

# ONEIDA COUNTY BOARD OF LEGISLATORS

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

Gerald J. Fiorini  
Chairman  
(315) 798-5900

Mikale Billard  
Clerk  
(315) 798-5404

George Joseph  
Majority Leader

Philip M. Sacco  
Minority Leader

## COMMUNICATIONS WITH DOCUMENTATION

August 9, 2017

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

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*TO Board  
8-9-17*

July 5, 2017

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

FN 20 17-267  
WAYS & MEANS

**RE: Final Approval of Consolidated Agricultural District # 1 -To include Towns of Annsville, Camden, Florence & Vienna.**

Honorable Members:

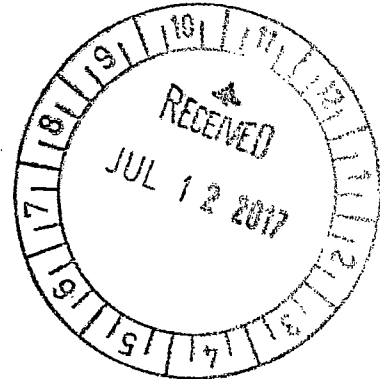
Attached is a packet of information for the final approval of the 8-year review of Oneida County Consolidated Agricultural District #1, now including the Towns of Annsville, Camden, Florence & Vienna.

It is recommended by the Oneida County Farmland Protection Board to modify the district to include 78 landowners and 21,674.5 acres of farmland. As part of the County's plan to consolidate districts within the County, the boundaries of District #1 were modified to follow municipal boundaries of these towns and the attached documentation will show that this district has been restructured to better reflect geographic boundaries of common agricultural communities.

I respectfully request that this issue be considered by the Board at the meeting of **August 9, 2017.**

Respectfully submitted,

Gerald J. Fiorini  
Chairman of the Board



GJF/cd  
attachments



# ONEIDA COUNTY FARMLAND PROTECTION BOARD



Brymer Humphreys, Chair

Thomas Cassidy ♦ Michael J. Cosgrove ♦ Roger Crary ♦ Andy Gale ♦ Paul Snider  
Paul van Lieshout ♦ Marty Broccoli ♦ John R. Kent, Jr. ♦ Kathy Pilbeam ♦ Brian Mandryck

## ONEIDA COUNTY FARMLAND PROTECTION BOARD REPORT FOR ONEIDA COUNTY AGRICULTURAL DISTRICT #1 TOWNS OF ANNSVILLE, CAMDEN, FLORENCE, & VIENNA JUNE 2017

### 1. INTRODUCTION

This report presents the findings of the Oneida County Agricultural and Farmland Protection Board's 2017, eight year review and final recommendations to the County Legislature for Agricultural District #1 in Oneida County in the Towns of Annsville, Camden, Florence, and Vienna.

### 2. DISTRICT REVIEW

#### 2.1 Consideration of Review Factors

Section 303-a of Article 25AA of the New York State Agriculture and Markets Law lists the factors that the Oneida County Agricultural and Farmland Protection Board (FPB) must consider when reviewing an agricultural district. The following text represents the results of the review of these factors as they relate to the review of Oneida County Agricultural District #1.

##### 2.1.1 The nature and status of farming and farm resources within such district, including the total number of acres of land and the total number of acres of land in farm operations in the district

The majority of farmland in District #1 is related to dairy operations. This district also has a significant amount of cropland.

The 2017 modifications to District #1 would add over 3300 acres to the district and increase the size of the district to 21,674.5 acres. Part of the reason for the increase can be attributed to the Farmland Protection Board's efforts to identify potential properties and sending letters to the landowners notifying them of their eligibility and the benefits of being in an Agricultural District. Another reason for the increase is more general landowner awareness of the benefits of having their property within an Agricultural District.

**NOTE:** The 2017 modifications to District #1 include properties added under Section 303-b of Article 25AA since 2009.

Oneida County Farmland Protection Board \* C/O Cornell Cooperative Extension  
121 Second Street \* Oriskany, New York \* 13424 \* (315) 736-3394

### **2.1.2 The extent to which the district has achieved its original objectives**

Farming continues to be a predominant land use in the Town of Annsville. The Town of Florence has a significant amount of land that is forested so there is not a substantial amount of viable farmland, nevertheless there are a few active farms in the town. The Town of Camden also has a substantial amount of forested lands in the northern and western parts of the town. However there are several active farms in the southern and eastern parts of the town. The majority of lands in the western part of the Town of Vienna are unsuitable for agriculture due to poor soils and the predominance of wetlands. However agriculture continues to be a predominant land use in the eastern portion of the town. Threats to continued agricultural production include an increase in residential development along rural roads and low prices for milk and other agricultural products. All towns in the district have also seen recreational subdivisions over the past eight years and this trend is expected to continue. These factors have led to an overall decline in the amount of capital investment farmers have put into their operations over the past several years. Even with these factors the district continues to have the same level of agricultural activity as it did over the past eight years.

### **2.1.3 The extent to which county and local comprehensive plans, policies, and objectives are consistent with and support the district**

#### **County Policies**

The county adopted a Farmland Protection Plan in 2000. The following three main objectives were outlined the plan: 1) Agricultural Economic Development- foster an economic climate that supports and promotes the retention and expansion of agricultural businesses within the county; 2) Ag Awareness/Ag Promotion- educate consumers as to the importance of agriculture in today's society, encourage agricultural producers to explore more direct marketing methods and alternative enterprises; and 3) Farmland Protection- to make government, primarily at the town and county level, more sensitive to the needs of agriculture. The county did receive a grant from the New York State Department of Agriculture and Markets in 2015 to update the 2000 Farmland Protection Plan. The new plan should be in place by the end of 2017.

In related efforts, the County adopted a right-to-farm law in January 1998. The County also has an agricultural economic development specialist whose efforts include helping existing farmers stay in business and enabling retiring farmers to sell their land to buyers who will continue to farm the land.

Oneida County does not have a comprehensive plan.

## Local Policies

### Town of Annsville

The Town of Annsville does not have a comprehensive plan.

### Town of Camden

The Town of Camden has a severely outdated master plan from 1965. The plan notes that there are farms scattered throughout the town and that in many instances they are part-time operations. There are no specific goals and objectives related to agriculture.

### Town of Florence

The Town of Florence does not have a comprehensive plan.

### Town of Vienna

The Town of Vienna adopted an updated master plan in 2007. The plan notes that agricultural lands do not make up a substantial portion of the town. However one of the goals set forth in the plan is the preservation of the town's rural character, especially agriculture and forest use. The plan also identifies the importance of agriculture to the town and local economy.

In addition, the plan identifies potential threats to agriculture, the major one being the intrusion of residential and other non-agricultural uses into agricultural areas. The plan goes on to identify means of protecting agriculture, such as NYS Agricultural Districts, Transfer and Purchase of Development Rights and agricultural zoning. Finally the plan states that agricultural operations should be encouraged in all areas of the town and that all types of farming operations must be allowed.

#### **2.1.4 The degree of coordination between local laws, ordinances, rules and regulations that apply to farm operations in such district and their influence on farming.**

### Town of Annsville

The Town of Annsville does not have zoning regulations in effect.

### Town of Camden

The Town of Camden has zoning regulations in effect. The majority of lands within District #1 are zoned Rural. Farm operations and accessory buildings & uses are permitted uses within this district with a building permit. It should be noted that the term "farm operation" in the Camden zoning regulations is identified as the definition found within NYS Agricultural Districts Law. A few parcels outside the Village of Camden are zoned Residential. Farm operations are prohibited in the Residential District which means any existing farm operations are nonconforming uses and would require a use variance for expansion or for any new accessory uses. This restriction on existing farm operations may be in conflict with NYS Agricultural Districts Law.

### Town of Florence

The Town of Florence has zoning regulations in effect. Lands within District #1 are zoned Rural Residential (RR). The RR District allows agricultural structures with a Zoning Permit. The regulations do not specifically identify agriculture as a permitted use within any of the zoning districts however the regulations do provide a definition of agriculture. Therefore it is not clear whether the regulations are or are not in conflict with NYA Agricultural Districts Law.

### Town of Vienna

The Town of Vienna has zoning regulations in effect. The zoning regulations provide a definition of agricultural use and also define three types of agricultural structures: small (less than 500 square feet), medium (500-2000 square feet), and large (over 2000 square feet). Lands within District #1 are zoned High Density Rural Residential (RR-1), Moderate Density Rural Residential (RR-2), or Water Resources (WR). Within all three districts all sizes (small, medium, large) of agricultural structures are allowed with a Zoning Permit. It would therefore appear that agricultural uses would be considered a permitted use within all of the zoning districts involving properties in District #1.

### 3. RECOMMENDATION TO CONTINUE, TERMINATE, OR MODIFY DISTRICT

The Oneida County Agricultural & Farmland Protection Board recommends that Agricultural District #1 be modified to include the 150 landowners and 21,674.5 acres of farmland shown on the attached list. It is further recommended that the Oneida County Board of Legislators renew the district, as modified, for an additional eight-year period, and forward the modified district to the NYS Commissioner of Agriculture and Markets for approval and recertification.

### ONEIDA COUNTY AGRICULTURAL DISTRICT #1 ANNSVILLE-CAMDEN-FLORENCE-VIENNA GENERAL DESCRIPTION OF DISTRICT JUNE 2017

The Oswego County line forms the western boundary for District #1. The eastern boundaries are the Ava & Lee town lines and the City of Rome line. The northern boundary is the Lewis County line. Oneida Lake and the Verona town line form the southern boundary.



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George Joseph  
Majority Leader

Philip M. Sacco  
Minority Leader

July 17, 2017

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

FN 20 17 - 268

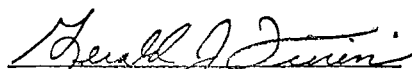
**READ & FILED**

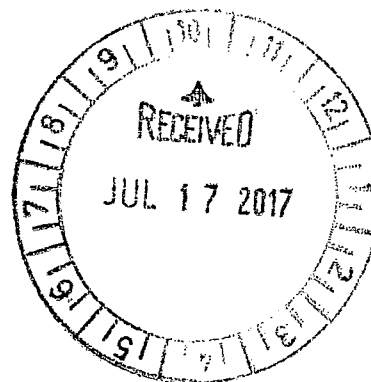
Mr. Billard:

The New York State Department of Agriculture & Markets has certified the parcels submitted during the 2017 Open Enrollment Period in Oneida County that the Board of Legislators recommended for inclusion into agricultural districts by way of Resolution No. 168, dated June 14, 2017.

Please file the attached as a "Read & File" docket to read "RE: NYS certification of properties added to agricultural districts during Oneida County's designated Open Enrollment Period, January 2016."

Respectfully,

  
GERALD J. FIORINI, CHAIRMAN  
ONEIDA COUNTY BOARD OF LEGISLATORS





## Agriculture and Markets

ANDREW M. CUOMO  
Governor

RICHARD A. BALL  
Commissioner

Mikale Billard, Clerk  
Oneida County Board of Legislators  
800 Park Avenue  
Utica, New York 13501-2977

Dear Mr. Billard:

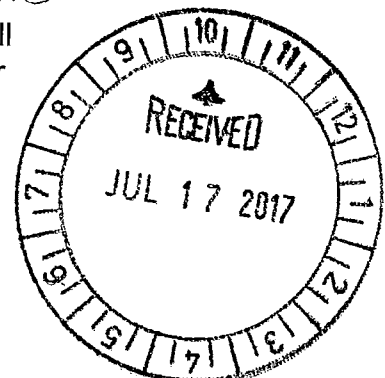
In accordance with Section 303-b of the Agriculture and Markets Law, the Oneida County Legislature submitted to me, by Resolution No. 168 of 2017, a plan to modify Oneida County Agricultural Districts No. 2, No. 3, No. 4, No. 5, No. 6 and No. 7 by including predominantly viable agricultural land in the districts.

Following review of the plan and its related documentation, I hereby certify that the inclusion of predominantly viable agricultural land as proposed is feasible and shall serve the public interest by assisting in maintaining a viable agricultural industry within the districts.

Signed and Sealed at the Town of Colonie,  
County of Albany, New York,  
This *3<sup>rd</sup>* day of July, 2017.

Sincerely,

Richard A. Ball  
Commissioner



Cc: Advisory Council on Agriculture  
Susan Hoskins, IRIS  
Brymer Humphreys, Chair, Oneida County AFPB  
Guy Sassaman, Oneida County Dept. of Planning



# Griffiss International Airport



660 Hangar Road, Suite 223  
Rome, NY 13441  
Telephone: 315-736-4171 / Fax: 315-736-0568

**ANTHONY J. PICENTE, JR.**  
County Executive

**RUSSELL STARK**  
Commissioner of Aviation

July 17, 2017

FN 20 17-269

Mikale Billard  
Clerk of the Board  
Oneida County Board of Legislators  
800 Park Avenue  
Utica, NY 13501

**READ & FILED**

Re: Federal Aviation Administration (FAA) Grant Offer

Dear Mr. Billard,

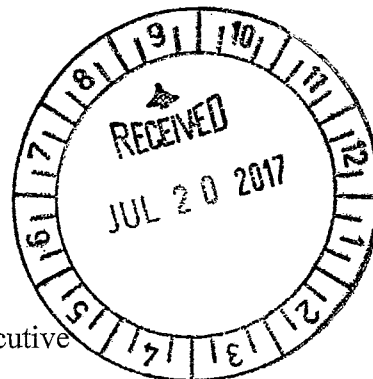
This letter is to inform you and the Board of Legislators that Oneida County, Griffiss International Airport has received a Grant Offer from the FAA for the purpose of Phase I Reconstruction (Design Only) for approximately 3,000 feet of the 11,820 feet of runway 15/33 at Griffiss International Airport. This project is part of the Airport Capital Improvement Program (ACIP).

The Grant is for a maximum of 90% of the maximum allowable costs, and totals a maximum of \$332,550.00 in Grant funding.

Point of contact for this letter is the undersigned, at (315) 736-4171.

Sincerely,

Russell Stark  
Commissioner  
Oneida County Department of Aviation



cc: Anthony J. Picente, Jr., Oneida County Executive  
Peter M. Rayhill, Oneida County Attorney



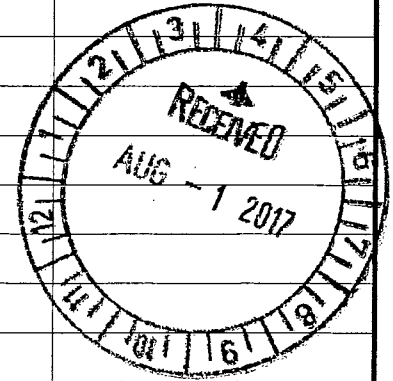
County-Wide Shared Services Property Tax Savings Plan

APPENDIX A

**READ & FILED**

**County-wide Shared Services Property Tax Savings Plan Summary**

County of Oneida			
County Contact: Anthony J. Picente Jr.			
Contact Telephone: 315-798-5800			
Contact Email: ce@ocgov.net			
Partners			
Row 1 – 3 of 3 Cities in Oneida County			
	Participating Cities	Panel Representative	Vote Cast (Yes or No)*
1.	Rome	Mayor Jaqueline Izzo	
2.	Utica	Mayor Robert Palmieri	
3.	Sherrill	Mayor William Vineall	
4.			
5.			
6.			
Use additional sheets, if necessary. *The written justification provided by each Panel Representative in support of his or her vote on the Plan is attached hereto, as Exhibit 1.			
Row 2 – 18 of 26 Towns in Oneida County			
	Participating Towns	Panel Representative	Vote Cast (Yes or No)*
1.	Annsville	Supervisor Scott Leuenberger	
2.	Augusta	Supervisor Suzanne Collins	
3.	Boonville	Supervisor Harold LeClar	
4.	Camden	Supervisor Richard Norton	
5.	Deerfield	Supervisor Scott Mahardy	
6.	Floyd	Supervisor Willard Streiff, Jr.	
7.	Forestport	Supervisor Harold Entwistle	
8.	Lee	Supervisor John Urtz	
9.	Kirkland	Councilman Garry Colarusso	





# County-Wide Shared Services Property Tax Savings Plan

## APPENDIX A

10.	Marcy	Supervisor Brian Scala	
11.	Paris	Supervisor James Christian, Jr.	
12.	Remsen	Supervisor Roger Helmer	
13.	Sangerfield	Supervisor William Fredericks	
14.	Steuben	Supervisor Joseph Rowlands	
15.	Trenton	Supervisor Joseph Smith	
16.	Verona	Supervisor Scott Musacchio	
17.	Vienna	Councilwoman Lorraine Padavan	
18.	Whitestown	Supervisor Shaun Kaleta	
19.			
20.			

Use additional sheets, if necessary.

\*The written justification provided by each Panel Representative in support of his or her vote on the Plan is attached hereto, as Exhibit 1.

### Row 3 – 10 of 17 Villages in Oneida County

Participating Villages		Panel Representative	Vote Cast (Yes or No)*
1.	Boonville	Mayor Eric McIntyre	
2.	Camden	Mayor William Ballou	
3.	New Hartford	Mayor Donald Ryan	
4.	New York Mills	Mayor John Bialek	
5.	Oriskany	Mayor Donald Rothdiener	
6.	Oriskany Falls	Mayor Steven Jeffers	
7.	Sylvan Beach	Administrator Joseph Benedict	
8.	Waterville	Mayor Ruben Ostrander	
9.	Whitesboro	Mayor Patrick O'Connor	
10.	Yorkville	Mayor Michael Mahoney	

Use additional sheets, if necessary.

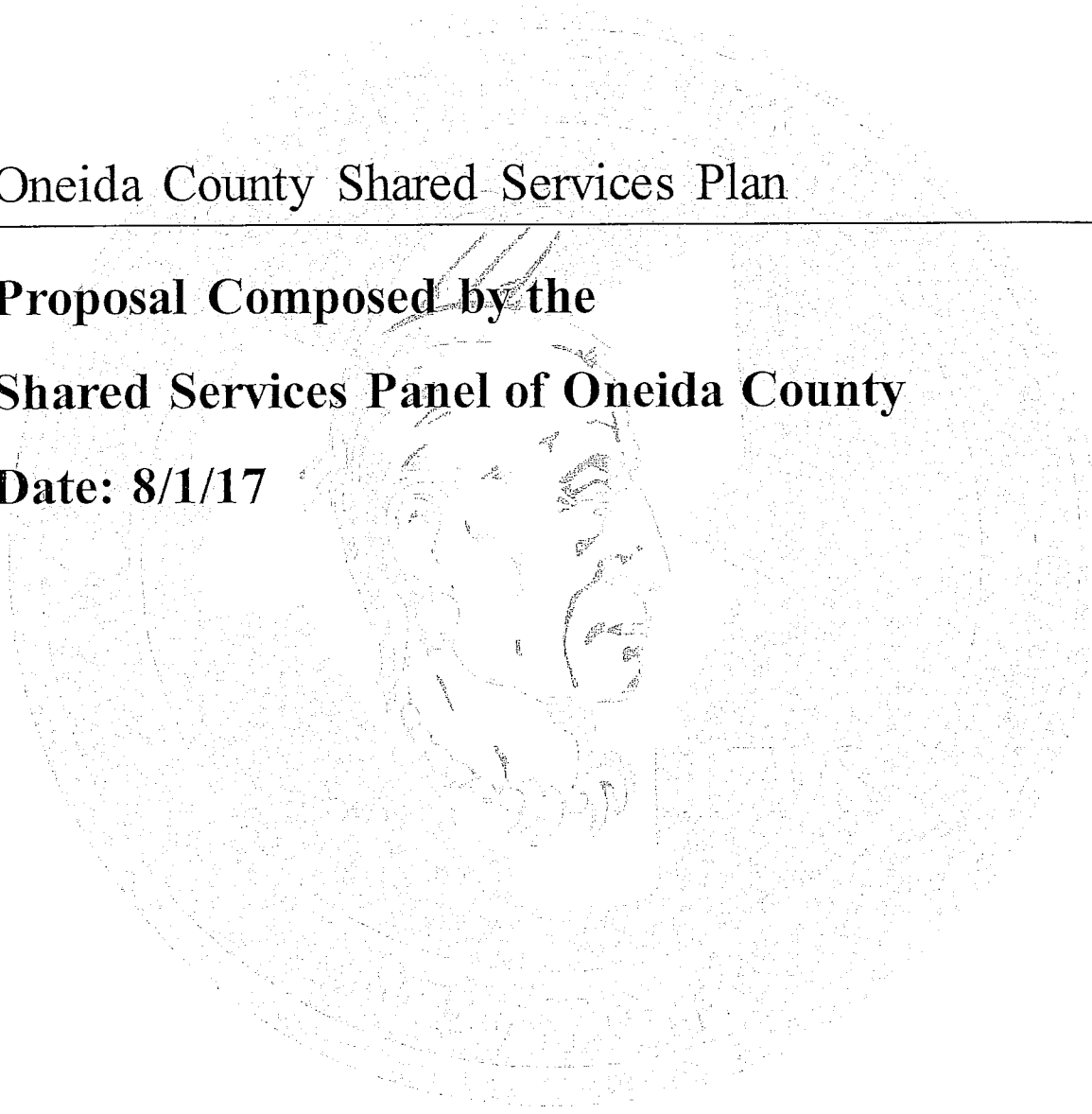
\*The written justification provided by each Panel Representative in support of his or her vote on the Plan is attached hereto, as Exhibit 1.

# Oneida County Shared Services Plan

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**Proposal Composed by the  
Shared Services Panel of Oneida County**

**Date: 8/1/17**



## **Immediate Actions**

### **Boonville Court Consolidation**

The Village of Boonville is considering a plan to abolish its Village Court and consolidate court functions with the Boonville Town Court. This initiative would require a vote of the Village Board of Trustees on a resolution, and would then require a village-wide referendum at a subsequent special election. The Village Court would be abolished upon the expiration of the current term of the sitting Village Justice. If this initiative passes, the Village of Boonville anticipates annual savings in excess of Fourteen Thousand Dollars (\$14,000.00).

### **Central Services-Shared Printing and Mail Services**

The Shared Services Panel recommends a joint municipal agreement be offered to all municipalities in Oneida County that allows for use of county print and mail room services. At this time there are no projected costs savings, but it is known that bulk rates for printing and mailing services will offer savings to local government entities. The extent of the total cost savings will not be known for each municipality until reports detailing their printing and mailing volumes are collected and analyzed.

In addition, the costs savings will also be determined by achieving the following action items that include but are not limited to municipal initiated meetings with Oneida County Department of Central Services. A deeper study will be required to create forecasts related to printing and mailing needs to develop a service model that reduces costs, and improves performance.

### **Central Services- Records Management**

The Shared Services Panel determined there is potential for a local cost savings through the digital processing and storage of municipal records through a shared use agreement between Oneida County Department of Central Services and all interested municipalities. This agreement will outline the utilization and cost to digitize records into the Laserfiche system and general records management operations to maintain that system.

Tax savings will be achieved when a cost comparison and review by all interested municipalities have been initiated, conducted and reported into Oneida County. These cost reviews will investigate storage, paper records access and data management. It is will also determine the savings by including the recovery of floor space from file storage and employee efficiency due to data accessibility.

## **County-Wide Department of Public Works (DPW) Equipment Sharing**

The Oneida County DPW is in the processes of formalizing and quantifying the sharing of equipment for all municipalities within Oneida County for all directly related public works projects in process, planned and future. The following action item would require the administration by Oneida County DPW and the initiation of inter-municipal cooperation between participating municipalities.

The action items will include but are not limited to the tabulation of equipment inventory, equipment usage rates, equipment locations, and logistics analytics. Additional information resource will require interviews, surveys and local meetings with Oneida County DPW directors, Highway Supervisors and municipal leadership.

A countywide cost savings could range between One Hundred Thousand Dollars (\$100,000) and One Hundred and Fifty Thousand Dollars (\$150,000). These amounts can only be realized through inter-municipal collaboration if every municipality were to participate. Complete participation could reduce or eliminate the acquisition of duplicative equipment or unnecessary labor expenses for all participating municipalities.

### **Rome and Verona Shared Service Agreement**

The City of Rome and Town of Verona have come to terms on a shared services agreement that is outlined to do the following:

1. Roadside Mowing of Brown Rd.: Where the Town of Verona maintains .75 miles (length of Brown Rd.) of road that crosses the municipal border of Rome at a rate of Three Hundred Seventy-Five Dollars (\$375.00) per mile (Price under 2016 Oneida County Mowing Agreement). The agreed upon amount will be Two Hundred Eighty-One Dollars and Twenty-Five Cents (\$281.25) annually.
2. Snowplowing of Brown Rd.: Where the Town of Verona maintains .75 miles of road that crosses the municipal boundary of Rome of road that crosses the municipal border of Rome at Six Thousand Dollars (\$6,000.00) per mile (2016-2018 Oneida County Snowplowing Agreement Price) in the total amount of \$4,500.00 annually which results in a total combined amount of Four Thousand, Seven Hundred Eighty-One Dollars and Twenty-Five Cents (\$4,781.25) shared mowing and snow plowing maintenance agreement of Brown Rd. annually.
3. Snowplowing of Heelpath Rd. and Zingerline Rd.: Where the City of Rome agrees to maintain 1.5 Miles of road that crosses the municipal boundary of Rome at a rate of Six Thousand Dollars (\$6,000.00) per mile (2016-2018 Oneida County Snowplowing Agreement Price) resulting in the total agreed amount of Nine Thousand Dollars (\$9,000.00) annually.

The Rome and Verona shared mowing and snowplowing agreement amounts are in process of being calculated. However cost savings through inter-municipal co-ordination of DPW services are anticipated to be realized through labor hours due to efficiency.

### Additional Actions potentially to be added before September 15<sup>th</sup>

#### **Purchasing**

The Shared Services Panel recommends revisiting past shared service agreements and investigating potential cost savings through new shared purchasing services with municipalities in Oneida County particularly with Utica, Rome, and the Town of New Hartford. This action requires the initiation and collaboration of municipalities that desire purchasing services to contract with the Oneida County Purchasing Department.

The action items to complete the study include revisiting prior agreements with Utica, Rome and the Town of New Hartford, logistics delivery and examination of total savings potential in existing shared services and municipal budget analysis. The baseline data requires information gathering through surveys, interviews, inter-municipal meetings and consultations with municipalities and fire protection agencies.

Real property tax savings projections are to be determined with the expected costs savings accruing from the elimination of duplicative services, sharing of services, a reduction of back office administration and improved coordination. These reductions will be realized with centralizing purchasing in participating municipalities by obtaining bulk discounts and access to full-time staff expertise.

#### Long-term Actions

##### **Codes Enforcement Shared Services**

The Shared Services Panel recommends a study to determine the potential cost savings through inter-municipal collaboration and shared service agreements related to Code Enforcement. This will be accomplished through the actions initiated by any village, town or city within Oneida County.

The investigation action items will include but are not limited to budget reviews for facility expenses, employee compensation, equipment expenses, contractual services and legal services. That study may also include a review of the annual report submitted to the New York State Code Enforcement Administration. Furthermore it will be necessary to conduct inter-municipal meetings, gather base line data surveys and consultation.

Real property tax savings projections are to be determined. Based on a quick survey of current costs, an expected cost savings of Eighty Thousand Dollars (\$80,000) countywide could be realized if all the villages were to develop a shared service agreement with the town they are within. The savings will be from actions that include but are not limited to the elimination of duplicative services, shared services, a reduction of back office administration and improved coordination.

### **DPW Consolidation of Salt Storage and Production Facilities**

The Shared Services Panel recommends that the creation of an agreement for a centralized large volume salt-brine production and storage operation. It could become the first step in better coordination of highway functions. This effort will be the result of collaborative efforts between all interested municipalities for the potential of real property tax savings.

This agreement will require extensive mapping of all existing salt brine storage units in Oneida County. Upon completion, the map will allow for a comprehensive review and placement of new storage and production facilities.

The projected costs savings could occur through bulk purchasing/production of salt brine. Centralize and properly located facilities will further realize savings in equipment acquisition costs and labor optimization.

### **Lighting District Consolidation**

The Shared Services Panel recommends a study be initiated that reviews existing lighting districts to determine whether costs savings could be obtained. The actions will include but are not limited to accounting for all existing lighting districts within Oneida County and their associated costs.

Any further baseline data will be collected through surveys, inter-municipal meetings and consultations. This all will be accomplished through the initiative and cooperation of the villages, towns and cities within Oneida County.

Real property tax savings projections are to be determined with the expected costs savings as the result from the elimination of duplicative services, shared services, a reduction of back office administration and improved coordination.

### **Town Court Consolidations**

This initiative would involve the sharing or consolidating of court services among two or more contiguous Towns across the County. The process would have to be undertaken by the Towns themselves, and would start with the passage of a Resolution in the Towns wishing to consolidate their Courts. The Resolution could follow one of two approaches:



First, the Towns could vote to keep all or some of their Town Justice Positions, and simply share or consolidate the Court functions as a whole. The Towns could share in expenses, operating one Court for all the Towns involved in the plan, presumably at a central or convenient location. The individual Towns' remaining Justices would each have jurisdiction over all cases in all the participating Towns, and the Justices could rotate or share coverage for the Court. By sharing staff salaries, court expenses, building upkeep and other logistical expenses, the participating Towns could see substantial savings annually.

This measure would require a Resolution passed by each of the participating Town Boards, followed by a public hearing. A referendum would then be held in each of the participating Towns, at the next general election date. If the referenda pass, the Towns would then execute an Inter-Municipal Agreement to set out the specifics.

The second approach is similar to the first, but would involve the consolidation of all the participating Town Courts, and rather than keeping the Justices from each Town, there would instead be one or more Justices elected from across all the participating Towns. This procedure begins with the participating Towns passing Resolutions authorizing the conducting of a study across their respective townships to examine the issue of electing a single town justice from among the participating towns. Once this study has been commissioned and completed, a public hearing is held to discuss the results of the study. If, after the public hearing, all the participating Town Boards pass Resolutions approving a Joint Plan authorizing the consolidation, the Joint Resolutions will constitute a municipal home rule message that is sent to Albany, and upon passage, the plan is approved. An Inter-Municipal Agreement would then be executed by the participating Towns.

