26	\$0.079	205	\$150	-	-	\$152
300 Office Bldg. Rome	35	\$0.069	205	\$146	-	-	\$148
301 Office Bldg. Rome	125	\$0.076	991	\$705	-	-	\$715
DPW Taberg	0	\$0.077	0	-	\$374	\$1,343	\$1,343
DPW Barneveld	0	\$0.074	0	-	\$600	\$2,052	\$2,052
Public Safety Complex	399	\$0.071	2,086	\$1,583	-	-	\$1,611
<b>Totals</b>	<b>14,987</b>		<b>17,118</b>	<b>\$11,194</b>			<b>\$15,684</b>

\*See Section IV Baseline Calculations & Utility Rates for applicable rates

**Non-Measured Energy Savings Project Benefit Details (continued)**

**FIM-4 Vending Control**

Cold beverage vending machines located throughout the facilities have internal fluorescent lighting that operates continuously. Electricity use by vending machines may be reduced by installing controls that sense building occupancy and reduce energy use accordingly. The interior fluorescent lights will be turned off if the occupancy sensor has not detected activity for a certain period of time. This would allow the lights to be turned off for as many as 50% of all hours for these buildings.

The energy cost avoidance from this measure is listed below:

**Table 9**

FIM-4 Vending Controls Energy Savings / Cost Avoidance			
Facility	Electric Savings (kWh)	Electric Savings* \$	Total
County Office Building Utica	2,803	\$204	\$204
Court House Utica	5,606	\$415	\$415
Union Station	4,205	\$307	\$307
Law Library	4,205	\$307	\$307
DPW Carle Complex	1,402	\$102	\$102
Former Federal Reserve	1,402	\$99	\$99
300 Office Bldg. Rome	2,803	\$193	\$193
301 Office Bldg. Rome	1,402	\$106	\$106
DPW Taberg	1,402	\$108	\$108
Public Safety Complex	7,008	\$499	\$499
<b>Totals</b>	<b>32,237</b>	<b>\$2,338</b>	<b>\$2,338</b>

\*See Section IV Baseline Calculations & Utility Rates for applicable rates

**FIM-8 Domestic Water Booster Control**

Existing domestic water pressure boosting system consists of a single 15HP centrifugal pump sized for 650GPM and 76 Foot Head serving floors B2 to 10. The pump is uncontrolled and runs continuously regardless of the current flow requirements. The Water Booster Control reduces pump run hours during unoccupied times.

The energy cost avoidance from this measure is listed below:

**Table 10**

FIM-8 Domestic Water Booster Control Energy Savings / Cost Avoidance			
Facility	Electric Savings (kWh)	Electric Savings* \$	Total
County Office Building Utica	23,514	\$1,708	\$1,708
<b>Totals</b>	<b>23,514</b>	<b>\$1,708</b>	<b>\$1,708</b>

\*See Section IV Baseline Calculations & Utility Rates for applicable rates



### Non-Measured Energy Savings Project Benefit Details (continued)

#### FIM-9 Direct Digital Controls (DDC)

1. Electric Heat Control at Union Station
2. Disable Cooling in Stairwell at Union Station
3. Recommissioning DDC system at Oneida County Office Building – Rome 301
4. Pneumatic to Direct Digital Controls (DDC) Conversion at Former Federal Reserve Building

The energy cost avoidance from this measure by utility-type is listed below:

**Table 11**

FIM-9 DDC Control					
Energy Savings / Cost Avoidance					
Facility	Electric		Natural Gas		Total \$ Savings
	Electric Savings (kWh)	Electric Savings* \$	Natural Gas Savings (Therms)	Natural Gas Savings* \$	
Union Station	107,664	\$7,868	0	\$0	\$7,868
Former Federal Reserve	91,316	\$6,455	1,996	\$1,327	\$7,781
301 Office Bldg. Rome	0	\$0	5,238	\$3,726	\$3,726
<b>Totals</b>	<b>198,980</b>	<b>\$14,323</b>	<b>7,234</b>	<b>\$5,053</b>	<b>\$19,375</b>

\*See Section IV Baseline Calculations & Utility Rates for applicable rates

#### FIM 11 Chiller Plant Optimization

Operational Improvement: Due to some past operational conditions the chillers have been operated manually, with little consideration for energy savings. A control strategy to use the most efficient chiller (i.e. the centrifugal or the screw) based on return water temperature will be employed in order to maximize the performance of the chilled water system. The chilled water system will be configured to maximize the performance of the centrifugal chiller's Variable Frequency Drive.

The energy cost avoidance from this measure by utility-type is listed below:

**Table 12**

FIM-11 Chiller Plant Optimization					
Energy Savings / Cost Avoidance					
Facility	Electric Savings (kWh)	Electric Savings* \$	Demand Savings (kW)	Demand Cost Savings* (\$)	Total
County Office Building Utica	152,619	\$11,088	187	\$2,178	\$13,266
<b>Totals</b>	<b>152,619</b>	<b>\$11,088</b>			<b>\$13,266</b>

\*See Section IV Baseline Calculations & Utility Rates for applicable rates

**Non-Measured Energy Savings Project Benefit Details (continued)****B. Non-Measured Operations & Maintenance (O&M) Project Benefits**

There are Non-Measured Operations & Maintenance (O&M) Project Benefits associated with the performance contract, they are summarized below in Table 13. The amount of the Non-Measured Project Benefits shall be deemed to increase during each year of the Guarantee Term by the escalation percentages set forth below.

The O&M Project Benefits are determined by avoided maintenance costs of the system(s) to which an improvement measure was applied; separate from the energy use of the rest of the facility.

The O&M Project Benefits and cost savings result from avoided cost when current less efficient systems with higher labor, material, parts, chemical and disposal fees are replaced with more efficient/new systems which require reduced labor, material, parts, chemical and disposal fees.

**FIM 1 – Lighting Retrofit O&M – Material Savings Project Benefits**

O&M savings for lighting are based on material costs and expected failure rate of existing fixtures versus the expected failure rate of the new ones.

**Table 13**

Oneida County Facilities	Projected Monthly Material Savings	Total Annual Savings
Law Library	\$24	\$288
Health Clinic	\$6	\$69
DPW Carle Complex	\$99	\$1,040
Former Federal Reserve	\$86	\$1,032
Court House Rome	\$21	\$246
300 Office Bldg. Rome	\$48	\$574
301 Office Bldg. Rome	\$27	\$323
DPW Taberg	\$33	\$332
DPW Barneveld	\$47	\$513
Public Safety Complex	\$265	\$3,174
<b>Total FIM Items</b>	<b>\$869</b>	<b>\$7,591</b>

*Foregoing information to determine annual savings was received from the Customer and/or from assumptions made within the calculations by Johnson Controls – this information forms the basis of the Non-Measured Project Benefits. Customer agrees that the Non-Measured Project Benefits are reasonable and that the installation of the Improvement Measures will enable Customer to take actions that will result in the achievement of such Non-Measured Project Benefits.*

### III. MEASUREMENT AND VERIFICATION METHODOLOGIES

The following is a brief overview of the Measurement and Verification (M&V) methodologies applicable to the Improvement Measures set forth below. JCI uses these methodologies as a guideline for M&V planning. These methodologies are more fully detailed in the guidelines and standards of the International Measurement and Verification Protocol (IPMVP) in connection with the provision of M&V Services hereunder.

#### Option A

##### Retrofit Isolation – Key Parameter Measurement

Measured Project Benefits are determined by field measurement of the key performance parameter which define the energy use of the improvement measure's affected systems. Measurement frequency ranges from one-time/short-term to continuous, depending on the expected variations in the measured parameter and the length of the measurement and verification period.

Parameters not selected for field measurement are estimated. Estimates can be based on historical data, manufacturers specifications, customer input/operations information or engineering judgments. Energy quantities can be derived from a computation using a combination of measurements and estimates of others.

Measured Project Benefits from the following Improvement Measures will use an Option A methodology as described above.

**Table 14**

Oneida County Measured Savings Summary		
FIM Description	FIM Identification	First Year Project Benefits
<b>Energy Cost Avoidance</b>		
Lighting Retrofit	FIM-1	\$84,897
Water Conservation	FIM-3	\$39,949
Pipe & Valve Insulation	FIM-5	\$19,902
Variable Speed Drives	FIM-7	\$6,402
Cogeneration	FIM-12	\$21,181
<b>Total</b>		<b>\$172,332</b>

The savings calculations and engineering standards used to determine energy savings during project development will be used in each performance period to calculate annual cost avoidance unless otherwise stated within the Measurement & Verification plan as outlined below for that FIM. Any assumptions used in the calculations, adjustments made to the baseline, and/or performance measurements recorded during a period, will be applied in the annual cost avoidance calculations.

**FIM 1 Lighting Retrofit****Table 15**

FIM-1 Lighting Retrofit Energy Savings / Cost Avoidance						
Facility	Electric Savings (kWh)	Electric Savings \$	Demand Savings (kW)	Demand Cost Savings (\$)	Lighting Heating Penalty (\$)	Total
Law Library	27,950	\$2,038	122	\$1,498	(\$230)	\$3,306
Health Clinic	7,087	\$591	30	\$369	(\$45)	\$914
DPW Carle Complex	143,150	\$10,425	537	\$6,547	(\$673)	\$16,299
Former Federal Reserve	95,609	\$6,758	397	\$4,621	(\$577)	\$10,802
Court House Rome	22,425	\$1,770	87	\$1,063	(\$160)	\$2,673
300 Office Bldg. Rome	46,428	\$3,189	179	\$2,091	(\$195)	\$5,085
301 Office Bldg. Rome	34,572	\$2,613	142	\$1,738	(\$211)	\$4,140
DPW Taberg	62,076	\$4,560	216	\$2,653	\$0	\$7,213
DPW Barneveld	73,373	\$4,688	170	\$2,086	\$0	\$6,775
Public Safety Complex	302,290	\$21,516	696	\$8,127	(\$1,954)	\$27,689
<b>Totals</b>	<b>814,960</b>	<b>\$58,148</b>	<b>2576</b>	<b>\$30,793</b>	<b>(\$4,045)</b>	<b>\$84,897</b>

\*See Section IV Baseline Calculations & Utility Rates for applicable rates

Increased electric efficiency: Existing lighting equipment at various locations within County buildings can be upgraded to improve lighting efficiency – essentially using less energy to produce the same amount of light output. The lighting retrofit design incorporates the latest technology of energy efficient lamps, ballasts, and light fixtures where the existing fixture condition warrants a replacement.

#### Measurement & Verification Plan – Lighting Retrofit

*Pre-Installation:* During the project development period, JCI completed an audit of the lighting equipment in each building and quantified fixture wattage power use in kilowatts (kW) through industry-standard wattage tables developed by NYSERDA (New York State Energy Research & Development Authority). These values are used as the basis by which pre-retrofit (baseline) power (kW) consumption per fixture are determined. Annual Burn Hours for usage groups (i.e. offices, hallways) were determined through source documentation and customer interviews. To verify lighting audit savings, JCI will select a representative sample set of usage group fixtures in project facilities and conduct pre-retrofit circuit wattage (kW) readings and measured values will be substituted for these fixture types in determining savings. For fixture types where measurements were not taken, JCI will use NYSERDA wattages for determining savings

*Post-Installation:* Verify that approved "Scope of Work" has been completed. Record any changes to the scope and adjust potential savings if necessary based on as-built lighting. Perform a one-time post installation circuit wattage (kW) measurement on the same spaces and fixture circuits conducted pre-retrofit, and adjust projected energy savings per the results.

*Duration of Measurement:* Onetime pre & post retrofit and annual visual inspections

*Source Data:* Equipment specifications, customer interviews, power meters, NYSERDA lighting data

**FIM-1 Lighting (continued)**

**Annual Burn Hours (ABH):**

Annual Burn Hours (ABH) is a parameter detailed in the lighting audit. In the lighting audit, the Annual Operating/Burn Hours (i.e. ABH) for each lighting fixture was determined and are listed for each facility and usage group/space type receiving an upgrade. These values were determined through discussion with facility personnel and through observation during the audit process. The values will be considered floor Annual Burn Hours, and the annual burn hours used to reconcile energy savings will not drop below these values. In the event that actual lighting burn hours are determined to be less than the floor burn hours, the floor burn hours will be used to reconcile energy savings. Johnson Controls reserves the right to measure run hours and substitute measured data for the floor burn hours indicated in the lighting audit.

**Lighting Savings Calculations**

JCI will use the unit Incremental Electrical Energy (\$/kWh) rate (IER) and Demand Rate (\$/kW) (DR), as defined in the Baseline Calculations and Utility Rates section of this document, to calculate avoided energy cost savings.

The following formulas represent the basis for calculating energy savings as described in the lighting calculations:

**Demand Savings (kW)**

$$\text{Connected kW Saving} = \sum_u [ (\text{kW/Fixture}_{\text{baseline}} \times \text{Quantity}_{\text{baseline}} - \text{kW/Fixture}_{\text{post}} \times \text{Quantity}_{\text{post}}) ]_u$$

where:

- kW/fixture<sub>baseline</sub> = lighting baseline demand per fixture type for usage group u
- kW/fixture<sub>post</sub> = lighting demand per fixture type during post-installation period for usage group
- Quantity<sub>baseline</sub> = quantity of affected fixtures before the lighting retrofit for usage group u
- Quantity<sub>post</sub> = quantity of affected fixtures after the lighting retrofit for usage group u

**Energy Savings (kWh)**

$$\text{kWh Savings}_{(\text{Lighting})} = \sum_u [ \text{Connected kW Savings}_u \times \text{Hours of Operation} ]_u - \text{Heating/Cooling factor}$$

where:

**Energy Cost Savings (\$)**

$$\text{Energy Cost Savings}_{(\text{Lighting})} = \text{kWh Savings}_{(\text{Lighting})} \times \text{IER}_n + \text{Connected kW Savings} \times \text{DR}_n$$

**FIM 3 Water Conservation**

Table 16

FIM-3 Water Conservation Energy Savings / Cost Avoidance							
Facility	Electric		Natural Gas		Water & Sewer		Total \$ Savings
	Electric Savings (kWh)	Electric Savings* \$	Natural Gas Savings (Therms)	Natural Gas Savings* \$	Water & Sewer Savings (ccf)**	Water & Sewer Savings* \$	
County Office Building Utica	74,073	\$5,382	0	\$0	1,848	\$13,371	\$18,752
Court House Utica	0	\$0	708	\$434	141	\$1,202	\$1,636
Union Station	23,407	\$1,711	0	\$0	216	\$1,854	\$3,565
Law Library	3,009	\$219	0	\$0	23	\$199	\$418
Health Clinic	0	\$0	240	\$182	57	\$498	\$680
DPW Carle Complex	7,813	\$569	0	\$0	84	\$685	\$1,254
Former Federal Reserve	0	\$0	237	\$157	129	\$1,061	\$1,219
300 Office Bldg. Rome	0	\$0	143	\$102	76	\$516	\$618
301 Office Bldg. Rome	0	\$0	60	\$43	23	\$158	\$201
Public Safety Complex	1,772	\$126	4,848	\$3,679	1,124	\$7,801	\$11,606
<b>Totals</b>	<b>110,075</b>	<b>\$8,007</b>	<b>6,237</b>	<b>\$4,598</b>	<b>3,721</b>	<b>\$27,344</b>	<b>\$39,949</b>

\* See Section IV Baseline Calculations & Utility Rates for applicable rates

\*\*One ccf water is equivalent to 748 gallons

Reduced water consumption & hot water production: Water flow restrictors and pedal valves on faucets reduce the volume of water used while washing and cooking. Water savings result in lower water utility volumetric charges as well as associated sewer cost in most applications. In warm water applications, these devices reduce water waste and the associated thermal costs.

#### Measurement & Verification Plan – Water Conservation

*Pre-Installation:* Re-check audit, savings calculations, and conduct flow readings on representative sample set of fixtures receiving flow restrictors..

*Post-Installation:* Verify that approved "Scope of Work" has been completed. Record any changes to the scope and adjust potential savings. Conduct a visual inspection of water conservation improvements and take flow readings on same sample set of fixtures receiving flow restrictors and adjust savings based on measured values of measured equipment.

*Duration of Measurement:* One pre & post retrofit and annual visual inspection on sample fixtures.

*Source Data:* Product specifications, customer information, equipment inspection, measured flow data

**FIM 5 Pipe & Valve Insulation**

**Table 17**

FIM-5 Pipe & Valve Insulation Energy Savings / Cost Avoidance							
Facility	Electric		Natural Gas		#2 Fuel Oil		Total
	Electric Savings (kWh)	Electric Savings \$	Natural Gas Savings (Therms)	Natural Gas Savings \$	Fuel Oil Savings (Gallons)	Fuel Oil Savings \$	Total Savings \$
County Office Building Utica	2,573	\$187	2,789	\$1,651	-	-	\$1,838
Court House Utica			5,702	\$3,494	-	-	\$3,494
Union Station			5,269	\$3,337	-	-	\$3,337
Law Library	72	\$5	300	\$237	-	-	\$242
Health Clinic			923	\$700	-	-	\$700
DPW Carle Complex	1,420	\$103	5,569	\$3,760	-	-	\$3,864
Former Federal Reserve			943	\$627	-	-	\$627
Court House Rome			641	\$468	-	-	\$468
301 Office Bldg. Rome			454	\$323	-	-	\$323
DPW Taberg	223	\$17	-	-	193	\$695	\$712
DPW Barneveld	223	\$17	-	-	193	\$661	\$677
Public Safety Complex			4,771	\$3,620	-	-	\$3,620
<b>Totals</b>			<b>27,361</b>	<b>18,217</b>	<b>386</b>	<b>\$1,356</b>	<b>\$19,902</b>

\*See Section IV Baseline Calculations & Utility Rates for applicable rates

Reduced thermal loss: Heating distribution systems throughout County buildings have many locations with pipes and valve fittings that are un-insulated resulting in potential heating losses. By insulating the pipes, valves and fittings, more heat is delivered to the intended spaces resulting in less boiler operation.

**Measurement & Verification Plan**

*Pre-Installation:* Re-check audit. Verify linear footages of exposed piping and quantities of uninsulated valves, bonnets, flanges, and pumps. Conduct thermal imaging in selected areas.

*Post-Installation:* Verify that approved "Scope of Work" has been completed and that the insulation is properly installed. Record any changes to the scope and adjust potential savings if necessary. Field verification and measurements of linear footages of exposed piping and quantities of newly installed insulation on valves, bonnets, flanges, and pumps. Use thermal imaging in the same areas as pre-retrofit.

*Duration of Measurement:* One time pre & post retrofit and annual spot inspections

*Source Data:* Product specifications, customer information, inspection, thermal imaging

**FIM 7 Variable Speed Drives****Table 18**

<b>FIM-7 Variable Speed Drives Energy Savings / Cost Avoidance</b>			
<b>Facility</b>	<b>Electric Savings (kWh)</b>	<b>Electric Savings* \$</b>	<b>Total</b>
County Office Building Utica	40,316	\$2,929	\$2,929
Union Station	47,526	\$3,473	\$3,473
<b>Totals</b>	<b>87,842</b>	<b>\$6,402</b>	<b>\$6,402</b>

\*See Section IV Baseline Calculations & Utility Rates for applicable rates

Reduced power consumption: VSDs are devices that regulate/modulate voltage to electric motors to control AC motor speed. In periods when maximum/rated motor power to perform the work is not required, a VFD effectively reduces the motor speed to match motor output load requirements.

**Measurement & Verification Plan – Variable Speed Drives (VSDs)**

*Pre-Installation:* Baseline energy usage was determined for constant speed motors by spot motor power (kW) measurements made using a calibrated three-phase power meter. Using typical annual meteorological data for the Rome NY area (i.e. BIN data), baseline equipment energy use is extrapolated over the full year. Verify the pre-retrofit equipment to receive VSDs, hours of operation, motor hp of the air handling units at Union Station, chilled water pumps at the County Office Building (Utica) and the hot water pumps at Union Station and the Federal Reserve Building through visual inspection and discussions with County facilities personnel.

*Post-Installation:* Verify that the scope of work has been properly implemented and that the variable frequency drive controls are fully functional. Check VSD control panel and verify pumps & motors operation at various speeds. Through the facility management system, trend total run hours and kWh for a reporting period and use values to calculate saving (see Energy Savings Calculations below).

*Duration of Measurement:* One time pre & post retrofit and annual spot inspections of VSD control panels

*Source Data:* VSD output via equipment control panel, inspection, equipment specifications

**Baseline Conditions**

Values for pump and motor annual run hours used in the savings calculations were determined through interviews with County Operations personnel (see Table 18a Baseline Run Hrs./Yr.). In calculating future savings, if Measured run hours in a reporting year are less than Baseline run hours, the Baseline run hour values will be used in-place of the Measured run hours for that motor/pump during the reporting period. On an ongoing basis, the savings strategy will be verified by trending total kWh and run hours – these values will be used to adjust the baseline kWh per the energy calculation below.



Table 18a

Facility Improvement Measure	BUILDING	QTY	HP	kW TOTAL (No VSD)*	Motor Efficiency	Baseline Run Hrs/Yr.	Baseline Annual kWh Hrs/Yr.
VSD for AHU	Union Station	1	10	9.1		8,760	79,716
VSD for CHWP P- 14 & 15	County Office Bldg. Utica	3	15	10.2	92.4%	3,283	33,487
VSD for CHWP P-13	County Office Bldg. Utica		15	10.2	92.4%	3,283	33,487

\*Pre-retrofit Measured kW

**FIM 7 Variable Speed Drives (continued)**

**Energy Savings Calculations**

$$\text{Energy kWh Savings}_{(motors/pumps)} = (\text{Measured Run Hrs} / \text{Baseline Run Hrs}) \times \text{Pre-Retrofit kWh} - \text{Post Retrofit kWh}$$

**Where:**

Measured Run Hrs = Totalized run hours from the energy management system (or VSD interface), or the baseline hours shown in the table above, whichever is higher.

Baseline Run Hrs = Pre-retrofit annual run hours per facility personnel input (see Table 17a)

Pre-Retrofit kWh = Baseline Annual kWh as shown in Table 17a

Post-Retrofit kWh = Annual totalized value from the facility management system

**Energy Cost Savings (\$)**

$$\text{Energy Cost Savings}_{(motors/pumps)} = \text{kWh Savings}_{(motors/pumps)} \times \text{IER}_n$$

**FIM 12 Cogeneration**

**Table 19**

FIM-12 Cogeneration								
Energy Savings / Cost Avoidance								
Facility	Electric				Natural Gas		O&M	Total \$ Savings
	Electric Savings (kWh)	Electric Savings*	Electric Demand Savings (kW)	Electric Demand Savings*	Natural Gas Savings (Therms)	Natural Gas Savings*	Cogen Operations & Maintenance (O&M) Cost \$**	
Public Safety Complex	545,205	\$38,805	500	\$5,840	(18,310)	(\$11,833)	(\$11,631)	\$21,181
<b>Totals</b>	<b>545,205</b>	<b>\$38,805</b>			<b>(18,310)</b>	<b>(\$11,833)</b>		<b>\$21,181</b>

\*See Section IV Baseline Calculations & Utility Rates for applicable rates

\*\*First Year Cogen O&M cost is calculated at \$1.60/hour run time, at 7,269 hrs/yr O&M is \$11,631 (O&M rate to increase up to 5%/yr.)

Energy generation/efficiency: The Public Safety cogeneration system will use one input energy source (natural gas) to simultaneously produce two different forms of useful energy (electricity & heat). The electricity will be used by the facility to offset utility electric purchases and as a by-product of electricity generation heat is produced by the system that will be used for displacing energy needed to produce hot water for domestic use and space heating.

**FIM 12 Cogeneration (continued)**

**Measurement & Verification Plan – Cogeneration**

*Pre-Installation:* During project development, baseline energy use was determined for the Public Safety Complex along with an analysis/energy use profile of current use of natural gas within the facility (i.e. cooking, clothes drying, domestic hot water, and space heating). Calculations were completed determining the amount of electric and thermal energy that could be displaced through implementation of a cogeneration system. A comprehensive review of the analysis and site characteristics were completed along with adjustments to energy savings as required. Verify the pre-retrofit equipment associated control strategies, and measurement equipment (metering) and methods (i.e. totalization/trending) to be used.

*Post-Installation:* Verify that the scope of work has been properly implemented and that the appropriate measurement equipment have been installed and performing per design. Check DDC links that Trend and totalize cogeneration system performance and check with facility operations personnel on system performance. Baseline energy information and measured performance inputs to be used to calculate annual savings.

*Duration of Measurement:* Continuous measurement/trending and annual spot inspections of system

*Source Data:* System/metering equipment output, inspection, equipment specifications

**Baseline Conditions**

Baseline energy consumption at the Public Safety Complex was calculated to be 4,591,221 kWh/year and 309,876 Therms/year for a typical year. Considering planned and unplanned cogeneration system downtime, the energy calculation assumes that the system will operate 83% of the time (or 7,269 out of 8,760 hours/year). Cogeneration system operation is the responsibility of the County and therefore

planned/unplanned system downtime is associated with the maintenance/service agreement between the County and the vendor (i.e. Aegis Energy Services, Inc.) and separate from the scope of work and M&V services of this energy performance contract (EPC) agreement between the County and Johnson Controls. In the saving calculations, Johnson Controls has/will incorporate annual maintenance costs based on 83% up time (7,269 hours/yr.) for the term of the EPC agreement to account for service agreement costs between the County and the cogen vendor (Actual hours/year will be recorded and the O&M rate/associated cost for that period applied to the calculation). Savings are assumed based on the County properly maintaining the equipment throughout the term of the agreement including scheduling of planned maintenance during non-peak hours and addressing unplanned downtime events expeditiously. Annual run hours at 7,269 is considered a reasonable operational objective and this value shall be a floor value in determining annual savings. The table below includes additional input parameters to be used to calculate annual savings.

Table 19a

Inputs	Constant	Variable	
Heating & Domestic Hot Water Equipment	75%		Efficiency
Fuel (Natural Gas) Input		948.6	MBH (1,000 Btus/Hr.)
Heat Output from Cogen		523	MBH (1,000 Btus/Hr.)
kW Output from Cogen		75 kW	Equipment Spec.
Cogen Room Ambient Temp	0° to 95°F		Temperature Range
Cogen Uptime	83%		7,269 Run time hours/year
Natural Gas Rate (Cogen Therm Delivery Price)		\$.0845	*See Section IV Baseline Calculations & Utility Rates for applicable rates
Natural Gas Rate (Non-Cogen Therm Delivery Price)		\$.1144	
Natural Gas Rate (Commodity Price All Therms)		\$.6445	
Cogen System Maintenance Cost		\$1.60	

**Functionality Testing** Johnson Controls will meter the Natural Gas Fuel input (MBH) and the subsequent Electricity (kWh) and Thermal output (MBH) from the system using the required measurement equipment. The metering equipment will be linked the energy management system and operational data trended and tracked. Upon commissioning of the cogeneration system, Johnson Controls will conduct at least 3 system functionality tests in the first year during daytime facility operations to verify performance. Selected test data (at least 3 test results) will be compiled one-time and the result used to determine savings throughout the term of the EPC agreement (see Energy Calculations below). Ongoing system energy production will be measured and cogeneration system performance will be tracked and reported by Johnson Controls (in addition to the metering performed by Johnson Controls, the system vendor is required to upload/report daily performance to the NYSERDA Combined Heat & Power website – CHP.NYSERDA.NY.gov – these performance results can be used by Johnson Controls for functionality testing described above and/or in periodic reporting)

**Energy Calculations**

To calculate energy savings, JCI will measure annual cogen run time (CRT), and conduct functionality testing as described above. The functionality testing will provide a means of calculating the annual electricity production, natural gas input, and thermal heat production for the purpose of determining annual savings.

- A) During each functionality test, JCI will measure:
  - Test Time (the time period of the test in hours)
  - Elec (the electricity production in kWh)
  - Therms (the natural gas being supplied to the engine in Therms)
  - BTU (the heat output from the engine in BTU)

**FIM 12 Cogeneration (continued)**

B) JCI will sum the values of each of the above parameters taken in each functionality test according to the following formulas:

- Time (hours)= total test time = Sum of the Test Time measured for all Functionality Tests
- Elect Prod (kWh)= Sum of the Elec measured for all Functionality Tests
- Gas Usage (Therms)= Sum of the Therms measured for all Functionality Tests
- BTU Total (BTU)= Sum of the BTU measured for all Functionality Tests

C) JCI will calculate the annual electricity production, gas input, and thermal savings according to the following formulas:

- CRT = Measured annual cogen run time or 7,269 hours (whichever is higher in hours)
- kWhSav = Elect Prod / Time x CRT
- GasInput = Gas Usage / Time x CRT
- HeatRec = Heat Recovered = BTU Total / Time x CRT / 100,000 x .99 / Htg Sys Eff

Where:

- .99 = Ratio of heat recovered to heat rejected
- Htg Sys Eff = Heating System Efficiency (75%)
- 100,000 = 100,000 BTU / therm

***Cost Savings = Electric Energy Savings + Electric Demand Savings – Net Gas Cost***

Where:

- Electric Energy Savings = kWhSav x IER<sub>n</sub> (Incremental Electric Rate see Baseline Calculations & Utility Rates section)
- Electric Demand Savings = 500 kW x DR<sub>n</sub> (Electric Demand Rate kW see Baseline Calculations & Utility Rates section)
- Net Gas Cost = (GasInput \* CNGR<sub>n</sub>) – (HeatRec \* NGR<sub>n</sub>)

Where:

- CNGR (Cogen Gas Rate) as defined in Section IV Baseline Calculations & Utility Rates of this document
- NGR (Natural Gas Rate) as defined in Section IV Baseline Calculations & Utility Rates of this document

## FIM 12 COGENERATION (CONTINUED)

**CHANGES IN USE OR CONDITION; ADJUSTMENT TO BASELINE  
AND/OR ANNUAL PROJECT BENEFITS**

Customer agrees to notify JCI, within fourteen (14) days, of (i) any actual or intended change, whether before or during the Guarantee Term, in the use of any facility, equipment, or Improvement Measure to which this Schedule applies; (ii) any proposed or actual expansions or additions to the premises or any building or facility at the premises; (iii) a change to utility services to all or any portion of the premises; or (iv) any other change or condition arising before or during the Guarantee Term that reasonably could be expected to change the amount of Project Benefits realized under this Agreement.

Such a change, expansion, addition, or condition would include, but is not limited to: (a) changes in the primary use of any facility, Improvement Measure, or portion of the premises; (b) changes to the hours of operation of any facility, Improvement Measure, or portion of the premises; (c) changes or modifications to the Improvement Measures or any related equipment; (d) changes to the M&V Services provided under this Agreement; (e) failure of any portion of the premises to meet building codes; (f) changes in utility suppliers, utility rates, method of utility billing, or method of utility purchasing; (g) insufficient or improper maintenance or unsound usage of the Improvement Measures or any related equipment at any facility or portion of the premises (other than by JCI); (h) changes to the Improvement Measures or any related equipment or to any facility or portion of the premises required by building codes or any governmental or quasi-governmental entity; or (i) additions or deletions of Improvement Measures or any related equipment at any facility or portion of the premises.

Such a change or condition need not be identified in the Baseline in order to permit JCI to make an adjustment to the Baseline and/or the Annual Project Benefits. If JCI does not receive the notice within the time period specified above or travels to either Customer's location or the project site to determine the nature and scope of such changes, Customer agrees to pay JCI, in addition to any other amounts due under this Agreement, the applicable hourly consulting rate for the time it took to determine the changes and to make any adjustments and/or corrections to the project as a result of the changes, plus all reasonable and documented out-of-pocket expenses, including travel costs. Upon receipt of such notice, or if JCI independently learns of any such change or condition, JCI shall calculate and send to Customer a notice of adjustment to the Baseline and/or Annual Project Benefits to reflect the impact of such change or condition, and the adjustment shall become effective as of the date the change or condition first arose. Should Customer fail to promptly provide JCI with notice of any such change or condition, JCI may make reasonable estimates as to the impact of such change or condition and as to the date on which such change or condition first arose in calculating the impact of such change or condition, and such estimates shall be conclusive.

**IV. BASELINE CALCULATIONS AND UTILITY RATES**

The unit utility costs for the Baseline period are set forth below as “Base Utility Cost” and shall be used for all calculations made under this Schedule. The Base Utility Cost for Electric, Natural Gas, Fuel Oil, and Water rates shall be escalated by three percent (3%) annually as indicated below. The Base Utility Cost for each type of utility represents the 12 month average utility costs from **February 2012 through March 2013** (i.e. Baseline Period).

**Electricity**

The table below lists the National Grid account numbers and rates for each site in effect during the baseline period. The incremental costs for energy (IER) and demand (DR) have been used in the calculations for electrical cost savings. These costs include the applicable Gross Revenue Tax, Fuel Adjustment and other charges included on Utility billing. Some measures may result in reduced energy use without affecting the monthly peak demand; these will calculate savings for energy (kWh) costs only. Other measures that are likely to reduce the monthly peak demand will have energy and demand (kW) savings calculated.

**Table 20**

<b>Oneida County Facility</b>	<b>Square Feet</b>	<b>Electric Delivery &amp; Commodity Supply National Grid Account # / Service Class</b>	<b>Demand kW</b>	<b>Electric Usage (kWh)</b>	<b>Incremental Electric Rate \$/kWh (IER)</b>	<b>Electric Demand Rate \$/kW (DR)</b>
County Office Building - Utica	256,243	79449-55101 / SC3	8,584	3,902,632	\$0.073	\$11.68
Oneida County Courthouse - Utica	143,208	00649 54105 / SC3	4,475	1,444,911	\$0.074	\$11.68
Union Station	80,000	01449-53104 / SC3	2,670	1,184,400	\$0.073	\$11.68
Law Library	25,000	17281-26002 / SC2D	951	360,000	\$0.073	\$12.28
Health Clinic	10,512	18649-50104 / SC2D	205	53,633	\$0.083	\$12.28
Public Safety Complex	313,842	58349-79104 / SC3	8,050	4,554,974	\$0.071	\$11.68
DPW Carle Complex	62,878	74149-78105 / SC2D	1,154	318,434	\$0.073	\$12.28
Former Federal Reserve Building	75,516	27949-79116 / SC3	2,471	672,768	\$0.071	\$11.63
Oneida County Courthouse - Rome	20,698	17563-82109 / SC2D	376	100,800	\$0.079	\$12.28
Oneida County Office – Rome 300	47,000	16176-03112 / SC3	1,117	424,000	\$0.069	\$11.65
Oneida County Office – Rome 301	24,000	44575-97110 / SC2D	1,242	481,410	\$0.076	\$12.28
DPW Taberg Maintenance Facility	17,671	76975-94109 / SC2D	421	130,183	\$0.077	\$12.28
DPW Barneveld Maintenance Facility	19,393	21849-47100 / SC2D	438	102,870	\$0.074	\$12.28

The kWh (IER) and kW (DR) costs have been averaged over the course of the one-year period. In turn, kWh (IER) and kW (DR) costs will be averaged over the course of the reporting period, as reflected on utility invoices, for equitable cost avoidance savings reporting.

**Baseline Calculations and Utility Rates (continued)**

The Incremental Electric Rate to be used in the calculation of savings for the current reporting period shall be the greater of Formulas B-1a or B-1b.

**FORMULA B-1a**

$$IER_n = \Sigma TKC_{1-12} \div \Sigma TKWH_{1-12}$$

Where:

- IER<sub>n</sub>: Incremental Electrical Rate (Dollars per kWh) for reporting year n.
- ΣTKC<sub>1-12</sub>: Sum Total of Monthly Electrical Utility Costs (Dollars) for kWh included Fuel Adjustment Cost and other related Energy Charges for Months 1 Through 12 of reporting year n.
- ΣTKWH<sub>1-12</sub>: Sum Total of Monthly Electrical Incremental Use (kWh) for Months 1 Through 12 of reporting year n.

**FORMULA B-1b**

$$IER_n = IER_{baseline} \times (1 + ER)^{(n-1)}$$

Where:

- IER<sub>n</sub>: Incremental Electric Rate (\$/kWh) for reporting year n
- IER<sub>baseline</sub>: Incremental Electric Rate for the baseline period (Table 20)
- ER: Escalation Rate, 3% annually

The Demand Rate to be used in the calculation of savings for the current reporting period shall be the greater of Formulas B-2a or B-2b.

**FORMULA B-2a**

$$DR_n = \Sigma TKC_{1-12} \div \Sigma TKW_{1-12}$$

Where:

- DR<sub>n</sub>: Demand Electric Rate (Dollars per kW)
- ΣTKC<sub>1-12</sub>: Sum Total of Monthly Electrical Utility Costs (Dollars) for kW included Fuel Adjustment Cost and other related Energy Charges for Months 1 Through 12 of reporting year n.
- ΣTKW<sub>1-12</sub>: Sum Total of Monthly Electrical Demand (kW) for Months 1 Through 12 of reporting year n.

**FORMULA B-2b**

$$DR_n = DR_{baseline} \times (1 + ER)^{(n-1)}$$

Where:

- DR<sub>n</sub>: Demand Electric Rate (\$/kW) for reporting year n
- DR<sub>baseline</sub>: Demand Electric Rate for the baseline period (Table 20)
- ER: Escalation Rate, 3% annually

Baseline Calculations and Utility Rates (continued)

Natural Gas

The table below lists the utility companies, account numbers and rates for each site in effect during the baseline period. Natural Gas Rates listed are average for the baseline period and were used in the savings calculations.

Table 21

Oneida County Facility	Square Feet	Natural Gas Delivery National Grid Account #	Natural Gas Commodity Supply Company / Account #	Natural Gas Usage (Therms)	Natural Gas Rate \$/kWh (NGR)
County Office Building - Utica	256,243	36590-36104	Colonial / PC61315	119,547	\$0.592
Oneida County Courthouse - Utica	143,208	35790-36108	National Fuel / 524393/524415	84,197	\$0.613
Union Station	80,000	27390-36109	National Fuel / 2739036109	49,005	\$0.633
Law Library	25,000	17281-26002	National Fuel / 1728126002	5,120	\$0.790
Health Clinic	10,512	18649-50104	National Fuel / 186495010	7,008	\$0.758
Public Safety Complex	313,842	49590-36101	Energetix / 10283390	256,964	\$0.759
Public Safety Complex (Cogen supply)	313,842	Note (1)		CNGR	\$0.729
DPW Carle Complex	62,878	74149-78105	National Grid / 74149-8105	25,807	\$0.675
Former Federal Reserve Building	75,516	27949-79116	National Fuel / 2794979116	37,132	\$0.665
Oneida County Courthouse - Rome	20,698	17563-82109	National Fuel / 1756382109	11,941	\$0.729
Oneida County Office - Rome 300	47,000	16176-03112	National Fuel / 1617603112	18,811	\$0.712
Oneida County Office - Rome 301	24,000	44575-97110	National Fuel / 4457597110	15,929	\$0.711

(1) National Grid will provide a gas meter for the gas supply to the cogen unit. A new utility account will be created that will have associated with it a gas delivery rate that is less than the rate applied to the remainder of the building.

The natural gas unit costs have been averaged over the course of the one-year period. In turn, unit costs will be averaged over the course of the reporting period, as reflected on utility invoices, for equitable cost avoidance savings reporting.

The Natural Gas Rate to be used in the calculation of savings for the current reporting period shall be the greater of Formulas B-3a or B-3b:

FORMULA B-3a

$$NGR_n = \frac{\sum TGC_{1-12}}{\sum TGU_{1-12}}$$

Where:

- NGR<sub>n</sub>: Natural Gas Rate (\$/therm) for reporting year n
- ∑TGC<sub>1-12</sub>: Sum Total of Monthly Gas Costs (\$) for reporting year n
- ∑TGU<sub>1-12</sub>: Sum Total of Monthly Gas Purchased (Therms) for Months 1 Through 12 of reporting year n.

FORMULA B-3b

$$NGR_n = NGR_{baseline} \times (1 + ER)^{(n-1)}$$

Where:

- NGR<sub>n</sub>: Natural Gas Rate (\$/therm) for reporting year n
- NGR<sub>baseline</sub>: Natural Gas Rate for the baseline period (Table 21)
- ER: Escalation Rate, 3% annually



## Baseline Calculations and Utility Rates (continued)

The Cogen Natural Gas Rate to be used in the calculation of savings for the current reporting period shall be the lessor of formula B-4a or B-4b:

## FORMULA B-4a

$$\text{CNGR}_n = \frac{\Sigma \text{TGC}_{1-12}}{\Sigma \text{TGU}_{1-12}}$$

Where:

- CNGR<sub>n</sub>: Cogen Natural Gas Rate (\$/therm) for reporting year n  
 ΣTGC<sub>1-12</sub>: Sum Total of Monthly Gas Costs for the Cogen Account (\$) for reporting year n  
 ΣTGU<sub>1-12</sub>: Sum Total of Monthly Gas Purchased (therm) for the Cogen Account for Months 1 Through 12 of the reporting year n.

## FORMULA B-4b

$$\text{CNGR}_n = \text{CNGR}_{\text{baseline}} \times (1 + \text{ER})^{(n-1)}$$

Where:

- CNGR<sub>n</sub>: Cogen Natural Gas Rate (\$/therm) for reporting year n  
 CNGR<sub>baseline</sub>: Cogen Natural Gas Rate for the baseline period (Table 21)  
 ER: Escalation Rate, 3% annually

Gas consumption is measured by National Grid and billed in Therms.

**Baseline Calculations and Utility Rates (continued)**

**Fuel Oil (#2)**

The table below lists the fuel oil supply companies and account numbers in effect during the baseline period. Fuel Oil Rates listed are average for the baseline period and were used in the savings calculations.

**Table 22**

Oneida County Facility	Square Feet	#2 Fuel Oil Supply Griffith Energy Account # / Service Class	Fuel Oil Usage (Gallons)	#2 Fuel Oil Rate \$/Gal. (FOR)
DPW Taberg Maintenance Facility	17,671	1184093	6,276	\$3.59
DPW Barneveld Maintenance Facility	19,393	45411	8,429	\$3.42

The fuel oil unit costs have been averaged over the course of the two-year period. In turn, unit costs will be averaged over the course of the reporting period, as reflected on utility invoices, for equitable cost avoidance savings reporting.

The Fuel Oil Rate to be used in the calculation of savings for the current reporting year shall be the greater of Formulas B-5a or B-5b:

**FORMULA B-5a**

$$FOR_n = \frac{\sum TFOC_{1-12}}{\sum TFOU_{1-12}}$$

Where:

- FOR<sub>n</sub>: Fuel Oil Rate (\$/gal) for reporting year n
- ∑TFOC<sub>1-12</sub>: Sum Total of Monthly Fuel Oil Costs (\$) for reporting year n
- ∑TFOU<sub>1-12</sub>: Sum Total of Monthly Fuel Oil Purchased (gals) for Months 1 Through 12 of the reporting year n.

**FORMULA B-5b**

$$FOR_n = FOR_{baseline} \times (1 + ER)^{(n-1)}$$

Where:

- FOR<sub>n</sub>: Fuel Oil Rate (\$/gal) for reporting year n
- FOR<sub>baseline</sub>: Fuel Oil Rate for the baseline period (Table 22)
- ER: Escalation Rate, 3% annually

The thermal content of one gallon of #2 Fuel Oil is assumed to be 139,000 Btu's in all savings calculations..

**Baseline Calculations and Utility Rates (continued)**

**Water & Sewer**

The table below lists the water supply companies and account numbers in effect during the baseline period. Water rates, as set by the utility, are based on a tiered rate schedule. Water and Sewer Rates listed below are those in effect at the end of the baseline period and only represent that portion of the bill (tier) affected by the reduced consumption. These are the rates used in the savings calculations.

**Table 23**

Oneida County Facility	Square Feet	Water & Sewer Utility Account #	Water Consumption (ccf)	Water & Sewer Rate (\$/ccf) (WSR)
County Office Building	256,243	Mohawk / 6514	7,705	\$5.41
Oneida County Courthouse - Utica	143,208	Mohawk / 6513	596	\$6.38
Union Station	80,000	Mohawk / 41098	1,106	\$6.42
Law Library	25,000	Mohawk / 40958	781	\$6.36
Health Clinic	10,512	Mohawk / 55C 4A	117	\$6.53
Public Safety Complex	313,842	Mohawk / 32440/32441	14,630	\$5.19
DPW Carle Complex	62,878	Mohawk / 32398	515	\$6.13
Former Federal Reserve Building	75,516	Mohawk / 32455	634	\$6.13
Oneida County Office - Rome 300	47,000	City of Rome	238	\$5.09
Oneida County Office - Rome 301	24,000	City of Rome	196	\$5.09

\*ccf = 100 cubic feet of water or 748 gallons / kGal = 1,000 gallons or .748 ccf

The Water and Sewer Rate to be used in the calculation of savings for the current reporting year shall be the greater of Formulas B-6a or B-6b:

**FORMULA B-6a**

$$WSR_n = IWR_n + ISR_n$$

Where:

- WSR<sub>n</sub>: Water and Sewer Rate (\$/ccf) for reporting year n
- IWR<sub>n</sub>: Water rate (\$/ccf) in effect at the end of reporting year n, and only that portion of the bill (tier) affected by the reduced consumption
- ISR<sub>n</sub>: Sewer rate (\$/ccf) in effect at the end of reporting year n.

**FORMULA B-6b**

$$WSR_n = WSR_{baseline} \times (1 + ER)^{(n-1)}$$

Where:

- WSR<sub>n</sub>: Water and Sewer Rate (\$/ccf) for reporting year n
- WSR<sub>baseline</sub>: Water and Sewer Rate for the baseline period (Table 23)
- ER: Escalation Rate, 3% annually

## V. MEASUREMENT & VERIFICATION SERVICES

JCI will provide the M&V Services set forth below in connection with the Assured Performance Guarantee for a period of three (3) calendar years after substantial completion of the project.

At the end of the third year of M&V Services additional services may be added by mutual agreement of the Customer and JCI. Customer understands and agrees that all Guarantees and Project Benefits and all other obligations either express or implied associated with this contract will be deemed achieved and delivered to the customer at the termination of this service agreement. No further monitoring or reporting will be performed or provided after the initial term except by mutual agreement of the Customer and JCI.

1. During the Installation Period, a JCI Performance Assurance Specialist will track Measured Project Benefits. JCI will report the Measured Project Benefits achieved during the Installation Period, as well as any Non-Measured Project Benefits applicable to the Installation Period, to Customer within 90 days of the commencement of the Guarantee Term.
2. Johnson Controls (JCI) will apply and pursue energy incentives/rebates relating to this project on behalf of the Customer. The Customer will supply JCI with all information and permissions to apply and receive incentives/rebates in a timely manner, and agree to accompany JCI and authorized incentive agency authorized personnel during project facility reviews/walk-throughs to verify pre & post retrofit conditions. Incentives/rebates attained through the efforts of JCI will be directly received by the company and shared with the Customer; whereby after receipt of the incentive/rebate, JCI shall present the Customer with 60% of the financial award and JCI shall retain the balance (i.e. 40%).
3. Within 90 days of each anniversary of the commencement of the Guarantee Term, JCI will provide Customer with an annual report containing:
  - A. an executive overview of the project's performance and Project Benefits achieved to date;
  - B. a summary analysis of the Measured Project Benefits accounting; and
  - C. depending on the M&V Option, a detailed analysis of the Measured Project Benefits calculations.
4. During the Guarantee Term, a JCI Performance Assurance Specialist will monitor the on-going performance of the Improvement Measures, as specified in this Agreement, to determine whether anticipated Measured Project Benefits are being achieved. In this regard, the Performance Assurance Specialist will periodically assist Customer, on-site or remotely, with respect to the following activities:
  - A. review of information furnished by Customer from the facility management system to confirm that control strategies are in place and functioning. Trend data records maintained in the ordinary course of system operation shall be used and relied upon by Johnson Controls in connection with Project Benefit calculations. Johnson Controls will use commercially reasonable efforts to ensure the integrity of the data collected to calculate the required metrics. In the event data are lost due to equipment failure, power failure or other interruption in data collection, transmission or storage, Johnson Controls will use reasonable engineering methods to estimate or replace the lost data;
  - B. advise Customer's designated personnel of any performance deficiencies based on such information;
  - C. coordinate with Customer's designated personnel to address any performance deficiencies that affect the realization of Measured Project Benefits; and
  - D. inform Customer of opportunities to further enhance project performance and of opportunities for the implementation of additional Improvement Measures.
5. For specified Improvement Measures, JCI will:
  - A. conduct pre and post installation measurements required under this Agreement;
  - B. confirm the building management system employs the control strategies and set points specified in this Agreement; and

## Schedule 2

- C. analyze actual as-built information and adjust the Baseline and/or Measured Project Benefits to conform to actual installation conditions (e.g., final lighting and water benefits calculations will be determined from the as-built information to reflect the actual mix of retrofits encountered during installation).

## CUSTOMER RESPONSIBILITIES

In order for JCI to perform its obligations under this Agreement with respect to the Work, the Assured Performance Guarantee, and the M&V Services, Customer shall be responsible for:

1. Providing JCI, its subcontractors, and its agents reasonable and safe access to all facilities and properties that are subject to the Work and/or M&V Services;
2. Providing for shut down and scheduling of affected locations during installation, including timely shutdowns of chilled water and hot water systems as needed to accomplish the Work and/or M&V Services;
3. Providing timely reviews and approvals of design submissions, proposed change orders, and other project documents;
4. Providing the following information with respect to the project and project site as soon as practicable following JCI's request:
  - a. surveys describing the property, boundaries, topography and reference points for use during construction, including existing service and utility lines;
  - b. geotechnical studies describing subsurface conditions, and other surveys describing other latent or concealed physical conditions at the project site;
  - c. temporary and permanent easements, zoning and other requirements and encumbrances affecting land use, or necessary to permit the proper design and construction of the project and enable JCI to perform the Work;
  - d. a legal description of the project site;
  - e. as-built and record drawings of any existing structures at the project site; and
  - f. environmental studies, reports and impact statement describing the environmental conditions, including hazardous conditions or materials, in existence at the project site.
5. Securing and executing all necessary agreements with adjacent land or property owners that are necessary to enable JCI to perform the Work;
6. Providing assistance to JCI in obtaining any permits, approvals, and licenses that are JCI's responsibility to obtain as set forth in Schedule 1;
7. Obtaining any permits, approvals, and licenses that are necessary for the performance of the Work and are not JCI's responsibility to obtain as set forth in Schedule 1;
8. Properly maintaining, and performing appropriate preventative maintenance on, all equipment and building systems affecting the Assured Performance Guarantee in accordance with manufacturers' standards and specifications;
9. Providing the utility bills, reports, and similar information reasonably necessary for administering JCI's obligations under the Assured Performance Guarantee within five (5) days of Customer receipt and/or generation or JCI's request therefor;
10. Providing all records relating to energy and/or water usage and related maintenance of the premises and relevant equipment requested by JCI;
11. Providing and installing utility sub-meters on all new construction and/or additions built during the Guarantee Term as recommended by JCI or, alternatively, paying JCI's applicable fees for calculating necessary adjustments to the Assured Performance Guarantee as a result of the new construction;
12. Providing and maintaining a dedicated telephone line and/or TCP/IP remote connection to facilitate remote monitoring of relevant equipment;
13. Promptly notifying JCI of any change in use or condition described in Section III of Schedule 2 or any other matter that may impact the Assured Performance Guarantee;
14. Taking all actions reasonably necessary to achieve the Non-Measured Project Benefits;

## Schedule 3

15. Ensure that any control or other improvement devices are moved to new equipment if existing equipment is replaced. This includes, but is not limited to, vending machines and ice machines.

## PRICE AND PAYMENT TERMS

Customer shall make payments to JCI pursuant to this Schedule 4.

1. Work. The price to be paid by the Customer for the Work shall be \$3,400,000 (the "Agreement Price"). Progress payments (including payment for materials delivered to JCI and work performed on and off-site) shall be made to JCI as follows:
  - i. An invoice for an Initial Payment (30% or \$1,020,000) will be submitted by JCI to Customer within five business days after Contract is fully executed and Customer project financing is in place for project development, start up, initial project mobilization and other costs incurred by JCI not previously reimbursed by Customer. This invoice shall be paid to JCI within forty five (45) business days of receipt of invoice.
  - ii. The remainder of the Agreement Price will be invoiced via monthly progress invoices using standard AIA G702/703 forms. The Customer shall make progress payments promptly within forty five (45) days of its receipt of an invoice. Payments that remain unpaid after sixty (60) days shall be subject to a monthly service charge of one and one-half percent (1 ½%) per month.
  - iii. Payments may be withheld on account of any breach of this Agreement by JCI and claims by third parties (including JCI subcontractors and material suppliers), but only to the extent that written notice has been provided to JCI and JCI has failed, within ten days of the date of receipt of such notice, to remedy such breach or provide adequate security to protect Customer from any loss, cost, or expense related to such claims.
  - iv. Final payment, constituting the entire unpaid balance for the Work, shall be made to JCI within sixty (60) days after the Substantial Completion Date. Payments may be withheld on account of any breach of this Agreement by JCI and claims by third parties (including JCI subcontractors and material suppliers), but only to the extent that written notice has been provided to JCI and JCI has failed, within ten days of the date of receipt of such notice, to provide adequate security to protect Customer from any loss, cost, or expense related to such claims.
2. M&V Services. Measurement & Verification services for the project from the construction period through Year 3 are included in the price of the agreement as detailed above in Section 1 'Work'. The County can request additional years of M&V service beyond Year 3 before the end of that report year. The price for continued M&V services will be negotiated upon request at that time.



### CERTIFICATE OF SUBSTANTIAL COMPLETION

**PARTIES:** JOHNSON CONTROLS, INC. ("JCI")  
[Insert JCI Address]

[Insert Customer Name] ("Customer")  
[Insert Customer Address]

**PROJECT:** [Insert Project Name]; Performance Contract dated \_\_\_\_\_, 20\_\_ between JCI and Customer

By executing this Certificate of Substantial Completion, Customer acknowledges the following:

- a. The work set forth in the Performance Contract is substantially complete.
- b. Customer has received the manuals, warranty information, and training required under the Performance Contract.
- c. The following punch list items must be completed by JCI (check as applicable):

- punch list attached
- punch list complete

- d. Upon completion of the punch list items, or if such punch list items are complete, JCI and Customer shall sign the Certificate of Final Completion attached hereto.

Dated \_\_\_\_\_, 20\_\_

**CUSTOMER:**

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

Printed Name: \_\_\_\_\_

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

**JOHNSON CONTROLS, INC.**

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

Printed Name: \_\_\_\_\_

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

**Attachment 2**

THIS ADDENDUM, entered into on this \_\_\_\_\_ day of \_\_\_\_\_ in the year of 2013, between the County of Oneida, hereinafter known as COUNTY, and a contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as CONTRACTOR.

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

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

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

**1. Executor or Non-Appropriation Clause.**

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

**2. Oneida County Board of Legislators: Resolution #249 Solid Waste Disposal Requirements.**

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

**3. Certification Regarding Lobbying; Debarment, Suspension and other Responsibility Matters; and Drug-Free Workplace Requirements.**

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal Grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.
  2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
  3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
1. The Contractor certifies that it and its principals:
    - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
    - b. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contracts under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
    - c. Are not presently indicated or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1(b) of this certification; and
    - d. Have not within a three-year period preceding this Contract had one or more public transactions (Federal, State, or local) for cause or default; and
  2. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. The Contractor will or will continue to provide a drug-free workplace by:

- a. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  - b. Establishing an on-going drug-free awareness program to inform employees about:
    1. The dangers of drug abuse in the workplace;
    2. The Contractor's policy of maintaining a drug-free workplace;
    3. Any available drug counseling, rehabilitation, and employee assistance program; and
    4. The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
  - c. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (a);
  - d. Notifying the employee in the statement required by paragraph (a) that as a condition of employment under the Contract, the employee will:
    1. Abide by the terms of the statement; and
    2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
  - e. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
  - f. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
    1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the Requirements of the Rehabilitation Act of 1973, as amended; or
    2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
  - g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a),(b),(c),(d),(e),(f).
2. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.  
Place of Performance (street, address, city, county, state, zip code).

- d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F. for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
  2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

#### 4. **Health Insurance Portability and Accountability Act (HIPAA).**

When applicable to the services provided pursuant to the Contract:

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

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

**5. Non-Assignment Clause.**

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

**6. Worker's Compensation Benefits.**

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

**7. Non-Discrimination Requirements.**

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

**8. Wage and Hours Provisions.**

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or

provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County approved sums due and owing for work done upon the project.

**9. Non-Collusive Bidding Certification.**

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

**10. Records.**

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

**11. Identifying Information and Privacy Notification.**

a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the



payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payees, on its invoice or claim for payment, must give the reason or reasons why the payee does not have such number or numbers.

b. Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

## **12. Conflicting Terms.**

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

## **13. Governing Law.**

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

## **14. Prohibition on Purchase of Tropical Hardwoods.**

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

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

**15. Compliance with New York State Information Security Breach and Notification Act.**

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

**16. Gratuities and Kickbacks.**

a. **Gratuities.** It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

b. **Kickbacks.** It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

**17. Audit**

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

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

**18. Certification of compliance with the Iran Divestment Act.**

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

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

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

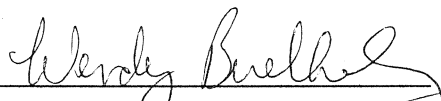
The County reserves the right to reject any bid or request for assignment for a Bidder/Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any Bidder/Contractor that is awarded a Contract and subsequently appears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

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

**County of Oneida**

**Contractor**

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

By:   
Name: Wendy Buchholz

Approved as to Form only

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



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
09/04/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Marsh USA Inc. 411 E. Wisconsin Avenue Suite 1300 Milwaukee, WI 53202 Attn: JCl.Certrequest@marsh.com 011077-CAS-PROJ-13-14 12-13	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): E-MAIL ADDRESS:		FAX (A/C, No):
	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
<b>INSURED</b> Johnson Controls, Inc. York International Corporation Attn: Corp. Risk Mgmt. X-92 P.O. Box 591 Milwaukee, WI 53201	<b>INSURER A :</b> Old Republic Insurance Co		24147
	<b>INSURER B :</b> Sentry Insurance A Mutual Co		24988
	<b>INSURER C :</b> Indemnity Insurance Company Of North America		43575
	<b>INSURER D :</b> ACE American Insurance Company		22667
	<b>INSURER E :</b> ACE Property & Casualty Insurance Company		20699
	<b>INSURER F :</b>		

**COVERAGES**                      **CERTIFICATE NUMBER:** CHI-004732753-02                      **REVISION NUMBER:** 1

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual Liability <input checked="" type="checkbox"/> XCU Included GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC			MWZY300317	10/01/2013	10/01/2014	EACH OCCURRENCE \$ 10,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 10,000,000 MED EXP (Any one person) \$ 50,000 PERSONAL & ADV INJURY \$ 10,000,000 GENERAL AGGREGATE \$ 10,000,000 PRODUCTS - COMP/OP AGG \$ INC IN GEN AGG \$
B	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			90-04606-01 90-04606-02 (MA)	10/01/2013 10/01/2013	10/01/2014 10/01/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 5,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
E	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED      RETENTION \$			XOOG27053439	10/01/2013	10/01/2014	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y <input checked="" type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	WLRC47324117 (AOS - See page 2) WLRC47324075 (CA, AZ, MA) SCFC47324191 (WI) WCUC47324233 (Excess WC - OH, WA)	10/01/2013 10/01/2013 10/01/2013 10/01/2013	10/01/2014 10/01/2014 10/01/2014 10/01/2014	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 5,000,000 E.L. DISEASE - EA EMPLOYEE \$ 5,000,000 E.L. DISEASE - POLICY LIMIT \$ 5,000,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES** (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
 Oneida County is included as additional insured per the attached.

<b>CERTIFICATE HOLDER</b> County of Oneida & Department of Public Works c/o Commissioner of Finance 800 Park Ave. Utica, NY 13501	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE of Marsh USA Inc. Manashi Mukherjee <i>Manashi Mukherjee</i>
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**ADDITIONAL REMARKS SCHEDULE**

<b>AGENCY</b> Marsh USA Inc.		<b>NAMED INSURED</b> Johnson Controls, Inc. York International Corporation Attn: Corp. Risk Mgmt. X-92 P.O. Box 591 Milwaukee, WI 53201	
<b>POLICY NUMBER</b>		<b>EFFECTIVE DATE:</b>	
<b>CARRIER</b>	<b>NAIC CODE</b>		

**ADDITIONAL REMARKS**

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,**  
**FORM NUMBER:** 25 **FORM TITLE:** Certificate of Liability Insurance

**WORKERS COMPENSATION**

Workers Compensation "AOS" Policy includes coverage for the following states: AK, AL, AR, CO, CT, DC, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MI, MN, MO, MS, MT, NC, NE, NH, NJ, NM, NV, NY, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VT, WV

**PRIMARY COVERAGE**

The General Liability and Automobile Liability policies are primary and not excess of or contributing with other insurance or self-insurance, where required by written lease or written contract. For General Liability, this applies to both ongoing and completed operations.

**WAIVER OF SUBROGATION**

The General Liability, Automobile Liability, Workers Compensation and Employers Liability policies include a waiver of subrogation in favor of the certificate holder and any other person or organization to the extent required by written contract.

**ADDITIONAL INSURED - AUTOMOBILE LIABILITY**

The Automobile Liability policy, if required by written contract, includes coverage for Additional Insureds as required by such written contract.

**ADDITIONAL INSURED - GENERAL LIABILITY**

For General Liability, if required by written contract, the following are included as additional insureds, as required pursuant to a written contract with a named insured, per attached Policy Endorsements A2 and A2A: THE CERTIFICATE HOLDER LISTED ON THIS CERTIFICATE OF LIABILITY INSURANCE, AND EACH OTHER PERSON OR ORGANIZATION REQUIRED TO BE INCLUDED AS AN ADDITIONAL INSURED PURSUANT TO A WRITTEN CONTRACT WITH THE NAMED INSURED.

**PER PROJECT GENERAL AGGREGATE - GENERAL LIABILITY**

The General Aggregate Limit that applies Per Project is the amount indicated on the face of this Certificate of Liability Insurance, or the minimum Per Project General Aggregate that is required by the written contract, whichever is less.

**POLICY AGGREGATE - GENERAL LIABILITY**

The aggregate limit on the General Liability insurance policy is \$30,000,000 combined for all General Liability coverages.

**UMBRELLA/EXCESS LIABILITY**

The Umbrella/Excess Liability Limit that applies is the amount indicated on the face of this Certificate of Liability Insurance, or the minimum Umbrella/Excess Liability limit that is required by the written contract, whichever is less. However, if the primary insurance policies noted on the face of this Certificate of Liability Insurance satisfy the combination of minimum primary limits and minimum Umbrella/Excess Liability limits required by the written contract, the Umbrella/Excess Liability limits shown on the face of this Certificate of Liability Insurance do not apply.

**IL 10 (12/06) OLD REPUBLIC INSURANCE COMPANY**

**ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS - ENDORSEMENT A2A**

Named Insured Johnson Controls, Inc.			Endorsement Number
Policy Prefix MWZY	Policy Number 300317	Policy Period 10/01/2013 to 10/01/2014	Effective Date of Endorsement
Issued By Old Republic Insurance Company			

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

**Name Of Additional Insured Person(s) Or Organization(s):**

If required by contract, the person or organization listed on the certificate of insurance as additional insured, and each other person or organization required to be included as an additional insured pursuant to a contract with a named insured.