If this measure were enacted County-wide, the Towns collectively could see savings totaling more than Two Hundred and Fifty Thousand Dollars (\$250,000.00) annually.

### **Youth and Recreation Shared Services**

The following recommendations for Youth and Recreation shared services will continue to explore, evaluate and ultimately eliminate duplicative services within Oneida County. Cost savings will be seen with inter-municipal collaboration and shared services agreements to create a countywide Youth and Recreation Service.

The Youth and Recreation panel proposes the following research action items to further advance this shared services study. The list of action items will include but are not limited to the following: electronic correspondence between localities, feasibility research, municipal budget reviews, developing a county wide savings model and identifying all Youth and Recreation programs in all municipalities. All action items will further be supplemented by tailored surveys and inter-municipal meetings.

Projected costs savings have yet to be determined but the anticipated savings will occur through development of a countywide Youth Services inter-municipal agreement administered at the

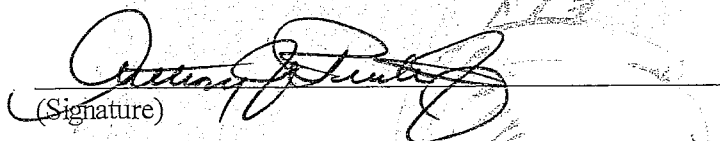
county level. County level administration of Youth and Recreation Services has the potential to eliminate duplicative services, back office administration and duplicative equipment acquisition. This will be reviewed with the intent to not lose quality and responsiveness of service for all participating municipalities.



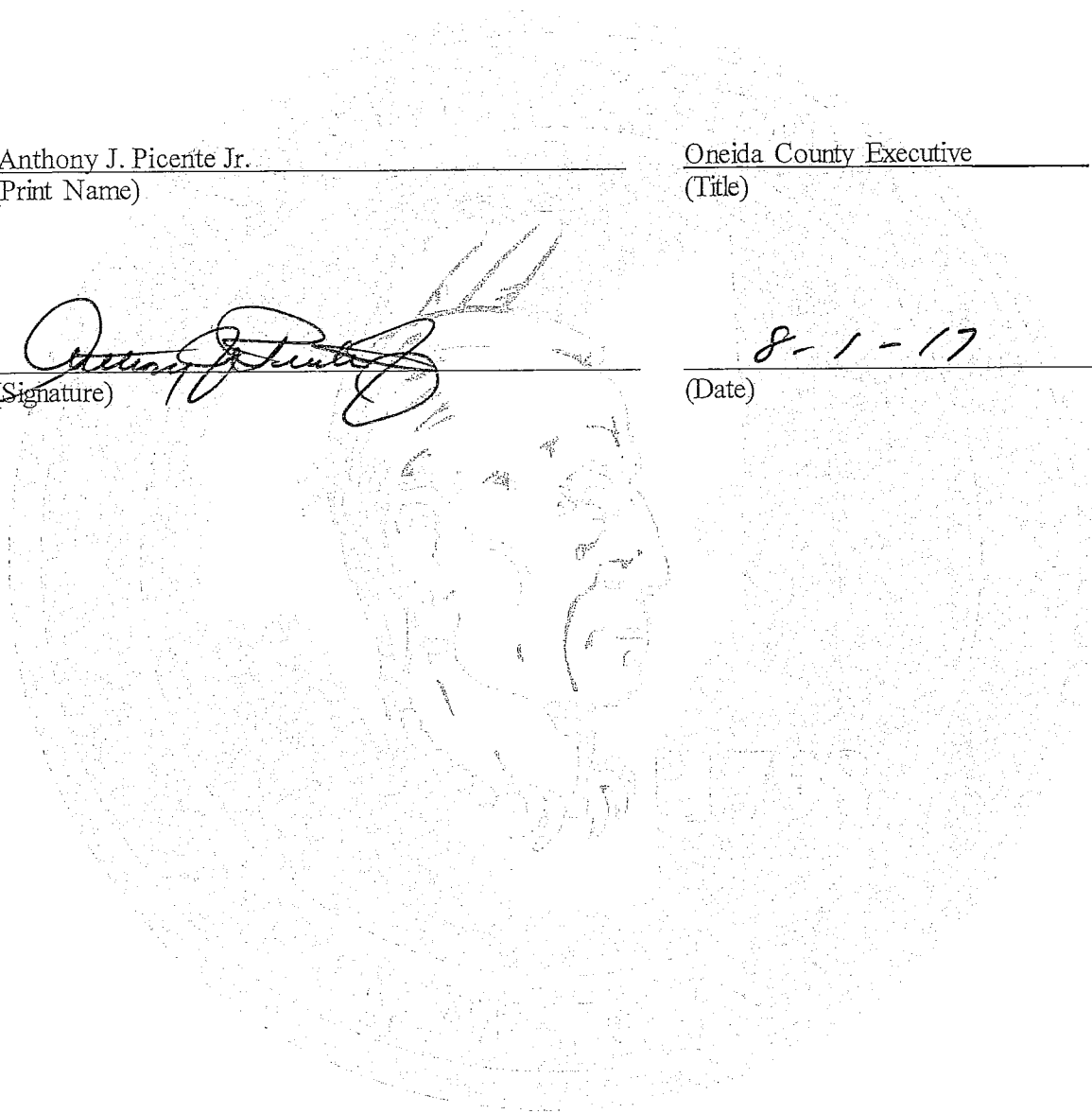
*"By my signature below, I hereby certify that the savings identified and contained herein are true and accurate to the best of my knowledge and belief".*

Anthony J. Picente Jr.  
(Print Name)

Oneida County Executive  
(Title)

  
(Signature)

8-1-17  
(Date)



Anthony J. Picente Jr.  
County Executive



John P. Talerico  
Commissioner

**ONEIDA COUNTY DEPARTMENT OF PERSONNEL  
OFFICE OF THE COMMISSIONER**

County Office Building ♦ 800 Park Avenue ♦ Utica, New York 13501-2986  
Phone: (315) 798-5725 ♦ Fax: (315) 798-6490  
E-Mail: labor@ocgov.net

July 26, 2017

FN 20 17-271

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

**GOVERNMENT OPERATIONS  
WAYS & MEANS**

Dear County Executive Picente:

I have attached the job specification for the title of Deputy Commissioner of Personnel. I have added the title to the Oneida County Classification Plan and I am recommending the salary for this title be set at Grade 36M Step 2 at \$53,343. I am not requesting a position be created at this time. I may request a position with my 2018 budget request. If so it would replace an existing position in the Personnel Department.

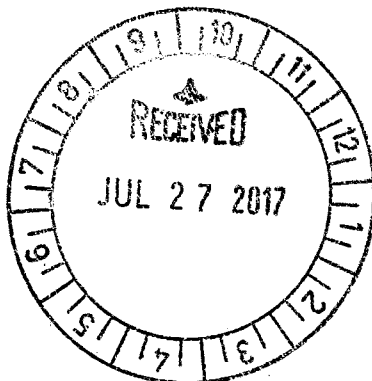
This position, if created, will assist the Commissioner of Personnel in enforcing the provisions of New York State Civil Service Law, Local Rules of the Classified Civil Service, and the planning, organization, coordination and direction of personnel activities of the County, and for all civil divisions, which fall under its jurisdiction. The position will also be responsible for union management relations, may serve as a member of the County negotiating team, and advise and assist in management of the county employee benefit programs. The Deputy Commissioner may act for, and in place of, the Commissioner in his/her absence.

Please forward this letter to the Board of Legislators and ask that they only set the salary for the title Deputy Commissioner of Personnel at Grade 36M Step 2 at \$53,343.

Sincerely,

John P Talerico  
Commissioner

CC: County Attorney



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

Anthony J. Picente,  
County Executive

Date 7/26/17

Civil Division: Oneida County Government  
Jurisdictional Class: Pending Jurisdictional Classification  
EEO Category: Officials and Administrators  
Adopted: 07/26/17

## DEPUTY COMMISSIONER OF PERSONNEL

**DISTINGUISHING FEATURES OF THE CLASS:** The incumbent is responsible assisting the for Commissioner of Personnel in enforcing the provisions of the State Civil Service Law, local rules, and the planning, organization, coordination and direction of the personnel activities of the County, and for all civil divisions which fall under its jurisdiction. This position also involves responsibility for planning, coordinating and participating in the negotiations of contracts between employee groups and Oneida County. The incumbent promotes union/management relations, assists individual employees with job-related problems and advises the Commissioner of Personnel as to potential problem areas. Considerable leeway is given the employee for performance of the work in a manner to achieve professional results. The work is performed under the general direction of the Commissioner of Personnel. Supervision is exercised over technical and clerical employees. The Deputy Commissioner may act for, and in place of, the Commissioner in his/her absence. The incumbent performs related work as required.

### **TYPICAL WORK ACTIVITIES:** (Illustrative Only)

Develops personnel policies and procedures consistent with merit principles, and other Federal, State and local legislative mandates;

Oversees methods of record keeping;

Performs other personnel work, including employee training, benefits administration, and EEO appeals for County employees;

Trains personnel staff to maintain and administer the personnel system;

Directs the establishment of Civil Service employee recruitment programs through job fairs, examination announcements, vacancy notices and web site;

Administers negotiated contracts, interpreting the meaning of various provisions to County management, County Legislature, individual employees and employee organizations;

Writes language to be included in contracts;

Directs final preparation of contracts, adding memorandums of agreement;

Prepares cost projections and budget impact of proposed salary and fringe benefit modifications;

Provides advice and counsel to management personnel on contract administration, employee relations, union/management conflicts, and grievance procedures;

Researches, analyzes and compares competitive wage structures and benefit programs, including those of other municipalities;

Prepares and recommends proposals, counter-proposals and bargaining positions for use during negotiating process;

Advises County management of State and Federal laws and regulations affecting County policy;

Researches, analyzes and compares employee benefit programs for the County;

Administers employee benefit programs for the County, including providing monthly reports for each department;

continued...

**TYPICAL WORK ACTIVITIES:** (continued)

Bills all retirees and COBRA's for health insurance and maintains accounting reports of all subscribers billed and payments posted to accounts.

Administers the policies and regulations required by the Affordable Care Act;

May act as Hearing Officer on behalf of the County while conducting hearings under negotiated contract procedures;

May serve as a member of County negotiating team during labor negotiations with the various officially recognized county employee bargaining units;

May direct classification and reclassification of presently existing, new or vacant positions in the County;

May conduct public hearings prior to adoption of new or updated Civil Service Rules and jurisdictional classification of County positions;

May direct and adopt new and updated position specifications;

May advise department heads, elected officials, and other managers on actions to resolve personnel problems.

**FULL PERFORMANCE KNOWLEDGE, SKILLS, ABILITIES AND PERSONAL CHARACTERISTICS:**

Comprehensive knowledge of principles and practices of public personnel administration as mandated by New York State Civil Service law, rules and regulations; comprehensive knowledge of the principles and techniques of collective bargaining, grievance procedures, mediation and conciliation; thorough knowledge of the applicable State and Federal laws affecting public employees, labor relations; thorough knowledge of benefit programs; thorough knowledge of the specialized principles and practices of public personnel administration, including examination, classification, compensation, in-service training and service rating techniques; thorough knowledge of the qualifications and characteristics of major occupational groups; thorough knowledge of local government organization and procedures; ability to interview, counsel and negotiate with parties involved in contract negotiations and disputes; ability to effect suitable agreements; ability to research data and formulate proposals; ability to communicate effectively both orally and in writing; ability to develop long-term plans and programs, and to evaluate work accomplishments; ability to establish and maintain effective relationships with other officials, employees, and the general public; ability to analyze facts and exercise sound judgment in arriving at conclusions; ability to plan, supervise and review the work of professional, technical and clerical subordinates.

**MINIMUM QUALIFICATIONS:** Either:

- (A) Graduation from a regionally accredited or New York State registered college or university with a Master's Degree in public administration, business administration, human resources, or a closely related field **AND** five (5) years of full-time experience in New York State Civil Service administration **OR** five (5) years of full-time specialized experience in contract negotiation, wage and employee benefit administration, and the application of labor law in either private sector or in government, two (2) years of which must have been in a supervisory capacity in merit system administration and/or in labor law administration; **OR**

continued...

MINIMUM QUALIFICATIONS: (continued)

- (B) Graduation from a regionally accredited or New York State registered college or university with a Bachelor's Degree in public administration, business administration, human resources, or a closely related field **AND** seven (7) years of full-time experience in New York State Civil Service administration **OR** seven (7) years of full-time specialized experience in contract negotiation, wage and employee benefit administration, and the application of labor law in either private sector or in government, two (2) years of which must have been in a supervisory capacity in merit system administration and/or in labor law administration;

Adopted: 07/26/17

# ONEIDA COUNTY DEPARTMENT OF PUBLIC WORKS

ANTHONY J. PICENTE JR.  
COUNTY EXECUTIVE

DENNIS S. DAVIS  
COMMISSIONER



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

6000 Airport Road, Oriskany, New York 13424  
Phone: (315) 793-6213 Fax: (315) 768-6299

July 11, 2017

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

FN 20

17-272

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

**PUBLIC WORKS**

*[Signature]*  
Anthony J. Picente, Jr.  
County Executive

Dear County Executive Picente,

**WAYS & MEANS**

Date

7/13/17

Proposals were solicited and received from qualified professional consultants to prepare plans and specifications for mechanical, electrical, and plumbing system improvements at various County owned facilities.

On March 8, 2017, the Oneida County Board of Acquisition and Contract accepted a proposal from Towne Engineering, P.C., in the amount of \$110,000.00 plus asbestos abatement monitoring expenses. Funding will be provided through Capital Project H-473, Comprehensive Building Improvement Program.

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

Thank you for your support.

Sincerely,

*[Signature of Dennis S. Davis]*

Dennis S. Davis  
Commissioner

cc: Mark E. Laramie, PE, Deputy Commissioner



Oneida Co. Department: Public Works

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

## ONEIDA COUNTY BOARD OF LEGISLATORS

**Name of Proposing Organization:** Towne Engineering, P.C.  
The Parker House at 18 South Street  
Utica, NY 13501

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

**Proposed Dates of Operation:** 3/8/2017 – 12/31/2018

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

### Summary Statements

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

Proposals were solicited and received from qualified professional consultants to prepare plans and specifications for mechanical, electrical, and plumbing system improvements at various County owned facilities.

On March 8, 2017, the Oneida County Board of Acquisition and Contract accepted a proposal from Towne Engineering, P.C., in the amount of \$110,000.00 plus asbestos abatement monitoring expenses. Funding will be provided through Capital Project H-473, Comprehensive Building Improvement Program.

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

3) Program Design and Staffing: N/A

Total Funding Requested: \$110,000.00 + Account #: H-473  
Oneida County Dept. Funding Recommendation: \$110,000.00 +  
Proposed Funding Sources (Federal \$/ State \$/County \$): \$110,000.00 + (County)

Cost Per Client Served: N/A

Past Performance Data: N/A

O.C. Department Staff Comments: None



# Document B101™ – 2007

## ***Standard Form of Agreement Between Owner and Architect***

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

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

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

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

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

Towne Engineering P.C.  
The Parker House at 18 South Street  
Utica, NY 13501  
Telephone Number: 315.733.9000  
Fax Number: 315.733.9025

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

2017 MEP Improvements

The Owner and Architect agree as follows.

Init.

TABLE OF ARTICLES

- 1 INITIAL INFORMATION
  - 2 ARCHITECT'S RESPONSIBILITIES
  - 3 SCOPE OF ARCHITECT'S BASIC SERVICES
  - 4 ADDITIONAL SERVICES
  - 5 OWNER'S RESPONSIBILITIES
  - 6 COST OF THE WORK
  - 7 COPYRIGHTS AND LICENSES
  - 8 CLAIMS AND DISPUTES
  - 9 TERMINATION OR SUSPENSION
  - 10 MISCELLANEOUS PROVISIONS
  - 11 COMPENSATION
  - 12 SPECIAL TERMS AND CONDITIONS
  - 13 SCOPE OF THE AGREEMENT
- ~~EXHIBIT A INITIAL INFORMATION~~

~~ARTICLE 1 INITIAL INFORMATION~~  
~~ARTICLE 1 APPENDIX A INITIAL INFORMATION~~

~~§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1 and in optional ~~Exhibit Appendix~~ A, Initial Information:  
(Complete ~~Exhibit Appendix A~~, Initial Information, and incorporate it into the Agreement at Section 13.2, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)~~

~~See Appendix A~~

~~§ 1.2 The Owner's anticipated dates for commencement of construction and Substantial Completion of the ~~Work~~ Services are set forth below:~~

~~.1 Commencement of construction date:~~

~~July 01, 2017~~

~~.2 Substantial Completion date:~~

~~December 31, 2018~~

~~§ 1.3 The Owner and Architect may rely on the Initial Information. Both ~~parties, Parties~~, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.~~

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional ~~services~~ Services as set forth in this Agreement.

Init.

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

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

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

§2.4.1 To the fullest extent permitted by applicable law, the Architect shall indemnify, save, hold harmless, and defend, the Owner and its respective officers, directors, members, agents, employees, and other representatives, from and against any and all liabilities, damages, losses, costs, expenses (including, without limitation, any and all reasonable attorneys' fees and disbursements), causes of action, suits, liens, claims, damages, penalties, demands or judgments of any nature, including, without limitation, for death, personal injury and property damage, economic damage, and claims brought by third parties for personal injury and/or property damage (collectively, "Damages"), incurred by the Owner caused by any act, omission, intentional misconduct or negligence of the Architect, its subconsultants, officers, volunteers, agents, employees arising out of or in connection with the services of the Architect, its subconsultants, officers, volunteers agents, employees except to the extent such Damages are caused by the sole negligence, unlawful act or omission, or intentional misconduct of the Owner or its respective officers, directors, members, agents, employees, and other representatives.

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

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

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

~~1~~ General Liability

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

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

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

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User Notes:

(1748058721)

Architect to provide insurance policies for review by the Owner. The Architect grants Owner a limited power of attorney to communicate with the Architect's insurance provider and/or agent for the express purpose of confirming the coverages required hereunder.

**§2.5.3 Certificates of Insurance:** Attached to each certificate of insurance shall be a copy of the **Additional Insured Endorsement** that is part of the Architect's Commercial General Liability Policy, Auto Liability Policy, and Excess/Umbrella Policy. These Certificates and the Insurance Policies required below shall contain a provision that coverage afforded under the Policies will not be cancelled or allowed to expire until at least 30 days prior written notice has been given to the Owner.

~~2~~ **§2.5.4 Commercial General Liability Insurance (CGL):** The Architect agrees that it shall, at its own expense, at all times during the term of this Agreement, maintain in force a policy of insurance which will insure against liability for property damage and/or injury/death with regard to any property or persons. The liability and property damage coverage of such insurance shall not be less than One Million Dollars (\$1,000,000.00) per occurrence and such insurance shall not be less than Three Million Dollars (\$3,000,000) annual aggregate. The Architect agrees to have the Owner added to said insurance policy and /or policies as a named **additional insured, on a primary, non-contributory basis**, as its interest may appear. Coverage for the additional insured shall apply as primary and non-contributing insurance before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by or provided to, the additional insured.

**§2.5.4.1** Coverage for the additional insured shall include **completed operations**.

**§2.5.4.2** The CGL coverage shall include a General Aggregate Limit and such General Aggregate Limit shall apply separately to each project.

**§2.5.4.3** CGL coverage shall be written on ISO Occurrence form CG 00 01 1001 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contracts, products- completed operations, XCU (explosion, collapse and underground coverage) and personal and advertising injury.

~~3~~ **§2.5.4.4** There shall be no exclusions to contractual liability for **Employee Injuries (i.e. Labor Law Exclusions)**.

**§2.5.5** Contactor shall maintain CGL coverage for itself and all additional insureds for the duration of the project and maintain Completed Operations coverage for itself and each additional insured for at least 3 years after completion of the services.

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

**§2.5.7 Excess/Umbrella Liability Insurance:** The Architect agrees that it shall, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of insurance **Umbrella/Excess Liability Insurance** in an amount not less than One Million Dollars (\$1,000,000) per occurrence and such insurance shall not be less than Three Million Dollars (\$3,000,000) annual aggregate. The Architect agrees to have the Owner added to said insurance policies as a **named additional insured, on a primary, non-contributory basis**, as its interests may appear. Umbrella coverage for such additional insured shall apply as primary and non-contributing before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by, or provided to, the additional insured other than the CGL, Auto Liability, and Employers Liability maintained by the Owner.

Init.

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

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

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

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

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

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

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

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

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

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

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

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

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

Init.

## § 3.2 SCHEMATIC DESIGN PHASE SERVICES

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project's requirements agreed upon with the Owner, the Architect shall prepare and present for the Owner's approval a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

## § 3.3 DESIGN DEVELOPMENT PHASE SERVICES

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

## § 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare

Init.

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

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

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

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

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

## § 3.5 BIDDING OR NEGOTIATION PHASE SERVICES

### § 3.5.1 GENERAL

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

### § 3.5.2 COMPETITIVE BIDDING

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

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

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

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

### § 3.5.3 NEGOTIATED PROPOSALS

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

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

- .1 procuring the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors; and
- .3 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.



§ 3.5.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

## § 3.6 CONSTRUCTION PHASE SERVICES

### § 3.6.1 GENERAL

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2007, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2007, those modifications shall not affect the Architect’s services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor’s failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect’s negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.3, the Architect’s responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

### § 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect’s response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect’s decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

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

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### § 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

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

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

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

### § 3.6.4 SUBMITTALS

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

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

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

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

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

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**§ 3.6.5 CHANGES IN THE WORK**

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner’s approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

**§ 3.6.6 PROJECT COMPLETION**

§ 3.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner’s review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect’s inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

**ARTICLE 4 ADDITIONAL SERVICES**

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as provided in Section 11.2.

*(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)*

Additional Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
§ 4.1.1 Programming (B202™-2009)	Not Provided	
§ 4.1.2 Multiple preliminary designs	Not Provided	
§ 4.1.3 Measured drawings	Not Provided	
§ 4.1.4 Existing facilities surveys	Not Provided	
§ 4.1.5 Site Evaluation and Planning (B203™-2007)	Not Provided	
§ 4.1.6 Building Information Modeling (E202™-2008) information modeling	Not Provided	
§ 4.1.7 Civil engineering	Not Provided	
§ 4.1.8 Landscape design	Not Provided	
§ 4.1.9 Architectural Interior Design (B252™-2007)	Not Provided	
§ 4.1.10 Value Analysis (B204™-2007)	Not Provided	
§ 4.1.11 Detailed cost estimating	Architect	Appendix A
§ 4.1.12 On-site project representation	Architect	Appendix A

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

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

Appendix A – Initial Information

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

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

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

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.11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker;
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion identified in Initial Information, whichever is earlier.

§ 4.3.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 Twelve ( 12 ) visits to the site by the Architect over the duration of the Project during construction
- .3 Two ( 2 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two ( 2 ) inspections for any portion of the Work to determine final completion

§ 4.3.4 If the services covered by this Agreement have not been completed within Twelve ( 12 ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

## ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 5.2 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and

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contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

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

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

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

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

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

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

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

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

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

## ARTICLE 6 COST OF THE WORK

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

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, attached Appendix A, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from

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the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 4.

§ 6.4 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

#### **ARTICLE 7 — COPYRIGHTS AND LICENSES**

§ 7.1 ~~The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.~~

§ 7.2 ~~The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.~~

§ 7.3 ~~Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.~~

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

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

#### ~~ARTICLE 8 — CLAIMS AND DISPUTES~~

#### ~~ARTICLE 7- COPYRIGHTS AND LICENSES~~

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

#### ~~ARTICLE 8- CLAIMS AND DISPUTES~~

##### ~~§ 8.1 GENERAL~~

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

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

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

##### ~~§ 8.2 MEDIATION~~

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

~~§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration~~

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proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section ~~8.2.2~~, the method of binding dispute resolution shall be the following:

*(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)*

Arbitration pursuant to Section ~~8.3.3~~ of this Agreement

Litigation in a court of competent jurisdiction

Other (Specify)

### § 8.3 ARBITRATION

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

### ~~§ 8.3.4 CONSOLIDATION OR JOINDER~~

~~§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

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

## ARTICLE 9 TERMINATION OR SUSPENSION

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

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

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

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

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

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

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

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

## ARTICLE 10 MISCELLANEOUS PROVISIONS

~~§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.~~

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

~~§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.~~

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

Init.

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User Notes:

(1748058721)

§10.3 If any provision of this Agreement or any part thereof is, or becomes, void or unenforceable by force or operation of law, the Parties agree that the Agreement shall be reformed to replace the stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision. Further, the Parties agree that all other provisions shall remain valid and enforceable.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect. If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information. The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

Init.

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

#### **§10.10 Independent Contractor Status**

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

#### **ARTICLE 11 COMPENSATION**

**§ 11.1** For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation.)*

Payments shall be made in accordance with terms and conditions specified in Exhibit A.

Payment Item 1: Schematic Design, Design Development, Asbestos Containing Material Survey, Construction Documents, Bidding, and As-Constructed Record Drawing phases

Lump Sum Fee in the amount of \$55,000.00

Payment Item 2: Asbestos Abatement Design services

Not-To-Exceed fee in the amount of \$10,000.00

Payment Item 3: Asbestos Abatement Project Monitoring and Air Sampling

a. Project Monitoring – Straight Time: \$57.00/hour

b. Project Monitoring – Over Time: \$69.00/hour

c. Air Sample (PCM): \$11.00/each\*

Payment Item 4: Construction Phase Services

Not-To-Exceed Fee of \$20,000.00

Payment Item 5: Design Contingency

Not-To-Exceed Fee of \$25,000.00

\* Includes cost of cassette, pump rental, and daily faxing to Oneida County.

**§ 11.2** For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)*

Payment for additional services identified in Article 4 shall made in accordance with Appendix A attached hereto.

**§ 11.3** For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation.)*

Appendix C shall be used to calculate compensation for services performed, compensation for out-of-scope services, and credits to Oneida County for services not performed that are included in the original scope of Work.

init.

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Five percent ( 5.00 %), or as otherwise stated below:

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

Schematic Design Phase	<u>Fifteen</u>	percent (	<u>15</u>	%)
Design Development Phase	<u>Twenty</u>	percent (	<u>20</u>	%)
Construction Documents Phase	<u>Forty</u>	percent (	<u>40</u>	%)
Bidding or Negotiation Phase	<u>Five</u>	percent (	<u>5</u>	%)
Construction Phase	<u>Fifteen</u>	percent (	<u>15</u>	%)
<u>As-Constructed Record Drawings</u>	<u>Five</u>	percent (	<u>5</u>	%)
<b>Total Basic Compensation</b>		<b>one hundred percent (</b>	<b>100</b>	<b>%)</b>

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

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

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

#### Appendix C

Employee or Category	Rate
----------------------	------

#### § 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

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

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

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

Init.

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

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

Zero (\$0.00)

**§ 11.10 PAYMENTS TO THE ARCHITECT**

§ 11.10.1 An initial payment of Zero Dollars and Zero Cents (\$ 0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid Forty-five (45) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.  
*(Insert rate of monthly or annual interest agreed upon.)*

0.0 % per annum

§ 11.10.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

**ARTICLE 12 SPECIAL TERMS AND CONDITIONS**

Special terms and conditions that modify this Agreement are as follows:

Appendix A

**ARTICLE 13 SCOPE OF THE AGREEMENT**

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document B101™-2007, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:

- .3 Other documents:  
*(List other documents, if any, including ~~Exhibit Appendix A~~, Initial Information, and additional scopes of service, if any, forming part of the Agreement.)*

- Appendix A - Initial Information
- Appendix B - Insurance Certificates
- Appendix C - Hourly Rate Schedule
- Appendix D - Addendum

Init.

This Agreement entered into as of the day and year first written above.

OWNER

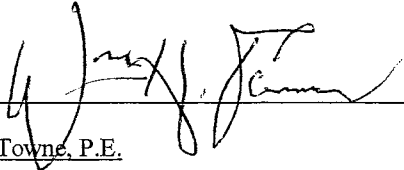
ARCHITECT

*(Signature)*

Anthony J. Picente, Jr.  
Oneida County Executive

*(Printed name and title)*

*(Signature)*

  
William H. Towne, P.E.  
Principal

*(Printed name and title)*

Init.

**Certification of Document's Authenticity**  
AIA® Document D401™ – 2003

I, Mark E. Laramie, P.E., hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification at 15:22:04 on 07/05/2017 under Order No. 9935065567\_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2007, Standard Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than changes shown in the attached final document by underscoring added text and striking over deleted text.

  
\_\_\_\_\_  
(Signed)

Mark E. Laramie, P. E.  
Deputy Commissioner  
\_\_\_\_\_  
(Title) Division of Engineering  
Oneida County D. P. W.

7/5/2017  
\_\_\_\_\_  
(Dated)



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

1. The provisions of this Article 12, with the subsections herein, take precedence over any conflicting provision of this Agreement (AIA B132-2009) and shall survive termination of the Agreement for any cause.
2. The following paragraphs from Article 4, of the Agreement Additional Services, shall be included as part of the Architect's basic services; 4.1.11, 4.1.12, 4.1.14, 4.1.15 and 4.1.28.
3. The services to be provided by this Architect shall comply with the accepted practice of the appropriate profession. The execution of this project shall be performed in accordance with applicable Oneida County ("Owner") policies and design criteria.
4. Architect shall have on staff, or as a sub-architect, a professional engineer or registered architect recognized by the New York State Education Department.

**5. PROJECT DESCRIPTION**

- 5.1. The intent of this project is to complete various mechanical, electrical, and plumbing system improvements at various County facilities.

**6. SCOPE OF SERVICES**

- 6.1. Replace chiller, 120 Airline Street, Oriskany.
  - 6.1.1. Existing chiller is a Carrier Centrifugal Water Chiller 19DK5719AB.
  - 6.1.2. Evaluate cooling load and replace existing equipment with appropriately sized chiller.
  - 6.1.3. Integrate chiller controls into existing digital energy management system.
  - 6.1.4. Convert pneumatic and/or analog controls to digital and integrate into digital energy management system as required.
  - 6.1.5. Replace piping, valves, and insulation as required.
- 6.2. Replace boilers, 120 Airline Street, Oriskany.
  - 6.2.1. Evaluate heating load and replace existing boilers with appropriately sized boiler(s).
  - 6.2.2. Remove, replace, or repair piping, valves, insulation, and flue(s) as required.
  - 6.2.3. Convert pneumatic and/or analog controls to digital and integrate into digital energy management system.
- 6.3. Replace cooling system for server room, 120 Airline Street, Oriskany.
  - 6.3.1. Room currently cooled by Liebert FE192G-A00.

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

6.3.2. Evaluate cooling load and replace existing equipment with appropriately sized cooling system.

6.3.3. Integrate controls into existing digital energy management system.

6.3.4. Convert pneumatic and/or analog controls to digital and integrate into digital energy management system as required.

6.3.5. Replace piping, valves, and insulation as required.

6.4. Replace uninterruptable power supply (UPS) for server room, 120 Airline Street, Oriskany.

6.4.1. New UPS shall be sized and specified as directed by the Oneida County IT Department (Central Services).

6.5. Upgrade HVAC system controls, 120 Airline St., Oriskany.

6.5.1. Convert approximately 156 perimeter cabinet units and approximately 104 central VAV units from pneumatic control to digital control. Digital controls shall be integrated into existing digital energy management system.

6.6. Replace emergency power transfer switch, 800 Park Ave., Utica.

6.6.1. Relocate emergency power transfer switch as required.

6.6.2. Modify primary and secondary electrical switchgear as required.

6.6.3. Provide or replace conduit and conductors as required.

6.6.4. Integrate emergency power transfer switch into existing digital building energy management system.

6.7. Reconfigure fan rooms, 321 Main St., Utica.

6.7.1. Reconfigure three (3) HVAC fan rooms to allow fresh air intake during winter months. Work may include modifying ductwork, digital controls, louvers, wall penetrations, and etcetera.

6.8. Lighting upgrades, 321 Main St., Utica.

6.8.1. Replace light fixtures on canopy covering platform for Track 1.

6.8.2. Replace light poles and light fixtures on platform for Track 2 and Adirondack Scenic Railroad boarding platform. Provide additional poles and fixtures to light eastern end of platform.

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

- 6.8.3. Replace light fixtures on overhead walkway towers. Provide additional light fixtures if necessary.
- 6.9. Provide shore power for Adirondack Scenic Railroad locomotives, 321 Main St., Utica.
- 6.9.1. Provide circuit panel, modify switch-gear, and/or provide transformer(s) as required.
- 6.9.2. Provide conduit, conductors, and exterior distribution panel.
- 6.9.3. Provide dedicated and metered high voltage circuit.
- 6.9.4. Provide convenience power at exterior distribution panel.
- 6.9.5. Provide exterior lighting circuit at exterior distribution panel.
- 6.10. Identify, quantify, and abate asbestos containing materials impacted by this project.
- 6.10.1. Perform asbestos containing material survey. Provide material sampling, analysis, and reporting as required.
- 6.10.2. Prepare plans and specifications for abatement of asbestos containing materials. Abatement design shall be performed by a NYSDOL certified project designer under the direct supervision of a Licensed Professional Engineer or Architect.
- 6.10.3. Prepare, submit application to NYSDOL, and secure approval for required asbestos abatement variances.
- 6.10.4. Provide project monitoring/air sampling associated with abatement of asbestos containing materials (CM). All work shall be performed by a NYSDOL certified project monitor.
- 6.10.5. Prepare plans at the completion of work to identify any gross ACM that was enclosed and remains in place. This information is important for inclusion on the asbestos building management plan.

**7. SCOPE OF SERVICES**

7.1. The Architect shall be required to provide services necessary for the performance and completion of work noted in Section 12 herein, including Project Description, Scope of Work and Scope of Services. Services shall be provided in accordance with AIA Document B101-2007 with modifications. Services shall include, but not be limited to, the following:

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

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

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

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

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

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

7.1.6. Prepare all permit applications and secure all permits.

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

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

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

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

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

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

7.1.13. Owner shall pay all permit fees based on the Construction Phase of the project.

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

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

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

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

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

**8. BASIS OF COMPENSATION**

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

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

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

8.1.3. Pay Item 3. Architect shall be paid on a Time and Materials basis for asbestos abatement project monitoring and air sampling. Payments shall be based on established hourly rates, unit prices, and services completed.

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

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

8.2. Pay Item 5. Design Contingency. Architect shall be paid a Not-To-Exceed fee of \$25,000.00 for unanticipated additional design services.

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

8.2.1. Performance of unanticipated additional design services shall not occur without prior approval by Owner. Payment shall not be made for unanticipated additional design services without said prior authorization.

8.2.2. Payments shall be made on a basis of work completed.

8.2.3. Unused design contingency fee shall be credited to Owner.

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

**9. MISCELLANEOUS**

**9.1. REQUIRED PROVISIONS OF LAW**

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

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

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

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

**10. SUBCONTRACTS**

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

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

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

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

Appendix B



**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)  
05/19/2017

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 have ADDITIONAL INSURED provisions or 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> Crowley Insurance Agency, Inc. 202 North Center Street East Syracuse NY 13057		<b>CONTACT NAME:</b> Jim Crowley <b>PHONE (A/C, No, Ext):</b> (315) 437-2983 <b>FAX (A/C, No):</b> (315) 437-0063 <b>E-MAIL ADDRESS:</b> info@crowleyinsurance.com	
<b>INSURED</b> Towne Engineering, P.C. 18 South St. Utica NY 13501		<b>INSURER(S) AFFORDING COVERAGE</b> INSURER A: Liberty Mutual Insurance INSURER B: Harleysville Insurance Company INSURER C: Continental Casualty Company INSURER D: Liberty Mutual Insurance INSURER E: INSURER F:	

**COVERAGES**                      **CERTIFICATE NUMBER:**                      **REVISION NUMBER:**

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	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			57990396	04/25/2017	04/25/2018	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COM/OP AGG \$ 4,000,000 \$
A	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			57990396	04/25/2017	04/25/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
D	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED    RETENTION \$			57990396MINIQ2	04/26/2017	04/26/2018	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000 \$
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	WC 21013J	03/22/2017	03/22/2018	PER STATUTE    OTH-ER E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE - EA EMPLOYEE \$ 100,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
C	Professional Liability			591864424	10/01/2016	10/01/2017	Liab limit / each \$3,000,000 / \$3,000,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES** (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 The certificate holder is named as additional insured, on a primary and non-contributory basis, as its interest may appear.

**CERTIFICATE HOLDER**                      **CANCELLATION**

County of Oneida 800 Park Avenue Utica, NY 13501	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 
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## **IMPORTANT**

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

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).

## **DISCLAIMER**

This Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.



*Towne  
Engineering, PC*

**BILLING RATES 2017**

<b>POSITION TITLE</b>	<b>BILLING RATE</b>
<b>PRINCIPAL</b>	<b>\$175.00</b>
<b>DESIGNER I</b>	<b>\$ 140.00</b>
<b>DESIGNER II</b>	<b>\$ 70.00</b>
<b>ADMINISTRATIVE</b>	<b>\$ 45.00</b>

**APPENDIX D**  
**Standard Contract Clauses Addendum**

THIS ADDENDUM, between the County of Oneida, hereinafter known as COUNTY, and a contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as CONTRACTOR.

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

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

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

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

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

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

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

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

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

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

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

2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, State or local health, law enforcement, or other appropriate agency;
  - g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (0), (0), (d), (0), (f).
2. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.
  3. Place of Performance (street, address, city, county, state, zip code).
- d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F. for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
  2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.
4. **Health Insurance Portability and Accountability Act (HIPAA).** When applicable to the services provided pursuant to the Contract:
    - a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPPA," as well as all regulations promulgated by the Federal Government in furtherance hereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
      1. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;

2. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
  3. Utilize an adequate amount of physical hardware, including but not limited to filing cabinets, and locks on drawers, cabinets, and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:
1. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
  2. The Contractor may provide data aggregation services relating to the health care operations of the County.
- c. The Contractor shall:
1. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
  2. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
  3. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
  4. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of, the County agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
  5. Make available protected health information in accordance with 45 CFR § 164.524;
  6. Make available protected health information for amendment<sup>1</sup> and incorporate any amendments to protected health information in accordance with 45 CFR § 164.528;
  7. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
  8. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by the Contractor on behalf of, the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
  9. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by the Contractor on behalf of, the County that the Contractor still maintains in any form and retain no copies of

such information or, if such return or destruction is not feasible, extend the protections of this Contract to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
    1. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
    2. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
    3. There is a material change in the business practices and procedures of the County.
  - e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.
5. **Non-Assignment Clause.** In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and attempts to do so are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.
6. **Worker's Compensation Benefits.** In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
7. **Non-Discrimination Requirements.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee



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

8. **Wage and Hours Provisions.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County approved sums due and owing for work done upon the project.
9. **Non-Collusive Bidding Certification.** In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.
10. **Records.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails and attachments, rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above for the purposes of inspection, auditing and copying. The County shall

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

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

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payees, on its invoice or claim for payment, must give the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

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

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

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

- a. The Contractor certifies and warrants that all wood products to be used under this Contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the Contractor to establish to meet with the approval of the County.
- b. In addition, when any portion of this Contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the County.

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

**16. Gratuities and Kickbacks.**

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

**17. Audit.**

- a. The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall

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

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

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

- a. Pursuant Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each Bidder/Contractor, any person signing on behalf of any Bidder/Contractor and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (OGS) website, that to the best of its knowledge and belief, that each Bidder/Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).
- b. Additionally, the Bidder/Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any Bidder/Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.
- c. During the term of the Contract, should the County receive information that a Bidder/Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within 90 days after the determination of such violation, then the County shall take such action as may be appropriate including,

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

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

ANTHONY J. PICENTE JR.  
County Executive



DENNIS S. DAVIS  
Commissioner

DIVISIONS:  
Buildings & Grounds  
Engineering  
Highways, Bridges & Structures  
Reforestation

## Oneida County Department of Public Works

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

July 19, 2017

Anthony J. Picente, Jr. FN 20  
Oneida County Executive  
800 Park Avenue  
Utica, NY 13501

**PUBLIC WORKS**

**WAYS & MEANS**

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

Anthony J. Picente, Jr.  
County Executive

Date 7/24/17

Dear County Executive Picente,

Governor Cuomo created the BRIDGE NY program for the purpose of funding bridge and culvert reconstruction projects on local highways. Projects will receive up to 95% reimbursement via federal aid with a 5% local match. Oneida County has been awarded the following grant through this program.

### Oneida County

PIN 2754.35: Hawkinsville Rd./Black River (BIN 3310460)  
Budget: \$630,000 (\$585,500 federal/\$31,500 Local)  
Scope: Bridge Deck Replacement

In accordance with the NYSDOT Procedures for Locally Administered Federal Aid Projects, Oneida County solicited an Expression of Interest (EOI) from each firm on the NYSDOT Region 2 LDSA County list. Each EOI was reviewed and scored on a qualifications basis. State and Federal procedures prohibit the use of consulting fees as a determining factor. It was decided that C&S Engineers, Inc., is the most qualified consultant for this project. Subsequently, the Department of Public Works negotiated a proposed contract with C&S Engineers, Inc. to prepare plans and specifications. Construction inspection services will be added at a later date via addendum.

On June 28, 2017 the Oneida County Board of Acquisition and Contract accepted a proposal from C&S Engineers, Inc. with a Lump Sum fee of \$139,000.00 to prepare a plans and specifications for rehabilitation of Hawkinsville Road over Black River Bridge in the Town of Boonville.

If acceptable, please forward the enclosed agreement for the aforementioned services to the Oneida County Board of Legislators for consideration.

Thank you for your continued support.

Sincerely,

Dennis S. Davis  
Commissioner

cc: Mark E. Laramie, PE, Deputy Commissioner



Oneida Co. Department: Public Works

Competing Proposal   X    
Only Respondent             
Sole Source RFP           

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name of Proposing Organization:** C&S Engineers, Inc.  
499 Col. Eileen Collins Blvd.  
Syracuse, NY 13212

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

**Proposed Dates of Operation:** Start on Execution - 09/30/2021

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

**Summary Statements**

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

Governor Cuomo created the BRIDGE NY program for the purpose of funding bridge and culvert reconstruction projects on local highways. Projects will receive up to 95% reimbursement via federal aid with a 5% local match. Oneida County has been awarded the following grant through this program.

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In accordance with the NYSDOT Procedures for Locally Administered Federal Aid Projects, Oneida County solicited an Expression of Interest (EOI) from each firm on the NYSDOT Region 2 LDSA County list. Each EOI was reviewed and scored on a qualifications basis. State and Federal procedures prohibit the use of consulting fees as a determining factor. It was decided that Lochner Engineering of Utica is the most qualified consultant for this project. Subsequently the Department of Public Works negotiated a proposed contract with C&S Engineers, Inc., to prepare plans and specifications. Construction inspection services will be added at a later date via addendum.

On June 28, 2017 the Oneida County Board of Acquisition and Contractor accepted a proposal from C&S Engineers, Inc., with a Lump Sum fee of \$139,000.00 to prepare a plans and specifications for reconstruction of the Hawkinsville Road over Black River Bridge in the Town of Boonville.

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

3) Program Design and Staffing: N/A

Total Funding Requested: \$139,000.00

Account #:

Oneida County Dept. Funding Recommendation: \$139,000.00

Proposed Funding Sources (Federal \$/ State \$/County \$): \$132,050.00 (Federal)  
\$6,950.00 (County)

Cost Per Client Served: N/A

Past Performance Data: N/A

O.C. Department Staff Comments: None



## AGREEMENT

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_ 2017, by and between the COUNTY OF ONEIDA, a municipal corporation organized and existing under the laws of the State of New York, with its principal office and place of business located at 800 Park Avenue, Utica, NY, hereinafter called "County," and C&S Engineers, Inc., a domestic corporation, organized and existing under the laws of the State of New York with its place of business located at 499 Col. Eileen Collins Blvd., Syracuse, New York 13212, hereinafter called "Consultant," collectively, the "Parties."

### WITNESSETH:

WHEREAS, County requires consulting services to assist the County in preparing detailed plans and specifications for rehabilitation of the Hawkinsville Road over Black River Bridge (BIN 3310460). The Project scope includes bridge deck replacement and associated required improvements; and

WHEREAS, Consultant has submitted a proposal to provide such plans and specifications, as is more fully defined herein; and

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

NOW, THEREFORE, it is mutually agreed by County and Consultant that for the consideration and upon the terms and conditions hereinafter set forth, Consultant shall provide said Services to County. Project description and scope of services are defined in Attachment A, Attachment B, and Attachment C attached hereto (collectively the "Services").

### 1. **TERM**

1.1. The term of this Agreement shall commence upon a written Notice to Proceed and shall terminate no later than September 30, 2021.

### 2. **NOTICE TO PROCEED**

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

### 3. **COMPENSATION**

3.1. 3.1. The County agrees to pay the Consultant a Lump Sum fee of **One Hundred Thirty Nine Thousand dollars and Zero cents (\$139,000.00)**, for all services identified in

Attachment B, attached hereto. Payment shall be made on a basis of services completed.

3.2. Attachment A, Attachment B, and Attachment C, attached hereto and incorporated herein, shall be used to calculate payment due for the Services performed and reimbursable expenses.

3.2.1. Consultant shall provide detailed cost accounting for all reimbursable expenses.

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

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

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

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

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

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

under no further obligation to the Consultant other than payment for costs actually incurred prior to termination and in no event will the County be responsible for any actual or consequential damages as a result of termination.

## **5. SCOPE OF SERVICES**

5.1. The "Contract Documents" consist of this Agreement, any and all Exhibits, and any attachments thereto, Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Agreement, and are as fully a part of the Agreement as if attached to this Agreement or repeated herein. This Agreement represents the entire and integrated Agreement between the Parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Section 27.

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

## **6. PERFORMANCE OF SERVICES**

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

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

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

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

6.5. Consultant represents that it has the experience, licenses, qualifications, staff and

expertise to perform said Services in a professional and competent manner.

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

6.7. Consultant shall use the Consultant's best efforts to perform the Services such that the results are satisfactory to the County. Consultant shall be solely responsible for determining the method, details and means of performing the Services, except where Federal, State or Local Laws and Regulations impose specific requirements on performance of the same.

6.8. Consultant is solely responsible for paying all of its business expenses related to furnishing the Services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating expenses.

6.9. Consultant may, at the Consultant's own expense, employ or engage the services of subconsultants and/or partners as the Consultant deems necessary to perform the Services. Employees, subconsultants and/or partners are not and shall not be employees of the County, and the County shall have no obligation to provide employees, subconsultants and/or partners with any salary or benefits. The Consultant shall be solely responsible and shall remain liable for the performance of the Services by the employees, subconsultants and/or partners in a manner satisfactory to the County, in compliance with any and all applicable Federal, State or Local Laws and Regulations.

6.10. Consultant acknowledges and agrees that the Consultant and its employees, subconsultants and/or partners have no authority to enter into contracts that bind the County or create obligations on the part of the County without the prior written authorization of the County.

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

## 7. **NON ASSIGNMENT**

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

## **8. SUBCONTRACTS**

**8.1.** A subconsultant is a person who has an agreement with the Consultant to perform any of the Services.

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

**8.3.** Agreements between the Consultant and the subconsultant shall be in accordance with the terms of this Agreement and shall include the conditions of this Agreement including all Exhibits and Contract Documents, insofar as applicable.

## **9. CHANGE IN SERVICES**

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

## **10. PROJECT MANAGERS**

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

**10.2.** Consultant designates John, R. Freeman, P.E. as its Project Manager, who shall have immediate responsibility for the performance of the Services, and for all matters relating to performance under this Agreement. Any change in Consultant designated personnel or subconsultant shall be subject to approval by the County Project Manager.

## **11. NOTICES**

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

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

11.2. Any notice which Consultant may desire or is required at any time to give or serve upon County may be delivered personally at 6000 Airport Road, Oriskany, NY, or be sent by United States mail, postage prepaid, addressed to Deputy Commissioner, Division of Engineering, 5999 Judd Road, Oriskany, NY 13424, or at such other address as shall have been last furnished in writing by County to Consultant. Such personal delivery or mailing in such manner shall constitute a good, sufficient and lawful notice and service thereof in all such cases.

## **12. INDEPENDENT CONTRACTOR STATUS**

12.1. It is expressly agreed that the relationship of the Consultant and its employees, subconsultants and/or partners to the County shall be that of Independent Contractors. The Consultant and its employees, subconsultants and/or partners shall not be considered employees of the County for any purpose including, but not limited to, claims for unemployment insurance, worker's compensation, retirement, or health benefits. The Consultant and its employees, subconsultants and/or partners, in accordance with their status as Independent Contractors, covenant and agree that they will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the County by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.

12.2. The Consultant warrants and represents that it is in the business of offering the same or similar services detailed herein and does offer the same or similar service(s) to other entities and/or the general public as a regular course of business. The Consultant and the County agree that the Consultant is free to undertake other work arrangements during the term of this Agreement, and may continue to make its services available to the public.

12.3. The Consultant, and its employees, subconsultants and/or partners, shall not be eligible for compensation from the County due to a) illness; b) absence due to normal vacation; c) absence due to attendance at school or special training or a professional convention or meeting.

12.4. The Consultant acknowledges and agrees that neither the Consultant, nor its employees, subconsultants and/or partners shall be eligible for any County employee

benefits, including retirement membership credits.

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

12.6. The Consultant shall indemnify and hold the County harmless from all loss or liability incurred by the County as a result of the County not making such payments or withholdings.

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

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

### 13. INDEMNIFICATION

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

13.2. The Consultant agrees that it shall defend, indemnify and hold harmless the County from and against all liability, damages, expenses, costs, (including, without limitation, attorneys' fees and expenses) causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the Services of the Consultant and its subconsultants, agents, servants, or employees, and from any loss or damage arising, occurring or resulting from

the acts or failure to act or any default or negligence by the Consultant or failure on the part of the Consultant to comply with any of the covenants, terms or conditions of this Agreement. The obligations of the Consultant under this Article shall survive any expiration or termination of this Agreement, and shall not be limited by any enumeration herein of required insurance coverage.

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

#### 14. INSURANCE REQUIREMENTS

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

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

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

14.4. Certificates of Insurance: Attached to each certificate of insurance shall be a copy of



the Additional Insured Endorsement that is part of the Consultant's Commercial General Liability Policy, Auto Liability Policy, and Excess/Umbrella Policy. These certificates and the insurance policies required below shall contain a provision that coverage afforded under the policies will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the County.

14.5. Commercial General Liability Insurance (CGL): The Consultant agrees that it will, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of insurance which will insure against liability for property damage and/or injury/death with regard to any property or persons. The liability and property damage coverage of such insurance shall not be less than One Million Dollars (\$1,000,000) per occurrence and such insurance shall not be less than Three Million Dollars (\$3,000,000) annual aggregate. The Consultant agrees to have the County added to said insurance policy and /or policies as a named additional insured, on a primary, non-contributory basis, as its interest may appear. Coverage for the additional insured shall apply as primary and non-contributing insurance before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by or provided to, the additional insureds.

14.5.1. Coverage for the additional insured shall include completed operations.

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

14.5.3. CGL coverage shall be written on ISO Occurrence form CG 00 01 1001 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contracts, products- completed operations, XCU (explosion, collapse and underground coverage) and personal and advertising injury.

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

14.5.5. The Consultant shall maintain CGL coverage for itself and the additional insured for the duration of the Project and maintain Completed Operations coverage for itself and each additional insured for at least three (3) years after completion of the Services.

14.6. Auto Liability Insurance: The Consultant agrees that it will, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of Business Auto Liability Insurance in an amount equal to or greater than One Million Dollars (\$1,000,000) for the term of this Agreement. Business Auto Coverage must include coverage

for liability arising out of all owned, leased, hired and non-owned automobiles. The Consultant agrees to have the County added to said insurance policy/policies as named additional insureds, on a primary, non-contributory basis, as their interests may appear.

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

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

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

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

## 15. WAIVER OF SUBROGATION

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

## 16. REQUIRED PROVISIONS OF LAW

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

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

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

## 17. BREACH

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

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

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

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

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

17.1.5. The County shall review Consultant's performance. If it is found the Consultant is not meeting Agreement conditions, he/she will be formally notified. If the condition is

not corrected, then this will be cause for Agreement termination.

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

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

17.3. In the event of a breach or threatened breach by either Party of its obligations under this Agreement, the other Party shall have the right to seek and obtain an injunction or other equitable relief, in addition to any other remedies provided by this Agreement, or by law.

## 18. TERMINATION

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

18.2. If this Agreement is terminated, Consultant shall be entitled to compensation for Services satisfactorily performed to the effective date of termination; provided however, that County may condition payment of such compensation upon Consultant's delivery to County of any and all documents, photographs, computer software, videotapes, and other materials provided to Consultant or prepared by Consultant for County in connection with this Agreement. Payment by County for the Services satisfactorily performed to the effective date of termination shall be the sole and exclusive remedy to which Consultant is entitled in the event of termination of the Agreement and Consultant shall be entitled to no other compensation or damages and expressly waives same.

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

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

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

**20. STANDARD ADDENDUM**

20.1. Consultant shall comply with County's Standard Addendum attached hereto as **Attachment E.**

**21. NON WAIVER**

21.1. No provision of this Agreement shall be deemed to have been waived by either Party, unless such waiver shall be set forth in a written instrument executed by such Party. Any waiver by any of the Parties to any of the provisions of this Agreement shall not imply preceding or subsequent waiver of that or any other provision, unless explicitly stated otherwise.

**22. CHOICE OF LAW/FORUM**

22.1. If either Party elects to commence litigation against the other in connection with any matter relating to or arising out of this Agreement , it shall do so in a New York State Court of competent jurisdiction sitting in Oneida County, New York or in the United States District Court for the Northern District of New York.

22.2. This Agreement shall be construed and enforced in accordance with the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

**23. CONFLICTS**

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

**24. SUCCESSORS AND ASSIGNS**

24.1. This Agreement shall be binding on and inure to the benefit of the Parties hereto and their respective heirs, legal or personal representatives, successors, and assigns.

**25. SEVERABILITY**

25.1. If any provision of this Agreement, or any part thereof, is or becomes void or unenforceable by force or operation of law, the Parties agree that the Agreement shall be

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

## **26. ENTIRE AGREEMENT**

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

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

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

## **27. INCORPORATION BY REFERENCE**

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

27.1.1. Attachment A – Project Description and Funding

27.1.2. Attachment B – Scope of Services

27.1.3. Attachment C – Design Services (containing staffing, hours, reimbursables, and Fee)

27.1.4. Attachment D – Change Order

27.1.5. Attachment E – Standard Addendum

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

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

28.1. The Consultant hereby represents and certifies that it has the power and authority to execute and deliver this Agreement and to carry out its obligations hereunder. The execution and delivery by Consultant of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by the Consultant; no other action on the part of the Consultant or any other person or entity, whether pursuant to its Articles of Incorporation, Articles of Operation, Operating Contract or Bylaws, as the case

may be, or by law or otherwise, are necessary to authorize the Agreement or to enter into this Agreement, or to consummate the transactions contemplated herein.

**29. ADVICE OF COUNSEL**

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

**[REMAINDER OF PAGE INTENTIONALLY BLANK]**

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

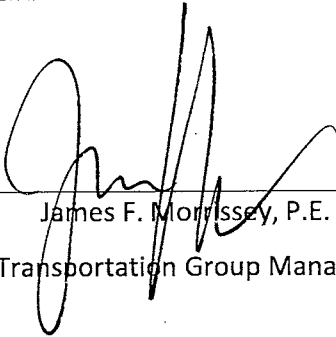
COUNTY OF ONEIDA

By:

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

CONSULTANT

By:

  
\_\_\_\_\_  
James F. Morrissey, P.E.  
Transportation Group Manager

Date:

7.17.17  
\_\_\_\_\_

Approved:

By:

\_\_\_\_\_  
Linda B. Lark, Assistant County Attorney

Date:

\_\_\_\_\_



**Attachment A**  
**Architectural/ Engineering Consultant Contract**  
**Project Description and Funding**

PIN: 2754.35  
BIN: 3310460

*Term of Agreement Ends: December 31, 2019*

Main Agreement     Amendment to Contract [add identifying #]     Supplement to Contract  
[add identifying #]

**Phase of Project Consultant to work on:**

P.E./Design                       ROW Incidentals                       ROW Acquisition  
 Construction, C/I, & C/S

Dates or term of Consultant Performance:

Start Date: July 1, 2017

Finish Date: December 31, 2019

**PROJECT DESCRIPTION:** The Project includes preliminary and final design services, and construction support (supplemental agreement) and inspection services (supplemental agreement) for a Federally Funded project located in the Town of Boonville, Oneida County. The project involves replacement of the existing deck and associated minor repairs. Work will include field investigations, engineering design, regulatory permitting, bidding assistance and construction phase services (supplemental agreement).

Project Location: Hawkinsville Road over Black River in the Town of Boonville, Oneida County, New York

Consultant Work Type(s): See Attachment B for more detailed Scope of Services.

**MAXIMUM AMOUNT OF FUNDS FOR ALL COMPENSATION PAYABLE UNDER THIS AGREEMENT FOR THE SCOPE OF WORK DESCRIBED IN ATTACHMENT B FOR THE PROJECT DESCRIBED IN THIS ATTACHMENT A, OTHERWISE IN ACCORDANCE WITH THE CHOSEN METHOD OF COMPENSATION AND OTHER TERMS OF THIS AGREEMENT:**

**\$139,000**

**Footnotes:**

## **Attachment B – Scope of Services**

Phase 1 – Preliminary and Final Design

Prepared for:

**Oneida County Department of Public Works  
5999 Judd Road  
Oriskany, NY 13424**

Describing Services for:

**Rehabilitation of Hawkinsville Road Bridge over Black River  
Town of Boonville  
Oneida County  
B.I.N. 3310460  
P.I.N. 2754.35**

Date: June 20, 2017

C&S Engineers, Inc.  
499 Col. Eileen Collins Blvd.  
Syracuse, NY 13212



**ATTACHMENT B – SCOPE OF SERVICES**

Phase 1 – Preliminary and Final Design

**Rehabilitation of Hawkinsville Road Bridge over Black River  
Town of Boonville  
Oneida County  
B.I.N. 3310460  
P.I.N. 2754.35**

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## Section 1 - General

### 1.01 Project Description and Location

The Project includes preliminary and final design services, and construction support (supplemental agreement) and inspection services (supplemental agreement) for a Federally Funded project located in the Town of Boonville, Oneida County. The project involves replacement of the existing deck and associated minor repairs. Work will include field investigations, engineering design, regulatory permitting, bidding assistance and construction phase services (supplemental agreement). All work will be designed to AASHTO specifications and the NYSDOT Standard Specifications (Construction and Materials).

Project Name: Rehabilitation of Hawkinsville Road Bridge over Black River

PIN: 2754.35

Project Description: Bridge deck replacement with associated minor repairs

Project Limits: 100 feet east and west of the bridge ends.

Sponsor: Oneida County

Town: Boonville

The anticipated start date of preliminary design: July 2017

The anticipated letting date: November 2018

The anticipated construction completed date: November 2019

The anticipated design costs: \$139,000

The anticipated construction costs: \$450,000

### 1.02 Project Manager

The **Sponsor's** Project Manager for this project is Mark Laramie, who can be reached at (315) 793-6236.

All correspondence to the **Sponsor** should be addressed to:

Oneida County Department of Public Works  
5999 Judd Road  
Oriskany, NY 13424

The Project Manager should receive copies of all project correspondence directed other than to the **Sponsor**.