**Location And Description Of Completed Operations:**

As required by contract.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**Section II - Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused solely by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

# Griffiss International Airport



592 Hangar Road, Suite 200  
Rome, NY 13441

Telephone: 315-736-4171 / Fax: 315-736-0568

ANTHONY J. PICENTE, JR.  
County Executive

CHAD LAWRENCE  
Deputy Commissioner  
of Aviation

September 23, 2013

FN 20 13-350  
AIRPORT

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

WAYS & MEANS



Re: Consultant Agreement Phase II Taxiway Rehabilitation

Dear County Executive Picente,

Please consider acceptance of a consultant agreement with C&S Engineers in the amount of \$412,000.00. This contract will provide necessary Construction Observation and Administration of the Phase II Taxiway Project.

This project will include two sections of Taxiway "A"; a portion of Taxiway "E"; and Taxiway "J" at 75 feet wide for a total area of approximately 55,000 square yards.

C&S will also provide State Environmental Quality Review (SEQR) and National Environmental Protection Agency (NEPA) review.

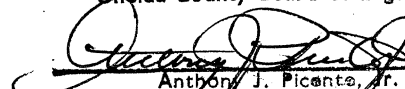
This project is a Federal Aviation Administration funded project. It will be funded as follows 90% Federal Aviation Administration, 5% New York State and 5% Oneida County

If you concur, please forward for Board of Legislators for consideration.

Thank you for your assistance in this matter.

  
Chad Lawrence  
Deputy Commissioner of Aviation

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

  
Anthony J. Picente, Jr.  
County Executive

Date 10/7/13

Oneida County Department: Aviation

Competing Proposal   x    
Only Respondent \_\_\_\_\_  
Sole Source RFP \_\_\_\_\_

## Oneida County - Contract Summary

**Name of Proposing Organization:** C&S Engineers

**Title of Activity or  
Service: Construction Observation  
and Administration Services**

**Client Population/No. to be Served:** N/A

**Summary Statements:**

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

C&S will provide Construction over-site of the Phase II Taxiway rehabilitation project

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

Reconstruct parts of Taxiway "A", Taxiway "E", and Taxiway "J"

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

**Total Funding Requested:** \$412,000

**Oneida County Department Funding  
Recommendation:**

**Account #** H-489

<b>Proposed Funding Source:</b>	<b>Federal</b> \$ 370,800	<b>State</b> \$20,600	<b>County</b> \$20,600
	_____	_____	_____

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

**Past Performance Data:**

**Oneida County Department Staff Comments:**



**CONSULTANT AGREEMENT**

**FOR**

**CONSTRUCTION OBSERVATION & ADMINISTRATION**

**OF THE**

**TAXIWAY REHABILITATION  
PHASE II PROJECT**

**AT**

**GRIFFISS INTERNATIONAL AIRPORT**

**ROME, NEW YORK**

**FAA AIP NO. 3-36-0119-32-13**

**NYSDOT NO. 2905.33**

**ONEIDA COUNTY CONTRACT NO.: H 489**

**C&S PROJECT NO.: 146.107.003**

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# COST PLUS FIXED FEE CONSULTANT AGREEMENT

## FOR

### CONSTRUCTION OBSERVATION & ADMINISTRATION

**PROJECT: Taxiway Rehabilitation – Phase II (Base Bid)  
Griffiss International Airport**

This Agreement, made effective this \_\_\_\_\_ day of September, 2013, is by and between the County of Oneida, a New York municipal corporation, having an address at 800 Park Avenue, Utica, New York 13501 (hereinafter referred to as the “SPONSOR”), and C&S Engineers, Inc., a New York business corporation having its principal offices at 499 Col. Eileen Collins Boulevard, Syracuse, New York 13212 (hereinafter referred to as the “CONSULTANT”).

**WITNESSETH:** That the SPONSOR and the CONSULTANT, for and in consideration of the mutual obligations set forth herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, agree as follows:

#### ARTICLE 1—DESCRIPTION OF SERVICES TO BE PERFORMED

The SPONSOR hereby retains the CONSULTANT because of its ability and reputation, and the CONSULTANT accepts such retention, to perform for the SPONSOR the services of the Project more particularly described in Schedule(s) “A”, attached hereto and made a part hereof (the “Basic Services”). The SPONSOR’s resolution or other authorization for retaining the CONSULTANT is attached hereto and made a part hereof as Schedule “E”. The SPONSOR has completed or will complete a “Certification for Selection of Consultant” in connection with the execution of this Agreement, a copy of which is attached hereto and made a part hereof as Schedule “D”.

#### ARTICLE 2—PROVISION FOR PAYMENT – TIME FOR PERFORMANCE

**A. Basis for Payment**—The SPONSOR shall pay the CONSULTANT, and the CONSULTANT shall accept, as full compensation for the performance by the CONSULTANT of the Basic Services under this Agreement, the following:

**Item I:** Direct Technical Salaries of all employees assigned to the Project on a full-time basis for all or part of the term of this Agreement, plus properly allocable partial salaries of all employees working part-time on the Project, all subject to audit. Overtime in accordance with the terms of this Agreement shall be charged under this Item.

The cost of Principals’ salaries (or allowable portion thereof) included in Direct Technical Salaries during the period that they are working specifically on the Project (productive time) are eligible if their comparable time is also charged directly to other projects in the same manner. Otherwise, Principals’ salaries are only eligible as an overhead cost.

**Item II**—Actual Direct Nonsalary Costs incurred during the term of this Agreement, as defined in

Schedule(s) "B", attached hereto and made a part hereof, all subject to audit.

**Item III—Overhead Allowance** based on agreed upon overhead during the term of this Agreement, as set forth in Schedule "C", which is attached hereto and made a part hereof.

**Item IV—Fixed Fee**—A negotiated lump sum fee, which in this Agreement shall equal \$47,204.87 (Base bid). This Fixed Fee is not subject to audit, and is not subject to review or modification unless the SPONSOR determines that such review or modification is justifiable and advisable.

A summary of the monies due the CONSULTANT under Items I, II, III, and IV is set forth in Schedule(s) "B".

**Item V**—In the event of any claims being made or actions being brought against the Project, the CONSULTANT agrees to render assistance to the SPONSOR in responding to the claim or action. Such assistance, and the costs associated therewith, shall be an Additional Service as described in Article 11 hereof.

**B. Partial Payments**—The CONSULTANT shall be paid in monthly progress payments based on actual allowable costs incurred during the month in accordance with Section "A" of this Article. Monthly invoices shall clearly identify the costs of the services performed. A percentage of the Fixed Fee described in Section "A", Item IV, of this Article shall be paid with each monthly progress payment. The percentage to be used in calculating the monthly payment under Section "A", Item IV, shall equal the ratio of the costs expended during the billing period to the maximum amount payable (exclusive of Fixed Fee) allocated to fulfill the terms of this Agreement as established herein.

Accounts of the CONSULTANT shall clearly identify the costs of the services performed under this Agreement and may be subject to periodic and final audit by the SPONSOR, the New York State Department of Transportation (NYSDOT), and the Federal Aviation Administration (FAA). Such an audit shall not be a condition for making partial payments.

**C. Final Payment**—Payment of the final invoice shall be made upon completion and acceptance of the Project by the SPONSOR, the NYSDOT, and the FAA.

The maximum amount payable under this Agreement, including the CONSULTANT's Fixed Fee, shall be \$412,000.00 (base bid) unless there is a substantial change in the scope, complexity, character, or duration\* of the Basic Services.

\*Duration is applicable to construction observation only.

Execution of this Agreement by the SPONSOR and the CONSULTANT constitutes the SPONSOR's written authorization to the CONSULTANT to proceed as of the above-written date with the performance of Basic Services as set forth in Schedule(s) "A". The estimated time for completion of the Basic Services under this Agreement, subject to the provisions of the following paragraph and of Articles 12, 13, and 23 hereof, shall be as recorded in Schedule(s) "A".

If the SPONSOR fails to make any payment due the CONSULTANT for services and expenses within forty-five (45) days after receipt of the CONSULTANT's invoice therefor, then the amounts due the CONSULTANT shall be increased at the rate of 1.5% per month from said forty-fifth (45<sup>th</sup>) day. Payments will be credited first to principal and then to interest. Additionally, the CONSULTANT may, after giving seven (7) days' notice to the SPONSOR, suspend services under this Agreement until the invoice is paid. Upon payment in full by the SPONSOR, the CONSULTANT shall resume performance or furnishing of services under this Agreement, and the time schedule set forth in Schedule(s) "A" and compensation set forth in Schedule(s) "B" hereto shall be equitably adjusted to compensate for the period of suspension.

### **ARTICLE 3—STANDARD OF CARE, STANDARD PRACTICES, AND REQUIREMENTS**

The standard of care for all engineering and related services performed or furnished by the CONSULTANT under this Agreement shall be the care and skill ordinarily used by members of the CONSULTANT's profession practicing under similar conditions at the same time and in the same locality. Before beginning to perform or furnish any service hereunder, the CONSULTANT shall ascertain the standard practices of the SPONSOR, the NYSDOT, and the FAA, if any, for projects of a type similar to this Project. Where the CONSULTANT deems it practicable to do so, the services to be provided or furnished under this Agreement shall be performed in accordance with these standard practices as long as they are consistent with the standard of care. If any of these standard practices are inconsistent with the CONSULTANT's standard of care or are in conflict with one another, or if strict adherence to the same is impossible or undesirable, then the CONSULTANT's services may vary or deviate from such standards.

### **ARTICLE 4—ENTIRE AGREEMENT**

This Agreement, with its accompanying Schedule or Schedules, constitutes the entire agreement between the SPONSOR and the CONSULTANT with respect to its subject matter, and supersedes any prior agreement, whether written or verbal, with respect to that subject matter. This Agreement may be amended or modified only by written instrument signed by the SPONSOR and the CONSULTANT.

### **ARTICLE 5—TAXES, ROYALTIES, AND EXPENSES**

The CONSULTANT shall pay all taxes, royalties, and expenses incurred by the CONSULTANT in connection with performing its services under this Agreement, unless otherwise provided in Article 2.

## **ARTICLE 6—CONSULTANT LIABILITY**

To the fullest extent permitted by law, the CONSULTANT shall indemnify the SPONSOR against, and hold it harmless from, any suit, action, actual damage, and cost resulting solely from the negligent performance of services or omission of the CONSULTANT under this Agreement, up to the limits of any available insurance. Negligent performance of services, within the meaning of this Article, shall include, in addition to negligence founded upon tort, negligence based upon the CONSULTANT's failure to meet professional standards and resulting in obvious or patent errors in the services performed hereunder.

Nothing in this Article or in this Agreement shall create or give to third parties any claim or right of action against the CONSULTANT or the SPONSOR beyond such as may legally exist irrespective of this Article or this Agreement.

Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the SPONSOR nor the CONSULTANT, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the SPONSOR and the CONSULTANT shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

The provisions of this Article 6 shall survive termination or expiration of this Agreement.

## **ARTICLE 7—LABOR LAW REQUIREMENTS**

The CONSULTANT, and any subconsultant or subcontractor retained by it in connection with the performance or furnishing of services under this Agreement, shall comply with the requirements of state or federal statutes, regulations, or orders applicable to the employment of employees, as set forth in Schedules "H" and "I", which are attached hereto and made a part hereof.

The SPONSOR recognizes that the CONSULTANT will be required by the New York State Department of Labor (the "NYSDOL") to compensate its personnel performing field survey work in accordance with applicable state wage rates in effect at the same time services are performed. The SPONSOR understands that the CONSULTANT has no control over these labor rates and their periodic increases. Therefore, the SPONSOR agrees to compensate the CONSULTANT for field survey services included as a part of this Agreement in accordance with the NYSDOL Prevailing Rate Schedule, which is incorporated by reference into this Agreement. Furthermore, the SPONSOR shall compensate the CONSULTANT for all increases in labor costs, including applicable overhead and profit, when those increases occur by direction of the NYSDOL. Billings for, and payments by the SPONSOR of, these increases will take place routinely in accordance with the appropriate terms of this Agreement and these increases will be paid as an additional cost over and above the agreed amount.

## **ARTICLE 8—NONDISCRIMINATION PROVISIONS**

During the performance of its services under this Agreement, the CONSULTANT, and any subconsultant, subcontractor, or vendor retained by it, shall comply with the nondiscrimination requirements set forth in Schedules "H" and "I" hereto, as applicable to this Project.

The CONSULTANT will include the provisions of Schedules "H" and "I" in every subconsultant agreement,

subcontract, or purchase order in such a manner that such provisions will be binding upon each subconsultant, subcontractor, or vendor as to operations to be performed within the State of New York. The CONSULTANT will take such action in enforcing such provisions of such subconsultant agreement, subcontract, or purchase order as the SPONSOR may direct, including sanctions or remedies for non-compliance. If the CONSULTANT becomes involved in or is threatened with litigation by a subconsultant, subcontractor, or vendor as a result of such direction by the SPONSOR, the CONSULTANT shall promptly so notify the SPONSOR's legal counsel, requesting such counsel to intervene and protect the interests of the SPONSOR.

## **ARTICLE 9—WORKER'S COMPENSATION AND LIABILITY INSURANCE**

The CONSULTANT agrees to procure and maintain at its own expense, and without direct expense to the SPONSOR, until final acceptance by the SPONSOR of the services covered by this Agreement, insurance of the kinds and in the amounts hereafter provided, written by insurance companies authorized to do business in the State of New York. Before commencing the performance of services hereunder, the CONSULTANT shall furnish the SPONSOR a certificate or certificates, in form satisfactory to the SPONSOR, showing that it has complied with this Article. All policies shall provide for a 30-day notice of policy cancellation to the SPONSOR (except 10 days' notice should be provided for cancellation due to non-payment of premiums).

The kinds and amounts of insurance required are as follows:

- A. Policy or policies covering the obligations of the CONSULTANT in accordance with the provisions of any applicable worker's compensation or disability benefits law, including for the State of New York Chapter 41, Laws of 1914, as amended, known as the Workers' Compensation Law, and amendments thereto, and Chapter 600 of the Laws of 1949, as amended, known as the Disability Benefits Law, and this Agreement shall be void and of no effect unless the CONSULTANT procures such policy or policies and maintains the same in force during the term of this Agreement.
- B. Policy or policies of commercial general liability insurance, with broad form endorsement covering, among other things, the CONSULTANT's obligation under Article 6 hereof, with limits of liability of not less than One Million Dollars (\$1,000,000) for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by one (1) person in any one (1) accident; and, subject to that limit for each person; not less than Three Million Dollars (\$3,000,000) for all damages arising out of bodily injury, including death at any time resulting therefrom, sustained by two (2) or more persons in any one (1) accident; and not less than One Million Dollars (\$1,000,000) for all damages arising out of injury to or destruction of property in any one (1) accident, and, subject to that limit per accident, not less than Three Million Dollars (\$3,000,000) for all damages arising out of injury to or destruction of property during the policy period.
  1. Liability insurance issued to and covering the liability of the CONSULTANT's subconsultants and subcontractors, having the same policy limits as those set forth above, with respect to all services or work performed by said subconsultants or subcontractors under this Agreement.
  2. Protective liability insurance issued to and covering the liability of the CONSULTANT with respect to all services under this Agreement performed for the CONSULTANT by subconsultants or subcontractors.
  3. Professional liability insurance issued to and covering the liability of the CONSULTANT with respect to all professional services performed by it under this Agreement.

The SPONSOR, the NYSDOT, and the FAA shall be additional insureds, as their interests may appear, under the insurance coverages described in Paragraph B above, except for the coverage described in Subparagraph (3), which coverages shall be subject to all of the terms, exclusions, and conditions of the applicable policy.

**ARTICLE 10—ASSIGNMENT REQUIREMENTS**

The CONSULTANT specifically agrees that:

- A. It is prohibited from assigning, transferring, conveying, subletting, or otherwise disposing of this Agreement or of its right, title, or interest herein, or its power to execute this Agreement, to any other person, company, or corporation without the previous consent in writing of the SPONSOR, the Commissioner of the NYSDOT, and the FAA.
- B. If this provision of the Agreement is violated, the SPONSOR may terminate this Agreement for cause in accordance with the provisions of Article 12. Furthermore, the SPONSOR shall be relieved from any liability and obligation hereunder to the person, company, or corporation to whom the CONSULTANT shall assign, transfer, convey, sublet, or otherwise dispose of this Agreement in violation of the foregoing paragraph (A), and such transferee shall forfeit and lose all monies assigned to it under this Agreement, except so much as may be required to pay its employees.

**ARTICLE 11—ADDITIONAL SERVICES**

If authorized in writing by the SPONSOR through a Supplemental Agreement, the CONSULTANT shall furnish or obtain from others any service that is beyond the scope of Schedule(s) "A" ("Additional Services"). The scope and time for performance, and payment from the SPONSOR to the CONSULTANT for, any Additional Services (which shall be on the basis set forth in Schedule(s) "B") shall be set forth in such Supplemental Agreement.

**ARTICLE 12—ABANDONMENT OR AMENDMENT OF PROJECT AND TERMINATION**

- A. **ABANDONMENT OR AMENDMENT OF THE PROJECT**—The SPONSOR shall have the absolute right to abandon or to amend its Project or to change the general basis of performance at any time, and such action on its part shall in no event be deemed a breach of this Agreement. If the SPONSOR amends its Project or changes the general basis thereof, and the CONSULTANT is of the opinion that Additional Services are made necessary thereby, then the provisions of Article 11 of this Agreement with respect to Additional Services shall apply. If the SPONSOR abandons the Project, then the provisions of paragraph B(1)(b) below shall govern payment to the CONSULTANT.
- B. **TERMINATION**

The obligation to provide further services under this Agreement may be terminated:

1. **For Cause:**



- a. By either party upon thirty (30) days' prior written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. Notwithstanding the foregoing, this Agreement will not terminate as the result of such substantial failure if the party receiving notice begins, within seven (7) days after receipt of such notice, to correct its failure to perform and proceeds diligently to cure such failure within thirty (30) days of such receipt; provided that, if and to the extent that such substantial failure cannot reasonably be cured within such thirty (30)-day period, and if the party has diligently attempted to cure the failure and thereafter continues diligently to cure the problem, then the cure period may, in the discretion of the terminating party, be extended to sixty (60) days after the receipt of notice.
  - b. By the CONSULTANT upon seven (7) days' written notice if (a) the CONSULTANT believes that it is being requested by the SPONSOR to perform or furnish services contrary to or in conflict with the CONSULTANT's responsibilities as a licensed design professional or the standard of care set forth in Article 3 hereof; or (b) the CONSULTANT's services are delayed or suspended for more than ninety (90) days, consecutively or in the aggregate, for reasons beyond the CONSULTANT's control; or (c) the SPONSOR has abandoned, or is considered to have abandoned, the Project.
2. **For convenience** by the SPONSOR, effective upon the receipt of notice by the CONSULTANT.

C. PAYMENTS UPON TERMINATION

1. **For Cause:**

- a. By the SPONSOR: If the SPONSOR terminates this Agreement for cause upon completion of any phase of Basic Services, then progress payments due the CONSULTANT in accordance with this Agreement for all such services performed by or furnished through the CONSULTANT and its subconsultants, subcontractors, and vendors through the completion of such phase shall constitute total payment for such services. If the SPONSOR terminates this Agreement for cause during any phase of Basic Services, the CONSULTANT will also be paid for such services performed or furnished in accordance with this Agreement by the CONSULTANT during that phase through the date of termination on the basis specified in Schedule(s) "B". The CONSULTANT will also be paid for the charges of its subconsultants, subcontractors, or vendors who performed or furnished Basic Services to the extent that such services have been performed or furnished in accordance with this Agreement through the effective date of the termination. The SPONSOR shall also pay the CONSULTANT for all unpaid Additional Services and unpaid Reimbursable Expenses.
- b. By the CONSULTANT: If the CONSULTANT terminates this Agreement for cause upon completion of any phase of Basic Services, then progress payments due the CONSULTANT in accordance with this Agreement for all such services performed or furnished by the CONSULTANT and its subconsultants, subcontractors, or vendors through the completion of such phase shall constitute total payment for such services. The CONSULTANT shall also be paid for all unpaid Additional Services and unpaid Reimbursable Expenses, as well as for the CONSULTANT's reasonable expenses directly attributable to termination in accordance with the rates for Additional Services set forth in Schedule(s) "B" hereto measured from the date of termination, including fair and reasonable sums for overhead and profit and the costs of terminating the CONSULTANT's contracts with its subconsultants, subcontractors, or vendors.

2. **For convenience**

If the SPONSOR terminates this Agreement for convenience upon completion of any phase of Basic Services, then progress payments due the CONSULTANT in accordance with this Agreement for all such services performed by or furnished through the CONSULTANT through the completion of such phase shall constitute total payment for such services. If the SPONSOR terminates this Agreement for convenience during any phase of Basic Services, the CONSULTANT will also be paid for such

services performed or furnished in accordance with this Agreement by the CONSULTANT during that phase through the date of termination on the basis specified in Schedule(s) "B". Additionally, the CONSULTANT will be paid for the charges of its subconsultants, subcontractors, or vendors who performed or furnished Basic Services through the effective date of termination. The SPONSOR shall also pay the CONSULTANT for all unpaid Additional Services and unpaid Reimbursable Expenses, as well as for the CONSULTANT's reasonable expenses directly attributable to termination in accordance with the rates for Additional Services set forth in Schedule(s) "B" measured from the date of termination, including fair and reasonable sums for overhead and profit and the costs of terminating the CONSULTANT's contracts with its subconsultants, subcontractors, or vendors.

#### **ARTICLE 13—SUSPENSION OF SERVICES**

If the CONSULTANT's services hereunder are delayed or suspended, in whole or in part, by the SPONSOR for more than thirty (30) calendar days, consecutively or in the aggregate, through no fault of the CONSULTANT, then the CONSULTANT shall be entitled to equitable adjustments of rates and amounts of compensation to reflect, among other things, reasonable costs incurred by the CONSULTANT in connection with the delay or suspension and reactivation and the fact that the time for performance of the CONSULTANT's services hereunder has been revised. If the delay or suspension persists for more than ninety (90) days, consecutively or in the aggregate, then the CONSULTANT may consider the Project to have been abandoned by the SPONSOR and may terminate this Agreement for cause.

Upon the SPONSOR's resumption of its Project, and if the CONSULTANT has not terminated this Agreement for cause, the CONSULTANT shall resume its services under this Agreement until the services are completed and accepted, subject to any adjustment in the rates set forth in Schedule(s) "B" because of the passage of time.

#### **ARTICLE 14—INTERCHANGE OF DATA**

During the performance of this Agreement, all technical data in regard to the Project whether (a) existing in the office of the SPONSOR or (b) existing in the office of the CONSULTANT, shall be made available to the other party to this Agreement without expense to such other party.

#### **ARTICLE 15—DISPOSITION OF PROJECT DOCUMENTS**

At the time of completion of its services and upon payment in full therefor, the CONSULTANT shall make available to the SPONSOR copies of documents prepared as the result of this Agreement. These documents shall then become the property of the SPONSOR and the maintenance of the data therein shall be the sole responsibility of the SPONSOR. Any reuse of the documents by the SPONSOR or others on extensions of the Project, or on any other project, without written verification or adaptation by the CONSULTANT and its subconsultants, subcontractors, or vendors, as appropriate, for the specific purpose intended will be at the SPONSOR's or other user's sole risk and expense and without liability or legal exposure to the CONSULTANT or its subconsultants, subcontractors, or vendors. The SPONSOR shall indemnify the CONSULTANT, its subconsultants, subcontractors, and vendors against, and hold them harmless from, all claims, damages, losses, and expenses (including reasonable expert and attorneys' fees) arising out of or resulting from such reuse.

In the event that this Agreement is terminated for any reason, then within ten (10) days after such termination, the CONSULTANT shall make available to the SPONSOR all data and material prepared under this Agreement, including cover sheets, in accordance with and subject to the terms of the above paragraphs.

## **ARTICLE 16—CODE OF ETHICS**

The CONSULTANT specifically agrees that this Agreement may be canceled or terminated if any service under this Agreement is in conflict with the provisions of Section 74 of the New York State Public Officers' Law, as amended, and Schedule "G", which is attached hereto and made a part hereof.

## **ARTICLE 17—INDEPENDENT CONTRACTOR**

The CONSULTANT, in accordance with its status as an independent contractor, shall conduct itself consistent with such status; shall neither hold itself out as nor claim to be an officer or employee of the SPONSOR by reason hereof; and shall not, by reason hereof, make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the SPONSOR, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

## **ARTICLE 18—PATENT RIGHTS AND COPYRIGHTS**

Any patentable result arising out of this Agreement, as well as all information, designs, specifications, know-how, data, and findings, shall be made available without cost to the State of New York or its licensees and the FAA for public use. No material prepared in connection with this Project shall be subject to copyright. The State and the FAA shall have the right to publish, distribute, disclose, or otherwise use any material prepared under this Project, subject to the provisions of Article 15 hereof.

## **ARTICLE 19—NEW YORK STATE PARTICIPATION**

The services to be performed in this Agreement are included in a NYSDOT Project, which is being undertaken and accomplished by the SPONSOR and the State of New York and pursuant to which the State of New York has agreed to pay a certain percentage of the allowable Project costs. The State of New York is not a party to this Agreement and no reference in this Agreement to the Commissioner of Transportation or any representative thereof, or to any rights granted to the Commissioner of Transportation or any representative thereof or the State of New York by the Agreement, makes the State of New York a party to this Agreement.

The CONSULTANT and the SPONSOR agree that properly authorized officials of the State of New York may from time to time inspect all Project documents for the purpose of insuring compliance with New York State laws and protecting the interests of the State of New York.

## **ARTICLE 20—FEDERAL PARTICIPATION**

The FAA is not a party to this Agreement, although the Project work program covered by this Agreement may be financially aided in part by a Grant Agreement between the SPONSOR and the FAA. The SPONSOR and the CONSULTANT hereby agree to comply fully with the conditions set forth in detail in the Grant Agreement as though they were set forth in detail in this Agreement, including the requirements set forth in Schedules "D", "F", "G", and "H" hereto. The CONSULTANT further agrees that, by reason of complying with the conditions of the Grant Agreement, no obligation is entailed on the part of the FAA to the CONSULTANT.

The CONSULTANT and the SPONSOR agree that properly authorized officials of the FAA may from time to time inspect all Project documents for the purpose of insuring compliance with Federal laws and protecting the

interests of the FAA.

#### **ARTICLE 21—MISCELLANEOUS**

- A. The CONSULTANT shall require all persons employed to perform services hereunder, including its subconsultants or subcontractors, vendors, agents, officers, and employees, to comply with applicable laws in the jurisdiction in which the Project is located.
- B. If any provision of this Agreement is held to be invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.
- C. By execution of this Agreement, the CONSULTANT represents that it has not paid, and also agrees not to pay, any bonus or commission for the purpose of obtaining any approval of this Agreement.
- D. Any notice required under this Agreement shall be in writing, addressed to the appropriate party at the address set forth above, and shall be given personally; by registered or certified first-class mail, postage prepaid and return receipt requested; by facsimile transmission, with confirmation of receipt; or by a nationally-recognized overnight courier service, with proof of receipt. Notice shall be effective upon the date of receipt. For purposes of this Agreement, failure or refusal to accept receipt shall constitute receipt nonetheless. Either party may change its address for notice by giving notice to the other in accordance with the terms of this paragraph.
- E. This Agreement, and the interpretation and enforcement of the provisions hereof, is governed by the laws of the State of New York.

#### **ARTICLE 22— SUBCONSULTANTS/SUBCONTRACTORS AND VENDORS**

All subconsultants and subcontractors performing services for or work on this Project shall be bound by the same required provisions of this Agreement as is the CONSULTANT. As set forth above, all agreements between the CONSULTANT and a subconsultant, subcontractor, or vendor shall include all standard required contract provisions, and such agreements shall be subject to review by the NYSDOT and the FAA.

#### **ARTICLE 23 — FORCE MAJEURE**

Any delay in or failure of performance of any party to this Agreement shall not constitute a default under this Agreement nor give rise to any claim for damage, if and to the extent such delay or failure is caused by occurrences or events beyond the control of the party affected, including, but not limited to, acts of God; expropriation or confiscation of facilities or compliance with any order or request of government authority, affecting to a degree not presently existing, the supply, availability, or use of personnel or equipment; loss of utility services; blizzard; flood; fire; labor unrest; strikes; war; riot; or any cause the party is unable to prevent with reasonable diligence. A party who is prevented from performing for any reason shall immediately notify the other in writing of the reason for the nonperformance and the anticipated extent of any delay. Additionally, if the delay resulting from any of the foregoing increases the cost of or time required by the CONSULTANT to perform its services hereunder in an orderly and efficient manner, then the CONSULTANT shall be entitled to an equitable adjustment in schedule and/or compensation.

**ARTICLE 24 — DISPUTE RESOLUTION**

- A. The SPONSOR and the CONSULTANT agree to negotiate in good faith for a period of thirty (30) days from the date of notice of disputes between them prior to exercising their right under paragraph (B) below. The thirty-day period may be extended upon mutual agreement of the parties.
- B. If any dispute cannot be resolved pursuant to paragraph (A) above, and only if mutually agreed by the SPONSOR and the CONSULTANT, said dispute and all unsettled claims, counterclaims, and other matters in question between them arising out of or relating to this Agreement or the breach of any provision hereof (“disputes”) shall be submitted to mediation by a mediator, to be selected by the parties jointly, prior to a party initiating a legal action against the other, unless initiating mediation would irrevocably prejudice one of the parties. It is the intention of the parties that any agreement reached at mediation become binding. The cost of mediation shall be shared equally between the parties.

**IN WITNESS WHEREOF**, this Agreement has been executed by the SPONSOR, acting by and through it’s County Executive, who has caused the seal of his or her office to be affixed hereto, and by the CONSULTANT, acting by and through a duly-authorized officer, effective the day and year first above-written, subject to the approval of the Commissioner of the NYSDOT, the State Comptroller, and the FAA.

**SPONSOR**

**Oneida County, New York**


By: \_\_\_\_\_  
Hon. Anthony J. Picente

Title: County Executive

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

**CONSULTANT**

**C&S Engineers, Inc.**

By:  \_\_\_\_\_  
Anthony Basile

Title: Manager, Airport Services Group

Date: 9-13-2013

**Approved As To Form  
ONEIDA COUNTY ATTORNEY**

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

## SCHEDULE A

### SCOPE OF WORK

**Project Title:** Taxiway Rehabilitation – Phase II (Base Bid)  
**Airport Name:** Griffiss International Airport  
**Services Provided:** Construction Observation & Administration

**Project Description:**

The CONSULTANT shall provide the following services, including construction contract administration and full-time construction observation, during construction of the Taxiway Rehabilitation – Phase II. The Project will be constructed by the SPONSOR with grant assistance from the Federal Aviation Administration (FAA) Airport Improvement Program (AIP) and the New York State Department of Transportation (NYSDOT).

The SPONSOR has determined that a construction project to rehabilitate the Airport's existing taxiway pavement system must be completed to maintain a usable and safe taxiway pavement system. This was established as a priority in the Pavement Management Implementation Final Report ("PMI") submitted in July 2006. The SPONSOR wishes to complete this Project in four phases over the course of four fiscal years. This Project is the second contract of the taxiway rehabilitation project and generally includes two segments of Taxiway "A", a portion of Taxiway "E", and Taxiway "J" at 75 feet wide for a total area of approximately 55,000 square yards.

Project tasks include limited profile cold milling and excavation of concrete pavement, rubblizing the existing concrete pavement, placement of a crushed stone base course and bituminous asphalt paving with FAA item P-401. The Project will also include underdrain installation, pavement markings, and airfield lighting and signage modifications. The Project will be constructed under a single General Construction contract base bid only.