### 1.03 Project Classification

This project is assumed to be a Class II action under USDOT Regulations, 23 CFR 771<sup>1</sup>. Classification under the New York State Environmental Quality Review Act (SEQRA) Part 617, Title 6 of the Official Compilation of Codes, Rules, and Regulations of New York State (6 NYCRR Part 617) is assumed to be Type II.

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<sup>1</sup> <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=d21c8e6f33a02787d9b788103bac7b9d&rgn=div5&view=text&node=23:1.0.1.8.43&idno=23>

**1.04 Categorization of Work**

Project work is generally divided into the following sections:

Section 1	General
Section 2	Data Collection & Analysis
Section 3	Preliminary Design
Section 4	Environmental
Section 5	Right-of-Way
Section 6	Detailed Design
Section 7	Advertising, Bid Opening and Award
Section 8	Construction Support (Supplemental Agreement)
Section 9	Construction Inspection (Supplemental Agreement)
Section 10	Estimating & Technical Assumptions

When specifically authorized in writing to begin work the **Consultant** will render all services and furnish all materials and equipment necessary to provide the **Sponsor** with reports, plans, estimates, and other data specifically described in Sections 1, 2, 3, 4, 5, 6, 7, and 10.

**1.05 Project Familiarization**

The **Sponsor** will provide the **Consultant** with the following information (if available):

- Approved project initiation document (Initial Project Proposal or similar documentation) indicating project type, project location, cost estimate, schedule, and fund source(s).
- Transportation needs.
- Plans for future related transportation improvements or development in the area of the project.
- Traffic data.
- Accident records and history.
- Most recent bridge inspection and condition report, NYSDOT weighted-average bridge condition rating, FHWA sufficiency rating, and NYSDOT Bridge Management System rating.
- Record as-built plans.
- Pavement history.
- Anticipated permits and approvals (initial determination).
- Terrain data requirements for design.
- Available project studies and reports.
- Other relevant documents pertaining to the project.

The **Consultant** will become familiar with the project before starting any work. This includes a thorough review of all supplied project information and a site visit to become familiar with field conditions.

**1.06 Meetings**

The **Consultant** will prepare for and attend all meetings as directed by the **Sponsor's Project Manager**. Meetings may be held to:

- Present, discuss, and receive direction on the progress and scheduling of work in this contract.
- Present, discuss, and receive direction on project specifics.

- Discuss and resolve comments resulting from review of project documents, advisory agency review, and coordination with other agencies.
- Preview visual aids for public meetings.
- Manage subconsultants and subcontractors.

The **Consultant** will be responsible for the preparation of all meeting minutes; the minutes will be submitted to meeting attendees within one (1) week of the meeting date.

#### **1.07 Cost and Progress Reporting**

For the duration of this contract, the **Consultant** will prepare and submit to the **Sponsor** on a monthly basis a Progress Report in a format approved by the **Sponsor**. The Progress Report must contain the *Cost Control Report*.<sup>2</sup> The beginning and ending dates defining the reporting period must correspond to the beginning and ending dates for billing periods, so that this reporting process can also serve to explain billing charges. (In cases where all work under this contract is officially suspended by the **Sponsor**, this task will not be performed during the suspension period.)

#### **1.08 Policy and Procedures**

- The design of this project will be progressed in accordance with the current version of the *NYSDOT Procedures for Locally Administered Federal Aid Projects (PLAFAP) Manual*<sup>3</sup> including the latest updates.
- If there are conflicts between local policies and procedures and those listed in the *PLAFAP* those listed in the *PLAFAP* take precedence.]

#### **1.09 Standards & Specifications**

The project will be designed and constructed in accordance with the current edition of the NYSDOT Standard Specifications for Construction and Materials, including all applicable revisions.

#### **1.10 Subconsultants**

The **Consultant** will be responsible for:

- Coordinating and scheduling work, including work to be performed by subconsultants.
- Technical compatibility of a subconsultant's work with the prime consultant's and other subconsultants' work.

#### **1.11 Subcontractors**

Procurement of subcontractors must be in accordance with the requirements set forth in the *NYSDOT PLAFAP Manual*.

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<sup>2</sup> <https://www.dot.ny.gov/plafap/view-document?id=1598>

<sup>3</sup> <https://www.dot.ny.gov/plafap>

<sup>9</sup> [https://www.dot.ny.gov/portal/pls/portal/MEXIS\\_APP.EI\\_EB\\_DOC\\_DETAILS.show?p\\_arg\\_names=doc\\_id&p\\_arg\\_values=10618](https://www.dot.ny.gov/portal/pls/portal/MEXIS_APP.EI_EB_DOC_DETAILS.show?p_arg_names=doc_id&p_arg_values=10618)

## Section 2 - Data Collection and Analysis

### 2.01 Design Survey

- A. Ground Survey  
This section is not needed for this project. The **Consultant** will use record plans and field measurement to layout the existing bridge and approaches.
- B. Photogrammetric Survey  
This section is not needed for this project.
- C. Stream Survey  
This section is not needed for this project.
- D. Survey of Wetland Boundaries  
Assume no survey required for wetland boundaries as there are no state or federal jurisdictional wetlands that may be affected by project activities.
- E. Supplemental Survey  
This section is not needed for this project.
- F. Standards  
This section is not needed for this project.

### 2.02 Design Mapping

This section is not needed for this project.

### 2.03 Determination of Existing Conditions

The **Consultant** will determine, obtain or provide all information needed to accurately describe in pertinent project documents the existing conditions within and adjacent to the project limits.

### 2.04 Accident Data and Analysis

The **Sponsor** will provide accident records for the last three years for roads within the project limits plus one-tenth of a mile immediately outside of the project limits. The **Consultant** will prepare collision diagrams and associated summary sheets, and note any clusters of accidents or patterns implying inadequate geometrics, or other safety problems, within the project limits.

### 2.05 Traffic Counts

The **Consultant** will provide traffic count data for existing conditions, growth factors for forecasting, and forecast data, in accordance with the requirements noted in the *NYSDOT Traffic Monitoring Standards for Contractual Agreements Manual*<sup>4</sup>.

The **Consultant** will provide flow diagrams for appropriate peak periods (e. g., am, noon, pm) showing existing and design year volumes on the mainline, on each approach of all intersections, and at major traffic generators.

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<sup>4</sup> <https://www.dot.ny.gov/divisions/engineering/technical-services/hds-repository/Traffic%20Monitoring%20Standards%20for%20Contractual%20Agreements.rtf>

**2.06 Capacity Analysis**

The **Consultant** will perform capacity analyses using the latest version of the Transportation Research Board's *Highway Capacity Manual* at mainline and intersection locations within the project limit to determine:

- Existing level of service.
- Design year level of service.
- Estimates of the duration of the poor level of service where it occurs during commuter travel periods.

The **Consultant** will develop project travel speed and delay estimates for the peak hour and average hour for:

- Existing traffic conditions.
- Design year traffic for the null alternative.

**2.07 Future Plans for Roadway and Coordination with Other Projects**

The **Sponsor** will provide a brief written statement specifying whether or not plans exist to reconstruct or widen the highway segments immediately adjacent to the project within the next twenty years.

The **Sponsor** will determine the influence, if any, of other existing or proposed projects or proposed developments in the vicinity of this project (e.g., whether a nearby highway widening would influence this project's design traffic volumes).

The **Sponsor** will provide all necessary information pertaining to the other projects or developments

**2.08 Soil Investigations**

This section is not needed for this project.

**2.09 Hydraulic Analysis**

This section is not needed for this project.

**2.10 Bridges to be rehabilitated****A. Inspection**

The **Consultant** will perform a field inspection of the bridge to determine its condition, to establish the rehabilitation work necessary, and to prepare a Level I load rating. The intent is to supplement the inspection done as part of NYSDOT's on-going bridge inspection program, not to duplicate it.

The **Consultant** will perform and document the findings of an in-depth inspection of the bridge in accordance with the current AASHTO "Manual for Condition Evaluation of Bridges."

**B. Bridge Deck Evaluation**

This section is not needed for this project.

**C. Load Rating of Existing Bridge**

The **Consultant** will perform a Level 1 load rating of the existing bridge in accordance with NYSDOT's *Uniform Code of Bridge Inspection*. Immediately upon



completion, the **Consultant** will transmit two copies of the load rating calculations and summary sheets to the **Sponsor** and the Regional Local Projects Liaison for filing.

#### D. Fatigue Evaluation

The **Consultant** will analyze, in accordance with the current AASHTO *Guide Specification for Fatigue Evaluation of Existing Bridges*, those metal structural elements which will or may be retained in the rehabilitated bridge. Where this guide specification does not apply (e.g., severe corrosion, mechanical damage, repaired fatigue damage, wrought iron instead of steel, etc.), the **Consultant** will develop an appropriate approach for comprehensive fatigue evaluation while maintaining close coordination with the **Sponsor** for guidance and input. The **Consultant** will then conduct the evaluation accordingly.

For situations where the calculated remaining safe life is less than the planned remaining service life, the **Consultant** will develop various conceptual strategies to improve fatigue performance and/or safely manage the risk. The **Consultant** will prepare and submit to the **Sponsor** a technical memorandum documenting the relative advantages, disadvantages, and approximate costs of each strategy along with specific recommendations.

The **Sponsor** will determine the strategy to be adopted.

For situations where the calculated remaining safe life is equal to or greater than the planned remaining service life, the **Consultant** will prepare and submit to the **Sponsor** a technical memorandum documenting the results of the fatigue evaluation.

#### 2.11 Pavement Evaluation

The **Consultant** will perform a brief visual assessment only of the pavement at the bridge approaches.

The **Consultant** will describe the approach pavement condition in the design report.

### Section 3 - Preliminary Design

#### 3.01 Design Criteria

The **Consultant** will identify the applicable design standards to be used for this project, and will establish project-specific design criteria in accordance with the *NYS DOT Project Development Manual*<sup>5</sup>

The **Sponsor** will approve the selected project design criteria and will obtain NYS DOT concurrence (either by a written submission or at a meeting).

Based on the selected design criteria, the **Consultant** will identify all existing non-standard features that are within and immediately adjacent to the project limits. Non-standard features that correlate with a high accident rate will be noted.

#### 3.02 Development of Alternatives

##### A. Selection of Design Alternative(s)

The **Consultant** will identify and make rudimentary evaluations of potential design alternative concepts that would meet the **Sponsor's** defined project objectives. These evaluations are not to be carried beyond the point of establishing the feasibility of each concept as a design alternative; only those significant environmental and geometric design constraints that bear on the feasibility should be identified.

For each concept the **Consultant** will prepare rudimentary sketches of plan, profile, and typical section views which show:

- **On plan:** proposed centerlines; pavement edges; curve radii and termini; and existing ROW limits.
- **On profile:** theoretical grade lines; critical clearances; vertical curve data; grades; and touchdown points.
- **On typical section:** lane, median, and shoulder widths; ditches; gutters; curbs; and side slopes.
- **Where necessary:** important existing features.
- **Where pertaining to feasibility:** significant environmental and geometric design constraints, labeled as such.

These sketches will include only the minimum information needed to select design alternatives to be studied in further detail.

The **Consultant** will meet with the **Sponsor** to discuss the concepts, using the sketches as discussion aids to describe the relative order-of-magnitude costs, advantages, disadvantages, and problem areas of each. From these concepts the **Sponsor** will select one, or in some cases more, design alternative(s) for further development.

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<sup>5</sup> <https://www.dot.ny.gov/divisions/engineering/design/dqab/pdm>

**B. Detailed Evaluations of Alternative(s)**

The **Consultant** will further evaluate each design alternative and the null alternative with specific engineering analyses and considerations. Analyses will be conceptual and limited to determining the relative suitability of each design alternative, and will include:

- Design geometry, including the identification and comparison of alignment constraints and (where applicable) justification for retaining nonstandard design features, per the *NYS DOT Highway Design Manual*.<sup>6</sup>
- Environmental constraints and potential environmental impact mitigation measures (identified under Section 4 tasks).
- Traffic flow and safety considerations, including signs, signals, and level of service analysis for intersections.
- Pavement.
- Structures, including bridges, retaining walls, major culverts, and building alterations (limited to establishing basic concepts, accommodating clearances and stream flow, and estimating costs). Bridge investigative work (inspection, deck coring, etc.) is covered under Section 2.
- Drainage.
- Maintenance responsibility.
- Maintenance and protection of traffic during construction.
- Soil and foundation considerations.
- Utilities.
- Railroads.
- Right-of-way acquisition requirements.
- Conceptual landscaping (performed by a Registered Landscape Architect).
- Accessibility for pedestrians, bicyclists and the disabled.
- Lighting.
- Construction cost factors.

The **Consultant** will prepare the following drawings for each design alternative analyzed:

- 1"=40' plans showing (as a minimum) stationed centerlines; roadway geometrics; major drainage features; construction limits; cut and fill limits; and proposed right-of-way acquisition lines.
- Profiles, at a scale of 1"=40' horizontal and 1"=8' (maximum) vertical, showing (as a minimum) the vertical datum reference; significant elevations; existing ground line; theoretical grade line; grades; vertical curve data including sight distances; critical clearances at structures; centerline stations and equalities; construction limits; and superelevation data.
- Typical sections showing (as a minimum) lane, median, and shoulder widths; ditches; gutters; curbs; and side slopes.

**3.03 Cost Estimates**

The **Consultant** will develop, provide and maintain a cost estimate for each design alternative.

The **Consultant** will update the estimate periodically and as necessary to incorporate significant design changes.

<sup>6</sup> <https://www.dot.ny.gov/divisions/engineering/design/dqab/hdm>

### 3.04 Preparation of Draft Design Approval Document

For this project, the Design Approval Document (DAD) will be a Bridge Rehabilitation Report (BRR).

The **Sponsor** will make all determinations not specifically assigned to the **Consultant** which are needed to prepare the Draft DAD.

The **Consultant** will prepare a Draft DAD, which will include the results of analyses and/or studies performed in other Sections of this document. The DAD will be formatted as specified in the NYSDOT *Project Development Manual (PDM)*.<sup>7</sup>

The **Consultant** will submit 3 copies and 1 .pdf file of the Draft DAD to the **Sponsor** for review. The **Sponsor** will review the Draft DAD and provide the **Consultant** with review comments. The **Consultant** will revise the Draft DAD to incorporate the comments.

**[NOTE: For NEPA Class I and III projects only the following applies:**

The **Sponsor** will submit 3 copies and 1 .pdf file to NYSDOT's RLPL for preliminary NYSDOT and/or FHWA review.

The **Consultant** will revise the DAD to reflect NYSDOT and/or FHWA comments. The **Sponsor** will sign the cover sheet and submit 3 copies and 1 .pdf file of the revised report to the NYSDOT for signature.

### 3.05 Advisory Agency Review

The **Consultant** will provide the **Sponsor** with 3 copies and 1 .pdf file of the signed Draft DAD for distribution to advisory agencies.

The **Sponsor** will distribute the Draft DAD to the advisory agencies.

The **Consultant** will assist the **Sponsor** in evaluating and preparing individual responses to the review comments received.

### 3.06 Public Information Meeting(s) and/or Public Hearing(s)

#### A. Public Information Meeting

The **Consultant** will assist the **Sponsor** at 1 public information meeting with advisory agencies, local officials, and citizens, at which the **Consultant** will provide visual aids and present a technical discussion of the alternatives.

The **Sponsor** will arrange for the location of public information meeting. The **Consultant** will assist the **Sponsor** with appropriate notification.

#### B. Public Hearing(s)

This section is not needed for this project.

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<sup>7</sup> <https://www.dot.ny.gov/divisions/engineering/design/dqab/pdm>

**3.07 Preparation of Final Design Approval Document (DAD)**

The **Sponsor** will obtain all necessary approvals and concurrences and will publish all applicable legal notices.

The **Consultant** will prepare the Design Recommendation, and will modify the DAD to include the Design Recommendation, re-title the DAD in accordance with the *PDM* Manual, and update existing conditions and costs as necessary. The **Consultant** will incorporate changes resulting from the advisory agency review and all public information meetings and public hearings.

The **Consultant** will submit 3 copies and 1 .pdf file of the Final DAD to the **Sponsor** for review. The **Sponsor** will review the Final DAD and provide the **Consultant** with review comments. The **Consultant** will revise the Final DAD to incorporate the comments.

The **Sponsor** will submit 3 copies and 1 .pdf file of the Final DAD to NYSDOT for a Final Environmental Determination. NYSDOT will make the determination or obtain FHWA's determination. If necessary, NYSDOT will transmit the Final DAD to FHWA for final review and concurrence. The **Consultant** will again revise the Final DAD to incorporate changes (assumed minor) resulting from the NYSDOT and/or FHWA review.

The **Sponsor** will grant or obtain, from or through NYSDOT, Design Approval.

## **Section 4 – Environmental**

### **4.01 NEPA Classification**

The **Consultant** will verify the anticipated NEPA Classification.

The project is assumed to be a Class II action, the **Consultant** will complete the Federal Environmental Approvals Worksheet (FEAW), and forward the completed worksheet to the **Sponsor** for forwarding to NYSDOT (with the Final DAD) for a final NEPA determination. The NEPA Checklist need not be completed for projects assumed to be Class I or III actions.

The Lead Agency for NEPA is the Federal Highway Administration (FHWA).

### **4.02 SEQRA Classification**

The **Consultant** will assist the **Sponsor** in complying with SEQRA (6 NYCRR Part 617). The **Sponsor** is the Lead Agency. Consultant tasks include, but are not limited to:

- Drafting letters to involved agencies to determine the lead agency.
- Drafting Environmental Assessment Form(s).
- Drafting a negative declaration.
- Drafting a positive declaration.
- Drafting notices.

The **Consultant** will document the results of SEQRA processing in the body of the Design Approval Document (DAD) and will include documentation of the final SEQRA determination in the Appendix of the DAD.

### **4.03 Smart Growth**

The **Consultant** will complete the Smart Growth Checklist developed by NYSDOT to measure whether and to what extent a project conforms to the principles and objectives of Smart Growth and submit same to the **Sponsor** for attestation.

### **4.04 Screenings and Preliminary Investigations**

The **Consultant** will screen and perform preliminary investigations to determine potential impacts resulting from the design alternative(s) for:

- General Ecology and Endangered Species
- Ground Water
- Surface Water
- State Wetlands
- Federal Jurisdictional Wetlands
- Floodplains
- Coastal Zone Management
- Navigable Waterways
- Historic and Archaeological Resources
- Parks
- Hazardous Waste
- Asbestos

- Noise
- Air Quality
- Energy
- Farmlands
- Invasive Species
- Visual Impacts
- Critical Environmental Areas
- Smart Growth
- Environmental Justice

Work will be performed, as summarized in the PLAFAP Manual and detailed in the PDM and the TEM, to determine whether further detailed analysis or study is required. The results of these screenings and preliminary investigations will be summarized in the appropriate sections of the DAD.

#### 4.05 Detailed Studies and Analyses

Based on the work performed in Section 4.03, the **Consultant** will determine whether detailed analysis or study is required. Prior to commencing such detailed study or analysis, the **Sponsor** must concur with the **Consultant's** determination.

Detailed study or analysis work will be performed and documented as detailed in the PLAFAP Manual, as well as in the PDM and the TEM. Results of the detailed study or analysis will be summarized in the appropriate section of the DAD.

Detailed study or analysis will be done for:

- ~~A. General Ecology and Endangered Species~~
- ~~B. Ground Water~~
- ~~C. Surface Water~~
- ~~D. State Wetlands~~
- ~~E. Federal Wetlands~~
- ~~F. Floodplains~~
- ~~G. Coastal Zone Management~~
- ~~H. Historic Resources~~
- ~~I. Parks—Section 4(f) and Section 6(f) Evaluations~~
- ~~J. Hazardous Waste~~
- ~~K. Asbestos~~
- ~~L. Noise~~
- ~~M. Air Quality~~
- ~~N. Energy~~
- ~~O. Farmlands~~
- ~~P. Invasive Species~~
- ~~Q. Visual Impacts~~
- ~~R. Critical Environmental Areas~~
- ~~S. Smart Growth~~
- ~~T. Environmental Justice~~

**4.06 Permits and Approvals**

The **Consultant** will obtain all applicable permit(s) and certification(s), including but not necessarily limited to:

- U.S. Army Corps of Engineers Section 10 Permit (Individual or Nationwide)
- U.S. Army Corps of Engineers Section 404 Permit (Individual or Nationwide)
- NYSDEC Article 15 Protection of Waters Permit
- New York State Historic Preservation Office (SHPO)
- New York Natural Heritage Program (NYNHP)
- U.S. Fish and Wildlife Service (USFWS)

**4.07 Public Hearing**

This section is not needed for this project.



**Section 5 - Right-of-Way**

**5.01 Abstract Request Map and/or Title Search**

This section is not needed for this project.

**5.02 Right-of-Way Survey**

The **Consultant** will use record plans and tax maps to determine existing right-of-way limits and establish side property lines.

**5.03 Right-of-Way Mapping**

This section is not needed for this project.

**5.04 Right-of-Way Plan**

This section is not needed for this project.

**5.05 Right-of-Way Cost Estimates**

This section is not needed for this project.

**5.06 Public Hearings/Meetings**

This section is not needed for this project.

**5.07 Property Appraisals**

This section is not needed for this project.

**5.08 Appraisal Review**

This section is not needed for this project.

**5.09 Negotiations and Acquisition of Property**

This section is not needed for this project.

**5.10 Relocation Assistance**

This section is not needed for this project.

**5.11 Property Management**

This section is not needed for this project.

## Section 6 - Detailed Design

### 6.01 Preliminary Bridge Plans

#### A. New and Replacement Bridges

This section is not needed for this project.

#### B. Bridge Rehabilitations

For the bridge to be rehabilitated, the **Consultant** will prepare and submit to the **Sponsor** for review a Preliminary Bridge Rehabilitation Plan, which will be sufficiently developed to:

- Show basic concepts and major details (including all existing and proposed utilities).
- Acquaint affected parties with the project and project components.
- Serve as an instrument for initial approval.
- Provide a basis for the development of final plans.

The plan should indicate maintenance and protection of traffic provisions and be accompanied by a cost estimate.

#### C. Selected Structural Treatment

The **Consultant** will modify the Preliminary Bridge Rehabilitation Plan to incorporate **Sponsor** review comments.

The **Sponsor** will approve the selected structural treatment and will obtain NYSDOT concurrence (either by a written submission or at a meeting).

### 6.02 Advance Detail Plans (ADP)

The **Consultant** will develop the approved design alternative to the ADP stage. At this stage all plans, specifications, estimates and other associated materials will be **90%** complete.

Advance Detail Plans will be in accordance with Chapter 21 of the NYSDOT Highway Design Manual.<sup>8</sup>

The **Consultant** will prepare and submit 3 copies and 1 .pdf file of the ADP's to the **Sponsor** for review. The **Consultant** will modify the design to reflect the review of the ADP package.

### 6.03 Contract Documents

The **Consultant** will prepare a complete package of bid-ready contract documents. The package will include:

- Instructions to bidders.
- Bid documents.

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<sup>8</sup> [https://www.dot.ny.gov/divisions/engineering/design/dgab/hdm/hdm-repository/Chapt\\_21.pdf](https://www.dot.ny.gov/divisions/engineering/design/dgab/hdm/hdm-repository/Chapt_21.pdf)

- Contract language, including applicable federal provisions and prevailing wage rates.
- Special notes.
- Specifications.
- Plans.
- A list of supplemental information available to bidders (i.e., subsurface exploration logs, record as-built plans, etc.).
- Other pertinent information.

The **Consultant** will submit the contract documents to the **Sponsor** for approval. Upon approval, the **Sponsor** will submit 3 copies and 1 .pdf file of the contract bid documents to NYSDOT as described in the *PLAFAP Manual*.

#### **6.04 Cost Estimate**

The **Consultant** will develop, provide, and maintain the construction cost estimate for the project. The **Consultant** will update the estimate periodically and as necessary to incorporate significant design changes, and will develop and provide the final Engineer's Estimate, including all quantity computations.

#### **6.05 Utilities**

The **Consultant** will coordinate with affected utility companies to ensure the timely relocation of utility poles and appurtenances. The **Consultant** will assist the **Sponsor** in preparing any necessary agreements with utility companies. Any agreements containing reimbursable relocations must be approved and signed by the Design Support Section of the NYSDOT Design Quality Assurance Bureau (see PLAFAP Manual Appendix 10-8).

#### **6.06 Railroads**

This section is not needed for this project.

#### **6.07 Bridge Inventory and Load Rating Forms**

The **Consultant** will complete and provide the **Sponsor** and NYSDOT with:

- Inventory Update forms, per the current NYSDOT Bridge Inventory Manual for Bridge Inventory and Inspection System, reflecting all proposed physical changes resulting from construction.
- Concurrent with the PS&E submission date, the Consultant shall complete and provide the NYSDOT with:
- The Consultant shall prepare a Level 1 load rating package as described in NYSDOT Engineering Instruction 05-034 and include the load rating results in the plans in accordance with the EI.
- Immediately upon its completion, the Consultant shall transmit two hard copies and one electronic Adobe Acrobat file (\*.pdf) copy of the Level 1 load rating package to the NYSDOT for filing.

**6.08 Information Transmittal**

Upon completion of the contract documents, the **Consultant** will transmit to the **Sponsor** all project information, including electronic files. The electronic information will be in the format requested by the **Sponsor**.

## **Section 7 - Advertisement, Bid Opening and Award**

### **7.01 Advertisement**

The **Consultant** will prepare the advertisement for bids to be placed in the NYS Contract Reporter and any other newspaper or publication identified by the **Sponsor**. The **Consultant** will submit the ad(s) to the **Sponsor** for review and will revise the ad(s) to reflect comments generated by that review. Upon approval by the **Sponsor**, the **Consultant** will assist the **Sponsor** with placing the advertisements.

Advertisements must not be placed until authorization is granted to the **Sponsor** by the NYSDOT.

### **7.02 Bid Opening (Letting)**

The **Sponsor** will hold the public bid opening.

### **7.03 Award**

The **Consultant** will analyze the bid results. The analysis will include:

- Verifying the low bidder.
- Ensuring receipt of all required bid documents (non-collusive bid certification, debarment history certification, etc.).
- Breaking the low bid into fiscal shares, if necessary.
- Determining whether the low bid is unbalanced.
- For pay items bid more than 25% over the Engineer's Estimate:
  - Checking accuracy of quantity calculations.
  - Determining appropriateness of price bid for work in the item.
  - Determining whether the low bidder is qualified to perform the work.

The **Consultant** will assist the **Sponsor** in preparing and compiling the package of information to be transmitted to the NYSDOT.

The **Sponsor** will award the contract and will transmit the award package to the NYSDOT as described in the Procedures for Locally Administered Federal Aid Projects (PLAFAP) Manual.

**Section 8 - Construction Support (Supplemental Agreement)**

**Section 9 - Construction Inspection (Supplemental Agreement)**

## Section 10 - Estimating and Technical Assumptions

### 10.01 Estimating Assumptions

The following assumptions have been made for estimating purposes:

- |           |   |
|-----------|---|
| Section 1 | Estimate 5 meetings during the life of this agreement.<br>Estimate 18 cost and progress reporting periods will occur during the life of this agreement.   |
| Section 2 | Assume that GPS methods and equipment will not be used to establish local control points.<br><br>Estimate 0 accidents will require analysis.<br><br>Estimate 1 capacity analyses will be required.<br><br>Estimate 0 soil borings will be taken.  |
| Section 3 | Estimate 2 concepts will be evaluated.<br><br>Estimate 1 design alternative will be analyzed in addition to the null alternative.<br><br>Estimate 2 cost estimate(s) plus 1 updates will be required.<br><br>Estimate 1 bridge will be rehabilitated.   |
| Section 4 | Estimate 3 permits will be required.  |
| Section 5 | Estimate 0 properties will require title searches.<br><br>Estimate 0 ROW maps will be required.<br><br>Estimate 0 property acquisitions will be required.   |
| Section 6 | Detailed Design or Final Design<br><br>Final Design will include but not be limited to: <ul style="list-style-type: none"> <li>• Development of highway and bridge plans.</li> <li>• Structural rehabilitation design.</li> <li>• Highway design.</li> <li>• Maintenance and protection of traffic during construction.</li> <li>• Preparation and submission of final Plans, Specifications, and Estimate (PS&amp;E) for the project.</li> </ul><br>Estimate 2 cost estimates plus 1 updates will be required.<br><br>Estimate 0 bridges will be replaced and 1 will be rehabilitated. |



Estimate 0 utility companies and 0 railroad agencies will be affected.

Section 7 Estimate 25 copies of the final contract bid documents will be needed for prospective bidders.

Estimate advertisements will be placed in 2 publications in addition to the NYS Contract Reporter.

## **10.02 Technical Assumptions**

The following technical assumptions are in addition to those made in the scope of services, Sections 1 through 7:

All work on this project will be done in English Units.

### **Section 2**

2.02 The existing Right-of-Way/Highway Boundary will be determined from record plans provided by the County (if available), and available tax maps. Highway boundary and property lines will be shown on the general plan.

Property information shown will be reputed owners name, liber and page and tax ID #s.

2.02 Assume research for underground utilities will be required; the Consultant will contact the utility companies to obtain any plans they might have for their utilities within the project area and request a stakeout. All utilities visible or marked in the field by others will be located. Any underground features, not visible or not marked in the field, will be plotted by use of as-built maps and/or any other available information.

2.03 Assume no substructure cores or bridge deck cores will be necessary.

2.05 The **Consultant** will obtain traffic counts by hourly volumes in each direction over a week period that differentiates truck and vehicle counts. The traffic counts will be taken at two points and with equipment that will determine the speed of each vehicle so that the 85% speed can be documented. The County will assist with Growth Factor for traffic forecasting.

2.07 The **County** will provide a written statement of any future plans for Hawkinsville Road and any affiliated development planned for long range that may affect traffic patterns and volumes for the roadway.

### **Section 3**

3.02.A Assume two (2) alternatives will be considered conceptually:

1. Null/No Action Alternative. This alternative will be 'written off' due to non-conformance with the Project Objectives.
2. Bridge Rehabilitation on existing highway alignment.

Assume that detailed Evaluation of Alternatives will only be done for the Preferred Alternative. Assume the preferred alternative will be number 2 as shown above.

- 3.03 Cost estimates will be based upon current NYSDOT average bid unit prices for contractor completed work.

**Section 4**

- 4.04 Assume no elements of the bridge or project will be found to be historical or a contributing element to a historic district (SHPO). Assume no Memorandum of Agreement with SHPO will be needed and no Data Recovery Plan for prehistoric artifacts will be required.
- 4.04 Assume no undocumented wetland areas will be found within the project limits.
- 4.06 Assume project disturbance area will not exceed 1 acre and require a Stormwater Pollution Prevention Plan (SWPPP) to comply with SPDES general Permit GP 0-08-001.

**Section 5**

Assume no ROW acquisition will be required.

**Section 6**

- 6.03 Bar lists and bends will be provided by the **Consultant**
- 6.03 Assume no closed drainage system design work will be required. Assume no other public utility design will be required.
- 6.03 Assume design of temporary soil support walls (sheeting or soldier pile) will NOT be required.
- 6.03 Assume no seismic design will be provided.
- 6.03 Assume traffic will be maintained with an off-site detour during construction.

**Section 7**

- 7.01 C&S will respond to questions from plan purchasers and provide support for the County in the issuance of any required addenda.
- 7.02 The County will sell the contract documents and keep record of the plan holders' list.

**Section 8 – Not Included In Agreement – (will be included in supplemental agreement)**

**Section 9 – Not Included in Agreement - (will be included in supplemental agreement)**

**Schedule**

Below is the anticipated project schedule. These dates are approximate and subject to change.

Preliminary Design:

Negotiation and Execution of Agreement (Sections 1-7)	May/June 2017
Project Start	July 2017
Initial Public Information Meeting	October 2017
Design Approval Document Complete/Design Approval	January 2018

Final Design and Construction:

Advance Detail Plans Complete	May 2018
Final PS&E / Bid Documents Complete	August 2018
Approval to Advertise	September 2018
Letting	November 2018
Award	January 2019
Construction Start	April 2019
Construction Substantially Complete	September 2019
Project Closeout	November 2019

**ATTACHMENT C - Page 1**

**DESIGN SERVICES  
SECTIONS 1 THROUGH 7**

**LUMP SUM BREAKDOWN BY TASK**

PIN 2754.35    BIN 3310460

**Hawkinsville Road over Black River**

<b>Task</b>	<b>Description</b>	<b>Direct Labor</b>	<b>Contract Amt</b>
1.05 - 1.10	Project Administration/ Reporting	\$3,919.12	\$11,551.59
2.03 - 2.11	Data Collection & Analysis	\$5,588.32	\$16,471.56
3.01 - 3.07	Preliminary Design	\$9,188.55	\$27,083.25
4.01 - 4.04	Environmental Issues/Permits	\$673.48	\$1,985.09
5.01	R-O-W Survey & Mapping		\$0.00
6.01 - 6.04	Detailed Design	\$18,894.76	\$55,692.30
7.01	Advertisement, Bid, & Award	\$2,167.72	\$6,389.34
<b>SUBTOTAL LUMP SUM</b>		<b>\$40,431.94</b>	<b>\$119,173.14</b>
DNSC (Subconsultant)	Environmental (edr)		\$17,600.00
Reimbursable DNSC	Asbestos Sampling & Testing		\$1,750.00
Reimbursable DNSC	Soil Borings		\$0.00
Reimbursable DNSC	Direct Expenses (Consultant)		\$312.98
<b>SUBTOTAL DNSC</b>			<b>\$19,662.98</b>
<b>SUBTOTAL</b>			<b>\$138,836.11</b>
<b>TOTAL - MAXIMUM AMOUNT PAYABLE</b>			<b>\$139,000.00</b>

Attachment C, Page 2  
Summary

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**C&S Engineers, Inc.**  
Hawkinsville Road over Black River  
Town of Boonville  
PIN 2754.35 BIN 3310460

Item IA, Direct Technical Salaries (estimated) Subject to Audit	\$40,432
Item IB, Direct Technical Salaries Premium Portion of Overtime subject to audit (estimate)	\$0
Item II, Direct Non-Salary Cost (estimated) Subject to Audit	\$313
Item II, Direct Non-Salary Cost (estimated) Subject to Audit (Sub-Contractor Cost)	\$1,750
Item III, Overhead	\$65,500
Item IV, Fixed Fee	\$13,250
Item II, Direct Non-Salary Cost (estimated) Subject to Audit (Sub-Consultant Cost)	\$17,600
<b>Total Estimated Cost</b>	<b>\$138,845</b>
<b>MAXIMUM AMOUNT PAYABLE</b>	<b>\$139,000.00</b>

Attachment C, Page 3  
Salary Schedule

**C&S Engineers, Inc.**  
Hawkinsville Road over Black River  
Town of Boonville  
PIN 2754.35 BIN 3310460

JOB TITLE	ASCE (A) OR NICET (N) GRADE	AVE. HOURLY RATES			MAXIMUM HOURLY RATES			OVERTIME CATEGORY
		Aug-16	Project Midpoint Mar-18	2016	2017	2018		
Service Group Manager	VII (A)	\$72.55	\$75.81	\$84.00	\$86.52	\$89.12	A	
Department Manager	VI (A)	\$56.73	\$59.28	\$62.25	\$64.12	\$66.04	A	
Chief Engineer	VII (A)	\$47.90	\$50.06	\$51.50	\$53.05	\$54.64	A	
Principal Engineer	VI (A)	\$54.10	\$56.53	\$60.25	\$62.06	\$63.92	A	
Managing Engineer	VI (A)	\$46.17	\$48.25	\$49.50	\$50.99	\$52.51	A	
Managing Planner	VI (A)	\$46.00	\$48.07	\$46.00	\$47.38	\$48.80	A	
Senior Project Planner	III (A)	\$39.50	\$41.28	\$39.50	\$40.69	\$41.91	B	
Senior Project Landscape Arch	III (A)	\$37.20	\$38.87	\$37.20	\$38.32	\$39.47	B	
Senior Project Engineer	III (A)	\$42.25	\$44.15	\$50.25	\$51.76	\$53.31	B	
Project Engineer	IV (A)	\$33.61	\$35.12	\$39.00	\$40.17	\$41.38	B	
Environmental Scientist	III (A)	\$27.88	\$29.13	\$28.75	\$29.61	\$30.50	B	
Project Environmental Scientist	IV (A)	\$33.12	\$34.61	\$35.25	\$36.31	\$37.40	A	
Engineer	III (A)	\$28.92	\$30.22	\$34.25	\$35.28	\$36.34	B	
Staff Engineer	I/II (N)	\$25.75	\$26.91	\$28.50	\$29.36	\$30.24	C	
Senior Construction Supervisor	IV (N)	\$64.50	\$67.40	\$64.50	\$66.44	\$68.43	A	
Construction Supervisor	IV (N)	\$44.57	\$46.58	\$50.00	\$51.50	\$53.05	A	
Resident Engineer	IV (N)	\$41.86	\$43.74	\$46.00	\$47.38	\$48.80	C	
Senior Designer	IV (N)	\$33.42	\$34.92	\$40.00	\$41.20	\$42.44	B	
Designer	IV (N)	\$21.67	\$22.65	\$22.50	\$23.18	\$23.87	D	
Cad Operator	III (N)	\$22.50	\$23.51	\$22.50	\$23.18	\$23.87	D	
Chief Inspector	III/IV (N)	\$37.09	\$38.76	\$41.61	\$42.86	\$44.14	C	
Senior Inspector	III (N)	\$32.77	\$34.24	\$37.50	\$38.63	\$39.78	C	
Inspector	II (N)	\$27.50	\$28.74	\$29.00	\$29.87	\$30.77	C	
Senior Technical Administrator	N/A	\$29.63	\$30.96	\$31.50	\$32.45	\$33.42	D	
Technical Typist	N/A	\$25.15	\$26.28	\$32.50	\$33.48	\$34.48	D	

NOTES:

Hourly rates shall not exceed those shown above or the current NYSDOT Maximum Allowable, as submitted in Certified Salary Roster.

OVERTIME POLICY

- Category A - No overtime compensation.
- Category B - Overtime compensated at straight time rate over 40 billable hours.
- Category C - Overtime compensated at straight time rate.
- Category D - Overtime compensated at straight time rate x 1.50.

Overtime applies to hours worked in excess of the 40 hours per week.

Attachment C, Page 4  
Staffing Table

**C&S Engineers, Inc.**  
Hawkinsville Road over Black River  
Town of Boonville  
PIN 2754.35 BIN 3310460

Job Title	Grade	Section 1	Section 2	Section 3	Section 4	Section 5	Section 6	Section 7	Total Hours	Projected Hourly Rate	Direct Technical Labor Cost
Senior Vice President	VIII (A)								0	\$0.00	\$0.00
Senior Principal	VIII (A)								0	\$68.54	\$0.00
Service Group Manager	VII (A)								0	\$75.81	\$0.00
Department Manager	VI (A)								0	\$59.28	\$0.00
Chief Engineer	VII (A)						4		4	\$60.06	\$200.22
Principal Engineer	VI (A)								0	\$56.53	\$0.00
Managing Engineer	VI (A)	76	7	55	2		81	20	241	\$48.25	\$11,627.68
Managing Planner	VI (A)								0	\$48.07	\$0.00
Managing Geologist	VI (A)								0	\$54.34	\$0.00
Senior Project Planner	III (A)								0	\$41.28	\$0.00
Senior Project Landscape Arch	III (A)								0	\$38.87	\$0.00
Senior Project Engineer	III (A)		50				41		91	\$44.15	\$4,017.76
Project Engineer	IV (A)		22	130			85	32	269	\$35.12	\$9,447.94
Environmental Scientist	III (A)				18				18	\$29.13	\$524.42
Project Environmental Scientist	IV (A)								0	\$34.61	\$0.00
Engineer	III (A)	4	68	16			217		305	\$30.22	\$9,217.53
Staff Engineer	III (N)		8						8	\$26.91	\$215.27
Senior Construction Supervisor	IV (N)								0	\$67.40	\$0.00
Construction Supervisor	IV (N)								0	\$46.58	\$0.00
Resident Engineer	IV (N)								0	\$43.74	\$0.00
Senior Designer	IV (N)								0	\$34.92	\$0.00
Designer	IV (N)								0	\$22.65	\$0.00
Cad Operator	III (N)			52			146		198	\$23.51	\$4,655.48
Sr. Program Coordinator	II (N)								0	\$0.00	\$0.00
Chief Inspector	III/IV (N)								0	\$38.76	\$0.00
Senior Inspector	III (N)								0	\$34.24	\$0.00
Inspector	II (N)								0	\$28.74	\$0.00
Program Coordinator	N/A								0	\$0.00	\$0.00
GIS Analyst	N/A								0	\$0.00	\$0.00
Senior Programmer	N/A								0	\$0.00	\$0.00
Senior Surveyor	IV (N)								0	\$0.00	\$0.00
Senior Technical Administrator	N/A								0	\$30.96	\$0.00
Technical Typist	N/A	5		10	2			3	20	\$26.28	\$525.64
Party Chief (Field)	III (N)								0	\$27.79	\$0.00
Instrument Person (Field)	II (N)								0	\$24.31	\$0.00
Rod Person (Field)	I (N)								0	\$20.44	\$0.00
<b>Totals</b>		<b>85</b>	<b>155</b>	<b>263</b>	<b>22</b>	<b>0</b>	<b>574</b>	<b>55</b>	<b>1,154</b>		<b>\$40,431.94</b>

5 Attachment C, Page 4  
 Estimate of Direct Non-Salary Costs

**C&S Engineers, Inc.**  
 Hawkinsville Road over Black River  
 Town of Boonville  
 PIN 2754.35 BIN 3310460

**DIRECT NON-SALARY COSTS**

1. Travel, Lodging and Subsistence (travel route reimbursement)					# of People		
Per Diem	0 days @		0.00 per day		2		\$0.00
Trips to	trips	miles/trip	rate/mile				
County Office	6	50	0.535				\$160.50
NYS DOT Region 2	1	60	0.535				\$32.10
Project Site	3	75	0.535				\$120.38
						<b>Total for Travel, Lodging &amp; Subsistence</b>	<b>\$312.98</b>
2. Reproduction, Drawings & Reports							
Design Phases I - VI							
	each	sheets/set	sets				
Mylars (22"x34")	\$0.00	0	0				\$0.00
Mylars (11"x17")	\$0.00	35	1 No Charge				\$0.00
Drawings (22"x34")	\$0.00	0	0				\$0.00
Drawings (11"x17")	\$0.00	35	25 No Charge				\$0.00
Reports	\$0.00	300	10 No Charge				\$0.00
Proposal Books	\$0.00	200	30 No Charge				\$0.00
Color Drawings	\$0.00	0	0				\$0.00
Color Copies	\$0.00	20	25 No Charge				\$0.00
						<b>Total for Reproduction, Drawings &amp; Reports</b>	<b>\$0.00</b>
3. Long Distance Telephone							
52 weeks	1 calls per week @		\$0.00 per call				\$0.00
4. Owner's Protective Insurance (Estimated)							\$0.00
5. Advertisement	0 advertisements		\$100.00 per ad				\$0.00
6. Postage/Mail	0 deliveries @		\$10.00 each				\$0.00
	0 mailings @		\$0.00 each				\$0.00
						<b>Total for Postage/Mail</b>	<b>\$0.00</b>

**TOTAL DIRECT NON-SALARY COST**

**\$312.98**

**DIRECT SUB-CONTRACTOR COSTS**

1. Corridor Search for Hazardous Waste Assessment							\$0.00
2. Substructure Cores	0 Cores @		\$500.00 each				\$0.00
3. Soil Borings (New substructures)							
	0 Soil Borings		\$30.00 per foot	50 feet/boring			\$0.00
	0 Soil Borings (Roadway)		\$30.00 per foot	6 feet/boring			\$0.00
	0 Rock Cores		\$50.00 per foot	10 feet/boring			\$0.00
	Mobilization/WZTC		\$0.00				\$0.00
	Laboratory Testing		\$0.00				\$0.00
						<b>Total for Soils Borings</b>	<b>\$0.00</b>
4. Asbestos and Lead Paint Sampling & Testing							\$1,750.00
5. Abstract Work by Vendor	0 Commercial		\$500.00 each				\$0.00
						<b>Total for Abstract Work by Vendor</b>	<b>\$0.00</b>
6. Appraisal Work by Vendor	0 Commercial Parcel Appraisals		\$3,000.00 each				\$0.00
						<b>Total for Abstract Work by Vendor</b>	<b>\$0.00</b>
7. Cultural Resources Survey							
	Phase 1A Investigation						\$0.00
	Phase 1B Evaluation						\$0.00
	Phase 2 Evaluation						\$0.00
						<b>Total for Cultural Resources Survey</b>	<b>\$0.00</b>

**TOTAL DIRECT SUB-CONTRACTOR COST**

**\$1,750.00**

**DIRECT SUB-CONSULTANT COST**

1. edr, DPC (DBE - Environmental)							\$17,600.00
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**TOTAL DIRECT SUB-CONSULTANT COST**

**\$17,600**



**Labor Detail**  
**Section 1 - General**

**C&S Engineers, Inc.**  
 Hawkinsville Road over Black River  
 Town of Beemsville  
 PIN 2754.35 BIN 3310460

WBS Task No.	Description	Sr. Vice Pres.	Sr. Prnc.	Svc. Grp. Mgr.	Dep. Mgr.	Chief Eng.	Prnc. Egr.	Mng. Egr.	Mng. Phnr.	Mng. Geo.	St. Prj. Phnr.	St. Prj. Arch.	St. Prj. Sr. Egr.	Pj. Egr.	Env. Sci. Egr.	Geol. Egr.	Staff Engr.	Sr. Dgnr.	Cad. Opr.	Sr. Prg. Ctd.	GIS Anlet.	Sr. Prgm.	Sr. Surv.	Sr. Tch. Adm.	Adm. Ast.	Hours by Task	Direct Labor Costs		
1	GENERAL																												
1.05	Data Collection - Plans / Records / Reports																4									4	\$120.89		
1.06	Project Meetings							16																		16	\$771.96		
1.07	Cost & Project Reporting																									12	\$576.97		
1.07.A	Progress Reports							12																		12	\$576.97		
1.07.B	Cost Control Reports																									16	\$771.96		
1.07.C	Project Coord. and Management																									16	\$771.96		
4.10	Subconsultant Agreements																									5	\$219.27		
1.10.A	Agreements							4																	1	\$87.09			
1.10.B	Overall Subconsultant/DBE Coord.							16																	4	\$87.09			
4.11	Subcontract Agreement																												
1.11.A	Boring Location Plan																												
1.11.B	Subsurface Investigation Bids																												
1.11.C	Subsurface Borings Agreement																												
1.11.D	W&P/Traffic Control Plans																												
1.11.E	Traffic Control Bids																												
1.11.F	Traffic Control Agreements																												
1.11.G	Special Access Specifications																												
1.11.H	Special Access Bids																												
1.11.I	Special Access Agreement																												
1.11.J	Concrete Coring / GPI / Load																												
1.11.K	Concrete Coring / GPI / Load																												
1.11.L	Concrete Coring / GPI / Load																												
1.11.M	Concrete Coring / GPI / Load																												
1.11.N	Concrete Coring / GPI / Load																												
1.11.O	Concrete Coring / GPI / Load																												
1.11.P	Property Appraisals																												
1.11.Q	Secondary Opinion of Property Appraisals (Appraisal Review)																												
Totals																									76	4	5	85	\$3,919.12



**Labour Detail**  
**Section 3 - Preliminary Design**

CAS Engineers, Inc.  
 Hawkinsville, Road over Black River  
 Town of Boonville  
 PIN 2754-35 BIN 3310460

Notes: Shading indicates that this task is NOT included in the contract.

WBS Task No.	Description	Sr. Vice Pres.	Sr. Pnc.	Sr. Cpn. Mgr.	Srvc. Cpn. Mgr.	Dep. Mgr.	Chief Egr.	Pnc. Egr.	Mng. Egr.	Mng. Plnr.	Mng. Geo.	Sr. Pj. Arch.	Sr. Pj. Eng.	Sr. Pj. Eng.	Env. Sci.	Geol. Engr.	Staff Engr.	Sr. Dgnr.	Cad. Opr.	Sr. Prg. Crd.	Sr. Prg. Crd.	GIS Anlst.	Sr. Prgm.	Sr. Surv.	Sr. Tech. Adm.	Adm. Ast.	Hours by Task	Direct Labor Costs				
<b>3.01</b>	<b>PRELIMINARY DESIGN</b>																															
	<b>Design Criteria</b>																															
3.01.A	Feature Carried Design Criteria								1																							
3.01.B	Feature Crossed Design Criteria													4														5	\$188.74			
<b>3.02</b>	<b>Development of Alternatives</b>																															
3.02.A	Develop Conceptual A/E's								8																							
3.02.A.1	Highway Elements (plan, profile)								2																							
3.02.B	Non-Standard Features								2																							
3.02.C	Feasible Alternatives								2																							
3.02.D	Required Vertical Clearance of Under-Roadway (Gradesep)																															
3.02.E	Bridge Deck Drainage Analysis																															
3.02.F	Determine Take Lines																															
3.02.G	Utility Relocations																															
<b>3.03</b>	<b>Cost Estimates</b>																															
3.03.A	Utility Costs																															
3.03.B	Project Cost Estimates								2																							
<b>3.04</b>	<b>Preparation of Draft Design Approval Document</b>																															
3.04.A	Draft Design Report								12																							
3.04.C	DDAD - Reproduction																															
<b>3.05</b>	<b>Agency Reviews</b>																															
3.05A	Address comments								8																							
<b>3.06</b>	<b>Public Info Meeting</b>																															
3.06A	Initial meeting																															
3.06B	Formal meeting								8																							
<b>3.07</b>	<b>Preparation of Final Design Approval Document</b>																															
3.07.A	Hydraulic Justification Report								8																							
3.07.B	Final Design Approval Document																															
3.07.C	FDAD - Reproduction																															
3.07.D	Design Approval Request - Funding Obligated/Sign-offs								2																							
Totals																										55	130	16	52	10	263	\$5,188.55



**Labor Detail**  
**Section 5 - Right-of-Way**

**C&S Engineers, Inc.**  
 Hawkinsville Road over Black River  
 Town of Boonville  
 PIN 2754.35 BIN 3310460

Notes: Shading indicates that this task is NOT included in the contract. (TO BE INCLUDED IN SUPPLEMENTAL AGREEMENT)  
 Hatching indicates that this task is being done by the Municipality.

WBS Task No.	Description	Sr. Vice Pres.	Sr. Prnc. Mgr.	Svc. Gp. Mgr.	Dep. Mgr.	Chief Eng.	Pnc. Egr.	Mng. Eng.	Mng. Plnr.	Mng. Geo.	Sr. Plnr.	Sr. Pj. Arch.	Sr. Pj. Eng.	Pj. Eng.	Env. Sci.	Geol. Engr.	Staff Engr.	Sr. Dgnr.	Cad Opr.	Sr. Prg. Crd.	GIS Anlist.	Sr. Prgrm.	Sr. Surv.	Sr. Tchn. Adm.	Adm. Asst.	Hours by Task	Direct Labor Costs	
<b>5</b>	<b>RIGHT OF WAY</b>																											
5.01	Abstract Request Map																											
5.01.A	Abstract Request Map																											
5.01.B	Title Abstract review																											
5.02	ROW Survey																											
5.03	ROW Acquisition Maps (Coordination and Review)																											
5.04	R.O.W. Plans																											
5.07	Property Appraisals																											
5.08	Appraisal Reviews																											
<b>5.09</b>	<b>Negotiations &amp; Acquisitions</b>																											
5.09.A	Property Negotiations																											
	Intro Letters																											
	Offer Letters																											
	Deed Descriptions																											
	Revisions to above documents																											
5.09.B	File Acquisitions with																											
	County Clerk																											
5.09.C	R.O.W. Certification																											
Totals																												



**Labor Detail**  
**Section 7 - Advertisement, Bid Opening and Award**  
**G&S Engineers, Inc.**  
Hawkinsville Road over Black River  
Town of Boonville  
PIN 278435 BIN 3310460

Notes: Shading indicates that this task is NOT included in the contract. (TO BE INCLUDED IN SUPPLEMENTAL AGREEMENT)

WBS Task No.	Description	Sr. Vice Pres.	Sr. Prnc. Mgr.	Srvc. Grp. Mgr.	Dep. Mgr.	Chief Eng.	Pnc. Egr.	Mng. Eng.	Mng. Plnr.	Mng. Geo.	Sr. Pj. Arch.	Sr. Pj. Eng.	Sr. Pj. Eng.	Env. Sci.	Geol. Engr.	Staff Engr.	Sr. Dgmr.	Cad Opr.	Sr. Fig. Crd.	Prg. Crd.	GIS Anlst.	Sr. Prgm.	Sr. Surv.	Sr. Tch. Adm.	Adm. Asst.	Hours by Task	Direct Labor Costs		
<b>7</b>	<b>ADVERTISE, BID &amp; AWARD</b>																												
7.01	Advertisement							2																					
7.01.A	Advertisement Length & Letting Date							2																					
7.01.B	Advertisement (Min. 3 weeks long)							2																			\$96.50		
7.02	Other Services Prior To Constr.																												
7.02.A	Plan Sales																												
7.02.B	Pre-Bid Meeting							4																					
7.02.C	Addendum							4																			\$236.99		
7.03	Questions during Bidding							4																					
7.03	Bid Opening																												
7.03	Award																												
7.03.A	Canvass of Bids							4																			\$640.74		
7.03.B	Award Package							6																			\$596.75		
Totals																									20	32	3	55	\$2,167.72

**Rehabilitation of Hawkinsville Road Bridge over Black River**  
**Town of Boonville, Oneida County**  
**PIN 2754.35**

**Exhibit C, Page 1**  
**Salary Schedule**

**Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C.**

JOB TITLE	ASCE (A) NICET(N) Grade	Average Hourly Rates		Maximum Hourly Rates			Overtime Category
		Present 05/2017	Projected 10/2017	Present 2017	Projected 2018	Projected 2019	
Principal-in-Charge (Environmental)	N/A	\$51.22	\$51.22	\$57.20	\$58.92	\$60.68	A
Project Manager	N/A	\$34.20	\$34.20	\$36.42	\$37.51	\$38.64	A
Environmental Specialist	N/A	\$22.40	\$22.40	\$25.00	\$25.75	\$26.52	A
Senior Cultural Resources Specialist	N/A	\$27.15	\$27.15	\$27.81	\$28.64	\$29.50	A
Staff Cultural Resources Specialist	N/A	\$21.87	\$21.87	\$23.98	\$24.70	\$25.44	A
GIS Specialist	N/A	\$24.00	\$24.00	\$24.00	\$24.72	\$25.46	A

**NOTES:**

It shall be the ENGINEER'S responsibility to pay prevailing wage rates and supplements as required by the NYS Department of Labor, for services requiring such rates and supplements.\*\*

**OVERTIME POLICY**

Category A - No overtime compensation.

Category B - overtime compensated at straight time rate.

Category C - overtime compensated at straight time rate x 1.50

Overtime applies to hours worked in excess of the normal working hours of 40 hours per week.



**Rehabilitation of Hawkinsville Road Bridge over Black River**

**Town of Boonville, Oneida County**

PIN 2754.35

Exhibit C, Page 2

Staffing Table

**Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C.**

Job Title	ASCE (A) NICET (N) Grade	Tasks							Total Hours	Projected Hourly Rate	Direct Technical Labor
		1.05/1.07 General	3.04/3.07 Text for BRR	4.01/4.02 NEPA/SEQRA Classification	4.03 Smart Growth	4.04 Screenings & Preliminary Investigations & PSP	4.05 Detailed Studies (haz mat screening)	4.06 Permitting			
Principal-in-Charge (Environmental)	N/A	2	2	2	2	2	6	12	\$51.22	\$614.64	
Project Manager	N/A	8	6	2	8	4	20	48	\$34.20	\$1,641.60	
Environmental Specialist	N/A		20	8		20	30	146	\$22.40	\$3,270.40	
Senior Cultural Resources Specialist	N/A					10		10	\$27.15	\$271.50	
Staff Cultural Resources Specialist	N/A		2			20		20	\$21.87	\$437.40	
GIS Specialist	N/A	0				4		22	\$24.00	\$528.00	
<b>Totals</b>		<b>10</b>	<b>30</b>	<b>10</b>	<b>10</b>	<b>60</b>	<b>36</b>	<b>258</b>		<b>\$6,763.54</b>	

**Rehabilitation of Hawkinsville Road Bridge over Black River**  
**Town of Boonville, Oneida County**  
**PIN 2754.35**

**Exhibit C, Page 3**  
**Direct Non-Salary Costs**

**Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C.**

**1. Lodging, Sustenance & Travel**

Lodging		Nights @	\$100	Per Night for	Persons	\$0
Meal Allowance		Lunches @	\$56	Per Day for	Persons	\$0
Mileage	Task 4.05 Visit Site	3				
		Trips @	150 Miles per trip	450	0.535	\$241
		Trips @	5 Miles per trip	0	0.535	\$0
		Trips @	5 Miles per trip	0	0.535	\$0
		Trips @	5 Miles per trip	0	0.535	\$0
		Trips @	5 Miles per trip	0	0.535	\$0
		Trips @	5 Miles per trip	0	0.535	\$0
				<u>450</u> Miles	\$0.535	=
						Subtotal
						<u>\$241</u>

**2. Misc**

Hazardous Materials Screening Database Report	Each	\$	300	\$	300.00
				\$	-
				Subtotal	<u>\$300</u>

**Total Direct Non Salary Costs: \$540.75**

Rehabilitation of Hawkinsville Road Bridge over Black River  
Town of Boonville, Oneida County  
PIN 2754.35

Exhibit C, Page 4  
Summary

Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C.

Item IA, Direct Technical Salaries (estimated) subject to audit	\$6,764
Item IB, Direct Technical Salaries Premium Portion of overtime subject to audit (estimate)	\$0
Item II Direct Non-Salary Cost (estimated) subject to audit	\$541
Item III, Overhead (estimated) subject to audit (126%)	\$8,522
Item IV, Fixed Fee 11.0%	\$1,681
Item II Direct Non-Salary Cost (estimated) subject to audit (Sub-Consultant Cost)	\$0
Total Estimated Cost	<hr/> \$17,508 <hr/>
Maximum Amount Payable (MAP)	<b>\$17,600</b>

**Attachment D**

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

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

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

**CHANGE ORDER**

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

1. **Change in Services:**

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

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

\_\_\_\_\_

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

\_\_\_\_\_

All other terms and conditions remain unchanged.

**CLIENT**

**CONSULTANT**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Anthony J. Picente, Jr.  
Oneida County Executive

\_\_\_\_\_  
Name (Printed or Typed)

\_\_\_\_\_  
Name (Printed or Typed)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Approved

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

**Attachment E**  
**STANDARD ONEIDA COUNTY CONTRACT ADDENDUM**

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

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

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

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

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

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

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

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

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

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

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

2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.

b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,

1. The Contractor certifies that it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - b. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contracts under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1(b) of this certification; and
  - d. Have not within a three-year period, preceding this Contract, had one or more public transactions (Federal, State, or local) for cause or default;
- and

2. Where the Contractor is unable to certify any of the statements in this certification, he or she shall attach an explanation to this Contract.