Phase II pavement areas include:

- Rehabilitation of a section of Parallel Taxiway "A", approximately 2,400 feet in length, located between Taxiway "D" and the holding bay for Runway 33 End.
- Rehabilitation of a section of Taxiway "J", approximately 400 feet in length, ending the apron for building 41.
- Rehabilitation of a section of parallel Taxiway "A", approximately 1,000 feet in length located west of Taxiway "C".
- Rehabilitation of a section of Taxiway "E", approximately 950 feet in length, located west of Taxiway "A" and east of Taxiway "F".

Originally constructed in 1950's, the condition and strength of the taxiway pavement system at Griffiss International Airport is failing and in need of repair and replacement.

Services to be provided by the CONSULTANT are the following:

**CONSTRUCTION CONTRACT ADMINISTRATION PHASE**

The Construction Contract Administration Phase shall consist of observation of the construction to become generally familiar with the progress and quality of the Contractor's work to determine if the work is proceeding in general conformity with the Contract Documents for the Project. In addition, the CONSULTANT shall aid the SPONSOR by acting as its liaison and Project coordinator with the NYSDOT and the FAA during the construction of the Project. Construction Contract Administration includes the following services:

1. Provide consultation and advice to the SPONSOR during construction, including the holding of a pre-construction conference, weekly construction coordination meetings, and other meetings required

during the course of construction. Prepare and distribute minutes of all meetings.

2. Review, approve, or take other appropriate action on all Contractor-required submittals, such as construction schedules and phasing programs, shop drawings, product data, catalog cuts, and samples.
3. Review alternative construction methods proposed by the Contractor and advise the SPONSOR of the impact of these methods on the schedule and quality of the Project.
4. Prepare supplemental drawings and change orders as necessary for the Contractor to execute the Work properly within the intended scope. Assist the SPONSOR in resolving contractor claims and disputes.
5. Provide interpretation of the Contract Document requirements and advise the Contractor of these on behalf of the SPONSOR when necessary.
6. Furnish the SPONSOR one (1) reproducible set of the record drawings for the completed Project taken from the annotated record drawings prepared by the resident inspector based upon Contractor-provided information.
7. Prepare reimbursement request packages; coordinate their execution by the SPONSOR; and submit to the funding agencies.
8. Conduct pre-final and final inspections of the completed Project with the SPONSOR's airport personnel, the FAA, and the Contractor.
9. Issue certificates of construction completion to the SPONSOR, the FAA, and the NYSDOT.
10. Perform an orderly close-out of the Project as required by the SPONSOR, the FAA, and the NYSDOT.
11. Provide assistance to the SPONSOR as a witness in any litigation that may arise from the development or construction of the Project. Payment for this service will be as stated in Article 2(A), Item V, of the CONSULTANT Agreement for the Project, of which this Schedule forms a part.

#### **CONSTRUCTION OBSERVATION PHASE**

The construction observation phase shall consist of construction observation by a full-time resident engineer or inspector and supporting staff who will also:

1. Maintain a Project record in accordance with the Manual of Uniform Record Keeping (MURK) requirements of the NYSDOT for aviation capital projects.
2. Review documents and submissions by Contractor(s) pertaining to scheduling and advise the SPONSOR as to their acceptability.
3. Observe the Work to determine its general conformity with the Contract Documents and to ascertain the need for correction or rejection of the Work. Neither the activities of the resident engineer or inspector and/or supporting staff nor the presence of any of them at a construction/Project site shall relieve Contractor of, nor make the CONSULTANT responsible for, Contractor's obligations, duties, and responsibilities, including, but not limited to, construction means, methods, sequences, techniques, or procedures necessary for performing, superintending, or coordinating the Work in accordance with the Contract Documents and any health or safety precautions or measures required by regulatory agencies.
4. Attend and conduct pre-construction, pre-paving, and pre-installation conferences; weekly progress meetings; and final inspection of the completed Project.
5. Observe testing and inspection. Arrange for, conduct, or witness field, laboratory, or shop tests of

construction materials as required by the plans and specifications for the Project; monitor the suitability of materials on the Project site or brought to the Project site to be used in construction; interpret the contract plans and specifications and check the construction activities for general compliance with the design intent; measure, compute, or check quantities of Work performed and quantities of materials in place for partial and final payments to the Contractor.

6. Prepare and submit inspection reports of construction activity and problems encountered as required by the SPONSOR, the NYSDOT, and the FAA.
7. Prepare, review, and approve monthly and final payments to the Contractor(s).
8. Prepare and implement a Quality Control and Assurance Plan as required by the FAA for monitoring material requirements and properties throughout the course of construction.



The CONSULTANT agrees to perform the services in the Construction Observation Phase of this Project during the construction contract period, estimated to be as follows:

Base Bid:

Pre-Construction: Senior Construction Supervisor, 5 days @ 8 hrs/day

Resident Engineer, 10 days @ 8 hrs/day

Chief Inspector, 10 days @ 8 hrs/day

Inspection: Senior Construction Supervisor, 14 days @ 8 hrs/day

Resident Engineer, 70 days @ 12 hrs/day

Chief Inspector, 70 days @ 12 hrs/day

Staff Engineer, 14 days @ 8 hrs/day

Post-Construction: Senior Construction Supervisor, 5 days @ 8 hrs/day

Resident Engineer, 10 days @ 8 hrs/day

Chief Inspector, 10 days @ 8 hrs/day

## **RESPONSIBILITIES/DUTIES OF OBSERVATION STAFF**

In general, the on-site construction observation staff is responsible for monitoring construction activity on a project and documenting their observations in a formal project record. The Project record contents and its preparation shall be in accordance with the NYSDOT M.U.R.K.

The M.U.R.K. System consists of the following records and duties:

1. Engineer's Daily Project Diary
2. Inspector's Daily Reports
3. Preparation of FAA Weekly Reports
4. Preparation of Material Acceptance Reports
5. Preparation of Certification and Testing Log Book
6. Review Subcontractor approval forms
7. Prepare statement of days charged on a weekly basis
8. Conduct Wage Rate Interviews with prime/subcontractors employees
9. Conduct Project meetings with Sponsor and Contractors
10. Field measure quantities on a daily basis
11. Collect and monitor weekly payrolls for Davis Bacon Act Compliance
12. Preparation of Periodic Payment Request for Contractor
13. Record deviations from the contract plans for preparation of record drawings
14. Preparation and review of Change Orders/Force Account Work

The Resident construction observation staff will assist the SPONSOR and Contractor regarding construction activity as it relates to aircraft operations and coordination of Notice to Airmen (NOTAMS) as required.

END OF SCHEDULE



**ARCHITECTURAL/ENGINEERING  
 COST SUMMARY  
 SCHEDULE "B"  
 INSPECTION PHASE**

PROJECT NAME: TAXIWAY REHABILITATION- PHASE II  
 PROJ DESCRIPTION CA/CO  
 BASE BID ONLY  
 CLIENT: ONEIDA COUNTY, NEW YORK  
 CLIENT MANAGER: F. RICHARD GIFFORD, II

DATE: 05-Jun-13  
 A/E: C & S ENGINEERS, INC.  
 PROJECT NO: 146.107.003  
 C&S CONTACT: R. NAPOLITANO

**I. ESTIMATE OF DIRECT SALARY COSTS:**

TITLE	MAXIMUM RATE OF PAY (\$/HR)	AVERAGE RATE OF PAY (\$/HR)	ESTIMATED @ HOURS	ESTIMATED COST
A. SERVICE GROUP MANAGER	\$77.30	\$70.40	X 12 =	\$844.80
B. DEPARTMENT MANAGER	\$63.60	\$59.10	X 0 =	\$0.00
C. MANAGING ENGINEER	\$55.30	\$51.10	X 70 =	\$3,577.00
D. CHIEF/PRINCIPAL ENGINEER	\$62.20	\$59.40	X 0 =	\$0.00
E. SENIOR PROJECT ENGINEER	\$46.10	\$44.00	X 72 =	\$3,168.00
F. PROJECT ENGINEER	\$43.30	\$38.60	X 0 =	\$0.00
G. ENGINEER	\$43.20	\$33.50	X 48 =	\$1,608.00
H. STAFF ENGINEER	\$34.10	\$29.50	X 112 =	\$3,304.00
I. SENIOR DESIGNER	\$39.40	\$33.20	X 24 =	\$796.80
J. DESIGNER	\$32.40	\$27.40	X 0 =	\$0.00
K. CADD OPERATOR	\$27.70	\$23.60	X 0 =	\$0.00
L. ADMINISTRATIVE ASSISTANT	\$25.50	\$22.50	X 8 =	\$180.00
M. GRANTS ADMINISTRATOR	\$39.50	\$37.50	X 40 =	\$1,500.00
N. MANAGER AIRPORT PLANNING	\$59.30	\$56.50	X 0 =	\$0.00
O. SENIOR PLANNER	\$56.80	\$49.10	X 0 =	\$0.00
P. PLANNER	\$34.10	\$32.40	X 0 =	\$0.00
Q. STAFF PLANNER	\$34.10	\$29.50	X 0 =	\$0.00
R. SENIOR/MANAGING ARCHITECT	\$54.50	\$51.20	X 0 =	\$0.00
S. PROJECT ARCHITECT	\$43.20	\$41.10	X 0 =	\$0.00
T. MANAGING GEOLOGIST (SOILS ENG)	\$59.10	\$56.30	X 0 =	\$0.00
U. GEOLOGIST	\$28.50	\$27.00	X 0 =	\$0.00
V. ENVIRONMENTAL SCIENTIST	\$36.10	\$34.40	X 0 =	\$0.00
W. SENIOR CONSTRUCTION SUPERVISOR	\$68.50	\$65.30	X 192 =	\$12,537.60
X. CONSTRUCTION SUPERVISOR	\$49.50	\$47.10	X 0 =	\$0.00
Y. RESIDENT ENGINEER	\$51.20	\$43.10	X 1000 =	\$43,100.00
Z. CHIEF INSPECTOR	\$38.60	\$36.80	X 1000 =	\$36,800.00
AA. SENIOR INSPECTOR	\$34.10	\$30.50	X 0 =	\$0.00
BB. INSPECTOR	\$32.40	\$27.20	X 0 =	\$0.00
CC. JUNIOR INSPECTOR	\$22.70	\$21.60	X 0 =	\$0.00
DD. SENIOR TECHNICAL ADMINISTRATOR	\$34.90	\$33.20	X 120 =	\$3,984.00
EE. PARTY CHIEF	\$58.30	\$55.80	X 0 =	\$0.00
FF. SURVEYOR I	\$54.90	\$52.40	X 0 =	\$0.00
GG. SURVEYOR II	\$54.90	\$52.40	X 0 =	\$0.00

TOTAL ESTIMATED DIRECT SALARY COST: \$111,400.20

**II. OVERHEAD EXPENSES & PAYROLL BURDEN PER SCHEDULE "C" -  
 (AUDITABLE, ESTIMATED AND EXPRESSED AS A PERCENTAGE  
 OF DIRECT SALARY COST):**

168.00% \$187,152.34

**III. SUBTOTAL OF ITEMS I & II:**

\$298,552.54

IV. ESTIMATE OF DIRECT EXPENSES:

A.	TRAVEL, BY AUTO:	200 TRIPS @	130 MILES/TRIP @	\$0.565	=	\$14,690.00
B.	TRAVEL, ON SITE, BY AUTO:	154 DAYS @	10 MILES/DAY @	\$0.565	=	\$870.10
C.	MISCELLANEOUS:				=	<u>\$586.50</u>

TOTAL ESTIMATE OF DIRECT EXPENSES: \$16,146.60

V. FIXED FEE (PROFIT, LUMP SUM):

A.	LABOR PLUS OVERHEAD:	15%	(OF III.)	\$44,782.88
B.	DIRECT EXPENSES:	15%	(OF IV.)	<u>\$2,421.99</u>

TOTAL FIXED FEE: \$47,204.87

VI. SUBCONTRACTS:

A.	ESTIMATE OF CUT & FILL SURVEYS:					\$6,000.00
B.	ESTIMATE OF CONSTRUCTION TESTING SERVICES:					
1	ASPHALT TECHNICIAN (PLANT):	37	DAYS @	\$650.00	=	\$24,050.00
2	SOILS/CONCRETE TECHNICIAN:	30	DAYS @	\$600.00	=	\$18,000.00
3	MECHANICAL ANALYSIS:	12	EACH @	\$35.00	=	\$420.00
4	HYDROMETER ANALYSIS:	2	EACH @	\$60.00	=	\$120.00
5	ATTERBERG LIMITS:	2	EACH @	\$55.00	=	\$110.00
6	LABORATORY PROCTORS:	6	EACH @	\$100.00	=	\$600.00
7	TOPSOIL (pH):	2	EACH @	\$15.00	=	\$30.00
8	LA ABRASION:	2	EACH @	\$180.00	=	\$360.00
9	MAGNESIUM SULFATE SOUNDNESS:	2	EACH @	\$185.00	=	\$370.00
10	NATURAL MOISTURE CONTENT:	6	EACH @	\$6.00	=	\$36.00

TOTAL ESTIMATED CONSTRUCTION TESTING SERVICES: \$44,096.00

VII. TOTALS:

A.	ESTIMATE OF MAXIMUM TOTAL COST FOR INSPECTION SERVICES, AGREEMENT TOTAL & FAA ELIGIBLE:	<b>\$412,000.00</b>
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## SCHEDULE "C"

### C&S ENGINEERS, INC AGREED OVERHEAD

	<b>ALLOWABLE COST</b>	<b>% OF DIRECT LABOR</b>
<b>SALARY OVERHEAD (PAYROLL BURDEN)</b>		
Vacation & Holiday	2,400,000.00	16%
Sick & Personal	470,000.00	3%
FICA Taxes	2,000,000.00	14%
U. E. Taxes	300,000.00	2%
WC Insurance	120,000.00	1%
Group Insurance	1,600,000.00	11%
Bonus	810,000.00	16%
Employee Benefits	660,000.00	4%
Payroll Preparation	30,000.00	0%
<b>TOTAL SALARY OVERHEAD</b>	<b>8,390,000.00</b>	<b>57%</b>
<b>GENERAL &amp; ADMINISTRATIVE OVERHEAD</b>		
Indirect Labor	3,700,000.00	25%
Clerical & Administrative	1,800,000.00	12%
Project Development	3,100,000.00	21%
Training & Recruitment	420,000.00	3%
Office Supplies & Equipment Leases	1,800,000.00	12%
Travel & Auto Expenses	850,000.00	6%
Insurance	290,000.00	2%
Depreciation	700,000.00	5%
Rent , Janitorial, & Maintenance	2,130,000.00	14%
Utilities	150,000.00	1%
Telephone	350,000.00	2%
Dues & Fees	480,000.00	3%
Workshops, Seminars, & Education	380,000.00	3%
Legal & Accounting	160,000.00	1%
<b>TOTAL GENERAL &amp; ADMINISTRATIVE</b>	<b>16,310,000.00</b>	<b>111%</b>
<b>TOTAL OVERHEAD</b>	<b>24,700,000.00</b>	<b>168%</b>
<b>TOTAL DIRECT LABOR</b>	<b>14,700,000.00</b>	

END OF SCHEDULE

## SCHEDULE "D"

**U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
AIRPORT IMPROVEMENT PROGRAM  
SPONSOR CERTIFICATION**

**SELECTION OF CONSULTANTS**

Oneida County, NY

Griffiss International Airport

3-36-0119-32-13

*(Sponsor)*

*(Airport)*

*(Project Number)*

Taxiway Rehabilitation – Phase II (Base bid)

*(Work Description)*

Title 49, United States Code, section 47105(d), authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General standards for selection of consultant services within Federal grant programs are described in Title 49, Code of Federal Regulations (CFR), Part 18.36. Sponsors may use other qualifications-based procedures provided they are equivalent to specific standards in 49 CFR 18 and FAA Advisory Circular 150/5100-14, Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects.

Except for the certified items below marked not applicable (N/A), the list includes major requirements for this aspect of project implementation, although it is not comprehensive, nor does it relieve the sponsor from fully complying with all applicable statutory and administrative standard.

	Yes	No	N/A
1. Solicitations were (will be) made to ensure fair and open competition from a wide area of interest.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. For contracts over \$100,000, consultants were (will be) selected using competitive procedures based on qualifications, experience, and disadvantaged enterprise requirements with the fees determined through negotiations.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. A record of negotiations has been (will be) prepared reflecting considerations involved in the establishment of fees, which are not significantly above the sponsor's independent cost estimate.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. If engineering or other services are to be performed by sponsor force account personnel, prior approval was (will be) obtained from the FAA.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. The consultant services contracts clearly establish (will establish) the scope of work and delineate the division of responsibilities between all parties engaged in carrying out elements of the project.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Costs associated with work ineligible for AIP funding are (will be) clearly identified and separated from eligible items in solicitations, contracts, and related project documents.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Yes	No	N/A
7. Mandatory contract provisions for grant-assisted contracts have been (will be) included in consultant services contracts.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. The cost-plus-percentage-of-cost methods of contracting prohibited under Federal standards were not (will not be) used.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. If the services being procured cover more than the single grant project referenced in this certification, the scope of work was (will be) specifically described in the advertisement, and future work will not be initiated beyond five years.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and have prepared documentation attached hereto for any item marked "no" that is correct and complete.

Oneida County, New York

*(Name of Sponsor)*

*Chad Lawrence*

*(Signature)*

*Chad Lawrence*

*(Printed Name of Sponsor's Designated Official Representative)*

*Deputy Commissioner*

*(Printed Title of Sponsor's Designated Official Representative)*

*5-26-2017*

*(Date)*

END OF SCHEDULE

**SCHEDULE E**

**(RESOLUTION TO BE INSERTED)**



## SCHEDULE G

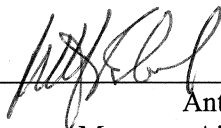
### CERTIFICATION OF CONSULTANT

I hereby certify that I am the Manager of the Airport Services Group and a duly authorized representative of the firm of C&S Engineers, Inc., whose address is 499 Col. Eileen Collins Blvd., Syracuse, NY, and that neither I nor the above firm I here represent has:

- A. employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this Contract.
- B. agreed, as an express or implied condition for obtaining this Contract, to employ or retain the services of any firm or person in connection with carrying out the Contract, or
- C. paid or agreed to pay to any firm, organization, or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Contract except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Federal Aviation Administration of the United States Department of Transportation, in connection with this Contract, involving participation of Airport Improvement Program (AIP) funds, and is subject to applicable state and Federal laws, both criminal and civil.

9.13.2013  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Anthony Basile  
Manager, Airport Services Group

END OF SCHEDULE

**SCHEDULE H**  
**AIRPORT AID PROGRAM**

**Contractor Contractual Requirements**

**Civil Rights Act of 1964, Title VI – 49 CFR Part 21**

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations.** The contractor shall comply with the regulation relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination.** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of material and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a programs set forth in Appendix B of the Regulations.
3. **Solicitation for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding or negotiation, made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports.** The contractor shall provide all information and reports required by the regulation or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such regulations, orders and instructions. Where any information required of a contractor shall so certify to the sponsor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance.** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanction as it or the FAA may determine to be appropriate, including but not limited to --
  - (a) withholding of payments to the contractor under the contract until the contractor complies, and/or
  - (b) cancellation, termination, or suspension of the contract, in whole or in part.
6. **Incorporation of Provisions.** The contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the sponsor of the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

**Disadvantaged Business Enterprise (DBE) Assurances**  
**49 CFR Part 26**

1. **Policy.** It is the policy of the Department of Transportation (DOT) that disadvantaged business enterprises, as defined in 49 CFR Part 26, shall have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds under this agreement.
2. **DBE Obligation.** The contractor agrees to ensure that disadvantaged business enterprises, as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT assisted contracts.

**Airport and Airway Improvement Act of 1982, Section 520**  
**General Civil Rights Provisions**  
**49 U.S.C. 47123**

The contractor assures that it will comply with pertinent statutes, executive orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport a program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases the provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this provision binds the contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

### **Access to Records and Reports 49 CFR Part 18.36(i)**

The Contractor shall maintain an acceptable cost accounting system. The Contractor agrees to provide the Sponsor, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

### **Rights to Inventions 49 CFR Part 18.36(i)(8)**

All rights to inventions and materials generated under this contract are subject to regulations issued by the FAA and the Sponsor of the Federal grant under which this contract is executed.

### **Lobbying and Influencing Federal Employees 49 CFR Part 20, Appendix A**

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of 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 grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than 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 undersigned shall complete and submit Standard Form-LLL, "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 subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, 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.

### **Trade Restriction Clause 49 CFR Part 30**

The contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;

- c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the contractor knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.

Further, the contractor agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The contractor shall provide immediate written notice to the sponsor if the contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide written notice to the contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract or subcontract for default at no cost to the Government.

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 provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

### **Termination of Contract 49 CFR Part 18.36(i)(2)**

- a. The Sponsor may, by written notice, terminate this contract in whole or in part at any time, either for the Sponsor's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the Sponsor.
- b. If the termination is for the convenience of the Sponsor, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.
- c. If the termination is due to failure to fulfill the contractor's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor shall be liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.
- d. If, after notice of termination for failure to fulfill contract obligations, it is determined that the contractor had not so failed, the termination shall be deemed to have been effected for the convenience of the Sponsor. In such event, adjustment in the contract price shall be made as provided in paragraph 2 of this clause.
- e. The rights and remedies of the sponsor provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

### **Breach of Contract Terms 49 CFR Part 18.36**

Any violation or breach of terms of this contract on the part of the contractor or their subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available there under shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

### **Davis – Bacon Act Provisions**

- 1. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amounts due at time of payment computed at wage rates not less than those contained in the wage determination decision(s) of the

Secretary of Labor which is (are) attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics; and the wage determination decision(s) shall be posted by the contractor at the site of the work in a prominent place where it (they) can be easily seen by the workers. For the purpose of this paragraph, contributions made or costs reasonably anticipated under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Subparagraph 4 below. Also for the purpose of this paragraph, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period [29 CFR 5.5(a)(1)(i)].

2. Any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination(s) and which is to be employed under the contract, shall be classified or reclassified conformably to the wage determination(s), and a report of the action taken shall be sent by the SPONSOR to the FAA for approval and transmittal to the Secretary of Labor. In the event that the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics, including apprentices and trainees, to be used, the question accompanied by the recommendation of the FAA shall be referred to the Secretary of Labor for final determination [29 CFR 5.5(a)(1)(ii)].
3. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the contractor is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof shall be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the question accompanied by the recommendation of the FAA shall be referred to the Secretary of Labor for determination [29 CFR 5.5(a)(1)(iii)].
4. If the Contractor does not make payments to a trustee or other third person, he may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is a part of this contract. Provided, however, the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

#### **Special Grant Condition**

Office of Management and Budget issued Memorandum M-08-03 implementing Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (TVPA) (22 U.S.C. 7104(g)).

#### **TRAFFICKING IN PERSONS:**

##### **a. Provisions applicable to a recipient that is a private entity.**

- I. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—
  - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
  - ii. Procure a commercial sex act during the period of time that the award is in effect; or
  - iii. Use forced labor in the performance of the award or subawards under the award.

#### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**

The bidder/offeror certifies, by submission of this proposal or acceptance of this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees by submitting this proposal that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the bidder/offeror/contractor or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this solicitation/proposal.

END OF SCHEDULE

## SCHEDULE I

### NEW YORK STATE DEPARTMENT OF TRANSPORTATION REQUIREMENTS

#### A. Standard Clauses For All New York State Contracts (Appendix A).

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee, or any other party):

1. **Executory Clause.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.
2. **Non-Assignment Clause.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet, or otherwise disposed of without the previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.
3. **Comptroller's Approval.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$5,000 (\$20,000 for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money, 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.
4. **Worker's Compensation Benefits.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
5. **Non-Discrimination Requirements.** In accordance with 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, age, disability, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration, or repair of any public building or public work or for the manufacture, sale, or distribution of materials, equipment, or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, national origin, age, sex, or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work: or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.
6. **Wage and Hours Provisions.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.
7. **Non-Collusive Bidding Requirement.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further warrants that, at the time contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. International Boycott Prohibition. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership, or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 240,1 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 (2 NYCRR 105.4).
9. Set-Off Rights. The State shall have all of its common law and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.
10. Records. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General, and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.
11. Identifying Information and Privacy Notification:
  - (a) Federal Employer Identification Number and/or Federal Social Security Number. All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, (i.e., the seller's or lessor's identification number). The number is either the payee's Federal employee identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on his invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.
  - (b) Privacy Notification.
    - (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses, and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.
    - (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of State Accounts, Office of the State Comptroller, AESOB, Albany, New York 12236.
12. Equal Employment Opportunities For Minorities And Women. In accordance with Section 312 of the Executive Law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to, the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a

contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair, or renovation of real property and improvements thereon for such project, then:

(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 or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

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

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

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

13. Conflicting Terms. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.
14. Governing Law. This contract shall be governed by the laws of the State of New York except where the federal supremacy clause requires otherwise.
15. Late Payment. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article XI-A of the State Finance Law to the extent required by law.
16. No Arbitration. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized) but must, instead, be heard in a court of competent jurisdiction of the State of New York.
17. Service of Process. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), contractor hereby consents to service of process upon it be registered or certified mail, return receipt request. Service hereunder shall be complete upon contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.
18. Prohibition on Purchase of Tropical Hardwoods. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility



of the contractor to establish to meet with the approval of the State.

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

19. Macbride Fair Employment Principles. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.
20. Omnibus Procurement Act of 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
30 South Pearl St --7<sup>th</sup> Floor  
Albany, New York 12245  
Telephone: 518-292-5220  
Fax: 518-292-5884  
<http://www.empire.state.ny.us>

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 30 South Pearl St --2nd Floor Albany, New York 12245 Telephone: 518-292-5250 Fax: 518-292-5803 <http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million: a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State; (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended; (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. Reciprocity And Sanctions Provisions. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.
22. Compliance with New York State Information Security Breach and Notification Act. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).
23. Compliance with Consultant Disclosure Law. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.
24. Procurement Lobbying. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made

in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. Certification of Registration To Collect Sales And Compensating Use Tax By Certain State Contractors, Affiliates And Subcontractors. To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

END OF SCHEDULE

**TAXIWAY REHABILITATION- PHASE II PROJECT**  
**CONSTRUCTION ADMINISTRATION/OBSERVATION**

**FAA AIP NO- 3-36-0119-32-13**

**ADDENDUM**

THIS ADDENDUM, entered into on this \_\_\_\_\_ day of September, between the County of Oneida, hereinafter known as COUNTY, and a contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as CONTRACTOR.

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

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

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

**1. Executor or Non-Appropriation Clause.**

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

**2. Oneida County Board of Legislators: Resolution #249 Solid Waste Disposal Requirements.**

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

**3. Certification Regarding Lobbying; Debarment, Suspension and other Responsibility Matters; and Drug-Free Workplace Requirements.**

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal Grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.
  2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
  3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
1. The Contractor certifies that it and its principals:
    - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
    - b. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contracts under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
    - c. Are not presently indicated or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1(b) of this certification; and
    - d. Have not within a three-year period preceding this Contract had one or more public transactions (Federal, State, or local) for cause or default; and

2. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. The Contractor will or will continue to provide a drug-free workplace by:
    - a. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
    - b. Establishing an on-going drug-free awareness program to inform employees about:
      1. The dangers of drug abuse in the workplace;
      2. The Contractor's policy of maintaining a drug-free workplace;
      3. Any available drug counseling, rehabilitation, and employee assistance program; and
      4. The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
    - c. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (a);
    - d. Notifying the employee in the statement required by paragraph (a) that as a condition of employment under the Contract, the employee will:
      1. Abide by the terms of the statement; and
      2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
    - e. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
    - f. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted;
      1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the Requirements of the Rehabilitation Act of 1973, as amended; or
      2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;

- g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a),(b),(c),(d),(e),(f).

- 2. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.  
Place of Performance (street, address, city, county, state, zip code).

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- d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F. for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
  - 1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
  - 2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

**4. Health Insurance Portability and Accountability Act (HIPAA).**

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
  1. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
  2. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
  3. Utilize an adequate amount of physical hardware, including but not limited to filing cabinets, and locks on drawers, cabinets, and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:
  1. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
  2. The Contractor may provide data aggregation services relating to the health care operations of the County.
- c. The Contractor shall:
  1. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
  2. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
  3. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
  4. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of, the County agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
  5. Make available protected health information in accordance with 45 CFR § 164.524;

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

**5. Non-Assignment Clause.**

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



**6. Worker's Compensation Benefits.**

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

**7. Non-Discrimination Requirements.**

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

**8. Wage and Hours Provisions.**

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

**9. Non-Collusive Bidding Certification.**

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

**10. Records.**

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

**11. Identifying Information and Privacy Notification.**

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

b. Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

**12. Conflicting Terms.**

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

**13. Governing Law.**

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

**14. Prohibition on Purchase of Tropical Hardwoods.**

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

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

**15. Compliance with New York State Information Security Breach and Notification Act.**

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

**16. Gratuities and Kickbacks.**

a. **Gratuities.** It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

b. **Kickbacks.** It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

## **17. Audit**

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

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

## **18. Certification of compliance with the Iran Divestment Act.**

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

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

During the term of the Contract, should the County receive information that a Bidder/Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within 90 days after the determination of such violation, then the County shall take such action as may be

appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor in default.

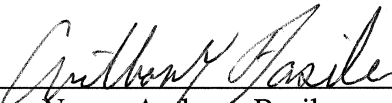
The County reserves the right to reject any bid or request for assignment for a Bidder/Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any Bidder/Contractor that is awarded a Contract and subsequently appears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

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

**County of Oneida**

**C&S Engineers, Inc.**

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

By:  \_\_\_\_\_  
Name: Anthony Basile

Oneida County Executive

Approved as to Form only

\_\_\_\_\_

Oneida County Attorney

# Griffiss International Airport



592 Hangar Road, Suite 200

Rome, NY 13441

Telephone: 315-736-4171 / Fax: 315-736-0568

ANTHONY J. PICENTE, JR.  
County Executive

CHAD LAWRENCE  
Deputy Commissioner  
of Aviation

FN 20 13-357

September 26, 2013

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

← AIRPORT

WAYS & MEANS



Re: Consultant Agreement Phase I Nose Dock Rehabilitation

Dear County Executive Picente,

Please consider acceptance of a consultant agreement with C&S Engineers in the amount of \$232,956.50. This contract will provide FAA required Construction Observation and Administration for the Phase I Nose Dock 785+786 Project.

The first phase of this project will include the selective rehabilitation of both buildings. Both buildings will receive new hangar doors and roofs along with associated electrical work.

This project is a Federal Aviation Administration funded project. It will be funded as follows 90% Federal Aviation Administration, 5% New York State and 5% Oneida County

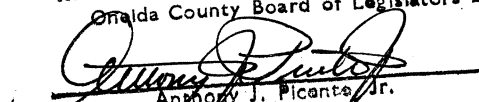
C&S will also provide State Environmental Quality Review (SEQR) and National Environmental Protection Agency (NEPA) review.

If you concur, please forward for Board of Legislators for consideration.

Thank you for your assistance in this matter.

  
Chad Lawrence  
Deputy Commissioner of Aviation

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

  
Anthony J. Picente, Jr.  
County Executive

Date 10/7/13

Oneida County Department: Aviation

Competing Proposal   x    
Only Respondent \_\_\_\_\_  
Sole Source RFP \_\_\_\_\_

## Oneida County - Contract Summary

**Name of Proposing Organization:** C&S Companies

**Title of Activity or Service:**  
Construction Observation and  
Administration for Phase I Nose dock  
785+786 Rehabilitation

**Client Population/No. to be Served:** N/A

**Summary Statements:**

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

Construction Observation and Administration for the rehabilitation of Nose Dock 785+786

**2) Program/Service Objectives and Outcomes:** The rehabilitation of 2 Nose Docks

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

**Total Funding Requested:** \$232,956.50

**Oneida County Department Funding  
Recommendation:**

**Account #** H-339

<b>Proposed Funding Source:</b>	<b>Federal</b> \$ 209,662	<b>State</b> \$11,647.25	<b>County</b> \$11,647.25
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**Cost Per Client Served:** N/A

**Past Performance Data:**

**Oneida County Department Staff Comments:**



**CONSULTANT AGREEMENT**

**FOR**

**CONSTRUCTION OBSERVATION & ADMINISTRATION**

**OF THE**

**PHASE 1 REHABILITATION OF HANGAR**

**BUILDINGS NO. 785 AND NO. 786**

**AT**

**GRIFFISS INTERNATIONAL AIRPORT**

**ROME, NEW YORK**

**ONEIDA COUNTY CONTRACT NO. H 1339-7856**

**FAA AIP NO. 3-36-0119-31-13**

**NYSDOT NO. 2905.XX**

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**COST PLUS FIXED FEE CONSULTANT AGREEMENT  
FOR  
CONSTRUCTION OBSERVATION & ADMINISTRATION**

**PROJECT: Phase 1 of the Rehabilitation of Hangar Buildings 785 and 786  
Griffiss International Airport**

This Agreement, made effective this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, is by and between the County of Oneida, a New York municipal corporation, having an address at 800 Park Avenue, Utica, NY 13501 (hereinafter referred to as the "SPONSOR"), and C&S Engineers, Inc., a New York business corporation having its principal offices at 499 Col. Eileen Collins Boulevard, Syracuse, New York 13212 (hereinafter referred to as the "CONSULTANT").

**WITNESSETH:** That the SPONSOR and the CONSULTANT, for and in consideration of the mutual obligations set forth herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, agree as follows:

**ARTICLE 1—DESCRIPTION OF SERVICES TO BE PERFORMED**

The SPONSOR hereby retains the CONSULTANT because of its ability and reputation, and the CONSULTANT accepts such retention, to perform for the SPONSOR the services of the Project more particularly described in Schedule(s) "A", which is attached hereto and made a part hereof (the "Basic Services"). The SPONSOR's resolution or other authorization for retaining the CONSULTANT is attached hereto and made a part hereof as Schedule "E". The SPONSOR has completed, or will complete, a "Certification for Selection of Consultant" in connection with the execution of this Agreement, a copy of which is attached hereto and made a part hereof as Schedule "D".

**ARTICLE 2—PROVISION FOR PAYMENT – TIME FOR PERFORMANCE**

**A. Basis for Payment**—The SPONSOR shall pay the CONSULTANT, and the CONSULTANT shall accept, as full compensation for the performance by the CONSULTANT of the Basic Services under this Agreement, the following:

**Item I:** Direct Technical Salaries of all employees assigned to the Project on a full-time basis for all or part of the term of this Agreement, plus properly allocable partial salaries of all employees working part-time on the Project, all subject to audit. Overtime in accordance with the terms of this Agreement shall be charged under this Item.

The cost of Principals' salaries (or allowable portion thereof) included in Direct Technical Salaries during the period that they are working specifically on the Project (productive time) are eligible if their comparable time is also charged directly to other projects in the same manner. Otherwise, Principals' salaries are only eligible as an overhead cost.

**Item II**—Actual Direct Nonsalary Costs incurred during the term of this Agreement, as defined in Schedule(s) "B", which is attached hereto and made a part hereof, all subject to audit.

**Item III**—Overhead Allowance based on agreed upon overhead during the term of this Agreement, as

set forth in Schedule "C", which is attached hereto and made a part hereof.

**Item IV—Fixed Fee**—A negotiated lump sum fee, which in this Agreement shall equal \$25,169.00. This Fixed Fee is not subject to audit, and is not subject to review or modification unless the SPONSOR determines that such review or modification is justifiable and advisable.

A summary of the monies due the CONSULTANT under Items I, II, III, and IV is set forth in Schedule(s) "B".

**Item V**—In the event of any claims being made or actions being brought against the Project, the CONSULTANT agrees to render assistance to the SPONSOR in responding to the claim or action. Such assistance, and the costs associated therewith, shall be an Additional Service as described in Article 11 hereof.

- B. Partial Payments**—The CONSULTANT shall be paid in monthly progress payments based on actual allowable costs incurred during the month in accordance with Section "A" of this Article. Monthly invoices shall clearly identify the costs of the services performed. A percentage of the Fixed Fee described in Section "A", Item IV, of this Article shall be paid with each monthly progress payment. The percentage to be used in calculating the monthly payment under Section "A", Item IV, shall equal the ratio of the costs expended during the billing period to the maximum amount payable (exclusive of Fixed Fee) allocated to fulfill the terms of this Agreement as established herein.

Accounts of the CONSULTANT shall clearly identify the costs of the services performed under this Agreement and may be subject to periodic and final audit by the SPONSOR, the New York State Department of Transportation (NYSDOT), and the Federal Aviation Administration (FAA). Such an audit shall not be a condition for making partial payments.

- C. Final Payment**—Payment of the final invoice shall be made upon completion and acceptance of the Project by the SPONSOR, the NYSDOT, and the FAA.

The maximum amount payable under this Agreement, including the CONSULTANT's fixed fee, shall be \$ 232,956.50 unless there is a substantial change in the scope, complexity, character, or duration\* of the Basic Services.

\*Duration is applicable to construction observation only.

Execution of this Agreement by the SPONSOR and the CONSULTANT constitutes the SPONSOR's written authorization to the CONSULTANT to proceed as of the above-written date with the performance of Basic Services as set forth in Schedule(s) "A". The estimated time for completion of the Basic Services under this Agreement, subject to the provisions of the following paragraph and of Articles 12, 13 and 23 hereof, shall be as recorded in Schedule(s) "A".

If the SPONSOR fails to make any payment due the CONSULTANT for services and expenses within forty-five (45) days after receipt of the CONSULTANT's invoice therefor, then the amounts due the CONSULTANT shall be increased at the rate of 1.5% per month from said forty-fifth (45<sup>th</sup>) day. Payments will be credited first to principal and then to interest. Additionally, the CONSULTANT may, after giving seven (7) days' notice to the SPONSOR, suspend services under this Agreement until the invoice is paid. Upon payment in full by the SPONSOR, the CONSULTANT shall resume performance or furnishing of services under this Agreement, and the time schedule set forth in Schedule(s) "A" and compensation set forth in Schedule(s) "B" hereto shall be equitably adjusted to compensate for the period of suspension.

### **ARTICLE 3—STANDARD OF CARE, STANDARD PRACTICES, AND REQUIREMENTS**

The standard of care for all engineering and related services performed or furnished by the CONSULTANT under this Agreement shall be the care and skill ordinarily used by members of the CONSULTANT's profession practicing under similar conditions at the same time and in the same locality. Before beginning to perform or furnish any service hereunder, the CONSULTANT shall ascertain the standard practices of the SPONSOR, the New York State Department of Transportation (the "NYSDOT"), and the Federal Aviation Administration (the "FAA"), if any, for projects of a type similar to this Project. Where the CONSULTANT deems it practicable to do so, the services to be provided or furnished under this Agreement shall be performed in accordance with these standard practices as long as they are consistent with the standard of care. If any of these standard practices are inconsistent with the CONSULTANT's standard of care or are in conflict with one another, or if strict adherence to the same is impossible or undesirable, then the CONSULTANT's services may vary or deviate from such standards.

### **ARTICLE 4—ENTIRE AGREEMENT**

This Agreement, with its accompanying Schedule or Schedules, constitutes the entire agreement between the SPONSOR and the CONSULTANT with respect to its subject matter, and supersedes any prior agreement, whether written or verbal, with respect to that subject matter. This Agreement may be amended or modified only by written instrument signed by the SPONSOR and the CONSULTANT.

### **ARTICLE 5—TAXES, ROYALTIES, AND EXPENSES**

The CONSULTANT shall pay all taxes, royalties, and expenses incurred by the CONSULTANT in connection with performing its services under this Agreement, unless otherwise provided in Article 2.

### **ARTICLE 6—CONSULTANT LIABILITY**

To the fullest extent permitted by law, the CONSULTANT shall indemnify the SPONSOR against, and hold it harmless from, any suit, action, actual damage, and cost resulting solely from the negligent performance of services or omission of the CONSULTANT under this Agreement, up to the limits of any available insurance. Negligent performance of services, within the meaning of this Article, shall include, in addition to negligence founded upon tort, negligence based upon the CONSULTANT's failure to meet professional standards and resulting in obvious or patent errors in the services performed hereunder.

Nothing in this Article or in this Agreement shall create or give to third parties any claim or right of action against the CONSULTANT or the SPONSOR beyond such as may legally exist irrespective of this Article or this Agreement.

Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the SPONSOR nor the CONSULTANT, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the SPONSOR and the CONSULTANT shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

The provisions of this Article 6 shall survive termination or expiration of this Agreement.

#### **ARTICLE 7—LABOR LAW REQUIREMENTS**

The CONSULTANT, and any subconsultant or subcontractor retained by it in connection with the performance or furnishing of services under this Agreement, shall comply with the requirements of state or federal statutes, regulations, or orders applicable to the employment of employees, as set forth in Schedules “H” and “I”, which are attached hereto and made a part hereof.

The SPONSOR recognizes that the CONSULTANT will be required by the New York State Department of Labor (the “NYSDOL”) to compensate its personnel performing field survey work in accordance with applicable state wage rates in effect at the same time services are performed. The SPONSOR understands that the CONSULTANT has no control over these labor rates and their periodic increases. Therefore, the SPONSOR agrees to compensate the CONSULTANT for field survey services included as a part of this Agreement in accordance with the NYSDOL Prevailing Rate Schedule, which is incorporated by reference into this Agreement. Furthermore, the SPONSOR shall compensate the CONSULTANT for all increases in labor costs, including applicable overhead and profit, when those increases occur by direction of the NYSDOL. Billings for, and payments by the SPONSOR of, these increases will take place routinely in accordance with the appropriate terms of this Agreement and these increases will be paid as an additional cost over and above the agreed amount.

#### **ARTICLE 8—NONDISCRIMINATION PROVISIONS**

During the performance of its services under this Agreement, the CONSULTANT, and any subconsultant, subcontractor, or vendor retained by it, shall comply with the nondiscrimination requirements set forth in Schedules “H” and “I” hereto, as applicable to this Project.

The CONSULTANT will include the provisions of Schedules “H” and “I” in every subconsultant agreement, subcontract, or purchase order in such a manner that such provisions will be binding upon each subconsultant, subcontractor, or vendor as to operations to be performed within the State of New York. The CONSULTANT will take such action in enforcing such provisions of such subconsultant agreement, subcontract, or purchase order as the SPONSOR may direct, including sanctions or remedies for non-compliance. If the CONSULTANT becomes involved in or is threatened with litigation by a subconsultant, subcontractor, or vendor as a result of such direction by the SPONSOR, the CONSULTANT shall promptly so notify the SPONSOR’s legal counsel, requesting such counsel to intervene and protect the interests of the SPONSOR.

## ARTICLE 9—WORKER’S COMPENSATION AND LIABILITY INSURANCE

The CONSULTANT agrees to procure and maintain at its own expense, and without direct expense to the SPONSOR, until final acceptance by the SPONSOR of the services covered by this Agreement, insurance of the kinds and in the amounts hereafter provided, written by insurance companies authorized to do business in the State of New York. Before commencing the performance of services hereunder, the CONSULTANT shall furnish the SPONSOR a certificate or certificates, in form satisfactory to the SPONSOR, showing that it has complied with this Article. All policies shall provide for a 30-day notice of policy cancellation to the SPONSOR (except 10 days’ notice should be provided for cancellation due to non-payment of premiums).

The kinds and amounts of insurance required are as follows:

- A. Policy or policies covering the obligations of the CONSULTANT in accordance with the provisions of any applicable worker’s compensation or disability benefits law, including for the State of New York Chapter 41, Laws of 1914, as amended, known as the Workers’ Compensation Law, and amendments thereto, and Chapter 600 of the Laws of 1949, as amended, known as the Disability Benefits Law, and this Agreement shall be void and of no effect unless the CONSULTANT procures such policy or policies and maintains the same in force during the term of this Agreement.
- B. Policy or policies of commercial general liability insurance, with broad form endorsement covering, among other things, the CONSULTANT’s obligation under Article 6 hereof, with limits of liability of not less than One Million Dollars (\$1,000,000) for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by one (1) person in any one (1) accident; and, subject to that limit for each person; not less than Three Million Dollars (\$3,000,000) for all damages arising out of bodily injury, including death at any time resulting therefrom, sustained by two (2) or more persons in any one (1) accident; and not less than One Million Dollars (\$1,000,000) for all damages arising out of injury to or destruction of property in any one (1) accident, and, subject to that limit per accident, not less than Three Million Dollars (\$3,000,000) for all damages arising out of injury to or destruction of property during the policy period.
  1. Liability insurance issued to and covering the liability of the CONSULTANT’s subconsultants and subcontractors, having the same policy limits as those set forth above, with respect to all services or work performed by said subconsultants or subcontractors under this Agreement.
  2. Protective liability insurance issued to and covering the liability of the CONSULTANT with respect to all services under this Agreement performed for the CONSULTANT by subconsultants or subcontractors.
  3. Professional liability insurance issued to and covering the liability of the CONSULTANT with respect to all professional services performed by it under this Agreement.

The SPONSOR, the NYSDOT, and the FAA shall be additional insureds, as their interests may appear, under the insurance coverages described in Paragraph B above, except for the coverage described in Subparagraph (3), which coverages shall be subject to all of the terms, exclusions, and conditions of the applicable policy.

## ARTICLE 10—ASSIGNMENT REQUIREMENTS

The CONSULTANT specifically agrees that:

- A. It is prohibited from assigning, transferring, conveying, subletting, or otherwise disposing of this Agreement or of its right, title, or interest herein, or its power to execute this Agreement, to any other person, company, or corporation without the previous consent in writing of the SPONSOR, the

Commissioner of the NYSDOT, and the FAA.

- B. If this provision of the Agreement is violated, the SPONSOR may terminate this Agreement for cause in accordance with the provisions of Article 12. Furthermore, the SPONSOR shall be relieved from any liability and obligation hereunder to the person, company, or corporation to whom the CONSULTANT shall assign, transfer, convey, sublet, or otherwise dispose of this Agreement in violation of the foregoing paragraph (A), and such transferee shall forfeit and lose all monies assigned to it under this Agreement, except so much as may be required to pay its employees.

#### **ARTICLE 11—ADDITIONAL SERVICES**

If authorized in writing by the SPONSOR through a Supplemental Agreement, the CONSULTANT shall furnish or obtain from others any service that is beyond the scope of Schedule(s) “A” (“Additional Services”). The scope and time for performance of, and payment from the SPONSOR to the CONSULTANT for, any Additional Services (which shall be on the basis set forth in Schedule(s) “B”) shall be set forth in such Supplemental Agreement.

#### **ARTICLE 12—ABANDONMENT OR AMENDMENT OF PROJECT AND TERMINATION**

- A. **ABANDONMENT OR AMENDMENT OF THE PROJECT**—The SPONSOR shall have the absolute right to abandon or to amend its Project or to change the general basis of performance at any time, and such action on its part shall in no event be deemed a breach of this Agreement. If the SPONSOR amends its Project or changes the general basis thereof, and the CONSULTANT is of the opinion that Additional Services are made necessary thereby, then provisions of Article 11 of this Agreement with respect to Additional Services shall apply. If the Sponsor abandons the Project, then the provisions of Paragraph B(1)(b) below shall govern payment to the CONSULTANT.

- B. **TERMINATION**

The obligation to provide further services under this Agreement may be terminated:

1. **For Cause:**

- a. By either party upon thirty (30) days’ prior written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. Notwithstanding the foregoing, this Agreement will not terminate as the result of such substantial failure if the party receiving notice begins, within seven (7) days after receipt of such notice, to correct its failure to perform and proceeds diligently to cure such failure within thirty (30) days of such receipt; provided that, if and to the extent that such substantial failure cannot reasonably be cured within such thirty (30)-day period, and if the party has diligently attempted to cure the failure and thereafter continues diligently to cure the problem, then the cure period may, in the discretion of the terminating party, be extended to sixty (60) days after the receipt of notice.
- b. By the CONSULTANT upon seven (7) days’ written notice if (a) the CONSULTANT believes that it is being requested by the SPONSOR to perform or furnish services contrary to or in conflict with the CONSULTANT’s responsibilities as a licensed design professional or the standard of care set forth in Article 3 hereof; or (b) the CONSULTANT’s services are delayed or suspended for more than ninety (90) days, consecutively or in the aggregate, for reasons beyond the CONSULTANT’s control; or (c) the SPONSOR has abandoned, or is considered to have abandoned, the Project.

2. **For convenience** by the SPONSOR, effective upon the receipt of notice by the CONSULTANT.



C. PAYMENTS UPON TERMINATION

1. **For Cause:**

- a. By the SPONSOR: If the SPONSOR terminates this Agreement for cause upon completion of any phase of Basic Services, then progress payments due the CONSULTANT in accordance with this Agreement for all such services performed by or furnished through the CONSULTANT and its subconsultants, subcontractors, and vendors through the completion of such phase shall constitute total payment for such services. If the SPONSOR terminates this Agreement for cause during any phase of Basic Services, the CONSULTANT will also be paid for such services performed or furnished in accordance with this Agreement by the CONSULTANT during that phase through the date of termination on the basis specified in Schedule(s) "B". The CONSULTANT will also be paid for the charges of its subconsultants, subcontractors, or vendors who performed or furnished Basic Services to the extent that such services have been performed or furnished in accordance with this Agreement through the effective date of the termination. The SPONSOR shall also pay the CONSULTANT for all unpaid Additional Services and unpaid Reimbursable Expenses.
- b. By the CONSULTANT: If the CONSULTANT terminates this Agreement for cause upon completion of any phase of Basic Services, then progress payments due the CONSULTANT in accordance with this Agreement for all such services performed or furnished by the CONSULTANT and its subconsultants, subcontractors, or vendors through the completion of such phase shall constitute total payment for such services. The CONSULTANT shall also be paid for all unpaid Additional Services and unpaid Reimbursable Expenses, as well as for the CONSULTANT's reasonable expenses directly attributable to termination in accordance with the rates for Additional Services set forth in Schedule(s) "B" measured from the date of termination, including fair and reasonable sums for overhead and profit and the costs of terminating the CONSULTANT's contracts with its subconsultants, subcontractors, or vendors.

2. **For convenience**

- a. If the SPONSOR terminates this Agreement for convenience upon completion of any phase of Basic Services, then progress payments due the CONSULTANT in accordance with this Agreement for all such services performed by or furnished through the CONSULTANT through the completion of such phase shall constitute total payment for such services. If the SPONSOR terminates this Agreement for convenience during any phase of Basic Services, the CONSULTANT will also be paid for such services performed or furnished in accordance with this Agreement by the CONSULTANT during that phase through the date of termination on the basis specified in Schedule(s) "B". Additionally, the CONSULTANT will be paid for the charges of its subconsultants, subcontractors, or vendors who performed or furnished Basic Services through the effective date of termination. The SPONSOR shall also pay the CONSULTANT for all unpaid Additional Services and unpaid Reimbursable Expenses, as well as for the CONSULTANT's reasonable expenses directly attributable to termination in accordance with the rates for Additional Services set forth in Schedule(s) "B" measured from the date of termination, including fair and reasonable sums for overhead and profit and the costs of terminating the CONSULTANT's contracts with its subconsultants, subcontractors, or vendors.

**ARTICLE 13—SUSPENSION OF SERVICES**

If the CONSULTANT's services hereunder are delayed or suspended, in whole or in part, by the SPONSOR for more than thirty (30) calendar days, consecutively or in the aggregate, through no fault of the CONSULTANT, then the CONSULTANT shall be entitled to equitable adjustments of rates and amounts of compensation to reflect, among other things, reasonable costs incurred by the CONSULTANT in connection with the delay or

suspension and reactivation and the fact that the time for performance of the CONSULTANT's services hereunder has been revised. If the delay or suspension persists for more than ninety (90) days, consecutive or in the aggregate, then the CONSULTANT may consider the Project to have been abandoned by the SPONSOR and may terminate this Agreement for cause.

Upon the SPONSOR's resumption of its Project, and if the CONSULTANT has not terminated this Agreement for cause, the CONSULTANT shall resume its services under this Agreement until the services are completed and accepted, subject to any adjustment in the rates set forth in Schedule(s) "B" because of the passage of time.

#### **ARTICLE 14—INTERCHANGE OF DATA**

During the performance of this Agreement, all technical data in regard to the Project whether (a) existing in the office of the SPONSOR or (b) existing in the office of the CONSULTANT, shall be made available to the other party to this Agreement without expense to such other party.

#### **ARTICLE 15—DISPOSITION OF PROJECT DOCUMENTS**

At the time of completion of its services and upon payment in full therefor, the CONSULTANT shall make available to the SPONSOR copies of documents prepared as the result of this Agreement. These documents shall then become the property of the SPONSOR and the maintenance of the data therein shall be the sole responsibility of the SPONSOR. Any reuse of the documents by the SPONSOR or others on extensions of the Project, or on any other project, without written verification or adaptation by the CONSULTANT and its subconsultants, subcontractors, or vendors, as appropriate, for the specific purpose intended will be at the SPONSOR's sole risk and expense and without liability or legal exposure to the CONSULTANT or its subconsultants, subcontractors, or vendors. The SPONSOR shall indemnify the CONSULTANT, its subconsultants, subcontractors, and vendors against, and hold them harmless from, all claims, damages, losses, and expenses (including reasonable expert and attorneys' fees) arising out of or resulting from such reuse.

In the event that this Agreement is terminated for any reason, then within ten (10) days after such termination, the CONSULTANT shall make available to the SPONSOR all data and material prepared under this Agreement, including cover sheets, in accordance with and subject to the terms of the above paragraphs.

#### **ARTICLE 16—CODE OF ETHICS**

The CONSULTANT specifically agrees that this Agreement may be canceled or terminated if any service under this Agreement is in conflict with the provisions of Section 74 of the New York State Public Officers' Law, as amended, and Schedule "G", which is attached hereto and made a part hereof.

#### **ARTICLE 17—INDEPENDENT CONTRACTOR**

The CONSULTANT, in accordance with its status as an independent contractor, shall conduct itself consistent with such status; shall neither hold itself out as nor claim to be an officer or employee of the SPONSOR by reason hereof; and shall not, by reason hereof, make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the SPONSOR, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

## **ARTICLE 18—PATENT RIGHTS AND COPYRIGHTS**

Any patentable result arising out of this Agreement, as well as all information, designs, specifications, know-how, data, and findings, shall be made available without cost to the State of New York or its licensees and the FAA for public use. No material prepared in connection with this Project shall be subject to copyright. The State and the FAA shall have the right to publish, distribute, disclose, or otherwise use any material prepared under this Project, subject to the provisions of Article 15 hereof.

## **ARTICLE 19—NEW YORK STATE PARTICIPATION**

The services to be performed in this Agreement are included in a NYSDOT Project, which is being undertaken and accomplished by the SPONSOR and the State of New York and pursuant to which the State of New York has agreed to pay a certain percentage of the allowable Project costs. The State of New York is not a party to this Agreement and no reference in this Agreement to the Commissioner of Transportation or any representative thereof, or to any rights granted to the Commissioner of Transportation or any representative thereof or the State of New York by the Agreement, makes the State of New York a party to this Agreement.

The CONSULTANT and the SPONSOR agree that properly authorized officials of the State of New York may from time to time inspect all Project documents for the purpose of insuring compliance with New York State laws and protecting the interests of the State of New York.

## **ARTICLE 20-FEDERAL PARTICIPATION**

The FAA is not a party to this Agreement, although the Project work program covered by this Agreement may be financially aided in part by a Grant Agreement between the SPONSOR and the FAA. The SPONSOR and the CONSULTANT hereby agree to comply fully with the conditions set forth in detail in the Grant Agreement as though they were set forth in detail in this Agreement, including the requirements set forth in Schedules "D", "G", and "H" hereto. The CONSULTANT further agrees that, by reason of complying with the conditions of the Grant Agreement, no obligation is entailed on the part of the FAA to the CONSULTANT.

The CONSULTANT and the SPONSOR agree that properly authorized officials of the FAA may from time to time inspect all Project documents for the purpose of insuring compliance with Federal laws and protecting the interests of the FAA.

## **ARTICLE 21—MISCELLANEOUS**

- A. The CONSULTANT shall require all persons employed to perform services hereunder, including its subconsultants or subcontractors, vendors, agents, officers, and employees, to comply with applicable laws in the jurisdiction in which the Project is located.
- B. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.
- C. By execution of this Agreement, the CONSULTANT represents that it has not paid, and also agrees not to pay, any bonus or commission for the purpose of obtaining any approval of this Agreement.
- D. Any notice required under this Agreement shall be in writing, addressed to the appropriate party at the address set forth above (as modified in writing from time to time by such party), and shall be given personally; by registered or certified first-class mail, postage prepaid and return receipt requested; by

facsimile transmission, with confirmation of receipt; or by a nationally-recognized overnight courier service, with proof of receipt. Notice shall be effective upon the date of receipt. For purposes of this Agreement, failure or refusal to accept receipt shall constitute receipt nonetheless. Either party may change its address for notice by giving notice to the other in accordance with the terms of this paragraph.

- E. This Agreement, and the interpretation and enforcement of the provisions hereof, is governed by the laws of the State of New York.

#### **ARTICLE 22 — SUBCONSULTANTS/SUBCONTRACTORS**

All subconsultants and subcontractors performing services for or work on this Project shall be bound by the same required provisions of this Agreement as is the CONSULTANT. As set forth above, all agreements between the CONSULTANT and a subconsultant, subcontractor, or vendor shall include all standard required contract provisions, and such agreements shall be subject to review by the NYSDOT and the FAA.

#### **ARTICLE 23 — FORCE MAJEURE**

Any delay in or failure of performance of any party to this Agreement shall not constitute a default under this Agreement nor give rise to any claim for damage, if and to the extent such delay or failure is caused by occurrences or events beyond the control of the party affected, including, but not limited to, acts of God; expropriation or confiscation of facilities or compliance with any order or request of government authority, affecting to a degree not presently existing, the supply, availability, or use of personnel or equipment; loss of utility services; blizzard; flood; fire; labor unrest; strikes; war; riot; or any cause the party is unable to prevent with reasonable diligence. A party who is prevented from performing for any reason shall immediately notify the other in writing of the reason for the nonperformance and the anticipated extent of any delay. Additionally, if the delay resulting from any of the foregoing increases the cost of or time required by Consultant to perform its services hereunder in an orderly and efficient manner, then Consultant shall be entitled to an equitable adjustment in schedule and/or compensation.

#### **ARTICLE 24 — DISPUTE RESOLUTION**

- A. SPONSOR and the CONSULTANT agree to negotiate in good faith for a period of thirty (30) days from the date of notice of disputes between them prior to exercising their right under the following paragraph. The thirty-day (30) period may be extended upon mutual agreement of the parties.
- B. If any dispute cannot be resolved pursuant to the above paragraph, and only if mutually agreed by SPONSOR and CONSULTANT, said dispute and all unsettled claims, counterclaims, and other matters in question between them arising out of or relating to this Agreement or the breach of any provision hereof (“disputes”) shall be submitted to mediation by a mediator, to be selected by the parties jointly, prior to a party initiating a legal action against the other, unless initiating mediation would irrevocably prejudice one of the parties. It is the intention of the parties that any agreement reached at mediation become binding. The cost of mediation shall be shared equally between the parties.

**IN WITNESS WHEREOF**, this Agreement has been executed by the SPONSOR, acting by and through the County Executive, who has caused the seal of his or her office to be affixed hereto, and by the CONSULTANT, acting by and through a duly-authorized officer, effective the day and year first above-written, subject to the approval of the Commissioner of the NYSDOT, the State Comptroller, and the FAA.

**SPONSOR**

**ONEIDA COUNTY, NEW YORK**

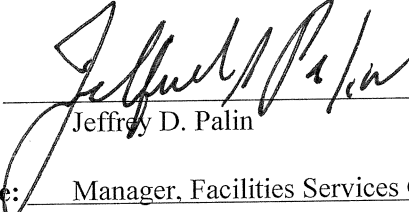
**By:** \_\_\_\_\_  
Anthony J. Picente

**Title:** County Executive \_\_\_\_\_

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

**CONSULTANT**

**C&S ENGINEERS, INC.**

**By:**  \_\_\_\_\_  
Jeffrey D. Palin

**Title:** Manager, Facilities Services Group \_\_\_\_\_

**Date:** 9-26-2013 \_\_\_\_\_

## SCHEDULE A

### SCOPE OF WORK

**Project Title:** Phase 1 of the Rehabilitation of Hangar Buildings 785 and 786  
**Airport Name:** Griffiss International Airport  
**Services Provided:** Construction Observation & Administration

#### **Project Description:**

The CONSULTANT shall provide the following services, including construction contract administration and full-time construction observation, during construction of the Rehabilitation of Hangar Doors and Roofs Buildings 785 and 786. The Project will be constructed by the SPONSOR with grant assistance from the Federal Aviation Administration (FAA) Airport Improvement Program (AIP) and the New York State Department of Transportation (NYSDOT).

Project generally includes the rehabilitation of hangar doors and replacement of roofs at Buildings 785 and 786.

CONSULTANT shall provide the following services:

#### **CONSTRUCTION CONTRACT ADMINISTRATION PHASE**

The Construction Contract Administration Phase shall consist of observation of the construction to become generally familiar with the progress and quality of the Contractor's work to determine if the work is proceeding in general conformity with the Contract Documents. In addition, the CONSULTANT shall aid the SPONSOR by acting as its liaison and Project coordinator with the NYSDOT and the FAA during the construction of the Project. Construction Contract Administration includes the following services:

1. Provide consultation and advice to the SPONSOR during construction, including the holding of a pre-construction conference, [weekly or bi-weekly] construction coordination meetings, and other meetings required during the course of construction. Prepare and distribute minutes of all meetings.
2. Review, approve, or take other appropriate action on all Contractor-required submittals, such as construction schedules and phasing programs, shop drawings, product data, catalog cuts, and samples.
3. Review alternative construction methods proposed by the Contractor and advise the SPONSOR of the impact of these methods on the schedule and quality of the Project.
4. Prepare supplemental drawings and change orders necessary to execute the work properly within the intended scope. Assist the SPONSOR in resolving contractor claims and disputes.
5. Provide interpretation of the Contract Document requirements and advise the Contractor of these on behalf of the SPONSOR when necessary.
6. Furnish the SPONSOR one reproducible set of the record drawings for the completed Project taken from the annotated record drawings prepared by the resident inspector based upon Contractor-provided information.
7. Prepare reimbursement request packages; coordinate their execution by the SPONSOR; and submit to the funding agencies.
8. Conduct pre-final and final inspections of the completed Project with the SPONSOR's airport personnel, the FAA, and the Contractor.

9. Issue certificates of construction completion to the SPONSOR, the FAA, and the NYSDOT.
10. Perform an orderly closeout of the Project as required by the SPONSOR, the FAA, and the NYSDOT.
11. Provide assistance to the SPONSOR as a witness in any litigation that may arise from the development or construction of the Project. Payment for this service will be as stated in Article 2(A), Item V, of the CONSULTANT Agreement for the Project, of which this Schedule forms a part.