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

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

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

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

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

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

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

When applicable to the services provided pursuant to the Contract:

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

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



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

3. There is a material change in the business practices and procedures of the County.

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

**5. Non-Assignment Clause.**

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

**6. Workers' Compensation Benefits.**

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

**7. Non-Discrimination Requirements.**

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

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

**8. Wage and Hours Provisions.**

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

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

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

**10. Records.**

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

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

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

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

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

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

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

**13. Governing Law.**

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

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

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

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

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

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

**16. Gratuities and Kickbacks.**

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

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

## **17. Audit**

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

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

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

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

Additionally, the Bidder/Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any Bidder/Contractor seeking to renew or extend a Contract or assume the

responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

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

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

ANTHONY J. PICENTE JR.  
County Executive



DENNIS S. DAVIS  
Commissioner

DIVISIONS:  
Buildings & Grounds  
Engineering  
Highways, Bridges & Structures  
Reforestation

## Oneida County Department of Public Works

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

July 25, 2017

FN 20 17-224

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

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

**PUBLIC WORKS**

**WAYS & MEANS**

Anthony J. Picente, Jr.  
County Executive  
Date 7/27/17

Dear County Executive Picente,

Attached for your approval is a lease renewal with National Grid for use of a county-owned parcel located on Skyline Drive, in the Town of Kirkland, Oneida County. The leased parcel is used for a communications building, tower, and antenna.

The terms of this renewal agreement are for a period of five (5) years commencing July 1, 2017 and ending June 30, 2022. The annual rate is \$ 8,659.68 for the first year and will be increased by 1.4% each year thereafter for a total value of \$ 44,527.85 over the life of the lease.

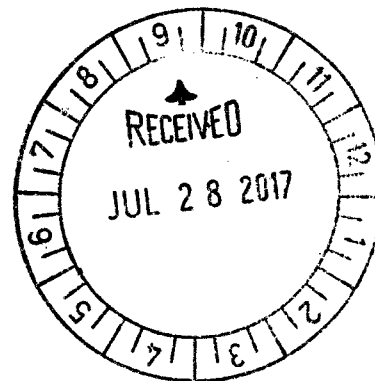
If you agree with the renewal terms, please forward the enclosed lease agreement to the Oneida County Board of Legislators for consideration.

Thank you for your continued support.

Sincerely,

Dennis S. Davis  
Commissioner

cc: Mark E. Laramie, PE, Deputy Commissioner





Oneida Co. Department: Public Works

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

## ONEIDA COUNTY BOARD OF LEGISLATORS

**Name & Address of Vendor:** Niagara Mohawk Power Corporation  
d/b/a National Grid  
300 Erie Boulevard West  
Syracuse, NY 13202

**Title of Activity or Service:** Lease Agreement  
**Proposed Dates of Operation:** 7/1/2017 – 6/30/2022  
**Client Population/Number to be Served:** N/A

### Summary Statements

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

The attached contract is a lease renewal with National Grid for use of a County-owned parcel located on Skyline Drive, in the Town of Kirkland, Oneida County. The leased parcel is used for a communications building, tower, and antenna.

The terms of this renewal agreement are for a period of five (5) years commencing July 1, 2017 and ending June 30, 2022. The annual rate is \$8,659.68 for the first year and will be increased by 1.4% each year thereafter for a total value of \$44,527.85 over the life of the lease.

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

3) Program Design and Staffing: N/A

Total Funding Requested: \$44,527.85

Account #: A2411

Oneida County Dept. Funding Recommendation:

\$44,527.85

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

\$44,527.85 (County)

Cost Per Client Served: N/A

Past Performance Data: N/A

O.C. Department Staff Comments: None

**LEASE AGREEMENT**  
**2<sup>nd</sup> Renewal**

**THIS AGREEMENT** made the day of April 12, 2017 by and between the County of Oneida, a municipal corporation organized and existing under the laws of the State of New York, with offices located at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as "Lessor," and Niagara Mohawk Power Corporation d/b/a National Grid, a corporation organized and existing under the laws of the State of New York, having its principal place of business at 300 Erie Boulevard West, Syracuse, New York 13202, hereinafter referred to as "Lessee."

**WITNESSETH**

**WHEREAS**, the parties previously executed a lease agreement with an original term that commenced on July 1, 2007 and ended on June 30, 2012 (Lessor Resolution no. 268 of 2008), hereinafter referred to as the "Original Agreement," a copy of which is annexed hereto as "Exhibit A;" and

**WHEREAS**, the Original Agreement contained an option to renew the agreement for two (2) additional five (5) year periods; and

**WHEREAS**, the parties hereto wish to exercise the lease Renewal Option for the second of two (2) additional five (5) year periods;

**NOW THEREFORE**, in consideration of the mutual promises and covenants herein contained, and in consideration of the sum of \$1.00 lawful monies of the United States in hand paid by each party to the other, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

**1.** TERM

**a.** The second renewal term shall begin on July 1, 2017 and end on June 30, 2022.

**2.** RENT

**a.** Lessee shall pay to the Lessor as monthly rent the sum of Seven Hundred Twenty-One and 64/100 dollars (\$721.64) in the first renewal year of the lease agreement. There will be a 1.4% annual increase in the rent due for each year thereafter. Such rent shall be payable in advance upon the first day of each month without any deduction or offset.

**b.** Lessee may, at their option elect to make one lump sum rent payment annually. In the first (1st) year of this renewal such payment shall be in the amount of Eight Thousand Six Hundred Fifty-Nine and 68/100 Dollars (\$8,659.68). Such payment shall be payable in advance on July first (1st) of each year without any deduction or offset.

**c.** The full rent payment schedule can be found attached hereto as "Exhibit B."

**d.** The rent shall be remitted to the Lessor at the address set forth in Paragraph 19 "NOTICES" of the Original Agreement.

3. All remaining terms, conditions and agreements as outlined within the Original Agreement shall remain in effect without alteration or adjustment, except as outlined above.

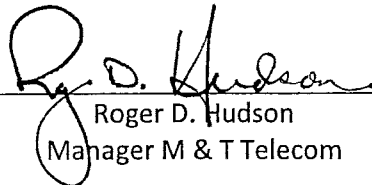
**IN WITNESS WHEREOF**, the parties hereto have caused this lease agreement to be duly executed as of the day and year first above written.

**COUNTY OF ONEIDA**

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

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

**NATIONAL GRID**

By:  \_\_\_\_\_  
Roger D. Hudson  
Manager M & T Telecom

Date: 7/17/17

Approved:

By: \_\_\_\_\_  
Maryangela Scalzo  
Assistant County Attorney

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

Exhibit B

The following rent schedule shall be in effect for the duration of this 2<sup>nd</sup> Renewal Lease Agreement. Each Lease year begins on July 1<sup>st</sup> and ends on June 30<sup>th</sup> of the following year.

Beginning	Monthly	Annual
July 1, 2017	\$721.64	\$8,659.68
July 1, 2018	\$731.74	\$8,780.92
July 1, 2019	\$741.99	\$8,903.85
July 1, 2020	\$752.38	\$9,028.50
July 1, 2021	\$762.91	\$9,154.90

ANTHONY J. PICENTE JR.  
County Executive

DENNIS S. DAVIS  
Commissioner



DIVISIONS:  
Buildings & Grounds  
Engineering  
Highways, Bridges & Structures  
Reforestation

## Oneida County Department of Public Works

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

July 26, 2017

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

FN 20 17275

**PUBLIC WORKS**

**WAYS & MEANS**

Dear County Executive Picente,

In 2017 the Department of Public Works became responsible for maintenance and physical plant operation of all Oneida County law enforcement buildings, including the Correctional Facility.

Following detailed site assessments and tool inventories it has been determined that there is a critical lack of essential tools and equipment required for typical maintenance operation.

Therefore, I request the following fund transfer to allow acquisition of essential tools and equipment required for typical maintenance activities.

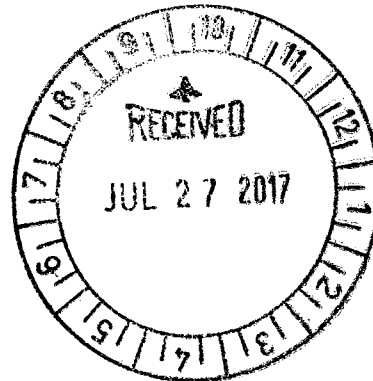
\$25,000.00 from A1620.414 to A1620.295

If you agree, please forward this request to the Oneida County Board of Legislates for consideration.

Thank you for your continued support.

Sincerely,

Dennis S. Davis  
Commissioner



cc: Mark E. Laramie, PE, Deputy Commissioner

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

Anthony J. Picente, Jr.  
County Executive

Date 7/26/17

Anthony J. Picente, Jr  
Oneida County Executive



John P. Talerico  
Commissioner of Personnel

**ONEIDA COUNTY DEPARTMENT OF PERSONNEL**

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

July 25, 2017

**FN 20** 17 276

**ECONOMIC DEVELOPMENT  
& TOURISM**

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

**WAYS & MEANS**

Dear County Executive Picente:

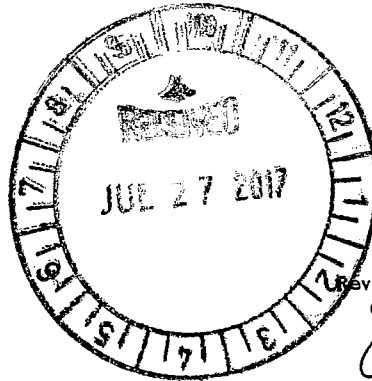
Per your request I have attached the job specification for the title of Director of Economic Development to be utilized in the County Executive's Office. I have added the title to the Oneida County Classification Plan and I am recommending the salary for this title be set at Grade 48M Step 2 at \$84,264.

This position will be focused on representing the County Executive in contacts with various public bodies, private interest and civic groups with respect to activities involved in developing economic growth throughout Oneida County.

Please forward this letter to the Board of Legislators and ask that they: 1) set the salary for the title of Director of Economic Development at Grade 48M Step 2 at \$84,264; 2) create one full time position of Director of Economic Development.

Sincerely,

John P. Talerico  
Commissioner of Personnel



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

Anthony J. Picente, Jr.  
County Executive

Copy: County Executive  
County Attorney  
Budget

Date 7/26/17

Civil Division: Oneida County Government  
Jurisdictional Class: Pending Jurisdictional Classification  
EEO Category: Officials & Administrators  
Adopted: 07/17/17

**DIRECTOR OF ECONOMIC DEVELOPMENT**

**DISTINGUISHING FEATURES OF THE CLASS:** This is a professional and administrative position involving confidentiality and trust in the initiating, planning and directing of economic development programs for the enhancement of Oneida County. The work involves the development of both future and current plans for Oneida County's growth as well as the development of programs and policies with regional agencies, developers, and builders to review feasibility of proposed projects working towards business retention and County growth. The work involves coordinating planning activities with the activities of the Federal and State governments, towns, cities, villages, and regional agencies. The incumbent acts as the representative of the County Executive in contacts with other public bodies, private interests and civic groups with respect to the best economic development of the County. Work is performed under the general direction of the County Executive with wide latitude for independent judgement in carrying out the details of the work. Supervision may be exercised over subordinate employees. The incumbent performs related work as required.

**TYPICAL WORK ACTIVITIES:** (Illustrative Only)

- Represents the County Executive in contacts with other public bodies, private interests and civic groups with respect to activities involved in developing the County's economic growth;
- Recommends, establishes and implements policies, programs and procedures related to economic development and the retention, expansion, attraction and growth of businesses and industries in Oneida County;
- Administers and manages grant awards and grant projects, including project development, consultant procurement and management, and grant reporting;
- Performs a variety of administrative activities including program planning and fiscal management;
- Provides professional advice and assistance to local municipalities and various other groups and agencies regarding the general planning and economic development of the County;
- Coordinates economic development activities with government and regional agencies;
- Delivers speeches and prepares releases concerning economic development activities;
- Reviews plans and specifications for compliance with County policy and sound planning activities;
- Keeps records and makes reports concerning planning activities;
- Keeps abreast of professional developments in the field of planning.

**FULL PERFORMANCE KNOWLEDGE, SKILLS, ABILITIES AND PERSONAL CHARACTERISTICS:**

Comprehensive knowledge of Federal, State and local laws, policies, and regulations as they apply to economic development; thorough knowledge of the principles and methods of community and economic development, and business and financial practices; thorough knowledge of modern management principles, practices, and techniques; good knowledge of federal and state aid or grant programs in the area of community and economic development; ability to manage and administer complex programs and project implementation; ability to prepare and present clear, concise and accurate written and oral records, reports, correspondence and speeches;

continued...

FULL PERFORMANCE KNOWLEDGE, SKILLS, ABILITIES AND PERSONAL CHARACTERISTICS: (continued)

ability to establish and maintain effective working relationships with agencies; ability to plan, organize and facilitate public meetings; ability to follow complex oral and written instructions; ability to work independently; ability to direct, coordinate and supervise the work of subordinate personnel; sound professional judgement; initiative; resourcefulness.

MINIMUM QUALIFICATIONS: Candidates must meet minimum qualifications at time of application.

Graduation from a regionally accredited New York State registered college or university with a Bachelor's Degree **AND** four (4) years of full-time administrative or managerial experience in economic or community development, business development, or commercial development; two (2) years of which must have been in a supervisory or administrative capacity.

SPECIAL REQUIREMENT: Possession of an appropriate level, valid New York State driver's license at time of appointment. This license must be maintained throughout appointment.

Adopted: 07/17/17





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

August 4, 2017

FN 20 17-277 Reviewed and Approved for submittal to the  
 Oneida County Board of Legislators by  
**ECONOMIC DEVELOPMENT & TOURISM**  
 Anthony J. Picente, Jr.  
 Oneida County Executive  
 800 Park Avenue  
 Utica, NY 13501  
**WAYS & MEANS**  
 Date 8/2/17  
*Anthony J. Picente, Jr.*  
 Anthony J. Picente, Jr.  
 County Executive

Dear County Executive Picente:

Herkimer Oneida Counties Comprehensive Planning Program (HOCCPP) is frequently approached by other local units of government (cities, towns and villages), other counties and other entities (not for profits, snowmobile clubs, fire districts, etc.) with requests for technical services that are above and beyond the technical capabilities of those other units of government and entities to accomplish. These requests for HOCCPP to provide technical assistance and services typically include such examples as GIS mapping projects, pavement scoring, traffic counts, snowmobile club trail mapping, land use (planning and zoning technical assistance), environmental assistance, flood mitigation projects and assistance with grant preparation and monitoring. These aforementioned units of government and other entities are willing to enter into agreements with HOCCPP to reimburse HOCCPP for the cost of providing these technical services.

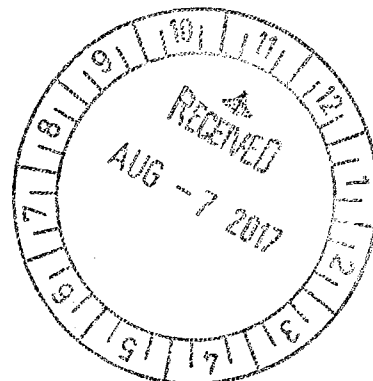
HOCCPP has received a request from the City of Utica for pavement condition scoring. In order to proceed with this request we need the Board of Legislators to authorize and direct the Program Director of HOCCPP to execute this and subsequent agreements for the provision of technical services as outlined above with other units of government and entities. In addition, this authorization shall be limited to those requests that do not individually exceed \$50,000.

Thank you for your assistance in this matter.

Sincerely,

*John R. Kent, Jr.*

John R. Kent, Jr.  
Commissioner



Oneida Co. Department: Planning

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

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name & Address of Vendor:** City of Utica  
1 Kennedy Plaza  
Utica, New York 13502

**Title of Activity or Service:** Pavement condition scoring for the City of Utica by their request.

**Proposed Dates of Operation:** July 1, 2017 – March 31, 2018

**Client Population/Number to be Served:** City of Utica roads.

**Summary Statements**

- 1) **Narrative Description of Proposed Services:** The City of Utica will pay HOCCPP a sum not to exceed \$30,000 for GIS mapping and pavement condition observations in the City.
- 2) **Program/Service Objectives and Outcomes:** A mapping layer of the pavement conditions will be provided to the City of Utica.
- 3) **Program Design and Staffing:** Herkimer Oneida Counties Comprehensive Planning Program (HOCCPP) staff will perform the duties.

**Total Funding Requested:** \$30,000 (Revenue)                      **Account** K2304

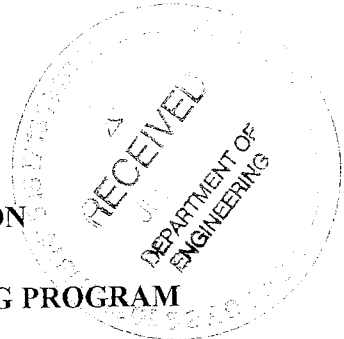
**Oneida County Dept. Funding Recommendation:** \$30,000 (Revenue)

**Proposed Funding Sources (Federal \$/ State \$/County \$):** Revenue from the City of Utica; there are NO COUNTY FUNDS involved.

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

**Past Performance Data:** N/A

**O.C. Department Staff Comments:** This agreement is between HOCCPP and the City of Utica.



**AGREEMENT FOR PAVEMENT CONDITION EVALUATION**  
**between**  
**THE HERKIMER-ONEIDA COUNTIES COMPREHENSIVE PLANNING PROGRAM**  
**and**  
**THE CITY OF UTICA**

This Agreement, made this 21 day of July, 2017, is by and between the Herkimer-Oneida County Comprehensive Planning Program, a Regional Planning Council established by the Counties of Oneida and Herkimer, whose principal address is 321 Main Street, Utica, New York 13501 herein referred to as "HOCCPP," and the City of Utica, a municipal corporation organized and existing under the laws of the State of New York, with its principal address is 1 Kennedy Plaza, Utica, New York, 13502 herein referred to as the "City."

WHEREAS, the City desires to engage HOCCPP to provide the Services described herein. The Services include all additional services reasonably implied and inferred therefrom or customarily provided in the performance of services of the nature to be provided by the HOCCPP pursuant to the Agreement; and

WHEREAS, HOCCPP desires to render the Services, and has the experience, staff and resources to perform the Services; and

NOW, THEREFORE, the City and HOCCPP, in consideration of their mutual covenants, hereby agree as follows:

**SECTION I. PROVISION OF THE SERVICES**

A. Provision of and Payment for the Services: HOCCPP shall provide the Services consistent with the terms of the Agreement. The City shall pay HOCCPP a sum of no more than Thirty Thousand Dollars (\$30,000.00) as compensation for the Services.

B. Detailed Description of the Services ("Services"):

1. Overall Goal: To collect data and observe pavement conditions using a GIS mapping application. Ultimately creating a mapping layer of the pavement conditions for City-owned streets.
2. General Work Statement: HOCCPP will provide GIS mapping and pavement condition observations the City. This includes driving approximately 150 miles of City-owned roads in addition to supplying the data already collected in the City on Federal Aid Eligible-City Roads (which the City already is in possession of) and

rating the pavement condition from 1 to 10. Defects (primarily alligator cracking) will be logged as to their location and severity.

3. **Project Plan:** The City will designate a person to be the single point of communication between HOCCPP and the City. This is to ensure that HOCCPP receives uniform direction from the City. Work will progress and be delivered to the City's designated point person in the form of digital mapping data (in ESRI shapefile format) with pavement condition observations attributed to each road segment. Delivery will be made at least monthly to the City's designated point person, progressively until the entire project is completed. Project duration will be 6-9 months.
  4. **Staff Assignment:** Approximately 2 persons will be assigned by HOCCPP to work on this project, 1-3 days per week, depending on weather and other workloads.
  5. **Funding:** HOCCPP estimates that approximately 150 miles of observation and data collection/reporting of pavement conditions will consume no more than \$30,000 of staff time.
- C. **Staff Time and Eligible Expenses:** HOCCPP will assign planning and support staff as may be necessary to fulfill its obligations under this Agreement. The expenditure of funds via this Agreement will be primarily focused on the costs associated with staffing. However, expenses eligible for reimbursement may also include costs for large hardcopy output and travel expenses.
- D. **Independent Contractor:** HOCCPP is an independent contractor. HOCCPP, its employees, subcontractors, suppliers and consultants are not, individually or collectively, to be deemed an employee or employees of the City under any circumstances. The Agreement shall not under any circumstances be construed to make the City and HOCCPP joint venturers, partners or parties in similar relationships with each other.

## **SECTION II. RESPONSIBILITIES OF HOCCPP**

- A. **HOCCPP's Work:** HOCCPP shall be responsible for the full provision of the Services, the professional quality and technical accuracy of the Services, the preparation of all reasonably required and customary documentation relating to the Services, and the coordination of all activities relating to the Services.
- B. **Standard of Care:** HOCCPP shall provide the Services in a manner consistent with best practices in the industry.

- C. Timeliness of Performance: HOCCPP shall provide the Services in a timely fashion consistent with the City's scheduling requirements.
- D. Compliance with Applicable Law: HOCCPP shall comply with all federal, state and local laws and ordinances applicable to the Services. HOCCPP shall not discriminate on the grounds of race, color, religion, sex, age, disability or national origin in the performance of the Services. HOCCPP shall at all times comply with all safety and health regulations, standards and codes applicable to the Services.
- E. HOCCPP's Representative: Prior to provision of the Services, HOCCPP shall, by written notice to the City, designate a representative to act on behalf of HOCCPP with respect to the Agreement and the Services. HOCCPP's representative's decisions, agreements and actions relating to the Agreement and the Services shall be binding upon HOCCPP. If HOCCPP decides to change its designated representative, HOCCPP will give written notice to the City of its new designated representative.
- F. Warranty: HOCCPP fully warrants the Services provided pursuant to the Agreement, and does not disclaim any express or implied warranty potentially applicable to the Services.

### **SECTION III. RESPONSIBILITIES OF THE CITY**

- A. Payment to HOCCPP: The City shall make payments to HOCCPP for the Services consistent with the Agreement. The maximum amount to be paid under this Agreement shall be Thirty Thousand Dollars (\$30,000.00).
- B. The City's Representative: Prior to HOCCPP's provision of the Services, the City shall, by written notice to HOCCPP, designate a representative to act on behalf of the City with respect to the Agreement and the Services. The City's representative's decisions, agreements and actions relating to the Agreement and the Services shall be binding upon the City. If the City decides to change its designated representative, the City will give written notice to HOCCPP of its new designated representative.

### **SECTION IV. TERM OF THE AGREEMENT**

- A. Term: This Agreement will be effective immediately upon both parties signing the Agreement and will end upon consumption of available funding or upon project completion. If additional funding is approved via subsequent agreement this Agreement

may be extended. Either party may cancel this Agreement upon thirty (30) days' notice to the other party in writing, by certified mail or personal delivery.

- B. No Automatic Renewal: The Agreement will not be automatically renewed. The City and HOCCPP Service Provider can agree to continue their contractual relationship with regard to the Services after the expiration of the term, either consistent with the Agreement or otherwise. Any such extended agreement shall have to be made in writing, and signed by the duly authorized representatives of both parties.

## **SECTION V. PAYMENT**

- A. HOCCPP will invoice the City monthly for time spent on the project. A final invoice will be sent to the City at the end of the project for the remaining staff time spent fulfilling HOCCPP obligation under this Agreement.
- B. The City will pay HOCCPP the amount due within thirty (30) days of receipt of the invoice.
- C. By the signatures below, the parties hereby agree that the total sum paid by the City to HOCCPP will be the number of man hours worked multiplied by that staff member's hourly rate for 2017, together with any related eligible expenses, not to exceed \$30,000.
- D. Should additional services be required of HOCCPP by the city, or in the event future assistance is required, an amendment and/or a new agreement can be made. Any such additional agreement must be in writing, and signed by the duly authorized representatives of both parties.

## **SECTION VI. TERMINATION**

- A. Default: The Agreement may be terminated by either party if the defaulting party fails to materially perform its obligations under the Agreement.
- B. Notice of Termination/Opportunity to Cure: Written notice to either party of termination of the Agreement shall be provided consistent with the notice provisions of the Agreement. If the termination is based upon a default, the defaulting party shall have ten (10) days, or such longer period established by the terminating party, after receipt of notice to cure the default to the reasonable satisfaction of the non-defaulting party. If the default is not cured in the designated period, the Agreement shall be deemed terminated.

C. Post-Termination Obligations:

1. Upon any termination of the Agreement, HOCCPP shall: (1) promptly discontinue provision of the Services (unless a termination notice from the City directs otherwise); (2) deliver or otherwise make available to the City all documents, accounting records, electronically-stored information and other information accumulated by HOCCPP in the provision of the Services; and (3) submit a final invoice for payment to the City within thirty (30) days of the termination date.
2. Upon any termination of the Agreement, the City shall (1) promptly make full payment on any outstanding invoices already submitted; and (2) pay in full any final invoices received from HOCCPP within thirty (30) days of receipt of the same.

## **SECTION VII. INDEMNIFICATION**

- A. To the fullest extent permitted by applicable law, the City shall indemnify and hold harmless, and at HOCCPP's option, defend, HOCCPP and Oneida County, and/or their officers, directors, members, agents, employees, contractors and other representatives, from and against any and all liabilities, damages, losses, costs, expenses (including, without limitation, any and all reasonable attorneys' fees and disbursements), causes of action, suits, liens, claims, damages, penalties, obligations, demands or judgments of any nature, including, without limitation, for death, personal injury and property damage, economic damage, and claims brought by third parties for personal injury and/or property damage (collectively, "Damages"), incurred by HOCCPP or Oneida County caused by any negligent act or omission, or intentional misconduct of the City, its officers, agents, employees (including any of the City's authorized personnel) arising out of or in connection with the exercise by the City or any of the City's authorized personnel of the rights and privileges granted by or pursuant to this Agreement, except to the extent such Damages are caused by the sole negligence, unlawful act or omission, or intentional misconduct of HOCCPP or Oneida County.
- B. To the fullest extent permitted by applicable law, HOCCPP shall indemnify and hold harmless, and at the City's option, defend the City, and/or its officers, directors, members, agents, employees, contractors and other representatives, from and against any and all liabilities, damages, losses, costs, expenses (including, without limitation, any and all reasonable attorneys' fees and disbursements), causes of action, suits, liens, claims, damages, penalties, obligations, demands or judgments of any nature, including, without limitation, for death, personal injury and property damage, economic damage, and claims brought by third parties for personal injury and/or property damage (collectively, "Damages"), incurred by the City caused by any negligent act or omission, or intentional

misconduct of HOCCPP, its officers, agents, employees (including any of HOCCPP's authorized personnel) arising out of or in connection with the exercise by the HOCCPP or any of the HOCCPP's authorized personnel of the rights and privileges granted by or pursuant to this Agreement, except to the extent such Damages are caused by the sole negligence, unlawful act or omission, or intentional misconduct of the City and its officers, agents, employees.

## **SECTION VIII. NOTICE**

A. Any notice given pursuant to the Agreement shall be in writing and signed by a representative of the party giving such notice. Written notice may be: (a) hand-delivered; (b) sent by facsimile transmission; or (c) sent by overnight courier, messenger or registered or certified U.S. mail, postage prepaid, return receipt requested. Written notice shall be delivered to the City and the Service Provider at the following addresses.

B. Notice to the City. The address for hand-delivery or mailing is.

The City of Utica  
Accounts Payable  
1 Kennedy Plaza  
Utica, NY 13502

C. Notice to HOCCPP. The address for hand-delivery or mailing is:

Herkimer-Oneida County Comprehensive Planning Program  
321 Main Street  
Utica, New York 13501

D. A notice shall be deemed received by the party to whom it is sent: (a) in the case of hand-delivery or delivery by overnight courier messenger or registered or certified U.S. mail, postage prepaid, return receipt requested, on the date of delivery of the notice to the receiving party; and (b) in the case of facsimile transmission, on the date of the transmission by the sending party.

E. The addresses listed above with regard to the receipt of notice may be changed at any time by a party through the provision of notice of the change in accordance with this Section. Any change shall become effective on the date the notice of the change is deemed received by the party to whom it is sent.



## **SECTION IX. MISCELLANEOUS**

- A. Training: Neither HOCCPP, nor any of its employees or other authorized personnel shall be required to attend or undergo any training by the City. HOCCPP shall be fully responsible for all training necessary to maintain any licenses or certifications to perform the Services described herein, and shall be solely responsible for the cost of the same.
- B. Advice of Counsel: Each party acknowledges that, in executing this Agreement, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Agreement.
- C. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of New York, exclusive of its choice of laws, rules and principles. The parties agree that any legal action shall be filed in a court of competent jurisdiction in Oneida County, New York.
- D. Captions: The captions contained in the Agreement are for convenience and reference only, and do not define, describe, extend or limit the scope or intent of the Agreement or the scope or intent of any provision contained herein.
- E. Severability: The invalidity of one or more phrases, sentences, clauses or sections in the Agreement shall not affect the validity of the remaining portions of the Agreement, so long as the material purpose of the Agreement can be determined and effectuated.
- F. No Waiver: Any failure by either party to enforce any of the provisions of the Agreement or to require compliance with any of its terms at any time during the term of the Agreement shall in no way affect the validity of the Agreement, or any part hereof, and shall not be deemed a waiver of the right of such party thereafter to enforce any such provision.
- G. Counterparts: The Agreement may be signed in any number of counterparts, and each counterpart shall represent a fully executed original as if signed by each of the parties. Facsimile signatures shall be deemed as effective as original signatures.

## **SECTION X. ENTIRE AGREEMENT**

The terms of this Agreement, including any attachments, amendments, addendums or appendixes attached hereto, constitute the entire understanding and Agreement of the parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Agreement. By signing below, the parties agree

and acknowledge that they have read, understood and agreed to all the terms contained in any addenda attached hereto. 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.