#### **CONSTRUCTION OBSERVATION PHASE**

The construction observation phase shall consist of construction observation by a full-time resident engineer or inspector and supporting staff who will also:

1. Maintain a Project record in accordance with the Manual of Uniform Record Keeping (MURK) requirements of the NYSDOT for aviation capital projects.
2. Review documents and submissions by Contractor(s) pertaining to scheduling and advise the SPONSOR as to their acceptability.
3. Observe the Work to determine general conformity with the Contract Documents and to ascertain the need for correction or rejection of the Work. Neither the activities of the resident engineer or inspector and/or supporting staff nor the presence of any of them at a construction/Project site shall relieve Contractor nor make Consultant responsible for, Contractor's obligations, duties, and responsibilities, including, but not limited to, construction means, methods, sequences, techniques, or procedures necessary for performing, superintending, or coordinating the Work in accordance with the Contract Documents and any health or safety precautions or measures required by regulatory agencies.
4. Attend and conduct pre-construction, pre-paving and pre-installation conferences; weekly progress meetings; and final inspection of the completed Project.
5. Observe testing and inspection. Arrange for, conduct, or witness field, laboratory, or shop tests of construction materials as required by the plans and specifications for the Project; monitor the suitability of materials on the Project site or brought to the Project site to be used in construction; interpret the contract plans and specifications and check the construction activities for general compliance with the design intent; measure, compute, or check quantities of Work performed and quantities of materials in-place for partial and final payments to the Contractor.
6. Prepare and submit inspection reports of construction activity and problems encountered as required by the SPONSOR, the NYSDOT, and the FAA.
7. Prepare, review, and approve monthly and final payments to Contractor(s).
8. Prepare and implement a Quality Control and Assurance Plan as required by the FAA for monitoring material requirements and properties throughout the course of construction.

The CONSULTANT agrees to perform the services in the Construction Observation Phase of this Project during the construction contract period, estimated to be as follows:

**Pre-Construction:** Construction Supervisor = 20 hours

Senior Project Engineer = 40 hours

**Construction:** Construction Supervisor 24 weeks @ 6 hours/wk = 144 Hours

Chief Inspector 24 weeks @ 40 hours/wk =960 Hrs

Administrative Assistant = 12 hours

Service Group Manager = 4 hours

Managing Engineer = 4 hours

Senior Project Engineer =100 hours

Senior/Managing Architect = 80 hours

Project Engineer = 20 hours

Grants Administrator =80 hours

**Post Construction:** Construction Supervisor =36 hours

Administrative Assistant = 12 hours



## **RESPONSIBILITIES/DUTIES OF INSPECTION STAFF**

### **RESPONSIBILITIES/DUTIES OF INSPECTION STAFF**

In general, the on-site inspection staff is responsible for monitoring construction activity on a project and documenting their observations in a formal project record.

The following are the records and duties of the inspection staff:

1. Keep Daily Project Diary and Reports in Primavera Contract Manager
2. Monitor Submittals and Maintain Submittal Log in Primavera Contract Manager
3. Monitor Requests for Information (RFIs) and Maintain RFI Log in Primavera Contract Manager
4. Schedule / Coordinate 3<sup>rd</sup> party Construction Material Testing and Project Monitoring
5. Preparation of FAA Bi-Weekly Reports
6. Review Subcontractor approval forms
7. Conduct Wage Rate Interviews with prime/subcontractors employees
8. Conduct Project meetings with Sponsor and Contractors and prepare and disseminate minutes
9. Collect and monitor weekly payrolls for Davis Bacon Act Compliance
10. Review and Recommend Periodic Payment Requests from Contractor
11. Preparation and review of Change Orders/Force Account Work

The Resident Inspector will assist the SPONSOR and Contractor regarding construction activity as it relates to aircraft operations and coordination of Notice to Airmen (NOTAMS) as required.

END OF SCHEDULE



# ARCHITECTURAL/ENGINEERING COST SUMMARY SCHEDULE "B" INSPECTION PHASE

PROJECT NAME: Construction Observation & Administration Phase 1 Nose Dock Hangars 785 and 786  
 PROJ DESCRIPTION Rehab / Replace Hangar Doors and Roofs both Hangars - Electric Rehab 785

DATE: 25-Sep-13  
 A/E: C & S ENGINEERS, INC.  
 PROJECT NO:  
 C&S CONTACT: Ralph Napolitano

CLIENT: Oneida County  
 CLIENT MANAGER: Chad Lawrence

**I. ESTIMATE OF DIRECT SALARY COSTS:**

TITLE	MAXIMUM RATE OF PAY (\$/HR)	AVERAGE RATE OF PAY (\$/HR)	@	ESTIMATED HOURS	ESTIMATED COST
A. SERVICE GROUP MANAGER	\$77.30	\$70.40	X	4	\$281.60
B. DEPARTMENT MANAGER	\$63.60	\$59.10	X	0	\$0.00
C. MANAGING ENGINEER	\$55.30	\$51.10	X	4	\$204.40
D. CHIEF/PRINCIPAL ENGINEER	\$62.20	\$59.40	X	0	\$0.00
E. SENIOR PROJECT ENGINEER	\$46.10	\$44.00	X	100	\$4,400.00
F. PROJECT ENGINEER	\$43.30	\$38.60	X	20	\$772.00
G. ENGINEER	\$43.20	\$33.50	X	0	\$0.00
H. STAFF ENGINEER	\$34.10	\$29.50	X	0	\$0.00
I. SENIOR DESIGNER	\$39.40	\$33.20	X	0	\$0.00
J. DESIGNER	\$32.40	\$27.40	X	0	\$0.00
K. CADD OPERATOR	\$27.70	\$23.60	X	0	\$0.00
L. ADMINISTRATIVE ASSISTANT	\$25.50	\$22.50	X	24	\$540.00
M. GRANTS ADMINISTRATOR	\$39.50	\$37.50	X	20	\$750.00
N. MANAGER AIRPORT PLANNING	\$59.30	\$56.50	X	0	\$0.00
O. SENIOR PLANNER	\$56.80	\$49.10	X	0	\$0.00
P. PLANNER	\$34.10	\$32.40	X	0	\$0.00
Q. STAFF PLANNER	\$34.10	\$29.50	X	0	\$0.00
R. SENIOR/MANAGING ARCHITECT	\$54.50	\$51.20	X	80	\$4,096.00
S. PROJECT ARCHITECT	\$43.20	\$41.10	X	0	\$0.00
T. MANAGING GEOLOGIST (SOILS ENG)	\$59.10	\$56.30	X	0	\$0.00
U. GEOLOGIST	\$28.50	\$27.00	X	0	\$0.00
V. ENVIRONMENTAL SCIENTIST	\$36.10	\$34.40	X	0	\$0.00
W. SENIOR CONSTRUCTION SUPERVISOR	\$68.50	\$65.30	X	0	\$0.00
X. CONSTRUCTION SUPERVISOR	\$50.00	\$50.00	X	200	\$10,000.00
Y. RESIDENT ENGINEER	\$51.20	\$43.10	X	0	\$0.00
Z. CHIEF INSPECTOR	\$40.00	\$40.00	X	960	\$38,400.00
AA. SENIOR INSPECTOR	\$34.10	\$30.50	X	0	\$0.00
BB. INSPECTOR	\$32.40	\$27.20	X	0	\$0.00
CC. JUNIOR INSPECTOR	\$22.70	\$21.60	X	0	\$0.00
DD. SENIOR TECHNICAL ADMINISTRATOR	\$34.90	\$33.20	X	0	\$0.00
EE. PARTY CHIEF	\$58.30	\$55.80	X	0	\$0.00
FF. SURVEYOR I	\$54.90	\$52.40	X	0	\$0.00
GG. SURVEYOR II	\$54.90	\$52.40	X	0	\$0.00

TOTAL ESTIMATED DIRECT SALARY COST: \$59,444.00

OVERHEAD EXPENSES & PAYROLL BURDEN PER SCHEDULE "C" -  
 (AUDITABLE, ESTIMATED AND EXPRESSED AS A PERCENTAGE  
 OF DIRECT SALARY COST):

168.00%

\$99,865.92

III. SUBTOTAL OF ITEMS I & II:

\$159,310.00

ESTIMATE OF DIRECT EXPENSES:

A.	TRAVEL, BY AUTO:	150 TRIPS @	90 MILES/TRIP @	\$0.565	=	\$7,627.50
B.	MISCELLANEOUS:				=	<u>\$850.00</u>

TOTAL ESTIMATE OF DIRECT EXPENSES: \$8,477.50

V. FIXED FEE (PROFIT, LUMP SUM):

A.	LABOR PLUS OVERHEAD:	15%	(OF III.)	\$23,897.00
B.	DIRECT EXPENSES:	15%	(OF IV.)	<u>\$1,272.00</u>

TOTAL FIXED FEE: \$25,169.00

VI. SUBCONTRACTS:

A.	ASBESTOS TESTING:	\$36,000.00
B.	ESTIMATE OF CONSTRUCTION TESTING SERVICES:	<u>\$4,000.00</u>

TOTAL ESTIMATED CONSTRUCTION TESTING SERVICES: \$40,000.00

VII. TOTALS:

A.	ESTIMATE OF MAXIMUM TOTAL COST FOR INSPECTION SERVICES, AGREEMENT TOTAL & FAA ELIGIBLE:	<u><u>\$232,956.50</u></u>
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## SCHEDULE "C"

### C&S ENGINEERS, INC AGREED OVERHEAD

	ALLOWABLE COST	% OF DIRECT LABOR
<b>SALARY OVERHEAD (PAYROLL BURDEN)</b>		
Vacation & Holiday	2,400,000.00	16%
Sick & Personal	470,000.00	3%
FICA Taxes	2,000,000.00	14%
U. E. Taxes	300,000.00	2%
WC Insurance	120,000.00	1%
Group Insurance	1,600,000.00	11%
Bonus	810,000.00	16%
Employee Benefits	660,000.00	4%
Payroll Preparation	30,000.00	0%
<b>TOTAL SALARY OVERHEAD</b>	<b>8,390,000.00</b>	<b>57%</b>
 <b>GENERAL &amp; ADMINISTRATIVE OVERHEAD</b>		
Indirect Labor	3,700,000.00	25%
Clerical & Administrative	1,800,000.00	12%
Project Development	3,100,000.00	21%
Training & Recruitment	420,000.00	3%
Office Supplies & Equipment Leases	1,800,000.00	12%
Travel & Auto Expenses	850,000.00	6%
Insurance	290,000.00	2%
Depreciation	700,000.00	5%
Rent , Janitorial, & Maintenance	2,130,000.00	14%
Utilities	150,000.00	1%
Telephone	350,000.00	2%
Dues & Fees	480,000.00	3%
Workshops, Seminars, & Education	380,000.00	3%
Legal & Accounting	160,000.00	1%
<b>TOTAL GENERAL &amp; ADMINISTRATIVE</b>	<b>16,310,000.00</b>	<b>111%</b>
 <b>TOTAL OVERHEAD</b>	 <b>24,700,000.00</b>	 <b>168%</b>
 <b>TOTAL DIRECT LABOR</b>	 <b>14,700,000.00</b>	

## SCHEDULE "D"

**U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
AIRPORT IMPROVEMENT PROGRAM  
SPONSOR CERTIFICATION**

**SELECTION OF CONSULTANTS**

Oneida County

*(Sponsor)*

Griffiss International Airport

*(Airport)*

146.109 H1339-7856

*(Project Number)*

*(Work Description)* Phase 1 of the Rehabilitation of Hangar Buildings 785 and 786

Title 49, United States Code, section 47105(d), authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General standards for selection of consultant services within Federal grant programs are described in Title 49, Code of Federal Regulations (CFR), Part 18.36. Sponsors may use other qualifications-based procedures provided they are equivalent to specific standards in 49 CFR 18 and FAA Advisory Circular 150/5100-14, Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects.

Except for the certified items below marked not applicable (N/A), the list includes major requirements for this aspect of project implementation, although it is not comprehensive, nor does it relieve the sponsor from fully complying with all applicable statutory and administrative standard.


	Yes	No	N/A
1. Solicitations were (will be) made to ensure fair and open competition from a wide area of interest.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. For contracts over \$100,000, consultants were (will be) selected using competitive procedures based on qualifications, experience, and disadvantaged enterprise requirements with the fees determined through negotiations.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. A record of negotiations has been (will be) prepared reflecting considerations involved in the establishment of fees, which are not significantly above the sponsor's independent cost estimate.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. If engineering or other services are to be performed by sponsor force account personnel, prior approval was (will be) obtained from the FAA.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. The consultant services contracts clearly establish (will establish) the scope of work and delineate the division of responsibilities between all parties engaged in carrying out elements of the project.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Costs associated with work ineligible for AIP funding are (will be) clearly identified and separated from eligible items in solicitations, contracts, and related project documents.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Yes	No	N/A
7. Mandatory contract provisions for grant-assisted contracts have been (will be) included in consultant services contracts.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. The cost-plus-percentage-of-cost methods of contracting prohibited under Federal standards were not (will not be) used.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. If the services being procured cover more than the single grant project referenced in this certification, the scope of work was (will be) specifically described in the advertisement, and future work will not be initiated beyond five years.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and have prepared documentation attached hereto for any item marked "no" that is correct and complete.

Oneida County, N.Y.

*(Name of Sponsor)*



*(Signature)*

Mr. Chad Lawrence

*(Typed Name of Sponsor's Designated Official Representative)*

Deputy Commissioner of Aviation

*(Typed Title of Sponsor's Designated Official Representative)*

9-26-11

*(Date)*

END OF SCHEDULE

## **SCHEDULE E**

**(RESOLUTION TO BE INSERTED)**

## SCHEDULE G

### CERTIFICATION OF CONSULTANT


I hereby certify that I am the Manager of the Facilities Service Group and a duly authorized representative of the firm of C&S Engineers, Inc., whose address is 499 Col. Eileen Collins Blvd., Syracuse, New York, 13212 and that neither I nor the above firm I here represent has:

- A. employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this Contract.
- B. agreed, as an express or implied condition for obtaining this Contract, to employ or retain the services of any firm or person in connection with carrying out the Contract, or
- C. paid or agreed to pay to any firm, organization, or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Contract; except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the FAA of the United States Department of Transportation, in connection with this Contract, involving participation of Airport Improvement Program (AIP) funds and is subject to applicable state and Federal laws, both criminal and civil.

9-26-2013

Date

  
Jeffrey D. Palin  
Facilities Service Group Manager

END OF SCHEDULE



**SCHEDULE H  
AIRPORT AID PROGRAM**

**CONTRACTOR CONTRACTUAL REQUIREMENTS**

**CIVIL RIGHTS ACT OF 1964, TITLE VI – 49 CFR PART 21**

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations.** The contractor shall comply with the regulation relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, “DOT”) Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination.** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of material and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a programs set forth in Appendix B of the Regulations.
3. **Solicitation for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding or negotiation, made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor’s obligations under this contract and the regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports.** The contractor shall provide all information and reports required by the regulation or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such regulations, orders and instructions. Where any information required of a contractor shall so certify to the sponsor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance.** In the event of the contractor’s noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanction as it or the FAA may determine to be appropriate, including but not limited to --
  - (a) withholding of payments to the contractor under the contract until the contractor complies, and/or
  - (b) cancellation, termination, or suspension of the contract, in whole or in part.
6. **Incorporation of Provisions.** The contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the sponsor of the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

**Disadvantaged Business Enterprise (DBE) Assurances  
49 CFR Part 26**

1. **Policy.** It is the policy of the Department of Transportation (DOT) that disadvantaged business enterprises, as defined in 49 CFR Part 26, shall have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds under this agreement.
2. **DBE Obligation.** The contractor agrees to ensure that disadvantaged business enterprises, as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT assisted contracts.

**Airport and Airway Improvement Act of 1982, Section 520**  
**General Civil Rights Provisions**  
**49 U.S.C. 47123**

The contractor assures that it will comply with pertinent statutes, executive orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport a program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases the provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this provision binds the contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

**Access to Records and Reports**  
**49 CFR Part 18.36(i)**

The Contractor shall maintain an acceptable cost accounting system. The Contractor agrees to provide the Sponsor, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

**Rights to Inventions**  
**49 CFR Part 18.36(i)(8)**

All rights to inventions and materials generated under this contract are subject to regulations issued by the FAA and the Sponsor of the Federal grant under which this contract is executed.

**Lobbying and Influencing Federal Employees**  
**49 CFR Part 20, Appendix A**

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of 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 grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than 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 undersigned shall complete and submit Standard Form-LLL, "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 subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, 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.

**Trade Restriction Clause**  
**49 CFR Part 30**

The contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);

- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
- c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the contractor knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.

Further, the contractor agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The contractor shall provide immediate written notice to the sponsor if the contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide written notice to the contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract or subcontract for default at no cost to the Government.

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 provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

### **Termination of Contract 49 CFR Part 18.36(i)(2)**

- a. The Sponsor may, by written notice, terminate this contract in whole or in part at any time, either for the Sponsor's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the Sponsor.
- b. If the termination is for the convenience of the Sponsor, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.
- c. If the termination is due to failure to fulfill the contractor's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor shall be liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.
- d. If, after notice of termination for failure to fulfill contract obligations, it is determined that the contractor had not so failed, the termination shall be deemed to have been effected for the convenience of the Sponsor. In such event, adjustment in the contract price shall be made as provided in paragraph 2 of this clause.
- e. The rights and remedies of the sponsor provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

### **Breach of Contract Terms 49 CFR Part 18.36**

Any violation or breach of terms of this contract on the part of the contractor or their subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available there under shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

## **Davis – Bacon Act Provisions**

1. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amounts due at time of payment computed at wage rates not less than those contained in the wage determination decision(s) of the Secretary of Labor which is (are) attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics; and the wage determination decision(s) shall be posted by the contractor at the site of the work in a prominent place where it (they) can be easily seen by the workers. For the purpose of this paragraph, contributions made or costs reasonably anticipated under Section 1(b) (2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Subparagraph 4 below. Also for the purpose of this paragraph, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period [29 CFR 5.5(a)(1)(i)].
2. Any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination(s) and which is to be employed under the contract, shall be classified or reclassified conformably to the wage determination(s), and a report of the action taken shall be sent by the SPONSOR to the FAA for approval and transmittal to the Secretary of Labor. In the event that the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics, including apprentices and trainees, to be used, the question accompanied by the recommendation of the FAA shall be referred to the Secretary of Labor for final determination [29 CFR 5.5(a)(1)(ii)].
3. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the contractor is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof shall be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the question accompanied by the recommendation of the FAA shall be referred to the Secretary of Labor for determination [29 CFR 5.5(a) (1)(iii)].
4. If the Contractor does not make payments to a trustee or other third person, he may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is a part of this contract. Provided, however, the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

### **Special Grant Condition**

Office of Management and Budget issued Memorandum M-08-03 implementing Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (TVPA) (22 U.S.C. 7104(g)).

#### **TRAFFICKING IN PERSONS:**

**a. Provisions applicable to a recipient that is a private entity.**

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—
  - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
  - ii. Procure a commercial sex act during the period of time that the award is in effect; or
  - iii. Use forced labor in the performance of the award or subawards under the award.

#### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**

The bidder/offeror certifies, by submission of this proposal or acceptance of this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees by submitting this proposal that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the bidder/offeror/contractor or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this solicitation/proposal.

END OF SCHEDULE

## SCHEDULE I

### NEW YORK STATE DEPARTMENT OF TRANSPORTATION REQUIREMENTS

#### A. Standard Clauses For All New York State Contracts (Appendix A).

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. **Executory Clause.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.
2. **Non-Assignment Clause.** In accordance with Section 138 of the State Finance Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.
3. **Comptroller's Approval.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$5,000 (\$20,000 for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money, 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.
4. **Worker's Compensation Benefits.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
5. **Non-Discrimination Requirements.** In accordance with 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, age, disability or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239, thereof, Contractor agrees that neither it nor its Subcontractors shall, by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.
6. **Wage and Hours Provisions.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its Subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.
7. **Non-Collusive Bidding Requirement.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further warrants that, at the time contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. International Boycott Prohibition. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the Contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR 105.4).
9. Set-Off Rights. The State shall have all of its common law and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.
10. Records. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.
11. Identifying Information and Privacy Notification:
- (a) Federal Employer Identification Number and/or Federal Social Security Number. All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employee identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on his invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.
- (b) Privacy Notification.
- (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.
- (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of State Accounts, Office of the State Comptroller, AESOB, Albany, New York 12236.
12. Equal Employment Opportunities For Minorities And Women. In accordance with Section 312 of the Executive Law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or

rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

(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 or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

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

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

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

13. Conflicting Terms. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.
14. Governing Law. This contract shall be governed by the laws of the State of New York except where the federal supremacy clause requires otherwise.
15. Late Payment. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article XI-A of the State Finance Law to the extent required by law.
16. No Arbitration. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized) but must, instead, be heard in a court of competent jurisdiction of the State of New York.
17. Service of Process. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), contractor hereby consents to service of process upon it be registered or certified mail, return receipt request. Service hereunder shall be complete upon contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.
18. Prohibition on Purchase of Tropical Hardwoods. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political

subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

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

19. Macbride Fair Employment Principles. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.
20. Omnibus Procurement Act of 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.  
Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
30 South Pearl St --7<sup>th</sup> Floor  
Albany, New York 12245  
Telephone: 518-292-5220  
Fax: 518-292-5884  
<http://www.empire.state.ny.us>

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 30 South Pearl St --2nd Floor Albany, New York 12245 Telephone: 518-292-5250 Fax: 518-292-5803 <http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million: a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State; (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended; (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. Reciprocity And Sanctions Provisions. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.
22. Compliance with New York State Information Security Breach and Notification Act. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).
23. Compliance with Consultant Disclosure Law. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.
24. Procurement Lobbying. To the extent this agreement is a "procurement contract" as defined by State Finance Law



Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. Certification of Registration To Collect Sales And Compensating Use Tax By Certain State Contractors, Affiliates And Subcontractors. To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

END OF SCHEDULE

**ADDENDUM**

THIS ADDENDUM, entered into on this 20 day of Sept 2013, between the County of Oneida, hereinafter known as COUNTY, and a contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as CONTRACTOR.

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

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

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

**1. Executor or Non-Appropriation Clause.**

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

**2. Oneida County Board of Legislators: Resolution #249 Solid Waste Disposal Requirements.**

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

**3. Certification Regarding Lobbying; Debarment, Suspension and other Responsibility Matters; and Drug-Free Workplace Requirements.**

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal Grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.
  2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
  3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
1. The Contractor certifies that it and its principals:
    - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
    - b. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contracts under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
    - c. Are not presently indicated or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1(b) of this certification; and
    - d. Have not within a three-year period preceding this Contract had one or more public transactions (Federal, State, or local) for cause or default; and
  2. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.

- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. The Contractor will or will continue to provide a drug-free workplace by:
    - a. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
    - b. Establishing an on-going drug-free awareness program to inform employees about:
      1. The dangers of drug abuse in the workplace;
      2. The Contractor's policy of maintaining a drug-free workplace;
      3. Any available drug counseling, rehabilitation, and employee assistance program; and
      4. The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
    - c. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (a);
    - d. Notifying the employee in the statement required by paragraph (a) that as a condition of employment under the Contract, the employee will:
      1. Abide by the terms of the statement; and
      2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
    - e. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
    - f. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted;
      1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the Requirements of the Rehabilitation Act of 1973, as amended; or
      2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
    - g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a),(b),(c),(d),(e),(f).

2. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.  
Place of Performance (street, address, city, county, state, zip code).

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- d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F. for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
  2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

**4. Health Insurance Portability and Accountability Act (HIPAA).**

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
  1. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
  2. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
  3. Utilize an adequate amount of physical hardware, including but not limited to filing cabinets, and locks on drawers, cabinets, and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:
  1. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
  2. The Contractor may provide data aggregation services relating to the health care operations of the County.
- c. The Contractor shall:
  1. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
  2. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
  3. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
  4. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of, the County agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
  5. Make available protected health information in accordance with 45 CFR § 164.524;

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

**5. Non-Assignment Clause.**

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

## **6. Worker's Compensation Benefits.**

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

## **7. Non-Discrimination Requirements.**

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

## **8. Wage and Hours Provisions.**

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



**9. Non-Collusive Bidding Certification.**

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

**10. Records.**

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

## **11. Identifying Information and Privacy Notification.**

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

b. Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

## **12. Conflicting Terms.**

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

## **13. Governing Law.**

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

**14. Prohibition on Purchase of Tropical Hardwoods.**

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

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

**15. Compliance with New York State Information Security Breach and Notification Act.**

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

**16. Gratuities and Kickbacks.**

a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

## **17. Audit**

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

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

## **18. Certification of compliance with the Iran Divestment Act.**

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

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

During the term of the Contract, should the County receive information that a Bidder/Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within 90 days after the determination of such violation, then the County shall take such action as may be

appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor in default.

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

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

**County of Oneida**

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

Oneida County Executive

**C&S Engineers, Inc.**

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

Name: Jeffrey D. Palin, P.E.

Approved as to Form only

\_\_\_\_\_

Oneida County Attorney

# Griffiss International Airport



592 Hangar Road, Suite 200

Rome, NY 13441

Telephone: 315-736-4171 / Fax: 315-736-0568

ANTHONY J. PICENTE, JR.  
County Executive

CHAD LAWRENCE  
Deputy Commissioner  
of Aviation

September 23, 2013

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

FN 20 13-352

AIRPORT



Re: Design Agreement Phase III Taxiway Rehabilitation **WAYS & MEANS**

Dear County Executive Picente,

Please consider acceptance of a Design agreement with C&S Engineers in the amount of \$220,000.00. This contract will provide necessary professional design services for the Phase III Taxiway project.

This project will include sections of Taxiway "A" which intersects with Taxiway "B"; Taxiway "B" and the Pavement area associated with the compass calibration pad (located south of Taxiway "B"; Taxiway "D"; the remaining portion of Taxiway "E", including the jet warm-up area; and Taxiway "F" at 75 feet wide. The total area is approximately 75,000 sf.

C&S will also provide State Environmental Quality Review (SEQR) and National Environmental Protection Agency (NEPA) review.

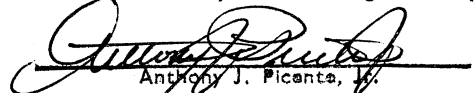
This project is a Federal Aviation Administration funded project. It will be funded as follows, 90% Federal Aviation Administration, 5% New York State and 5% Oneida County.

If you concur, please forward to the Board of Legislators for consideration.

Thank you for your assistance in this matter.

  
Chad Lawrence  
Deputy Commissioner of Aviation

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

  
Anthony J. Picente, Jr.  
County Executive

Date 10/7/13

Oneida County Department: Aviation

Competing Proposal   x    
Only Respondent \_\_\_\_\_  
Sole Source RFP \_\_\_\_\_

## Oneida County - Contract Summary

**Name of Proposing Organization:** C&S Engineers

**Title of Activity or Service:**

Professional Design services for the  
Design of Phase III taxiway  
Rahabilitation

**Client Population/No. to be Served:** N/A

**Summary Statements:**

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

C&S will provide professional Design Services

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

C&S will provide professional Design Services for Phase III Taxiway rehabilitation

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

**Total Funding Requested:** \$220,000

**Oneida County Department Funding  
Recommendation:**

**Account #** H-489

<b>Proposed Funding Source:</b>	<b>Federal</b> \$ 198,000	<b>State</b> \$11,000	<b>County</b> \$11,000
	_____	_____	_____

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

**Past Performance Data:**

**Oneida County Department Staff Comments:**

**CONSULTANT AGREEMENT**

**FOR THE**

**DESIGN**

**OF THE**

**TAXIWAY REHABILITATION-PHASE III PROJECT**

**AT**

**GRIFFISS INTERNATIONAL AIRPORT**

**ROME, NEW YORK**

**FAA AIP NO. 3-36-0119-32-13 (D)**

**NYSDOT NO. 2905.33 (D)**

**ONEIDA COUNTY CONTRACT NO.: H 489**

**C&S PROJECT NO. 146.107.004**



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# LUMP SUM CONSULTANT AGREEMENT

## FOR

## DESIGN

**PROJECT: Taxiway Rehabilitation – Phase III  
Griffiss international Airport**

This Agreement, made effective this \_\_\_\_\_ day of September, 2013, is by and between the County of Oneida a New York municipal corporation, having an address at 800 Park Avenue, Utica, New York 13501 (hereinafter referred to as the “SPONSOR”), and C&S Engineers, Inc., a New York business corporation having its principal offices at 499 Col. Eileen Collins Boulevard, Syracuse, New York 13212 (hereinafter referred to as the “CONSULTANT”).

**WITNESSETH:** That the SPONSOR and the CONSULTANT, for and in consideration of the mutual obligations set forth herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, agree as follows:

### ARTICLE 1—DESCRIPTION OF SERVICES TO BE PERFORMED

The SPONSOR hereby retains the CONSULTANT because of its ability and reputation, and the CONSULTANT accepts such retention, to perform for the SPONSOR the services of the Project more particularly described in Schedule(s) “A”, which is attached hereto and made a part hereof (the “Basic Services”). The SPONSOR’s resolution or other authorization for retaining the CONSULTANT is attached hereto and made a part hereof as Schedule “E”. The SPONSOR has completed or will complete a “Certification for Selection of Consultant” in connection with the execution of this Agreement, a copy of which is attached hereto and made a part hereof as Schedule “D”.

### ARTICLE 2—PROVISION FOR PAYMENT – TIME FOR PERFORMANCE

The SPONSOR shall pay to the CONSULTANT, and the CONSULTANT shall accept, as full compensation for the performance by the CONSULTANT of the Basic Services a lump sum fee of \$220,000.00, which covers salaries of employees assigned to the Project, all indirect costs, all direct expenses, and profit. The maximum fee under this Agreement cannot be exceeded for any reason, unless Additional Services are authorized and performed in accordance with the provisions of Article 11 of this Agreement. The method of computation of the CONSULTANT’s lump sum fee is prescribed in Schedule(s) “B”, which is attached hereto and made a part hereof.

Partial payments of the lump sum fee shall be made monthly on account. The portion of the fee billed for the CONSULTANT’s Basic Services will be based upon the CONSULTANT’s estimate of the proportion of the total Basic Services actually completed and expenses actually incurred at the time of billing. Payment of the final invoice will be made upon the substantial completion of the Basic Services covered by the lump sum fee.

If the SPONSOR fails to make any payment due the CONSULTANT for services and expenses within forty-five

(45) days after receipt of the CONSULTANT's invoice therefor, then the amounts due the CONSULTANT shall be increased at the rate of 1.5% per month from said forty-fifth (45<sup>th</sup>) day. Payments will be credited first to principal and then to interest. Additionally, the CONSULTANT may, after giving seven (7) days' notice to the SPONSOR, suspend services under this Agreement until the invoice is paid. Upon payment in full by the SPONSOR, the CONSULTANT shall resume performance or furnishing of services under this Agreement, and the time schedule and compensation set forth in Schedule(s) "B" hereto shall be equitably adjusted to compensate for the period of suspension.

Execution of this Agreement by the SPONSOR and the CONSULTANT constitutes the SPONSOR's written authorization to the CONSULTANT to proceed as of the above-written date with the performance of Basic Services as set forth in Schedule(s) "A". The time for completion of the Basic Services under this Agreement, subject to the provisions of Articles 12, 13, and 23 hereof, shall be as recorded in Schedule(s) "A".

### **ARTICLE 3—STANDARD OF CARE, STANDARD PRACTICES, AND REQUIREMENTS**

The standard of care for all engineering and related services performed or furnished by the CONSULTANT under this Agreement shall be the care and skill ordinarily used by members of the CONSULTANT's profession practicing under similar conditions at the same time and in the same locality. Before beginning to perform or furnish any service hereunder, the CONSULTANT shall ascertain the standard practices of the SPONSOR, the New York State Department of Transportation (the "NYSDOT"), and the Federal Aviation Administration (the "FAA"), if any, for projects of a type similar to this Project. Where the CONSULTANT deems it practicable to do so, the services to be provided or furnished under this Agreement shall be performed in accordance with these standard practices as long as they are consistent with the standard of care. If any of these standard practices are inconsistent with the CONSULTANT's standard of care or are in conflict with one another, or if strict adherence to the same is impossible or undesirable, then the CONSULTANT's services may vary or deviate from such standards.