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

**HERKIMER-ONEIDA COUNTY COMPREHENSIVE PLANNING PROGRAM**

By: \_\_\_\_\_ Date \_\_\_\_\_  
John R. Kent, Jr.  
Program Director

**CITY OF UTICA**

By:  \_\_\_\_\_ Date 7/21/17  
Robert Palmieri  
Mayer

Approved

By: \_\_\_\_\_  
Robert E. Pronteau, Esq.  
Assistant County Attorney



Undersheriff Robert Swenszkowski  
Chief Deputy Jonathan G. Owens

Chief Deputy Gregory Pflieger  
Chief Deputy Joseph Lisi

*Sheriff Robert M. Maciol*

July 11, 2017

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

FN 20 17-278

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

PUBLIC SAFETY

Anthony J. Picente, Jr.  
County Executive

Date 7/13/17

Dear County Executive Picente:

The Sheriff's Office would like to request a year 2017 transfer of funds of \$3,200 to cover the cost of expenses not encumbered for 2017. I am requesting this transfer of funds from the Board of Legislators to cover the costs for the remainder of 2017.

<u>Transfer from Expense Account</u>	<u>Amount</u>
A3152.491 Other Materials & Supplies	\$3200.00
<u>Transfer to Expense Account</u>	<u>Amount</u>
A3152.492 Computer Software & License	\$3200.00

If I can be of further assistance, please feel free to contact me. Thank you for your cooperation.

Sincerely,

Robert M. Maciol,  
Sheriff



Cc: Tom Keeler, Budget Director



**ONEIDA COUNTY DEPARTMENT OF PERSONNEL**

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

August 1, 2017

FN 20 17-279 Reviewed and Approved for submittal to the  
Oneida County Board of Legislators by

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

**PUBLIC SAFETY**

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

**WAYS & MEANS**

Date 8/3/17

Dear County Executive Picente:

Attached for your review and approval is correspondence from Oneida County Public Defender Frank J. Nebush, Jr., requesting the creation of one full-time position, Assistant Public Defender I, (Gr 46P Step 2 @ \$75,029) for the Counsel at First Appearance Grant (CAFA) 2. This position is fully funded by the balance of the original CAFA grant with the New York State Office of Indigent Legal Services Grant (ILS).

As stated in Mr. Nebush's letter, his office has been told that the current unexpected balance in the original CAFA grant is presently \$121,376, which would be used to fund the newly position created under the CAFA 2 grant.

If you concur, I respectfully request that this recommendation be forwarded to the Board of Legislators for their consideration.

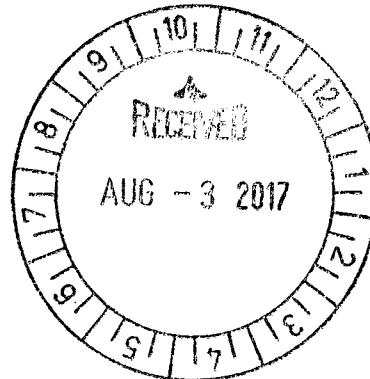
Sincerely,

*John P. Talerico*

John P. Talerico  
Commissioner

Attachments

Copy: Frank J. Nebush, Jr., Public Defender  
Peter M. Rayhill, County Attorney



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

**CHIEF TRIAL COUNSEL**  
*Leland D. McCormac III, Esq.*

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

**Oneida County Public Defender**  
**Criminal Division**

**Main Office**

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

**CHIEF APPELLATE COUNSEL**  
*Patrick J. Marthage, Esq.*

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

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

Thursday, July 27, 2017

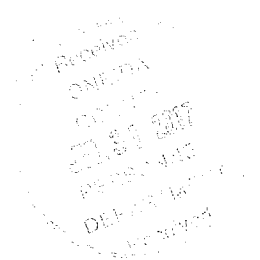
Mr. John P. Talerico  
Oneida County Commissioner of Personnel  
800 Park Avenue  
Utica, NY 13501

Re: Request to Create a Position  
First Assistant Public Defender  
NYS Office of Indigent Legal Services Grant  
Counsel at First Appearance Grant 1, Contract No. C000430

Dear Mr. Talerico:

As you are aware from our prior discussions, Assistant Public Defender Timothy Stalnaker is a First Sergeant in the United States Army Reserves and was deployed in June of this year for one year. Stalnaker was assigned to Judge Amoroso in Rome City Court before he was deployed. Prior to his deployment, this office was notified by the New York State Office of Indigent Legal Services (ILS) that we were approved for their Second Counsel at First Appearance (CAFA) Grant. Our RFP requested funding of an additional assistant public defender position to supplement our present CAFA Section and supervise both the CAFA Section and the City Courts Section. With your advice and assistance and the consent of the County Executive's office, we were able to temporarily fill Stalnaker's position for ninety (90) days with a full-time, experienced attorney. The understanding with this attorney is that once the CAFA 2 contract has been approved by the Board of Legislators, he will fill the position created under the grant.

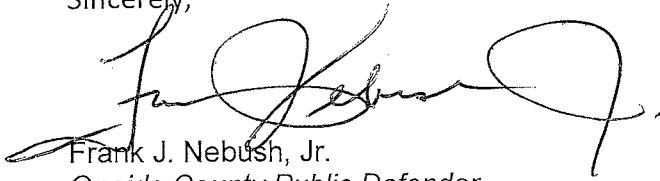
In our discussion with ILS, we were told that the current unexpended balance in the original CAFA grant is presently \$121,376 and if we wanted to currently utilize that balance to fund the new position created under the CAFA 2 grant, they would approve an extension of that grant to fund the new position until the CAFA 2 grant was approved. Since we can only hire a temporary full-time attorney for 90 days and we are unsure whether the CAFA 2 contract will be approved within that



time, I am requesting the creation of a new First Assistant Public Defender position at this time to be paid from the unexpended balance of the CAFA 1 grant. I have enclosed a copy of the MS-222 – New Position Duties Statement for your review.

Should you have any questions regarding this request, please do not hesitate to contact me.

Sincerely,



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

RECEIVED  
ONEIDA COUNTY  
JUL 21 2017  
PERMANENT  
DEPARTMENT  
CLERK

ONEIDA COUNTY  
OFFICE OF THE DISTRICT ATTORNEY

Scott D. McNamara  
District Attorney

Michael A. Coluzza  
First Assistant

Laurie Lisi  
Matthew P. Worth  
Joseph A. Saba  
Grant J. Garramone  
Steven G. Cox  
Stacey L. Scotti  
Bernard L. Hyman, Jr.  
Todd C. Carville  
Michael R. Nolan  
Joshua L. Bauer

Dawn Catera Lupi  
First Assistant

Steven P. Feiner  
Sarah F. DeMellier  
Luke C. Davignon  
William J. Barry III  
Kevin J. Dwyer  
Stephanie N. Singe  
Paul S. Kelly  
Travis J. Yoxall  
Maria Murad Blais  
Rebecca G. Kelleher

FN 20

17-280


PUBLIC SAFETY

June 15, 2017

WAYS & MEANS

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

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

  
Anthony J. Picente, Jr.  
County Executive

Date 7/13/17

Dear Mr. Picente:

Enclosed is the proposed grant award for the second year of a 2 year program which the New York State Division of Criminal Justice Services has awarded to our office in the amount of \$170,725.00. The grant period is from January 1, 2017 through December 31, 2017 for this installment. Matching funds are not required.

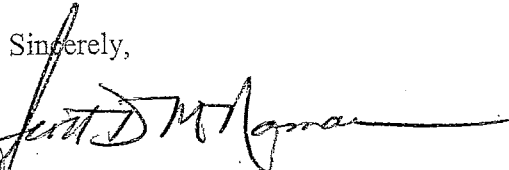
I am hereby requesting your review and approval of this grant. After doing so, please forward this information to the Oneida County Board of Legislators for their review and approval.

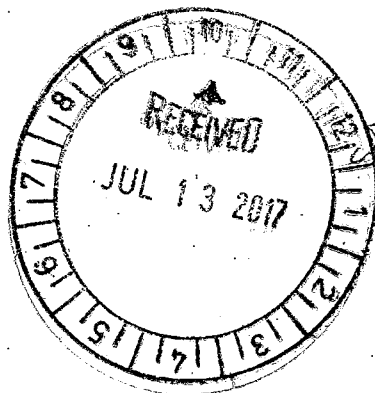
Please expedite this as soon as possible, as the contract will be ending very soon.

Should you have any questions or concerns, please notify me.

Thank you for your time and assistance in this matter.

Sincerely,

  
Scott D. McNamara  
Oneida County District Attorney



SDM/kh  
Enc.

Oneida Co. Department: DISTRICT ATTORNEY

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

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

Name & Address of Vendor: Division of Criminal Justice Services  
80 South Swan Street  
Albany, New York 12210

Title of Activity or Service: Crimes Against Revenue Program

Proposed Dates of Operation: 01/01/2017 – 12/31/2017

Client Population/Number to be Served: Oneida County Residents

**Summary Statements**

**1) Narrative Description of Proposed Services**

The program will provide effective investigation and prosecution of crimes that have adverse effects on New York State revenues.

**2) Program/Service Objectives and Outcomes:** Develop strategic plans to combat revenue crimes; recover restitution in revenue crime prosecution.

**3) Program Design and Staffing**

One (1) part time Assistant District Attorney; two (2) part time Investigators; two (2) Forensic Auditors; Four (4) interns; Use of the Economic Crime Lab at Utica College.

**Total Funding Requested:** \$170,725.00

**Account #** A1165.495130  
**Revenue: #** A3047

**Oneida County Dept. Funding Recommendation:** \$170,725.00

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

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

**Past Performance Data:** N/A

**O.C. Department Staff Comments:** None



<p><b>STATE AGENCY</b>                  Division of Criminal Justice Services                  80 South Swan Street                  Albany, NY 12210</p>	<p><b>NYS COMPTROLLER'S NUMBER:</b> C444459                  (Contract Number)   <b>ORIGINATING AGENCY CODE:</b> 01490 - Division of Criminal Justice Services</p>
<p><b>GRANTEE/CONTRACTOR:</b> (Name &amp; Address)                  Oneida County                  800 Park Avenue                  Utica, NY 13501-2939</p>	<p><b>TYPE OF PROGRAMS:</b> Crimes Against Revenue  <b>DCJS NUMBERS:</b> CR15444459                  CR16444459  <b>CFDA NUMBERS:</b></p>
<p><b>FEDERAL TAX IDENTIFICATION NO:</b> 156000460  <b>MUNICIPALITY NO:</b> (if applicable) 300100000000</p>	<p><b>INITIAL CONTRACT PERIOD:</b>                  FROM 01/01/2016 TO 12/31/2017  <b>FUNDING AMOUNT FROM INITIAL PERIOD:</b> \$341,450.00</p>
<p><b>STATUS:</b>                  Contractor is not a sectarian entry.                  Contractor is not a not-for-profit organization.</p>	<p><b>MULTI-YEAR TERM:</b> (if applicable): 2 1-year renewal options.</p>
<p><b>CHARITIES REGISTRATION NUMBER:</b>  <input type="text"/>                  (Enter number or Exempt)                  if "Exempt" is entered above, reason for exemption.  <u>N/A</u></p> <div style="border: 1px solid black; padding: 5px; width: fit-content;"> <p>Contractor has <input type="checkbox"/> has not <input type="checkbox"/> timely filed with the Attorney General's Charities Bureau all required periodic or annual written reports.</p> </div>	<p><b>APPENDIX ATTACHED AND PART OF THIS AGREEMENT</b></p> <p><input checked="" type="checkbox"/> APPENDIX A Standard Clauses required by the Attorney General for all State contracts</p> <p><input checked="" type="checkbox"/> APPENDIX A1 Agency-specific Clauses</p> <p><input checked="" type="checkbox"/> APPENDIX B Budget</p> <p><input checked="" type="checkbox"/> APPENDIX C Payment and Reporting Schedule</p> <p><input checked="" type="checkbox"/> APPENDIX D Program Workplan</p> <p><input type="checkbox"/> APPENDIX F Guidelines for the Control and Use of Confidential Funds</p> <p><input type="checkbox"/> APPENDIX G Procedural Guidelines for the Control of Surveillance Equipment</p> <p><input type="checkbox"/> APPENDIX M</p> <p><input checked="" type="checkbox"/> Other (Identify)</p> <p>Appendix M Stop payment on 5/16/17 for failure to submit 2017 Q1 progress report and Quarterly Program Summary Worksheet.</p>
<p>IN WITNESS THERE OF, the parties hereto have electronically executed or approved this AGREEMENT on the dates of their signatures.</p>	
<p>NYS Division of Criminal Justice Services                  BY: _____ Date: _____                  Office of Program Development and Funding</p> <p><b>State Agency Certification:</b> "In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract".</p> <p>GRANTEE:                  BY: Hon. Anthony J. Picente jr., County Executive Date: _____</p>	
<p><b>ATTORNEY GENERAL'S SIGNATURE</b>                  _____                  Title: _____                  Date: _____</p>	<p>APPROVED,                  Thomas P. DiNapoli, State Comptroller                  _____                  Title: _____                  Date: _____</p>

**Award Contract****Project No.**

CR15-1023-E01

**Grantee Name**

Oneida County

06/14/2017

## AGREEMENT

STATE OF NEW YORK  
AGREEMENT

This AGREEMENT is hereby made by and between the State of New York agency (STATE) and the public or private agency (CONTRACTOR) identified on the face page hereof.

## WITNESSETH:

WHEREAS, the STATE has the authority to regulate and provide funding for the establishment and operation of program services and desires to contract with skilled parties possessing the necessary resources to provide such services; and WHEREAS, the CONTRACTOR is ready, willing and able to provide such program services and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services required pursuant to the terms of this AGREEMENT;

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

## I. Conditions of Agreement

A. This AGREEMENT may consist of successive periods (PERIOD), as specified within the AGREEMENT or within a subsequent Modification Agreement(s) (Appendix X) Amendment. Each additional or superseding PERIOD shall be on the forms specified by the particular State agency, and shall be incorporated into this AGREEMENT.

B. Funding for the first PERIOD shall not exceed the funding amount specified on the face page hereof. Funding for each subsequent PERIOD, if any, shall not exceed the amount specified in the appropriate appendix amendment for that PERIOD.

C. This AGREEMENT incorporates the face page attached as presented in the Grants Management System (GMS) AWARD online printable report, and all of the marked appendices identified on the face page hereof.

D. For each succeeding PERIOD of this AGREEMENT, the parties shall prepare new appendices, to the extent that any require modification, and a Modification Agreement. Any terms of this AGREEMENT not modified shall remain in effect for each PERIOD of the AGREEMENT.

To modify the AGREEMENT within an existing PERIOD, the parties shall revise or complete the appropriate appendix form(s). Any change in the amount of consideration to be paid, change in scope, or change in term is subject to the approval of the Office of the State Comptroller. Any other modifications shall be processed in accordance with agency guidelines as stated in Appendix A-1.

E. The CONTRACTOR shall perform all services to the satisfaction of the STATE. The CONTRACTOR shall provide services and meet the program objectives summarized in the Program Workplan (Appendix D) in accordance with: provisions of the AGREEMENT; relevant laws, rules and regulations, administrative and fiscal guidelines; and where applicable, operating certificates for facilities or licenses for an activity or program.

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

G. Appendix A (Standard Clauses as required by the Attorney General for all State contracts) takes precedence over all other parts of the AGREEMENT.

## II. Payment and Reporting

A. The CONTRACTOR, to be eligible for payment, shall submit to the STATE's designated payment office (identified in Appendix C) any appropriate documentation as required by the Payment and Reporting Schedule (Appendix C) and by agency fiscal guidelines, in a manner acceptable to the STATE.

B. The STATE shall make payments and any reconciliations in accordance with the Payment and Reporting Schedule (Appendix C). The STATE shall pay the CONTRACTOR, in consideration of contract services for a given PERIOD, a sum not to exceed the amount noted on the face page hereof or in the respective Appendix designating the payment amount for that given PERIOD. This sum shall not duplicate reimbursement from other sources for CONTRACTOR costs and services provided pursuant to this AGREEMENT.

C. The CONTRACTOR shall meet the audit requirements specified by the STATE.

## III. Terminations

A. This AGREEMENT may be terminated at any time upon mutual written consent of the STATE and the CONTRACTOR.

B. The STATE may terminate the AGREEMENT immediately, upon written notice of termination to the CONTRACTOR, if the CONTRACTOR fails to comply with the terms and conditions of this AGREEMENT and/or with any laws, rules, regulations, policies or procedures affecting this AGREEMENT.

C. The STATE may also terminate this AGREEMENT for any reason in accordance with provisions set forth in Appendix A-1.

D. Written notice of termination, where required, shall be sent by personal messenger service or by certified mail, return receipt requested. The termination shall be effective in accordance with the terms of the notice.

E. Upon receipt of notice of termination, the CONTRACTOR agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the STATE.

F. The STATE shall be responsible for payment on claims pursuant to services provided and costs incurred pursuant to terms

of the AGREEMENT. In no event shall the STATE be liable for expenses and obligations arising from the program(s) in this AGREEMENT after the termination date.

#### IV. Indemnification

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

B. The CONTRACTOR is an independent contractor and may neither hold itself out nor claim to be an officer, employee or subdivision of the STATE nor make any claim, demand or application to or for any right based upon any different status.

#### V. Property

Any equipment, furniture, supplies or other property purchased pursuant to this AGREEMENT is deemed to be the property of the STATE except as may otherwise be governed by Federal or State laws, rules or regulations, or as stated in Appendix A-1.

#### VI Safeguards for Services and Confidentiality

A. Services performed pursuant to this AGREEMENT are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

B. Funds provided pursuant to this AGREEMENT shall not be used for any partisan political activity, or for activities that may influence legislation or the election or defeat of any candidate for public office.

C. Information relating to individuals who may receive services pursuant to this AGREEMENT shall be maintained and used only for the purposes intended under the contract and in conformity with applicable provisions of the laws and regulations, or specified in Appendix A-1.

Certified by - on

Award Contract**Project No.**

CR15-1023-E01

**Grantee Name**

Oneida County

06/14/2017

## APPENDIX A

## STANDARD CLAUSES FOR NYS CONTRACTS

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

1. **EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.
2. **NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.
3. **COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.
4. **WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
5. **NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.
6. **WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the

Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

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

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

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

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

#### 11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

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

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or

furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

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

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

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

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

13. **CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. **GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. **LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. **NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

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

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

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by

any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. **MACBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. **OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

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

NYS Department of Economic Development  
Division for Small Business  
Albany, New York 12245  
Telephone: 518-292-5100  
Fax: 518-292-5884  
email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development  
Division of Minority and Women's Business Development  
633 Third Avenue  
New York, New York 10017  
212-803-2414  
email: mwbecertification@esd.ny.gov <http://esd.ny.gov.MWBE/directorySearch.html>

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

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

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

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

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

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

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

23. **COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.** If this is a contract for consulting services, defined for

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

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

25. **CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.** To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. **IRAN DIVESTMENT ACT.** By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the - Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012 - (Prohibited Entities List) posted at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

January, 2014

Certified by - on



**Award Contract****Project No.**

CR15-1023-E01

**Grantee Name**

Oneida County

06/14/2017

## APPENDIX A1

## AGENCY-SPECIFIC CLAUSES

1. If this Agreement exceeds \$50,000, it shall not take effect until it is executed by the parties hereto and approved by the Attorney General and the Comptroller of the State of New York. If this Agreement is for \$50,000 or less, it shall not take effect until it is executed by both parties.

2. This Agreement sets forth the entire understanding of the parties and may not be altered or amended except in format approved by DCJS and the NYS Office of the State Comptroller, and electronically signed by the parties hereto.

3. The failure of a party to enforce a contractual obligation shall not eliminate the other party's obligation to perform such contractual obligation.

4. In the event that any provision of this Agreement is determined to be null and void, all remaining provisions shall continue to be in full force and effect.

5. The Grantee must notify DCJS in writing of any change in the number, title, job duties or rate of remuneration of project staff which changes the Personal Service Project Budget line by 10 percent or under. Any change in the number, title, job duties or rate of remuneration of project staff which changes the Project Budget line more than 10 percent must be approved in writing by DCJS prior to implementation. The Grantee agrees to provide DCJS with resumes and supporting documentation upon request.

6. The Grantee shall submit detailed itemization forms for personal service and fringe benefit expenditures, in a format determined by DCJS, with any voucher and Fiscal Cost Reports requesting payment for expenditures.

7. The Grantee must maintain specific documentation as support for project related personal service expenditures, depending upon whether this grant contract project is supported by State or Federal funds:

## A. For State funded grants:

For all Grantee's staff whose salaries are paid in whole or in part from grant funds provided under this Agreement, the Grantee shall maintain a time recording system which shows the time devoted to the grant project. The system shall consist of time sheets, computerized workload distribution reports, or equivalent systems. The time devoted to grant activities must be determinable and verifiable by DCJS. If time sheets are used, each must be signed by the individual and certified by the individual's supervisor in a higher level position at the end of each time reporting period.

## B. For Federally funded grants:

Depending upon the nature or extent of personal service provided under this Agreement, the Grantee shall maintain semi-annual (or more frequent) personal service certifications and/or an after-the-fact personnel activity reporting system (or equivalent) which complies with the requirements of the Federal Office of Management and Budget (OMB) Circulars A-21, A-87 or A-122, as applicable:

1. OMB Circular A-21 [Item J, General provisions for selected items of cost] identifies documentation required for educational institutions as support for grant project personnel costs.

2. OMB Circular A-87 [Attachment B, Selected Items of Cost] identifies the documentation required for local government agencies as support for grant project personnel costs.

3. OMB Circular A-122 [Attachment B, Selected Items of Cost] identifies the documentation required for non-profit organizations as support for grant project personnel costs.

The most current version of these Federal OMB Circulars may be viewed on-line at:

[http://www.whitehouse.gov/omb/circulars\\_default/](http://www.whitehouse.gov/omb/circulars_default/). The Grantee is to ensure full compliance with specific personal service documentation requirements of these OMB Circulars as applicable directly to the Grant recipient and to any sub-recipient (or collaborative agency/organization). Failure to do so may result in disallowance of costs upon audit.

8. Budget amendments are governed as follows:

A. Any proposed modification to the contract must be submitted for prior approval by DCJS and the NYS Office of the State Comptroller (OSC) when:

1. The amount of the modification is equal to or greater than ten percent of the total value of the contract for contracts of less than five million dollars; or
2. The amount of the modification is equal to or greater than five percent of the total value of the contract for contracts of five million dollars or more.

An Appendix X setting forth the proposed amendment must be electronically signed via the Grants Management System by the Grantee for approval by DCJS and the NYS Office of the State Comptroller before the next voucher and/or fiscal cost report will be approved.

B. For proposed modifications to the contract below the DCJS/OSC approval thresholds as set forth in 8 (A), the following shall apply:

1. The Grantee is not permitted to reallocate funds between Personal Service and Non-Personal Service budget categories without the prior approval of DCJS. A grant amendment setting forth the proposed reallocation must be approved by DCJS via the Grants Management System before the next voucher and/or fiscal cost report will be approved.
2. The Grantee is not permitted to reallocate funds between Non-Personal Service budget categories without the prior approval of DCJS when the amount of the modification is equal to or greater than ten percent of the category. A grant amendment setting forth the proposed reallocation must be approved by DCJS via the Grants Management System before the next voucher and/or fiscal cost report will be approved.
3. Prior approval by DCJS is not required for Non-Personal Service budget changes which are less than 10 percent. These changes, however, must be submitted to DCJS with the next voucher or fiscal cost report submission.

Requests for modifications must be made in writing by an authorized representative of the Grantee.

9. Space rental provided by this Agreement must be supported by a written lease, maintained on file and made available by the Grantee upon request.

10. The Grantee's request for travel, meals or lodging reimbursement shall be in accordance with Appendix B, Budget, and, unless prior written authorization has been received from DCJS, shall not exceed rates authorized by the NYS Office of the State Comptroller.

11. The Grantee's employment of a consultant must be supported by a written agreement executed by the Grantee and the consultant. A consultant is defined as an individual or organization hired by the Grantee for the stated purpose of accomplishing a specific task relative to the funded project. A copy of the agreement must be submitted to DCJS with the appropriate voucher for payment. All consultant services must be obtained in a manner that provides for fair and open competition. The Grantee shall retain copies of all solicitations seeking a consultant, written agreements and documentation justifying the cost and selection of the consultant. The Grantee further agrees that it shall assume sole and complete responsibility for fulfilling all the obligations set forth in the Agreement and the Grantee must guarantee the work of the consultant as if it were its own.

A. The rate for a consultant should not exceed \$650 for an eight-hour day (not including travel and subsistence costs). A rate exceeding \$650 per eight-hour day requires prior written approval from DCJS and may be approved on a case-by-case basis where adequate justification is provided and expenses are reasonable and allowable.

B. In addition to the above requirements, a Grantee that is a local government or a not-for-profit must adhere to the following guidelines at a minimum when obtaining consultant services:

1. Consultant services that cost up to \$999 under this grant agreement can be obtained at the Grantee's discretion.
2. Consultant services that cost between \$1,000 and \$4,999 under this grant agreement must be supported by at least three telephone quotes and a record created of such quotes.
3. Consultant services that cost between \$5,000 and \$9,999 under this grant agreement must be supported by at least three written quotes on a vendor's stationery and a record created of competitive procurement process utilized.
4. A Grantee obtaining consultant services that cost in excess of \$10,000 must use a competitive bidding process. Guidance may be obtained from DCJS. At a minimum, the competitive bidding process must incorporate the following: open, fair advertisement of the opportunity to provide services; equal provision of information to all interested parties; reasonable deadlines; sealed bids opened at one time before a committee who will certify the process; establishment of the methodology for evaluating bids before the bids are opened; and maintenance of a record of competitive procurement process.

C. A Grantee who proposes to obtain consultant services from a particular vendor without competitive bidding, must obtain the prior written approval of DCJS. The request for approval must be in writing and set forth, at a minimum, a detailed justification for selection and basis upon which the price was determined to be reasonable. Further, such consultant services must be in accordance with the guidelines, bulletins and regulations of the NYS Office of the State Comptroller, State Procurement Council, and the U.S. Department of Justice. A copy of DCJS' approval must also be submitted with the voucher for payment.

D. Notwithstanding the provisions of this paragraph, the Parties agree that DCJS' prior written approval is not required for the employment of a consultant when such employment is secured in relationship to a criminal matter as an expert witness, consultant or investigator. The Parties agree that the employment shall be supported by a written agreement and that all requests for reimbursement shall be supported by documentation identifying the criminal matter involved, services provided, time commitment and schedule. Such agreement and documentation shall be submitted to DCJS with the appropriate voucher for payment.

12. All procurements, other than consultant services, shall be conducted in the following manner. Written justification and documentation for all procurements must be maintained on file and made available upon request. Detailed itemization forms for non-personal service expenditures, in a format determined by DCJS, shall accompany each voucher and Fiscal Cost Report requesting payment. All procurements must be made in a fair and open manner and in accordance with the pre-determined methodology established for evaluating bids (e.g., lowest responsive bidder or best value).

A. A Grantee that is a state entity must make all procurements in accordance with State Finance Law Article 11, and any other applicable regulations.

B. A Grantee that is a local government must make procurements in accordance with General Municipal Law Article 5-A and any other applicable regulations.

C. In addition, a Grantee that is a not-for-profit must also make all procurements as noted below:

1. If the Grantee is eligible to purchase an item or service from a government contract or is able to purchase such item or service elsewhere at a lower than or equal price, then such purchase may be made immediately.

2. A Grantee may purchase any single piece of equipment, single service or multiples of each that cost up to \$999 at its discretion.

3. Before purchasing any piece of equipment, service or multiples of each that have an aggregate cost between \$1,000 and \$4,999, a Grantee must secure at least three telephone quotes and create a record for audit of such quotes.

4. Before purchasing any piece of equipment, service or multiples of each that have an aggregate cost between \$5,000 and \$9,999, the Grantee must secure at least three written quotes on a vendor's stationery and maintain a record of the competitive procurement process for audit purposes.

5. A Grantee spending in aggregate of \$10,000 and above must use a competitive bidding process. Guidance may be obtained from DCJS. At a minimum, the competitive bidding process must incorporate the following: open, fair advertisement of the opportunity to provide services; equal provision of information to all interested parties; reasonable deadlines; sealed bids opened at one time before a committee who will certify the process; establishment of the methodology for evaluating bids before the bids are opened; and maintenance of a record of competitive procurement process.

6. A Grantee who proposes to purchase from a particular vendor without competitive bidding must obtain the prior written approval of DCJS. The request for approval must be in writing and set forth, at a minimum, a detailed justification for selection and the basis upon which the price was determined to be reasonable. Further, such procurement must be in accordance with the guidelines, bulletins and regulations of the NYS Office of the State Comptroller, State Procurement Council, and the U.S. Department of Justice. A copy of DCJS' approval must also be submitted with the voucher for payment.

13. Applicable equipment purchased with funds provided by this Agreement as listed in Appendix B, Budget, shall be assigned a unique inventory number. The Grantee shall list all applicable equipment purchased with such funds in the GMS Property Module at the time the last program progress report is filed or sooner. Items of equipment costing less than \$500 do not need to be listed in the GMS Property Module although the Grantee is encouraged to maintain an internal inventory for audit purposes. Upon completion of all contractual requirements by the Grantee, DCJS will consider a request for continued use and possession of the equipment purchased with grant funds provided the equipment continues to be used in conducting a criminal justice program.

14. Grant funds may be expended only for purposes and activities set forth in this Agreement. Accordingly, the most important single requirement of accounting for this grant is the complete and accurate documentation of grant expenditures. If the Grantee receives funding from two or more sources, all necessary steps must be taken to ensure that grant-related transactions are not commingled. This includes, but is not limited to, the establishment of unique budget codes, a separate

cost center, or a separate chart of accounts. Expenditures must be cross-referenced to supporting source documents (purchase orders, contracts, real estate leases, invoices, vouchers, timesheets, mileage logs, etc.). Grantee agrees it shall maintain adequate internal controls and adhere to Generally Accepted Accounting Principles for Government or Generally Accepted Accounting Principles for Not-for-Profit Organizations.

This Agreement may be subject to a fiscal audit by DCJS to ascertain financial compliance with Federal and/or State laws, regulations, and guidelines applicable to this Agreement. Such audits may include review of the Grantee's accounting, financial, and reporting practices to determine compliance with the Agreement and reporting requirements; maintenance of accurate and reliable original accounting records in accordance with governmental accounting standards as well as generally accepted accounting principles; and specific compliance with allowable cost and expenditure documentation standards prescribed by applicable Federal, State, and DCJS guidelines.