### **ARTICLE 4—ENTIRE AGREEMENT**

This Agreement, with its accompanying Schedule or Schedules, constitutes the entire agreement between the SPONSOR and the CONSULTANT with respect to its subject matter, and supersedes any prior agreement, whether written or verbal, with respect to that subject matter. This Agreement may be amended or modified only by written instrument signed by the SPONSOR and the CONSULTANT.

### **ARTICLE 5—TAXES, ROYALTIES, AND EXPENSES**

The CONSULTANT shall pay all taxes, royalties, and expenses incurred by the CONSULTANT in connection with performing its services under this Agreement, unless otherwise provided in Article 2.

### **ARTICLE 6—CONSULTANT LIABILITY**

To the fullest extent permitted by law, the CONSULTANT shall indemnify the SPONSOR against, and hold it harmless from, any suit, action, actual damage, and cost resulting solely from the negligent performance of services or omission of the CONSULTANT under this Agreement, up to the limits of any available insurance. Negligent performance of services, within the meaning of this Article, shall include, in addition to negligence founded upon tort, negligence based upon the CONSULTANT's failure to meet professional standards and resulting in obvious or patent errors in the services performed hereunder.

Nothing in this Article or in this Agreement shall create or give to third parties any claim or right of action against the CONSULTANT or the SPONSOR beyond such as may legally exist irrespective of this Article or this Agreement.

Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the SPONSOR nor the CONSULTANT, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the SPONSOR and the CONSULTANT shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

The provisions of this Article 6 shall survive termination or expiration of this Agreement.

#### **ARTICLE 7—LABOR LAW REQUIREMENTS**

The CONSULTANT, and any subconsultant or subcontractor retained by it in connection with the performance or furnishing of services under this Agreement, shall comply with the requirements of state or federal statutes, regulations, or orders applicable to the employment of employees, as set forth in Schedules “H” and “T”, which are attached hereto and made a part hereof.

The SPONSOR recognizes that the CONSULTANT will be required by the New York State Department of Labor (the “NYSDOL”) to compensate its personnel performing field survey work in accordance with applicable state wage rates in effect at the same time services are performed. The SPONSOR understands that the CONSULTANT has no control over these labor rates and their periodic increases. Therefore, the SPONSOR agrees to compensate the CONSULTANT for field survey services included as a part of this Agreement in accordance with the NYSDOL Prevailing Rate Schedule, which is incorporated by reference into this Agreement. Furthermore, the SPONSOR shall compensate the CONSULTANT for all increases in labor costs, including applicable overhead and profit, when those increases occur by direction of the NYSDOL. Billings for, and payments by the SPONSOR of, these increases will take place routinely in accordance with the appropriate terms of this Agreement and these increases will be paid as an additional cost over and above the agreed amount.

#### **ARTICLE 8—NONDISCRIMINATION PROVISIONS**

During the performance of its services under this Agreement, the CONSULTANT, and any subconsultant, subcontractor, or vendor retained by it, shall comply with the nondiscrimination requirements set forth in Schedules “H” and “T” hereto, as applicable to this Project.

The CONSULTANT will include the provisions of Schedules “H” and “T” in every subconsultant agreement, subcontract, or purchase order in such a manner that such provisions will be binding upon each subconsultant, subcontractor, or vendor as to operations to be performed within the State of New York. The CONSULTANT will take such action in enforcing such provisions of such subconsultant agreement, subcontract, or purchase order as the SPONSOR may direct, including sanctions or remedies for non-compliance. If the CONSULTANT becomes involved in or is threatened with litigation by a subconsultant, subcontractor, or vendor as a result of such direction by the SPONSOR, the CONSULTANT shall promptly so notify the SPONSOR’s legal counsel, requesting such counsel to intervene and protect the interests of the SPONSOR.

## **ARTICLE 9—WORKER’S COMPENSATION AND LIABILITY INSURANCE**

The CONSULTANT agrees to procure and maintain at its own expense, and without direct expense to the SPONSOR, until final acceptance by the SPONSOR of the services covered by this Agreement, insurance of the kinds and in the amounts hereafter provided, written by insurance companies authorized to do business in the State of New York. Before commencing the performance of services hereunder, the CONSULTANT shall furnish the SPONSOR a certificate or certificates, in form satisfactory to the SPONSOR, showing that it has complied with this Article. All policies shall provide for a 30-day notice of policy cancellation to the SPONSOR (except 10 days’ notice should be provided for cancellation due to non-payment of premiums).

The kinds and amounts of insurance required are as follows:

- A. Policy or policies covering the obligations of the CONSULTANT in accordance with the provisions of any applicable worker’s compensation or disability benefits law, including for the State of New York Chapter 41, Laws of 1914, as amended, known as the Workers’ Compensation Law, and amendments thereto, and Chapter 600 of the Laws of 1949, as amended, known as the Disability Benefits Law, and this Agreement shall be void and of no effect unless the CONSULTANT procures such policy or policies and maintains the same in force during the term of this Agreement.
  
- B. Policy or policies of commercial general liability insurance, with broad form endorsement covering, among other things, the CONSULTANT’s obligation under Article 6 hereof, with limits of liability of not less than One Million Dollars (\$1,000,000) for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by one (1) person in any one (1) accident; and, subject to that limit for each person; not less than Three Million Dollars (\$3,000,000) for all damages arising out of bodily injury, including death at any time resulting therefrom, sustained by two (2) or more persons in any one (1) accident; and not less than One Million Dollars (\$1,000,000) for all damages arising out of injury to or destruction of property in any one (1) accident, and, subject to that limit per accident, not less than Three Million Dollars (\$3,000,000) for all damages arising out of injury to or destruction of property during the policy period.
  - 1. Liability insurance issued to and covering the liability of the CONSULTANT’s subconsultants and subcontractors, having the same policy limits as those set forth above, with respect to all services or work performed by said subconsultants or subcontractors under this Agreement.
  - 2. Protective liability insurance issued to and covering the liability of the CONSULTANT with respect to all services under this Agreement performed for the CONSULTANT by subconsultants or subcontractors.
  - 3. Professional liability insurance issued to and covering the liability of the CONSULTANT with respect to all professional services performed by it under this Agreement.

The SPONSOR, the NYSDOT, and the FAA shall be additional insureds, as their interests may appear, under the insurance coverages described in Paragraph B above, except for the coverage described in Subparagraph (3), which coverages shall be subject to all of the terms, exclusions, and conditions of the applicable policy.

## **ARTICLE 10—ASSIGNMENT REQUIREMENTS**

The CONSULTANT specifically agrees that:

- A. It is prohibited from assigning, transferring, conveying, subletting, or otherwise disposing of this Agreement or of its right, title, or interest herein, or its power to execute this Agreement, to any other person, company, or corporation without the previous consent in writing of the SPONSOR, the

Commissioner of the NYSDOT, and the FAA.

- B. If this provision of the Agreement is violated, the SPONSOR may terminate this Agreement for cause in accordance with the provisions of Article 12. Furthermore, the SPONSOR shall be relieved from any liability and obligation hereunder to the person, company, or corporation to whom the CONSULTANT shall assign, transfer, convey, sublet, or otherwise dispose of this Agreement in violation of the foregoing paragraph (A), and such transferee shall forfeit and lose all monies assigned to it under this Agreement, except so much as may be required to pay its employees.

#### **ARTICLE 11—ADDITIONAL SERVICES**

If authorized in writing by the SPONSOR through a Supplemental Agreement, the CONSULTANT shall furnish or obtain from others any service that is beyond the scope of Schedule(s) "A" ("Additional Services"). The scope, and time for performance, and payment from the SPONSOR to the CONSULTANT for, any Additional Services (which shall be on the basis set forth in Schedule(s) "B") shall be set forth in such Supplemental Agreement.

#### **ARTICLE 12—ABANDONMENT OR AMENDMENT OF PROJECT AND TERMINATION**

- A. **ABANDONMENT OR AMENDMENT OF THE PROJECT**—The SPONSOR shall have the absolute right to abandon or to amend its Project or to change the general basis of performance at any time, and such action on its part shall in no event be deemed a breach of this Agreement. If the SPONSOR amends its Project or changes the general basis thereof, and the CONSULTANT is of the opinion that Additional Services are made necessary thereby, then the provisions of Article 11 of this Agreement with respect to Additional Services shall apply. If the SPONSOR abandons the Project, then the provisions of paragraph B(1)(b) below shall govern payment to the CONSULTANT.

- B. **TERMINATION**

The obligation to provide further services under this Agreement may be terminated:

- 1. **For Cause:**

- a. By either party upon thirty (30) days' prior written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. Notwithstanding the foregoing, this Agreement will not terminate as the result of such substantial failure if the party receiving notice begins, within seven (7) days after receipt of such notice, to correct its failure to perform and proceeds diligently to cure such failure within thirty (30) days of such receipt; provided that, if and to the extent that such substantial failure cannot reasonably be cured within such thirty (30)-day period, and if the party has diligently attempted to cure the failure and thereafter continues diligently to cure the problem, then the cure period may, in the discretion of the terminating party, be extended to sixty (60) days after the receipt of notice.
    - b. By the CONSULTANT upon seven (7) days' written notice if (a) the CONSULTANT believes that it is being requested by the SPONSOR to perform or furnish services contrary to or in conflict with the CONSULTANT's responsibilities as a licensed design professional or the standard of care set forth in Article 3 hereof; or (b) the CONSULTANT's services are delayed or suspended for more than ninety (90) days, consecutively or in the aggregate, for reasons beyond the CONSULTANT's control; or (c) the SPONSOR has abandoned, or is considered to have abandoned, the Project.

- 2. **For convenience** by the SPONSOR, effective upon the receipt of notice by the CONSULTANT.

C. PAYMENTS UPON TERMINATION

1. **For Cause:**

- a. By the SPONSOR: If the SPONSOR terminates this Agreement for cause upon completion of any phase of Basic Services, then progress payments due the CONSULTANT in accordance with this Agreement for all such services performed by or furnished through the CONSULTANT and its subconsultants, subcontractors, and vendors through the completion of such phase shall constitute total payment for such services. If the SPONSOR terminates this Agreement for cause during any phase of Basic Services, the CONSULTANT will also be paid for such services performed or furnished in accordance with this Agreement by the CONSULTANT during that phase through the date of termination on the basis specified in Schedule(s) "B". The CONSULTANT will also be paid for the charges of its subconsultants, subcontractors, or vendors who performed or furnished Basic Services to the extent that such services have been performed or furnished in accordance with this Agreement through the effective date of the termination. The SPONSOR shall also pay the CONSULTANT for all unpaid Additional Services and unpaid Reimbursable Expenses.
- b. By the CONSULTANT: If the CONSULTANT terminates this Agreement for cause upon completion of any phase of Basic Services, then progress payments due the CONSULTANT in accordance with this Agreement for all such services performed or furnished by the CONSULTANT and its subconsultants, subcontractors, or vendors through the completion of such phase shall constitute total payment for such services. The CONSULTANT shall also be paid for all unpaid Additional Services and unpaid Reimbursable Expenses, as well as for the CONSULTANT's reasonable expenses directly attributable to termination in accordance with the rates for Additional Services set forth in Schedule(s) "B" hereto measured from the date of termination, including fair and reasonable sums for overhead and profit and the costs of terminating the CONSULTANT's contracts with its subconsultants, subcontractors, or vendors.

2. **For convenience**

If the SPONSOR terminates this Agreement for convenience upon completion of any phase of Basic Services, then progress payments due the CONSULTANT in accordance with this Agreement for all such services performed by or furnished through the CONSULTANT through the completion of such phase shall constitute total payment for such services. If the SPONSOR terminates this Agreement for convenience during any phase of Basic Services, the CONSULTANT will also be paid for such services performed or furnished in accordance with this Agreement by the CONSULTANT during that phase through the date of termination on the basis specified in Schedule(s) "B". Additionally, the CONSULTANT will be paid for the charges of its subconsultants, subcontractors, or vendors who performed or furnished Basic Services through the effective date of termination. The SPONSOR shall also pay the CONSULTANT for all unpaid Additional Services and unpaid Reimbursable Expenses, as well as for the CONSULTANT's reasonable expenses directly attributable to termination in accordance with the rates for Additional Services set forth in Schedule(s) "B" measured from the date of termination, including fair and reasonable sums for overhead and profit and the costs of terminating the CONSULTANT's contracts with its subconsultants, subcontractors, or vendors.

**ARTICLE 13—SUSPENSION OF SERVICES**

If the CONSULTANT's services hereunder are delayed or suspended, in whole or in part, by the SPONSOR for more than thirty (30) calendar days, consecutively or in the aggregate, through no fault of the CONSULTANT, then the CONSULTANT shall be entitled to equitable adjustments of rates and amounts of compensation to reflect, among other things, reasonable costs incurred by the CONSULTANT in connection with the delay or

suspension and reactivation and the fact that the time for performance of the CONSULTANT's services hereunder has been revised. If the delay or suspension persists for more than ninety (90) days, consecutively or in the aggregate, then the CONSULTANT may consider the Project to have been abandoned by the SPONSOR and may terminate this Agreement for cause.

Upon the SPONSOR's resumption of its Project, and if the CONSULTANT has not terminated this Agreement for cause, the CONSULTANT shall resume its services under this Agreement until the services are completed and accepted, subject to any adjustment in the rates set forth in Schedule(s) "B" because of the passage of time.

#### **ARTICLE 14—INTERCHANGE OF DATA**

During the performance of this Agreement, all technical data in regard to the Project whether (a) existing in the office of the SPONSOR or (b) existing in the office of the CONSULTANT, shall be made available to the other party to this Agreement without expense to such other party.

#### **ARTICLE 15—DISPOSITION OF PROJECT DOCUMENTS**

At the time of completion of its services and upon payment in full therefor, the CONSULTANT shall make available to the SPONSOR copies of documents prepared as the result of this Agreement. These documents shall then become the property of the SPONSOR and the maintenance of the data therein shall be the sole responsibility of the SPONSOR. Any reuse of the documents by the SPONSOR or others on extensions of the Project, or on any other project, without written verification or adaptation by the CONSULTANT and its subconsultants, subcontractors, or vendors, as appropriate, for the specific purpose intended will be at the SPONSOR's sole risk and expense and without liability or legal exposure to the CONSULTANT or its subconsultants, subcontractors, or vendors. The SPONSOR shall indemnify the CONSULTANT, its subconsultants, subcontractors, and vendors against, and hold them harmless from, all claims, damages, losses, and expenses (including reasonable expert and attorneys' fees) arising out of or resulting from such reuse.

In the event that this Agreement is terminated for any reason, then within ten (10) days after such termination, the CONSULTANT shall make available to the SPONSOR all data and material prepared under this Agreement, including cover sheets, in accordance with and subject to the terms of the above paragraphs.

#### **ARTICLE 16—CODE OF ETHICS**

The CONSULTANT specifically agrees that this Agreement may be canceled or terminated if any service under this Agreement is in conflict with the provisions of Section 74 of the New York State Public Officers' Law, as amended, and Schedule "G", which is attached hereto and made a part hereof.

#### **ARTICLE 17—INDEPENDENT CONTRACTOR**

The CONSULTANT, in accordance with its status as an independent contractor, shall conduct itself consistent with such status; shall neither hold itself out as nor claim to be an officer or employee of the SPONSOR by reason hereof; and shall not, by reason hereof, make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the SPONSOR, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.



**ARTICLE 18—PATENT RIGHTS AND COPYRIGHTS**

Any patentable result arising out of this Agreement, as well as all information, designs, specifications, know-how, data, and findings, shall be made available without cost to the State of New York or its licensees and the FAA for public use. No material prepared in connection with this Project shall be subject to copyright. The State and the FAA shall have the right to publish, distribute, disclose, or otherwise use any material prepared under this Project, subject to the provisions of Article 15 hereof.

**ARTICLE 19—NEW YORK STATE PARTICIPATION**

The services to be performed in this Agreement are included in a NYSDOT Project, which is being undertaken and accomplished by the SPONSOR and the State of New York and pursuant to which the State of New York has agreed to pay a certain percentage of the allowable Project costs. The State of New York is not a party to this Agreement and no reference in this Agreement to the Commissioner of Transportation or any representative thereof, or to any rights granted to the Commissioner of Transportation or any representative thereof or the State of New York by the Agreement, makes the State of New York a party to this Agreement.

The CONSULTANT and the SPONSOR agree that properly authorized officials of the State of New York may from time to time inspect all Project documents for the purpose of insuring compliance with New York State laws and protecting the interests of the State of New York.

**ARTICLE 20—FEDERAL PARTICIPATION**

The FAA is not a party to this Agreement, although the Project work program covered by this Agreement may be financially aided in part by a Grant Agreement between the SPONSOR and the FAA. The SPONSOR and the CONSULTANT hereby agree to comply fully with the conditions set forth in detail in the Grant Agreement as though they were set forth in detail in this Agreement, including the requirements set forth in Schedules "D", "F", "G", and "H" hereto. The CONSULTANT further agrees that, by reason of complying with the conditions of the Grant Agreement, no obligation is entailed on the part of the FAA to the CONSULTANT.

The CONSULTANT and the SPONSOR agree that properly authorized officials of the FAA may from time to time inspect all Project documents for the purpose of insuring compliance with Federal laws and protecting the interests of the FAA.

**ARTICLE 21—MISCELLANEOUS**

- A. The CONSULTANT shall require all persons employed to perform services hereunder, including its subconsultants or subcontractors, vendors, agents, officers, and employees, to comply with applicable laws in the jurisdiction in which the Project is located.
- B. If any provision of this Agreement is held to be invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.
- C. By execution of this Agreement, the CONSULTANT represents that it has not paid, and also agrees not to pay, any bonus or commission for the purpose of obtaining any approval of this Agreement.
- D. Any notice required under this Agreement shall be in writing, addressed to the appropriate party at the

address set forth above, and shall be given personally; by registered or certified first-class mail, postage prepaid and return receipt requested; by facsimile transmission, with confirmation of receipt; or by a nationally-recognized overnight courier service, with proof of receipt. Notice shall be effective upon the date of receipt. For purposes of this Agreement, failure or refusal to accept receipt shall constitute receipt nonetheless. Either party may change its address for notice by giving notice to the other in accordance with the terms of this paragraph.

- E. This Agreement, and the interpretation and enforcement of the provisions hereof, is governed by the laws of the State of New York.

#### **ARTICLE 22— SUBCONSULTANTS/SUBCONTRACTORS AND VENDORS**

All subconsultants and subcontractors performing services for or work on this Project shall be bound by the same required provisions of this Agreement as is the CONSULTANT. As set forth above, all agreements between the CONSULTANT and a subconsultant, subcontractor, or vendor shall include all standard required contract provisions, and such agreements shall be subject to review by the NYSDOT and the FAA.

#### **ARTICLE 23 — FORCE MAJEURE**

Any delay in or failure of performance of any party to this Agreement shall not constitute a default under this Agreement nor give rise to any claim for damage, if and to the extent such delay or failure is caused by occurrences or events beyond the control of the party affected, including, but not limited to, acts of God; expropriation or confiscation of facilities or compliance with any order or request of government authority, affecting to a degree not presently existing, the supply, availability, or use of personnel or equipment; loss of utility services; blizzard; flood; fire; labor unrest; strikes; war; riot; or any cause the party is unable to prevent with reasonable diligence. A party who is prevented from performing for any reason shall immediately notify the other in writing of the reason for the nonperformance and the anticipated extent of any delay. Additionally, if the delay resulting from any of the foregoing increases the cost of or time required by CONSULTANT to perform its services hereunder in an orderly and efficient manner, then CONSULTANT shall be entitled to an equitable adjustment in schedule and/or compensation.

#### **ARTICLE 24 — DISPUTE RESOLUTION**

- A. The SPONSOR and the CONSULTANT agree to negotiate in good faith for a period of thirty (30) days from the date of notice of disputes between them prior to exercising their right under Section 24B below. The thirty-day period may be extended upon mutual agreement of the parties.
- B. If any dispute cannot be resolved pursuant to paragraph (A) above, and only if mutually agreed by SPONSOR and CONSULTANT, said dispute and all unsettled claims, counterclaims, and other matters in question between them arising out of or relating to this Agreement or the breach of any provision hereof (“disputes”) shall be submitted to mediation by a mediator, to be selected by the parties jointly, prior to a party initiating a legal action against the other, unless initiating mediation would irrevocably prejudice one of the parties. It is the intention of the parties that any agreement reached at mediation become binding. The cost of mediation shall be shared equally between the parties.

IN WITNESS WHEREOF, this Agreement has been executed by the SPONSOR, acting by and through the County Executive, who has caused the seal of his or her office to be affixed hereto, and by the CONSULTANT, acting by and through a duly-authorized officer, effective the day and year first above-written, subject to the approval of the Commissioner of the NYSDOT, the State Comptroller, and the FAA.

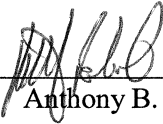
**SPONSOR**

**CONSULTANT**

**Oneida County, New York**

**C&S Engineers, Inc.**

By: \_\_\_\_\_  
Hon. Anthony J. Picente

By:  \_\_\_\_\_  
Anthony B. Basile

Title: County Executive

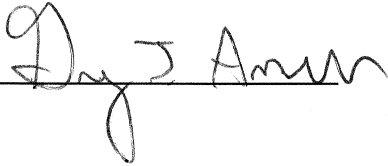
Title: Manager, Airport Services Group

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

Date: 9-17-2013

**Approved As To Form:**

**ONEIDA COUNTY ATTORNEY**

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

# SCHEDULE A

## SCOPE OF WORK

**Project Title:** Taxiway Rehabilitation - Phase III  
**Airport Name:** Griffiss International Airport  
**Services Provided:** Design

### **Project Description:**

The CONSULTANT shall provide required services to design the Taxiway Rehabilitation - Phase III project (the "Project"). The Project will be performed and constructed by the SPONSOR with grant assistance from the Federal Aviation Administration (FAA) Airport Improvement Program (AIP) and the New York State Department of Transportation (NYSDOT).

Originally constructed in the 1950's, the condition and strength of the taxiway pavement system at Griffiss International Airport is failing and in need of repair and replacement. The SPONSOR has determined that a construction project to rehabilitate its existing taxiway pavement system must be completed to maintain a usable and safe taxiway pavement system. This was established as a priority in the Pavement Management Implementation Final Report ("PMI") submitted in July 2006. The SPONSOR wishes to complete this project in four phases over the course of four fiscal years. This Project is the third contract of the taxiway rehabilitation project and generally includes a section of Taxiway "A" which intersects with Taxiway B; Taxiway "B" and the pavement area associated with the compass calibration pad (located south of Taxiway "B"); Taxiway "D"; the remaining portion of Taxiway "E", including the jet-warm up area; and Taxiway "F" at 75 feet wide. The total area is approximately 75,000 sf.

Project tasks include limited profile cold milling and excavation of concrete pavement, rubblizing the existing concrete pavement, placement of a crushed stone base course and bituminous asphalt paving with FAA item P-401. The Project will also include underdrain installation, pavement markings, and airfield lighting and signage modifications. Taxiway "D" will require complete reconstruction and drainage improvements. The Project will be constructed under a single General Construction contract with a base bid and possible add-on bids.

Phase III pavement areas include:

- Rehabilitation of a section of Parallel Taxiway "A", approximately 1,500 feet in length located between Taxiway "C" and the holding bay for Runway 15 End. This section of Taxiway "A" intersects with Taxiway "B". A 2,475 foot section of Taxiway "A" was designed and bid under phase II as add-on number one in year 2013. This segment of taxiway will be re-packaged and bid under phase III.
- Rehabilitation of Taxiway "B", approximately 600 feet in length.
- Rehabilitation of the pavement associated with the compass calibration marking area, approximately 350 feet in length, located to the south of Taxiway "B".
- Rehabilitation of Taxiway "F", approximately 500 feet in length.
- Rehabilitation of the pavement associated with the jet warm up area, approximately 450 feet in length, located to the west of Taxiway "E".
- Rehabilitation of a section of Taxiway "E", approximately 1,300 feet in length, located west of Taxiway "A" and east of Taxiway "F".
- Rehabilitation of Taxiway "D", approximately 860 feet in length and 75 feet wide.

Services to be provided by the CONSULTANT are the civil and electrical engineering design services, as applicable, required to accomplish the following items ("Basic Services"):

**ADMINISTRATION PHASE**

The CONSULTANT shall aid the SPONSOR by acting as its liaison and Project coordinator with the NYSDOT and the FAA during the Project’s design. In addition, the CONSULTANT shall assist the SPONSOR in the preparation of paperwork required to secure funds for the Project. The specific services to be provided or furnished for this Phase of the Project are the following:

1. Preparation of grant application packages; coordination of their execution by the SPONSOR; and submission to the funding agencies.
2. Preparation of reimbursement request packages; coordination of their execution by the SPONSOR; and submission to the funding agencies.
3. During the Design Phase, to aid the SPONSOR by acting as its liaison and Project coordinator with the funding agencies.
4. The construction budget for the Project is \$3,700,000 (plus \$1,800,000 for add-on number one designed under Phase II). The CONSULTANT shall evaluate the feasibility of this budget, based upon the CONSULTANT’S experience as a design professional, and keep the SPONSOR apprised during each phase of the Project of the results of such evaluation. The CONSULTANT shall advise the SPONSOR as to the options available for reducing construction costs to stay within the construction budget, if it appears likely that contractor bid prices will exceed this budget.
5. The design schedule is anticipated to be as follows:

	<u>Time from Receipt of NTP</u>	<u>Anticipated Completion Date</u>
Contract Execution		September 2013 *
Notice to Proceed (NTP)		September 2013
Schematic Design	2 months	
Preliminary Design	4 months	
Final Design	6 months	March 2014

\* Contract execution and start dates are dependent upon FAA funding and grant acceptance.

**SCHEMATIC DESIGN PHASE**

The Schematic Design Phase is intended to identify and evaluate alternatives to provide cost-effective and practical solutions for the work items identified. The CONSULTANT will evaluate alternatives through contacts with local authorities, review of the pre-application, field investigations, and a practical design approach. The Project’s design will take advantage of local knowledge and experience and will utilize expertise from recent construction projects in an effort to design a cost-effective Project. The specific services to be provided or furnished by the CONSULTANT for this Phase of the Project are the following:

1. Schedule and conduct a pre-design meeting with the SPONSOR, the FAA, and the NYSDOT to review the scope of basic services and become familiar with the Project requirements and operational concerns during the Project’s construction.
2. Acquire and review record documents (such as plans, specifications, reports, and studies) to become familiar with data that is available for the Project.
3. Perform a preliminary Project site inspection to further familiarize the design team with Project areas.
4. Existing topographic survey of and utility data for the Project site will be used for design. This data has been obtained by others under Phase I design. In addition, as-built topographic data will be acquired by others as part of the Phases I and II construction contracts. This data will be used for pavement tie-ins to existing grade.

5. Supplemental topographic survey, beyond the areas obtained under Phase I, will be required.
  - a. Prepare preliminary plans identifying required topographic field surveys, subsurface soils investigations, and other field investigative programs. Develop a schedule of completion of required surveys and investigations to minimize interference with Airport and tenant operations. Coordinate schedule with the SPONSOR and observe programs at the Project site as necessary.
  - b. Acquire the necessary topographic survey of, and utility data for, the Project site, including related office computations and drafting.
6. Existing soils and pavement investigation data, including borings, pavement cores, and test pits, as well as field and laboratory tests, to identify existing pavement conditions and subsurface soil characteristics will be used for design. This data was obtained by others under Phase I design.
7. The environmental review for this Project has been completed and approved by the NYS and the FAA. Further environmental review (NEPA/SEQR) is not included in this Scope of Services.
8. Develop schematic designs, including preliminary pavement horizontal geometric layouts, and prepare preliminary opinion of probable construction costs for each major element of the Project.

### **PRELIMINARY DESIGN**

The services to be performed by the CONSULTANT during this Phase consist generally of services required to furnish the SPONSOR with a set of Preliminary Plans, Specifications, and Engineer's Report (prepared using the format set forth in Schedule "F" to the Agreement).

The specific services to be provided or furnished by the CONSULTANT for this Phase of the Project are the following:

1. Finalize horizontal pavement geometrical layouts. Compute and document on drawings sufficient information to lay out proposed pavements in field during construction.
2. Analyze data obtained (by others under Phase I) from subsurface soils and existing pavement investigation program and determine properties of existing pavement and soil materials. Document results of program, existing conditions, and recommendations in the design report.
3. Review previously prepared pavement design (by others under Phase I) in accordance with FAA Advisory Circular 150/5320-6E.
4. Review previously prepared pavement rehabilitation alternatives and the preferred alternative which was developed by others under Phases I and II designs.
5. Develop preliminary pavement centerline profiles, cross sections, and site grading for the proposed work.
6. Develop preliminary drainage designs, including computation of surface water runoff volumes, and lay out facilities necessary to accommodate expected flows. Inspect the condition of existing drainage pipes under the taxiways to determine if replacement is warranted.
7. Develop preliminary airfield lighting layouts, including light fixture spacing and cable circuitry requirements. Investigate existing electrical system capacities and perform preliminary design of electrical power distribution and control systems. Existing edge lights may require relocation based on the proposed geometry.
8. Develop preliminary designs of structural Project elements, such as catch basins, manholes, and culverts.
9. Conduct site inspections to verify topographic survey (obtained by others under Phase I) and other Project-related existing physical features and facilities.

10. Prepare preliminary Contract Drawings (approximately 50% complete) providing sufficient detail for review of design concepts by the SPONSOR, the FAA, and the NYSDOT.
11. Prepare general specifications and preliminarily develop technical specifications expected to be required for the proposed work.
12. Develop a draft construction phasing and operations plan that endeavors to limit interference by the Project's construction with airport and tenant operations, in accordance with FAA Advisory Circular 150/5370-2 (current edition).
13. Update opinion of probable construction cost to reflect the outcomes of preliminary Project design.
14. Prepare written design report documenting items such as design concepts, assumptions, and alternative designs. The contents of the report shall be consistent with Schedule "F". Identify conflicts with or deviations from FAA standards for design items, and request a waiver from the FAA, if necessary, using the Eastern Region Modification of Airport Design Standards form.
15. Submit sufficient copies of preliminary design documents to the SPONSOR, the FAA, and the NYSDOT for their review and comment.
16. Schedule and conduct a preliminary design review meeting to discuss and resolve the SPONSOR comments.

#### **FINAL DESIGN PHASE**

The services included under this Phase shall generally consist of services required to furnish the SPONSOR with a complete set of Contract Documents for the Project, including Final Plans, Specifications, Engineer's Design Report, and an opinion of probable construction costs. Services to be performed or furnished by the CONSULTANT during this Phase may include revising the preliminary submittal information to comply with SPONSOR, FAA AND NYSDOT comments and then completion of the final design. Plans and Specifications, suitable for unit price bidding, will be completed; final design will be coordinated with the SPONSOR; and a complete set of bid documents will be furnished to the SPONSOR. A final opinion of probable construction cost and the final Engineers Report will also be prepared and submitted. A final Construction Phasing and Operations Plan will be included as part of the specifications.

The specific services to be provided or furnished for this Phase of the Project are the following:

1. Finalize pavement centerline profiles, cross-sections, and grading designs.
2. Finalize pavement designs and detail pavement keyways, edge of pavement grading requirements, and pavement sections.
3. Finalize drainage designs and layouts and detail pipe and drainage structure installations.
4. Finalize structure designs and detail Portland cement concrete, reinforcing bar, and other related installations.
5. Finalize airfield lighting layouts, electrical power distribution and system designs, and detail installations.
6. Finalize pavement marking layouts, and detail installations.
7. Prepare final Contract Drawings.
8. Perform a detailed quantity takeoff of all bid items to be included on the Contract Drawings and in the General Specifications of the Contract Documents.
9. Finalize General Specifications and prepare written Technical Specifications for all construction materials and installations. Finalize construction phasing and operations plan and include in Specifications.

10. Prepare final opinion of probable construction costs based upon the actual bid items and quantity takeoffs.
11. Finalize design report to be consistent with the final design.
12. Prepare stormwater pollution control plan and submit required documents to comply with stormwater permit requirements for construction projects.
13. Submit draft final documents to the SPONSOR, the FAA, and the NYSDOT for final review and comment. Schedule and conduct draft final review meeting with the SPONSOR to discuss and resolve final comments.
14. Reproduce and submit sufficient copies of bid documents to SPONSOR for bidding purposes. Bid documents shall consist of the Contract Drawings and the Specifications. Cross-sections and soils investigation data shall also be provided to bidders for informational purposes.

### **BID PHASE**

The Bid Phase is that timeframe between completion of the design process and the beginning of actual construction when the SPONSOR publicly advertises and receives bids, awards a contract to the lowest responsible bidder, and executes a construction contract to perform the work with the successful contractor(s). The CONSULTANT shall assist the SPONSOR during this Phase as required.

The specific services to be provided or furnished for this Phase of the Project are the following:

1. Assist the SPONSOR in the advertisement of the Project and issuance of bid documents.
2. Receive and respond as required to questions from potential bidders regarding the Contract Documents.
3. Schedule and conduct pre-bid conference(s) if requested by the SPONSOR and advise the SPONSOR on matters relating to design. Prepare meeting minutes of the pre-bid conference(s).
4. Prepare addenda to the bid documents after advertisement and prior to bidding as required upon the SPONSOR's approval.
5. Attend bid opening. Upon receipt of bids, perform a bid review. The bid review shall include items such as a check of the contractor's bid extensions, bid security, execution of bid, non-collusive bidding certificate, EEO certification, statement of surety's intent, addenda receipt, "Buy American" certificate, subcontractors and suppliers list, Disadvantaged Business Enterprise (DBE) certification, eligibility certification, corporate bidder's certification, non-discrimination statement, and nonsegregated facilities certificate. Request evidence of competency and evidence of financial responsibility from the contractor. Review the contractor's list of personnel, list of equipment, and financial statement. Formal contact of the contractor's references shall be made upon the SPONSOR's request or if the contractor has no past working relationship with the CONSULTANT, the SPONSOR, the FAA, or the NYSDOT.
6. Prepare a final bid tabulation, recommendation/rejection of award to the SPONSOR, and a sample award letter. Request concurrence of award from the FAA and the NYSDOT.
7. Upon award of contract, prepare conformed copies of contracts; coordinate the contractor's execution of the contract; review the contractor's bonds, insurance certificates, and DBE plan; review the contractor's submission with the SPONSOR; coordinate the SPONSOR's execution of the contract; and assist in distributing copies of executed contracts to the contractor, the FAA and the NYSDOT.
8. Coordinate Notice to Proceed (NTP) for construction. Contact the FAA for permission to issue the NTP. Prepare a sample NTP letter for the SPONSOR to send to the contractor.

END OF SCHEDULE





**ARCHITECTURAL/ENGINEERING  
COST SUMMARY  
SCHEDULE "B"  
DESIGN PHASE**

PROJECT NAME: TAXIWAY REHABILITATION - PHASE III  
PROJ DESCRIPTION DESIGN

DATE: 05-Jun-13  
A/E: C & S ENGINEERS, INC.  
PROJECT NO: 146.107.004  
C&S CONTACT: RALPH NAPOLITANO

CLIENT: ONEIDA COUNTY  
CLIENT MANAGER: F. RICHARD GIFFORD, II

I. ESTIMATE OF DIRECT SALARY COSTS:		MAXIMUM	AVERAGE		ESTIMATED	ESTIMATED
TITLE		RATE OF PAY	RATE OF PAY	@	HOURS	COST
		(\$/HR)	(\$/HR)			
A.	SERVICE GROUP MANAGER	\$77.30	\$70.40	X	12	\$845.00
B.	DEPARTMENT MANAGER	\$63.60	\$59.10	X	0	\$0.00
C.	MANAGING ENGINEER	\$55.30	\$51.10	X	80	\$4,088.00
D.	CHIEF/PRINCIPAL ENGINEER	\$62.20	\$59.40	X	40	\$2,376.00
E.	SENIOR PROJECT ENGINEER	\$46.10	\$44.00	X	632	\$27,808.00
F.	PROJECT ENGINEER	\$43.30	\$38.60	X	0	\$0.00
G.	ENGINEER	\$43.20	\$33.50	X	428	\$14,338.00
H.	STAFF ENGINEER	\$34.10	\$29.50	X	80	\$2,360.00
I.	SENIOR DESIGNER	\$39.40	\$33.20	X	200	\$6,640.00
J.	DESIGNER	\$32.40	\$27.40	X	0	\$0.00
K.	CADD OPERATOR	\$27.70	\$23.60	X	120	\$2,832.00
L.	ADMINISTRATIVE ASSISTANT	\$25.50	\$22.50	X	40	\$900.00
M.	GRANTS ADMINISTRATOR	\$39.50	\$37.50	X	40	\$1,500.00
N.	MANAGER AIRPORT PLANNING	\$59.30	\$56.50	X	0	\$0.00
O.	SENIOR PLANNER	\$56.80	\$49.10	X	0	\$0.00
P.	PLANNER	\$34.10	\$32.40	X	0	\$0.00
Q.	STAFF PLANNER	\$34.10	\$29.50	X	0	\$0.00
R.	SENIOR/MANAGING ARCHITECT	\$54.50	\$51.20	X	0	\$0.00
S.	PROJECT ARCHITECT	\$43.20	\$41.10	X	0	\$0.00
T.	MANAGING GEOLOGIST (SOILS ENG)	\$59.10	\$56.30	X	0	\$0.00
U.	GEOLOGIST	\$28.50	\$27.00	X	0	\$0.00
V.	ENVIRONMENTAL SCIENTIST	\$36.10	\$34.40	X	40	\$1,376.00
W.	SENIOR CONSTRUCTION SUPERVISOR	\$68.50	\$65.30	X	0	\$0.00
X.	CONSTRUCTION SUPERVISOR	\$49.50	\$47.10	X	0	\$0.00
Y.	RESIDENT ENGINEER	\$51.20	\$43.10	X	0	\$0.00
Z.	CHIEF INSPECTOR	\$38.60	\$36.80	X	0	\$0.00
AA.	SENIOR INSPECTOR	\$34.10	\$30.50	X	0	\$0.00
BB.	INSPECTOR	\$32.40	\$27.20	X	0	\$0.00
CC.	JUNIOR INSPECTOR	\$22.70	\$21.60	X	0	\$0.00
DD.	SENIOR TECHNICAL ADMINISTRATOR	\$34.90	\$33.20	X	0	\$0.00
EE.	PARTY CHIEF	\$58.30	\$55.80	X	0	\$0.00
FF.	SURVEYOR I	\$54.90	\$52.40	X	0	\$0.00
GG.	SURVEYOR II	\$54.90	\$52.40	X	0	\$0.00

TOTAL ESTIMATED DIRECT SALARY COST: \$65,063.00

II. OVERHEAD EXPENSES & PAYROLL BURDEN PER SCHEDULE "C" -  
(AUDITABLE, ESTIMATED AND EXPRESSED AS A PERCENTAGE  
OF DIRECT SALARY COST):

168.00% \$109,306.00

III. SUBTOTAL OF ITEMS I & II:

\$174,369.00

IV. ESTIMATE OF DIRECT EXPENSES:

A.	TRAVEL, BY AUTO:						
		8 TRIPS @	100 MILES/TRIP @	\$0.565	=	\$452.00	
B.	MISCELLANEOUS:				=	<u>\$396.39</u>	

TOTAL ESTIMATE OF DIRECT EXPENSES: \$848.39

V. FIXED FEE (PROFIT, LUMP SUM):

A.	LABOR PLUS OVERHEAD:		15%	(OF III.)	\$26,155.35
B.	DIRECT EXPENSES:		15%	(OF IV.)	<u>\$127.26</u>

TOTAL FIXED FEE: \$26,282.61

VI. SUBCONTRACTS:

A.	ESTIMATE OF TOPOGRAPHICAL SURVEYS:	\$18,500.00
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VII. TOTALS:

A.	MAXIMUM TOTAL COST FOR DESIGN SERVICES, AGREEMENT TOTAL & FAA ELIGIBLE:	<u><u>\$220,000.00</u></u>
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## SCHEDULE "C"

### C&S ENGINEERS, INC AGREED OVERHEAD

	ALLOWABLE COST	% OF DIRECT LABOR
<b>SALARY OVERHEAD (PAYROLL BURDEN)</b>		
Vacation & Holiday	2,400,000.00	16%
Sick & Personal	470,000.00	3%
FICA Taxes	2,000,000.00	14%
U. E. Taxes	300,000.00	2%
WC Insurance	120,000.00	1%
Group Insurance	1,600,000.00	11%
Bonus	810,000.00	16%
Employee Benefits	660,000.00	4%
Payroll Preparation	30,000.00	0%
<b>TOTAL SALARY OVERHEAD</b>	<b>8,390,000.00</b>	<b>57%</b>
<b>GENERAL &amp; ADMINISTRATIVE OVERHEAD</b>		
Indirect Labor	3,700,000.00	25%
Clerical & Administrative	1,800,000.00	12%
Project Development	3,100,000.00	21%
Training & Recruitment	420,000.00	3%
Office Supplies & Equipment Leases	1,800,000.00	12%
Travel & Auto Expenses	850,000.00	6%
Insurance	290,000.00	2%
Depreciation	700,000.00	5%
Rent , Janitorial, & Maintenance	2,130,000.00	14%
Utilities	150,000.00	1%
Telephone	350,000.00	2%
Dues & Fees	480,000.00	3%
Workshops, Seminars, & Education	380,000.00	3%
Legal & Accounting	160,000.00	1%
<b>TOTAL GENERAL &amp; ADMINISTRATIVE</b>	<b>16,310,000.00</b>	<b>111%</b>
<b>TOTAL OVERHEAD</b>	<b>24,700,000.00</b>	<b>168%</b>
<b>TOTAL DIRECT LABOR</b>	<b>14,700,000.00</b>	

END OF SCHEDULE

## SCHEDULE "D"

**U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
AIRPORT IMPROVEMENT PROGRAM  
SPONSOR CERTIFICATION**

**SELECTION OF CONSULTANTS**

<i>(Sponsor)</i>	<i>(Airport)</i>	<i>(Project Number)</i>
Oneida County Taxiway Rehabilitation - Phase III <i>(Work Description)</i>	Griffiss International Airport	3-36-0119-32-13 (D)

Title 49, United States Code, section 47105(d), authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General standards for selection of consultant services within Federal grant programs are described in Title 49, Code of Federal Regulations (CFR), Part 18.36. Sponsors may use other qualifications-based procedures provided they are equivalent to specific standards in 49 CFR 18 and FAA Advisory Circular 150/5100-14, Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects.

Except for the certified items below marked not applicable (N/A), the list includes major requirements for this aspect of project implementation, although it is not comprehensive, nor does it relieve the sponsor from fully complying with all applicable statutory and administrative standard.

	Yes	No	N/A
1. Solicitations were (will be) made to ensure fair and open competition from a wide area of interest.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. For contracts over \$100,000, consultants were (will be) selected using competitive procedures based on qualifications, experience, and disadvantaged enterprise requirements with the fees determined through negotiations.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. A record of negotiations has been (will be) prepared reflecting considerations involved in the establishment of fees, which are not significantly above the sponsor's independent cost estimate.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. If engineering or other services are to be performed by sponsor force account personnel, prior approval was (will be) obtained from the FAA.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. The consultant services contracts clearly establish (will establish) the scope of work and delineate the division of responsibilities between all parties engaged in carrying out elements of the project.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Costs associated with work ineligible for AIP funding are (will be) clearly identified and separated from eligible items in solicitations, contracts, and related project documents.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Yes	No	N/A
7. Mandatory contract provisions for grant-assisted contracts have been (will be) included in consultant services contracts.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. The cost-plus-percentage-of-cost methods of contracting prohibited under Federal standards were not (will not be) used.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. If the services being procured cover more than the single grant project referenced in this certification, the scope of work was (will be) specifically described in the advertisement, and future work will not be initiated beyond five years.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and have prepared documentation attached hereto for any item marked "no" that is correct and complete.

Oneida County, New York

(Name of Sponsor)

*Chad Lawrence*

(Signature)

Chad Lawrence

(Printed Name of Sponsor's Designated Official Representative)

Deputy Commissioner of Agriculture

(Printed Title of Sponsor's Designated Official Representative)

9-26-2013

(Date)

END OF SCHEDULE

## **SCHEDULE E**

**(RESOLUTION TO BE INSERTED)**

## SCHEDULE F

### ENGINEER'S REPORT

The following has been compiled as guidance covering what will be reflected in an Engineer's Report:

#### Chapter I - Introduction

1. **Scope**—A brief explanation of the scope of the proposed development as indicated in the project funding application, and how it fits in with the present and future development of the airport as shown on the approved Airport Layout Plan. This is not to be construed as another justification of the item(s) which has (have) already been accomplished during the development and processing of the Request for Aid.
2. **Environmental and Safety Consideration**— Fulfillment of environmental consideration and commitments as per the project Environmental Clearance issued by the FAA and AC 150/5370, "Operational Safety on Airports During Construction."
3. State what is the critical aircraft for design purposes and the basis of selection.

#### Chapter II - Design

1. **Design Standards**—A listing of the applicable Advisory Circulars that are current on the date of the Tentative Allocation as shown in the latest tri-annual listing in the Federal Register and which are mandatory as per Paragraph 83 and Appendix I of FAR Part 152. In the event the SPONSOR/Engineer wishes to use either draft or non-mandatory Advisory Circulars or other standards, a written request, including the rationale therefore, shall be promptly submitted through the SPONSOR for FAA consideration and inclusion in the report. The processing of the request shall be accomplished in accordance with Order 5300.1A. Include a discussion as to any variances from the design standards and request for waivers.
2. **Unusual Local Conditions**—Identification and explanation of local conditions not covered by the standards listed in above item (1) which will require modification. This should include a discussion of the local condition, alternative solutions, recommended solution, and the rationale for same. The discussion shall also include economics, scheduling, methods, and effect on other facilities, operations, parties, etc. Some typical items that may generate this type of discussion are:
  - A. unusual soil classification, including drainage and structural characteristics;
  - B. unusual weather conditions, such as precipitation and temperature;
  - C. availability, proximity, and costs of construction material, manpower, on and off-site equipment, and plans, etc.;
  - D. special design to accommodate unusual equipment and/or operations (e.g., off-hour construction or non-standard construction procedures).
3. **Soils Report and Other Test Report Review.** Either a separate document or include in Engineer's Report. Include reports prepared by others from the phase I design and include independent review analysis from phase II.

4. **Pavement Design Review.** Include pavement design rationale (prepared by others under phase I design), making references to publications used, including applicable graphs, etc., if necessary. Include Pavement Design FARRFIELD reports and Pavement Gradients and Cross Sections. INCLUDE INDEPENDENT REVIEW OF EXISTING DESIGN.
5. **Drainage Design**—Discuss drainage design rationale, including grades and drainage structures (sizes, slope, strength, etc.).
6. **Lighting**—Discussion should include the following:
  - A. Series lighting design (MIRL), including:
    - 1) Present regulator rating, condition, and load;
    - 2) Proposed load under this project;
    - 3) Future load;
    - 4) Wire sizes and length of runs.

### **Chapter III - Contract Provisions and Eligibility**

1. **Contract Technical Provisions**—Discussion on the adaptation of the construction contracts' technical provisions in order to avoid conflicts between the technical requirements of the SPONSOR, the FAA, and other Grantor Agencies. Typical areas for consideration are:
  - A. Asphalt and concrete pavements (e.g., P-401 & P-501)
  - B. Drainage structures
  - C. Concrete
  - D. Turfing
  - E. Excavation and embankment
  - F. Painting
  - G. Alternate bids
2. **Contract General Provisions—(Non-Technical).** Discussion on the adaptation of the construction contract's general (non-technical) provisions in order to avoid conflicts between the procurement requirements of the SPONSOR, the FAA, and other Grantor Agencies. Typical areas for consideration are:
  - A. Definitions
  - B. State, Federal, and local wage rates and labor provisions
  - C. EEO provisions, including Hometown or Imposed Plans
  - D. Insurance
  - E. Bid, payment and performance bonds
  - F. Payment provisions and application
  - G. Change Orders
  - H. Claims



- I. Extra work
  - J. Material submissions, substitutions and approvals
  - K. Survey and layout procedure and responsibility
  - L. Guaranty and warranty procedure and responsibility
  - M. “As Built” information and responsibility
  - N. Pre-Construction Conference
  - O. Notice to Proceed
  - P. Stop Orders
  - Q. Time extensions
  - R. Airport operations and requirements
  - S. Repair and/or replacement or damage facility requirements
  - T. Work schedule (bar chart, PERT, etc.)
  - U. Bidding forms and requirements
  - V. SPONSOR and Grantor Agency authority and responsibilities
  - W. Safety (Order EA 5210.1)
3. **Non-Eligible Work.** Identification, justification and details of separation of non-eligible work to be included in ADAP contract. This shall also cover the impact that the non-eligible work will have on costs and scheduling of ADAP work.
  4. **Eligible Work to be Done by Others**—Identification, justification and details of eligible work to be done by others, such as utility companies, Sponsor Force Account, etc. This shall also cover the impact that others doing eligible work will have on costs and scheduling of ADAP work.
  5. **Scheduling and Coordination**—Identification, justification and details of scheduling and coordination where project work will impact or be impacted by other parties and/or activities such as airport users, airlines, public, FBO, National Weather Service, FAA Sponsor, other contractors, military, utilities, concessionaires, etc. This discussion shall also cover the economic conditions of the general and local construction market conditions, with a view to obtaining the most advantageous bids. Included in the discussions should be what effect the Grantor Agency’s (FAA, State, Sponsor, etc.) commitments have on the schedule.
  6. **Construction Inspection and Testing.** Discussion of construction inspection, sampling, and testing, which shall include personnel, experience, techniques, methods, standards, results, timing facilities, etc., and their relationship to the requirements of the approved Engineering Agreement and construction contract.
  7. **Submittal of the Engineer’s Report.** The Engineer’s Report will accompany each submittal of the plans and specifications, to the degree of development commensurate with the submittal itself. The Sponsor/Engineer must understand that without submittal of the Engineer’s Report, the plans and specifications will be returned without comments.

END OF SCHEDULE

## SCHEDULE G

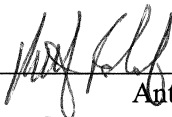
### CERTIFICATION OF CONSULTANT

I hereby certify that I am the Manager of the Airport Services Group and a duly authorized representative of the firm of C&S Engineers, Inc., whose address is 499 Col. Eileen Collins Blvd., Syracuse, NY, and that neither I nor the above firm I here represent has:

- A. employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this Contract.
- B. agreed, as an express or implied condition for obtaining this Contract, to employ or retain the services of any firm or person in connection with carrying out the Contract, or
- C. paid or agreed to pay to any firm, organization, or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Contract except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Federal Aviation Administration of the United States Department of Transportation, in connection with this Contract, involving participation of Airport Improvement Program (AIP) funds, and is subject to applicable state and Federal laws, both criminal and civil.

9-17-2013  
Date

  
Anthony B. Basile  
Manager, Airport Services Group

END OF SCHEDULE

**SCHEDULE H  
AIRPORT AID PROGRAM**

**Contractor Contractual Requirements**

**Civil Rights Act of 1964, Title VI – 49 CFR Part 21**

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations.** The contractor shall comply with the regulation relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination.** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of material and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a programs set forth in Appendix B of the Regulations.
3. **Solicitation for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding or negotiation, made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports.** The contractor shall provide all information and reports required by the regulation or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such regulations, orders and instructions. Where any information required of a contractor shall so certify to the sponsor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance.** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanction as it or the FAA may determine to be appropriate, including but not limited to --
  - (a) withholding of payments to the contractor under the contract until the contractor complies, and/or
  - (b) cancellation, termination, or suspension of the contract, in whole or in part.
6. **Incorporation of Provisions.** The contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the sponsor of the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

**Disadvantaged Business Enterprise (DBE) Assurances  
49 CFR Part 26**

1. **Policy.** It is the policy of the Department of Transportation (DOT) that disadvantaged business enterprises, as defined in 49 CFR Part 26, shall have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds under this agreement.
2. **DBE Obligation.** The contractor agrees to ensure that disadvantaged business enterprises, as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT assisted contracts.

**Airport and Airway Improvement Act of 1982, Section 520**  
**General Civil Rights Provisions**  
**49 U.S.C. 47123**

The contractor assures that it will comply with pertinent statutes, executive orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport a program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases the provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this provision binds the contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

**Access to Records and Reports**  
**49 CFR Part 18.36(i)**

The Contractor shall maintain an acceptable cost accounting system. The Contractor agrees to provide the Sponsor, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

**Rights to Inventions**  
**49 CFR Part 18.36(i)(8)**

All rights to inventions and materials generated under this contract are subject to regulations issued by the FAA and the Sponsor of the Federal grant under which this contract is executed.

**Lobbying and Influencing Federal Employees**  
**49 CFR Part 20, Appendix A**

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of 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 grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than 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 undersigned shall complete and submit Standard Form-LLL, "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 subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, 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.

**Trade Restriction Clause**  
**49 CFR Part 30**

The contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);

- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
- c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the contractor knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.

Further, the contractor agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The contractor shall provide immediate written notice to the sponsor if the contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide written notice to the contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract or subcontract for default at no cost to the Government.

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 provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

### **Termination of Contract 49 CFR Part 18.36(i)(2)**

- a. The Sponsor may, by written notice, terminate this contract in whole or in part at any time, either for the Sponsor's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the Sponsor.
- b. If the termination is for the convenience of the Sponsor, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.
- c. If the termination is due to failure to fulfill the contractor's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor shall be liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.
- d. If, after notice of termination for failure to fulfill contract obligations, it is determined that the contractor had not so failed, the termination shall be deemed to have been effected for the convenience of the Sponsor. In such event, adjustment in the contract price shall be made as provided in paragraph 2 of this clause.
- e. The rights and remedies of the sponsor provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

### **Breach of Contract Terms 49 CFR Part 18.36**

Any violation or breach of terms of this contract on the part of the contractor or their subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available there under shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

### **Davis – Bacon Act Provisions**

1. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amounts due at time of payment computed at wage rates not less than those contained in the wage determination decision(s) of the Secretary of Labor which is (are) attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics; and the wage determination decision(s) shall be posted by the contractor at the site of the work in a prominent place where it (they) can be easily seen by the workers. For the purpose of this paragraph, contributions made or costs reasonably anticipated under Section 1(b) (2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Subparagraph 4 below. Also for the purpose of this paragraph, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period [29 CFR 5.5(a)(1)(i)].
2. Any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination(s) and which is to be employed under the contract, shall be classified or reclassified conformably to the wage determination(s), and a report of the action taken shall be sent by the SPONSOR to the FAA for approval and transmittal to the Secretary of Labor. In the event that the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics, including apprentices and trainees, to be used, the question accompanied by the recommendation of the FAA shall be referred to the Secretary of Labor for final determination [29 CFR 5.5(a)(1)(ii)].
3. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the contractor is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof shall be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the question accompanied by the recommendation of the FAA shall be referred to the Secretary of Labor for determination [29 CFR 5.5(a) (1)(iii)].
4. If the Contractor does not make payments to a trustee or other third person, he may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is a part of this contract. Provided, however, the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

### **Special Grant Condition**

Office of Management and Budget issued Memorandum M-08-03 implementing Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (TVPA) (22 U.S.C. 7104(g)).

#### **TRAFFICKING IN PERSONS:**

##### **a. Provisions applicable to a recipient that is a private entity.**

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—
  - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
  - ii. Procure a commercial sex act during the period of time that the award is in effect; or
  - iii. Use forced labor in the performance of the award or subawards under the award.

#### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**

The bidder/offeror certifies, by submission of this proposal or acceptance of this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees by submitting this proposal that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the bidder/offeror/contractor or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this solicitation/proposal.

END OF SCHEDULE

## SCHEDULE I

### NEW YORK STATE DEPARTMENT OF TRANSPORTATION REQUIREMENTS

A. Standard Clauses For All New York State Contracts (Appendix A).

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee, or any other party):

1. **Executory Clause.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.
2. **Non-Assignment Clause.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet, or otherwise disposed of without the previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.
3. **Comptroller's Approval.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$5,000 (\$20,000 for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money, 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.
4. **Worker's Compensation Benefits.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
5. **Non-Discrimination Requirements.** In accordance with 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, age, disability, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration, or repair of any public building or public work or for the manufacture, sale, or distribution of materials, equipment, or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, national origin, age, sex, or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.
6. **Wage and Hours Provisions.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.
7. **Non-Collusive Bidding Requirement.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further warrants that, at the time contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. International Boycott Prohibition. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership, or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 240,1 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 (2 NYCRR 105.4).
9. Set-Off Rights. The State shall have all of its common law and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.
10. Records. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General, and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.
11. Identifying Information and Privacy Notification:
  - (a) Federal Employer Identification Number and/or Federal Social Security Number. All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, (i.e., the seller's or lessor's identification number). The number is either the payee's Federal employee identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on his invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.
  - (b) Privacy Notification.
    - (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses, and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.
    - (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of State Accounts, Office of the State Comptroller, AESOB, Albany, New York 12236.
12. Equal Employment Opportunities For Minorities And Women. In accordance with Section 312 of the Executive Law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to, the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a



contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair, or renovation of real property and improvements thereon for such project, then:

(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 or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

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

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

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

13. Conflicting Terms. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.
14. Governing Law. This contract shall be governed by the laws of the State of New York except where the federal supremacy clause requires otherwise.
15. Late Payment. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article XI-A of the State Finance Law to the extent required by law.
16. No Arbitration. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized) but must, instead, be heard in a court of competent jurisdiction of the State of New York.
17. Service of Process. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), contractor hereby consents to service of process upon it be registered or certified mail, return receipt request. Service hereunder shall be complete upon contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.
18. Prohibition on Purchase of Tropical Hardwoods. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility

of the contractor to establish to meet with the approval of the State.

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

19. Macbride Fair Employment Principles. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.
20. Omnibus Procurement Act of 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
30 South Pearl St --7<sup>th</sup> Floor  
Albany, New York 12245  
Telephone: 518-292-5220  
Fax: 518-292-5884  
<http://www.empire.state.ny.us>

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 30 South Pearl St --2nd Floor Albany, New York 12245 Telephone: 518-292-5250 Fax: 518-292-5803 <http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million: a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State; (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended; (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. Reciprocity And Sanctions Provisions. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.
22. Compliance with New York State Information Security Breach and Notification Act. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).
23. Compliance with Consultant Disclosure Law. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.
24. Procurement Lobbying. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made

in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. Certification of Registration To Collect Sales And Compensating Use Tax By Certain State Contractors, Affiliates And Subcontractors. To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

END OF SCHEDULE

**TAXIWAY REHABILITATION- PHASE III PROJECT**  
**DESIGN**

**FAA AIP NO- 3-36-0119-32-13**

**ADDENDUM**

THIS ADDENDUM, entered into on this \_\_\_\_ day of September, between the County of Oneida, hereinafter known as COUNTY, and a contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as CONTRACTOR.

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

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

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

**1. Executor or Non-Appropriation Clause.**

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

**2. Oneida County Board of Legislators: Resolution #249 Solid Waste Disposal Requirements.**

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

**3. Certification Regarding Lobbying; Debarment, Suspension and other Responsibility Matters; and Drug-Free Workplace Requirements.**

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal Grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.
  2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
  3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
1. The Contractor certifies that it and its principals:
    - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
    - b. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contracts under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
    - c. Are not presently indicated or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1(b) of this certification; and
    - d. Have not within a three-year period preceding this Contract had one or more public transactions (Federal, State, or local) for cause or default; and

2. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. The Contractor will or will continue to provide a drug-free workplace by:
    - a. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
    - b. Establishing an on-going drug-free awareness program to inform employees about:
      1. The dangers of drug abuse in the workplace;
      2. The Contractor's policy of maintaining a drug-free workplace;
      3. Any available drug counseling, rehabilitation, and employee assistance program; and
      4. The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
    - c. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (a);
    - d. Notifying the employee in the statement required by paragraph (a) that as a condition of employment under the Contract, the employee will:
      1. Abide by the terms of the statement; and
      2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
    - e. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
    - f. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted;
      1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the Requirements of the Rehabilitation Act of 1973, as amended; or
      2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;

- g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a),(b),(c),(d),(e),(f).

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

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

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

- 1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
- 2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

**4. Health Insurance Portability and Accountability Act (HIPAA).**

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
  - 1. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
  - 2. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
  - 3. Utilize an adequate amount of physical hardware, including but not limited to filing cabinets, and locks on drawers, cabinets, and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:
  - 1. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
  - 2. The Contractor may provide data aggregation services relating to the health care operations of the County.
- c. The Contractor shall:
  - 1. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
  - 2. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
  - 3. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
  - 4. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of, the County agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
  - 5. Make available protected health information in accordance with 45 CFR § 164.524;



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

**5. Non-Assignment Clause.**

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

**6. Worker's Compensation Benefits.**

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

**7. Non-Discrimination Requirements.**

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

**8. Wage and Hours Provisions.**

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

**9. Non-Collusive Bidding Certification.**

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

**10. Records.**

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

**11. Identifying Information and Privacy Notification.**

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

b. Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

**12. Conflicting Terms.**

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

**13. Governing Law.**

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

**14. Prohibition on Purchase of Tropical Hardwoods.**

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

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

**15. Compliance with New York State Information Security Breach and Notification Act.**

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

**16. Gratuities and Kickbacks.**

a. **Gratuities.** It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

b. **Kickbacks.** It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

## **17. Audit**

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

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

## **18. Certification of compliance with the Iran Divestment Act.**

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

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

During the term of the Contract, should the County receive information that a Bidder/Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within 90 days after the determination of such violation, then the County shall take such action as may be

appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor in default.

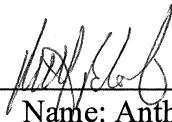
The County reserves the right to reject any bid or request for assignment for a Bidder/Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any Bidder/Contractor that is awarded a Contract and subsequently appears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

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

**County of Oneida**

**C&S Engineers, Inc.**


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

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

Oneida County Executive

Name: Anthony Basile

Approved as to Form only

 \_\_\_\_\_

Oneida County Attorney

# Griffiss International Airport



592 Hangar Road, Suite 200  
Rome, NY 13441  
Telephone: 315-736-4171 / Fax: 315-736-0568

ANTHONY J. PICENTE, JR.  
County Executive

FN 20 13-353 F. RICHARD GIFFORD, II  
Commissioner of Aviation

October 3, 2013

## AIRPORT

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

## WAYS & MEANS

Dear County Executive Picente,

During the process of servicing our airport equipment, we have found that a transfer case in one of our runway snow blowers requires replacement. The estimated cost of repair is \$25,000.

Fortunately, there is an anticipated surplus in a Department of Aviation account for the 2013 budget year.

I therefore request the following 2013 fund transfer:

<b>TO:</b>		
AA# A5620.452	Department of Aviation – Automotive Repairs.....	\$25,000.
<b>FROM:</b>		
AA# A5620.491	Department of Aviation / Other Materials.....	\$25,000.

If you concur with this request please forward to the Board of Legislators for action at their **October 10, 2013** meeting.

Thank you for your consideration of this request.

Sincerely,

F. Richard Gifford II  
Commissioner of Aviation

CC: County Attorney  
Comptroller  
Budget Director

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

Anthony J. Picente, Jr.  
County Executive

Date: 10/4/13