15. Where advance payments are approved by DCJS, the Grantee agrees to expend the advance payments in accordance with the purposes set forth in Appendix D and consistent with Appendix B.

16. DCJS reserves the right to suspend program funds if the Grantee is found to be in noncompliance with the provisions of this Agreement or other grant agreements between the Grantee and DCJS or, if the Grantee or principals of the Grantee are under investigation by a New York State or local law enforcement agency for noncompliance with State or Federal laws or regulatory provisions or, if in DCJS' judgment, the services provided by the Grantee under the Agreement are unsatisfactory or untimely. DCJS shall provide the Grantee with written notice of noncompliance. Upon the Grantee's failure to correct or comply with the written notice by DCJS, DCJS reserves the right to terminate this Agreement, recoup funds and recover any assets purchased with the proceeds of this Agreement. DCJS reserves the right to use approved grant related expenditures to offset disallowed expenditures from any grant funded through its offices upon issuance of a final audit report and appropriate notification to the Grantee, or upon reasonable assurance that the Grantee is not in compliance with Agreement terms.

17. The Grantee agrees, as a material condition of the Agreement, to comply with all applicable provisions of the Hatch Act (5 U.S.C. "1501 et seq.) as amended.

18. Program income earned by the Grantee during the funding period as a direct result of the grant award must be reported in writing to DCJS, in addition to any other statutory reporting requirements. This includes income received from seized and forfeited assets and cash, as well as: sale of grant purchased property; royalties; fees for services; and registration/tuition fees. Interest earned on grant funds is not program income unless specified in Appendix D. The Grantee agrees to report the receipt and expenditures of grant program income to DCJS. All income, including interest, generated by the use of these grant funds will be used to enhance the grant project.

19. If applicable, the Grantee agrees to obtain not-for-profit status, a federal identification number, and a charitable registration number (or a declaration of exemption) and to furnish DCJS with this information as soon as it is available.

20. Unless otherwise specified, in accordance with the State Finance Law, the availability of all State funds for liabilities already incurred thereunder shall cease on September 15th of the year following the fiscal year in which the funds were appropriated, unless such funds are reappropriated by the New York State Legislature. To ensure payment, vouchers must be received by DCJS by August 1st of the year following the fiscal year in which the funds were appropriated.

21. The Grantee will submit program progress reports to DCJS via the GMS system and additional information or amended data as required in Appendix D.

A. Program progress reports will be due on the last day of the month following the end of each calendar quarter or on an alternate schedule as prescribed in Appendix D. The first program progress report will be due on the last day of the month following the last day of the calendar quarter from the start date of the contract.

Program progress reports thereafter will continue to be made until such time as the funds subject to this Agreement are no longer available, have been accounted for, and/or throughout the Agreement period or project duration.

Calendar quarters, for the purposes of making program progress reports, shall be as follows:

Calendar Quarter  
Report Due

January 1 - March 31  
April 30

April 1 - June 30  
July 31

July 1 - September 30

October 31

October 1 - December 31

January 31

B. The final progress report will summarize the project's achievements as well as describe activities for that quarter.

22. If for any reason the State of New York or the federal government terminates its appropriation through DCJS or fails to pay the full amount of the allocation for the operation of this program, this Agreement may be terminated or reduced at the discretion of DCJS, provided that no such reduction or termination shall apply to allowable costs already incurred by the Grantee where funds are available to DCJS for payment of such costs. Upon termination or reduction of the Agreement, all remaining funds paid to the Grantee that are not subject to allowable costs already incurred by the Grantee shall be returned to DCJS. In any event, no liability shall be incurred by DCJS or by the State of New York beyond monies available for the purposes of this Agreement. The Grantee acknowledges that any funds due to DCJS because of disallowed expenditures after audit shall be its responsibility.

23. If Appendix B, Program Budget, makes provisions for overtime payment, the Grantee agrees to submit vouchers for such payment of overtime charges by the last day of the month following the last day of the quarter for the reporting period. The Grantee further agrees to limit overtime earnings to no more than 25 percent (25%) of the employee's annual personnel cost (salary plus fringe benefits) during the term of this Agreement. No reimbursements for overtime charges in excess of this 25 percent (25%) limit will be made unless prior written approval has been obtained from DCJS.

24. None of the goals, objectives or tasks set forth in Appendix D shall be subawarded to another organization without specific prior written approval by DCJS. Where the intention to make subawards is clearly indicated in the application, DCJS' approval is deemed given, if these activities are funded as proposed.

If this Agreement makes provisions for the Grantee to subgrant funds to other recipients, the Grantee agrees that all subgrantees shall be held accountable by the Grantee for all terms and conditions set forth in this Agreement. The Grantee further agrees that it shall assume sole and complete responsibility for fulfilling all the obligations set forth in the Agreement and the Grantee must guarantee the work of any subgrantee as if it were its own.

The Grantee agrees that all subgrantee arrangements shall be formalized in writing between the parties involved. The writing must, at a minimum, include the following information:

- Activities to be performed;
- Time schedule;
- Project policies;
- Other policies and procedures to be followed;
- Dollar limitation of the Agreement;
- Appendix A, Appendix A-1, Appendix C, Appendix M, Certified Assurances for Federally Supported Projects, Certification Regarding Lobbying, Debarment and Suspension and any special conditions set forth in the Agreement; and
- Applicable Federal and/or State cost principles to be used in determining allowable costs.

The Grantee will not be reimbursed for subgranted funds unless all expenditures by a subgrantee are listed on certification forms. Backup documentation for such expenditures must be made available upon request. All expenditures must be programmatically consistent with the goals and objectives of this Agreement and with the financial plan set forth in Appendix B.

## 25. Federal Funds

A. In accordance with Federal requirements, a Grantee which receives during its fiscal year \$500,000 or more of Federal funds (including pass-through and direct) from all sources, including this Agreement, must agree to have an independent audit of

such Federal funds conducted in accordance with the Federal Office of Management and Budget (OMB) Circular A-133. OMB Circular A-133 further requires that the final report for such audit be completed within nine months of the end of the Grantee's fiscal year. The Grantee further agrees to provide one copy of such audit report(s) to DCJS within nine months of the end of its fiscal year(s).

B. In accordance with Federal requirements, a Grantee receiving Federal pass-through funds must also agree to comply with the terms and conditions of any and all applicable Federal OMB Circulars. For the convenience of the Grantee, the following OMB circulars are noted as the most common applicable to federal funds passed through DCJS:

- OMB Circular A 21, Cost Principles for Educational Institutions;
- OMB Circular A 87, Cost Principles for State, Local and Indian Tribal Governments;
- OMB Circular A 102, Grants and Cooperative Agreements With State and Local Governments;
- OMB Circular A 110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non Profit Organizations; and
- OMB Circular A 122, Cost Principles for Non Profit Organizations.

The Parties agree that, dependent upon the status of the Grantee; additional circulars may also be applicable. The most current version of all Federal OMB Circulars may be viewed on-line at: [http://www.whitehouse.gov/omb/circulars\\_default/](http://www.whitehouse.gov/omb/circulars_default/).

The Grantee is to ensure full compliance with all cost documentation requirements of OMB Circulars as applicable directly to the Grant recipient and to any sub-recipient (or collaborative agency/organization). Failure to do so may result in disallowance of costs upon audit.

26. Any creative or literary work developed or commissioned by the Grantee with grant support provided by DCJS shall become the property of DCJS, entitling DCJS to assert a copyright therein, unless the parties have expressly agreed otherwise in a written instrument signed by them.

A. If DCJS shares its right to copyright such work with the Grantee, DCJS reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use: (a) the copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and (b) any rights of copyright to which a Grantee, Subgrantee, or a Contractor purchases ownership with grant support.

B. If the grant support provided by DCJS is federally sponsored, the federal awarding agency also reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use: (a) the copyright in any work developed under a grant, subgrant or contract under a grant or subgrant; and (b) any rights of copyright to which a Grantee, Subgrantee, or a Contractor purchases ownership with such grant support.

C. The Grantee shall submit one copy of all reports and publications resulting from this Agreement to DCJS. Any publications must contain the following statement, in visible print, of any document generated pursuant to a grant administered by DCJS:

This project was supported by a grant administered by the New York State Division of Criminal Justice Services. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the Division of Criminal Justice Services.

27. Original records must be retained for six years following the submission of the final claim against this Agreement. In the event of a fiscal audit, the project manager or a designated responsible party must be prepared to produce source documents that substantiate claimed expenditures. DCJS requires that all documentation materials be organized, readily accessible, and cross-referenced to the Fiscal Cost Reports previously submitted. If fiscal records, such as purchase orders, vouchers, payroll registers, payroll tax records, etc., are to be kept in a fiscal office which is separate and apart from the program office, the project manager must have access to these original records. Such fiscal records must readily identify the associated project. In addition, a separate set of records must be retained for each project year.

28. Grant-related expenditures shall be reported on Fiscal Cost Reports and detailed itemization forms provided by DCJS. These reports must be prepared periodically as defined in Appendix C of this Agreement. All reported expenditures must reconcile to the program accounting records. Prior period adjustments shall be reported in the same accounting period that the correction was made.

#### 29. General Responsibility Language

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of the New York State Division of Criminal Justice Services or his or her designee, to present evidence of its

continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

30. Suspension of Work (for Non-Responsibility)

The Commissioner of the New York State Division of Criminal Justice Services or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of the New York State Division of Criminal Justice Services or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

31. Termination (for Non-Responsibility)

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate Agency officials or staff, the Contract may be terminated by the Commissioner of the New York State Division of Criminal Justice Services or his or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of the New York State Division of Criminal Justice Services or his or her designee to be non-responsible. In such event, the Commissioner of the New York State Division of Criminal Justice Services or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

VER 05/13/2013

Certified by - on

**Award Contract****Crimes Against Revenue****Project No.****Grantee Name**

CR15-1023-E01

Oneida County

06/14/2017

**APPENDIX B - Budget Summary by Participant**

Oneida County

Oneida County District Attorneys Office - Version 1

#	Personnel	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	Part-time Assistant District Attorney	1	\$35,000.00	\$35,000.00	\$35,000.00	\$0.00
Justification: This project will require the undivided attention of an additional Assistant District Attorney. We have hired a part-time ADA under the grant in order to keep the cost of said position to a minimum. The approximate cost of a part-time ADA will be \$35,000 plus \$3,535 in fringe benefits for the one year appointment. This ADA will be tasked with the management of the project from investigation through the prosecution stage which will include the drafting of any search warrants, subpoenas, accusatory instruments, and/or indictments. The part-time ADA will allocate 100% of their time to CARP projects only.						
2	Assistant District Attorney (approximately 25% of full-time salary of \$60,000)	1	\$15,000.00	\$15,000.00	\$15,000.00	\$0.00
Justification: Approximately 25% of total salary (\$60,000) for CARP ADA to work on CARP cases.						
3	2 Part-time Investigators (approx. 910 hours each at \$22.44/hour)	1	\$40,840.00	\$40,840.00	\$40,840.00	\$0.00
Justification: For two part-time investigators for approx. 910 hours each at \$22.44/hour to investigate CARP cases = \$40,840.						
Total				\$90,840.00	\$90,840.00	\$0.00

#	Fringe Benefits	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	Fringe for Part-time Assistant District Attorney (10.1% of grant-funded salary)	1	\$3,535.00	\$3,535.00	\$3,535.00	\$0.00
Justification: \$35,000 x 10.10% (FICA 7.65% + Workers Compensation 2.20% + Unemployment 0.25%)						
2	Fringe Benefits for 2 Part-time Investigators x approx. \$2,062.50 each	1	\$4,125.00	\$4,125.00	\$4,125.00	\$0.00
Justification: \$40,841 x approx. 10.1% for authorized fringe benefits for two part-time investigators.						
Total				\$7,660.00	\$7,660.00	\$0.00

#	Consultant Services	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	Forensic Auditors (2 auditors @ approx. \$12,870 each)	1	\$25,740.00	\$25,740.00	\$25,740.00	\$0.00
Justification: \$25,740 (This amount represents the total aggregate budget for 2 Forensic Auditors). The compensation rate is \$33 per hour. The aggregate budget would be the maximum allowable expenditure under the grant between all two (2) Auditors for an aggregate total of 780 hours to be divided between the Auditors based upon their availability.						
Total				\$25,740.00	\$25,740.00	\$0.00

#	Supplies	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	Office Supplies	1	\$985.00	\$985.00	\$985.00	\$0.00
Justification: Paper, Ink cartridges, etc....						
Total				\$985.00	\$985.00	\$0.00

#	Travel and Subsistence	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	Travel and Training	1	\$500.00	\$500.00	\$500.00	\$0.00
Justification: To attend CARP training courses and/or any other relevant and necessary financial crimes investigation training courses for ADAs and Investigators.						
Total				\$500.00	\$500.00	\$0.00

#	Rental of Facilities	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	User Fee for Economic Crime Lab	1	\$25,000.00	\$25,000.00	\$25,000.00	\$0.00
Justification: In order to facilitate the project, we will need to use the Economic Crime Lab at Utica College. The scope of this project will require extensive use of the facility and their computer equipment, we are being asked to compensate them. Utica College has been an extraordinary partner over the last few years and we wish to maintain that partnership. Our payment of						



the user fee to Utica College would allow us to continue to share the Economic Crime Lab as an available resource to other counties at a reduced cost or no cost. With the addition of the number of personnel, we have no room to house the project in our office. So, it is a necessary expense. Utica College is requesting \$25,000 for use of the facility and equipment for year. It should also be noted that the use of the lab allows us access to their link analysis software which the interns are trained to use. Analysts Notebook is an expensive link analysis software which costs approximately \$48,000 to purchase two licenses for all of the necessary components.

Total	\$25,000.00	\$25,000.00	\$0.00
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#	All Other Expenses	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	Intern Stipends (4 @ approx. \$5,000 each)	1	\$20,000.00	\$20,000.00	\$20,000.00	\$0.00

Justification: It is our belief that by compensating them at \$10 per hour will allow us to attract and retain the cream of the crop from the Economic Crime Program. Depending upon the number of qualified interns we are able to hire, the number of hours may vary. For this project, we will seek a minimum of four interns to work 10 hours per week for the one year period (4 interns x 10 hrs. per week x 50 weeks = 2,000 total hours at \$10 per hour for a total of \$20,000).

Total	\$20,000.00	\$20,000.00	\$0.00
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Total Project Costs	Total Cost	Grant Funds	Matching Funds
	\$170,725.00	\$170,725.00	\$0.00

Total Contract Costs	Total Cost	Grant Funds	Matching Funds
	\$170,725.00	\$170,725.00	\$0.00

**Award Contract****Project No.**

CR15-1023-E01

**Grantee Name**

Oneida County

06/14/2017

## APPENDIX C

## PAYMENT AND REPORTING SCHEDULE

NOTE: Additional payment provisions associated with the schedule(s) below are detailed in Appendix A-1.

## For All Grantees:

1. The Grantee agrees that this is a reimbursement-based contract; an advance may be provided through Appendix D (Special Conditions). All requests for reimbursement must reflect actual costs that have been disbursed or items received by the Grantee. A purchase order issued without receipt of the items or service is not eligible for reimbursement.

2. Grantees must submit all required fiscal reports, supporting documentation and program progress reports. Failure to meet these requirements will result in the rejection of associated vouchers. Failure to submit the final program report, or interim progress report designated as the final report, may result in a disallowance of 25 percent (25%) of the grant amount. The Grantee must also refund all unexpended advances (see item three below.) Final vouchers, reimbursement payment and reports must be submitted by the last day of the month following the end of the grant contract period. Failure to voucher within this period may result in the loss of grant funds.

3. If at the end of this grant contract there remains any unexpended balance of the monies advanced under this contract in the possession of the Grantee, the Grantee shall submit a certified check or money order for the unexpended balance payable to the order of the State of New York and return it to the DCJS Office of Financial Services with its final fiscal cost report by the last day of the month following termination of this grant contract.

4. Vouchers shall be submitted in a format acceptable to DCJS and the Office of the State Comptroller (see <http://www.criminaljustice.ny.gov/ofpa/forms.htm>). Vouchers submitted for payment shall be deemed to be a certification that the payments requested are for project expenditures made in accordance with the items as contained in the Project Budget (Appendix B) and during the contract period. When submitting a voucher, such voucher shall also be deemed to certify that: a) the payments requested do not duplicate reimbursement from other sources of funding; and b) the funds provided herein do not replace funds that, in the absence of this grant, would have been made available by the Grantee for this program. Requirement b) does not apply to Legislative sponsored State grants.

5. For purposes of prompt payment provisions, the Designated Payment Office for the processing of all vouchers is the DCJS Office of Financial Services. Payment of grant vouchers shall be made in accordance with the provisions of Article XI-A of the State Finance Law. Payment shall be preceded by an inspection period of 15 business days which shall be excluded from calculations of the payment due date for purposes of determining eligibility for interest payments. The Grantee must notify the Office of Financial Services in writing of a change of address in order to benefit from the prompt payment provision of the State Finance Law. When progress reports are overdue or the required MWBE reporting is not included, vouchers will not be eligible for prompt payment.

6. Timely and properly completed New York State vouchers, with supporting documentation when required, shall be submitted to:

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

## 7. Payment Schedule

## PAYMENT PAYMENT DUE DATE

1 Pending appropriation, 30 days after commencement date of contract with proper documentation or upon receipt of proper documentation, whichever is later.

2-4 Quarterly

A not-for-profit Grantee operating on a multi-year contract may voucher for an optional fifth quarter advance against the succeeding year's appropriation, pursuant to NYS Finance Law, Section 179-u.

All submitted vouchers will reflect the Grantee's actual expenditures and will be accompanied by supporting detailed itemizations of personal service and non-personal service expenditures and other documentation as required, and by a fiscal cost report for the reporting period. DCJS reserves the right not to release subsequent grant awards pending Grantee compliance with this Agreement. In the event that any expenditure for which the Grantee has been reimbursed by grant funds is subsequently disallowed, DCJS in its sole discretion may reduce the voucher payment by the amount disallowed. If necessary, the Grantee may be required to submit a final budget reallocation. Fiscal cost reports showing grant expenditures and/or obligations for each quarter of the grant must be submitted by the last day of the month after the last day of the reporting period.

Advance payments shall be permitted as specified in Appendix A-1, and in the amount specified in Appendix D (Special Conditions).

Payment requests need to include the following documents as required:

- Detailed Itemization of Personal Service Expenditures
- Detailed Itemization of Non-Personal Service Expenditures
- Detailed Itemization of Consultant Expenditures
- Expert witness agreement and supporting documentation
- Voucher and Fiscal Cost Report signed
- Written documentation of all required DCJS prior approvals as follows:
  - DCJS approval of non-competitive consultant.
  - DCJS approval of non-competitive vendor for services.
  - DCJS approval of consultant services reimbursement greater than \$450 per eight hour day.
  - DCJS approval of change to Personal Services by more than 10 percent.
  - DCJS approval to exceed NYS Office of the State Comptroller travel, meals and lodging rates.
  - DCJS approval to subaward to another organization.
  - DCJS approval for overtime payments exceeding 25 percent of an employee's annual personnel cost.
  - DCJS and NYS Office of the State Comptroller approval to modify the budget by more than 10 percent of the total value of the contract if the contract is less than five million.
  - DCJS and NYS Office of the State Comptroller approval to modify the budget by more than 5 percent of the total value of the contract if the contract is five million or more.
  - DCJS approval to reallocate funds between Personal Services and Non Personal Services.

8. CONTRACT PAYMENTS: Contractor shall provide complete and accurate billing invoices to the agency in order to receive payment. Billing invoices submitted to the agency must contain all information and supporting documentation required by the Contract, the Agency and the State Comptroller. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at [www.osc.state.ny.us/epay/index.htm](http://www.osc.state.ny.us/epay/index.htm), or by email at [epayments@osc.state.ny.us](mailto:epayments@osc.state.ny.us). Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

VER05/13/2013

Certified by - on

**Award Contract****Project No.**

CR15-1023-E01

**Grantee Name**

Oneida County

06/14/2017

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

Effectively investigate, prosecute, and deter crimes adversely affecting government revenues and expenditures, and recoup lost State revenue.

**Objective #1**

Develop an effective enforcement strategy in collaboration with the State Department of Taxation and Finance (DTF) and other government agencies as appropriate, in an order to detect, investigate, prosecute, and deter revenue crimes.

**Task #1 for Objective #1**

Develop a strategic plan of action to combat revenue crimes.

**# Performance Measure**

Provide DCJS and DTF with a detailed strategic plan of action. Plan should include but be not limited to, scope of 1 revenue crimes to be focused on, how referrals will be reviewed and managed, criteria utilized to evaluate and determine whether an investigation and/or prosecution should be pursued.

**Objective #2**

Implement the approved strategic plan of action in collaboration with DTF and/or other government agencies, to effectively investigate, prosecute, and deter revenue crimes adversely affecting State government revenues.

**Task #1 for Objective #2**

Review referrals from DTF, other applicable government agencies, and DA initiated cases to determine if an investigation is warranted. Report these on the required CARP Program Summary Worksheet.

**# Performance Measure**

- 1 Provide the total number of referrals received by DTF.
- 2 Provide the total number of referrals by affected agency.
- 3 Provide the total number of referrals by outside sources.
- 4 Provide the number of DA generated referrals.

**Task #2 for Objective #2**

Conduct thorough reviews of referred and DA initiated investigations. Report these on the required CARP Program Summary Worksheet.

**# Performance Measure**

- 1 Provide the number of investigations opened per category.
- 2 Provide the number of arrests within the quarter.
- 3 Provide the total number of cases where an accusatory instrument was filed.
- 4 Provide a brief narrative detailing any notable investigations conducted or events in this quarter.

**Task #3 for Objective #2**

Conduct, in collaboration with DTF, effective prosecution of revenue crimes. Report these on CARP Program Summary Worksheet.

**# Performance Measure**

- 1 Provide the total number of cases prosecuted by agency.
- 2 Provide the number of cases dismissed or disposed of without prosecution by agency.

- 3 Provide the number of open cases.
- 4 Provide the total number and type of sentences by agency.
- 5 Provide a brief narrative detailing the collaboration between prosecutors and the DTF on significant revenue crime cases. Include any notable prosecutions or events.

#### Objective #3

Recover ordered restitution in revenue crime prosecution.

#### Task #1 for Objective #3

Effectively enforce collection of restitution ordered. Report amounts on the required CARP Program Summary Worksheet.

#### # Performance Measure

- 1 Provide the total amount of restitution ordered from cases disposed within the quarter.
- 2 Provide the total amount of initial payments made toward restitution within the quarter.
- 3 Provide the total amount of restitution recovered (not including initial payments) within the quarter.
- 4 Provide the amount of any fines and penalties recovered in the quarter.
- 5 Provide the amount of restitution recovered within the quarter credited as CARP revenue.
- 6 In GMS provide a brief narrative and recovery amount of any civil litigation.
- 7 Provide a brief narrative describing and/or projecting any enhanced State savings or decreased State expenditures. These figures should be separate and distinct.
- 8 Provide a brief narrative outlining prosecutorial efforts to pursue restitution not being paid according to the terms and conditions of the court order. Include any notable occurrences that either hindered or enhanced restitution recovery.

#### Objective #4

Enhance CARP investigative and prosecutorial efforts of the District Attorneys Office through training and/or meetings.

#### Task #1 for Objective #4

Attend educational trainings and/or meetings.

#### # Performance Measure

- 1 Provide the title, date(s) and location (s) of any training attended. Note: All out-of-state training, funded by DCJS, requires prior approval.
- 2 Provide the name and title of attendees.
- 3 Provide a brief narrative summarizing the trainings attended.

#### Objective #5

To implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 Minority and Women-Owned Business Enterprises Regulations (MWBE) by providing meaningful participation by NYS Certified MWBEs, as defined as subcontractors or suppliers. These requirements include equal employment opportunities for minority group members and women.

#### Task #1 for Objective #5

Utilize good faith efforts, pursuant to 5 NYCRR §142.8 of the New York State Executive Law Article 15-A, to meet the maximum feasible portion of the organization's established MWBE goals.

#### # Performance Measure

- 1 Identify if you are on target to meet the established Minority and Women Business Enterprise goals by the end of the contract period. NOTE: This performance measure requires a yes or no response, at a minimum.

**Award Contract****Project No.**

CR15-1023-E01

**Grantee Name**

Oneida County

06/14/2017

**Award Conditions**

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

**APPENDIX D - Special Conditions**

Upon approval of this grant by the Office of the State Comptroller, or DCJS for a "T" contract only, a not-for-profit Grantee is authorized to initially voucher for advance payment of those prospective expenses previously approved by DCJS not to exceed \$\_\_\_\_\_.00 from the total contracted amount. Consistent with paragraph 15 of Appendix A-1 of this grant contract, vouchers for advance payments for the purchase of equipment and supplies must be supported by a copy of the purchase order.

**Appendix D - Special Conditions****A. Publications:**

1. The implementing agency will submit to DCJS for review all proposed written, visual or sound materials prior to their public release. Any such materials shall contain the following statement: "This project is supported by a grant from the New York State Crimes Against Revenue Program (CARP). Points of view expressed are those of the author and do not necessarily represent the official position or policies of the NYS Division of Criminal Justice."
2. No materials, items or publications resulting from award activities may use the DCJS logo or provide any attribution to DCJS in any form, without the prior approval from the Executive Deputy Commissioner of DCJS or his/her designee. Requests for such approval must be submitted in writing to DCJS' Deputy Commissioner and Counsel at least 30 calendar days before requested use. Determinations of such requests will be made by the DCJS Executive Deputy Commissioner on a case-by-case basis.
3. The grantee, in cooperation with DCJS, the Department of Taxation and Finance (DTF) and/or any other state agencies where applicable, will publicize noteworthy prosecutions to promote deterrence.

**B. Program:**

1. Grantee agrees that if the project is not implemented within 60 calendar days of the project start date, it will report in writing to DCJS the steps taken to initiate the project, the reasons for delay, and the expected implementation date. If the project is not operational within 90 calendar days of the original start date of the grant period, the Grantee will submit a second written statement to DCJS explaining the delay. At the discretion of the Executive Deputy Commissioner of DCJS, the State may either revoke and redistribute the funds or extend the implementation date of the project beyond the 90-day period when warranted by extenuating circumstances.
2. All criminal justice information management software which a grantee may purchase or develop with funds provided under the terms of this agreement must conform to established New York State criminal justice data standards as documented in the most current version of the New York Statewide Criminal Justice Data Dictionary. In addition, all such information management software purchased or developed with funds provided under the terms of this agreement must conform to statewide standards for the collection, processing and reporting of criminal justice information as documented in the New York State Standard Practices Manual for the Processing of Fingerprintable Criminal Cases. The latest versions of both documents referenced above can be accessed on the DCJS web site at <http://www.criminaljustice.ny.gov/dict/dict.htm> and [http://www.criminaljustice.ny.gov/pio/fp\\_services.htm](http://www.criminaljustice.ny.gov/pio/fp_services.htm) or obtained by calling the DCJS Customer Contact Center at (800) 262-3257.
3. The grantee shall submit a signed Memorandum of Understanding (MOU) with DTF and other agencies if appropriate, to set forth roles, responsibilities and coordination between the parties, with respect to the investigation and prosecution of tax crimes and other fraud that can adversely affect governmental revenues.
4. The grantee shall submit a signed Certificate of Attestation stating these funds will be used to supplement, not supplant, existing funds and services, and that all personnel supported through this contract will work on CARP activities for the percentage of time that is commensurate with the portion of their salary funded by this grant.

5. Grantee shall enroll as a user with the Integrated Justice Portal (IJPortal) and make use of the IJPortal services as applicable. Instructions for accessing and submitting crime reports through the IJPortal can be found at: [http://www.criminaljustice.ny.gov/crimnet/ojsa/crimereporting/ucr\\_refman/IJPortal-UCR-Data-Entry-Manual.pdf](http://www.criminaljustice.ny.gov/crimnet/ojsa/crimereporting/ucr_refman/IJPortal-UCR-Data-Entry-Manual.pdf).

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

### C. Funding:

1. Notwithstanding the provisions of paragraph 11 of Appendix A1, the parties agree that DCJS' prior approval is not required for the employment of a consultant when such employment is secured in relationship to a criminal matter as an expert witness, consultant or investigator. The parties agree that the employment shall be supported by a written agreement and requests for reimbursement supported by documentation identifying the criminal matter involved, services provided, time commitment and fee schedule.

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

3. 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.

Upon approval of this grant by the Office of the State Comptroller, or DCJS for a "T" contract only, a not-for-profit Grantee is authorized to initially voucher for advance payment of those prospective expenses previously approved by DCJS not to exceed \$\_\_\_\_\_.00 from the total contracted amount. Consistent with paragraph 15 of Appendix A-1 of this grant contract, vouchers for advance payments for the purchase of equipment and supplies must be supported by a copy of the purchase order.

## Appendix D - Special Conditions

### A. Publications:

1. The implementing agency will submit to DCJS for review all proposed written, visual or sound materials prior to their public release. Any such materials shall contain the following statement: "This project is supported by a grant from the New York State Crimes Against Revenue Program (CARP). Points of view expressed are those of the author and do not necessarily represent the official position or policies of the NYS Division of Criminal Justice."

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### B. Program:

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

2. All criminal justice information management software which a grantee may purchase or develop with funds provided under the terms of this agreement must conform to established New York State criminal justice data standards as documented in the most current version of the New York Statewide Criminal Justice Data Dictionary. In addition, all such information

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

3. The grantee shall submit a signed Memorandum of Understanding (MOU) with DTF and other agencies if appropriate, to set forth roles, responsibilities and coordination between the parties, with respect to the investigation and prosecution of tax crimes and other fraud that can adversely affect governmental revenues.
4. The grantee shall submit a signed Certificate of Attestation stating these funds will be used to supplement, not supplant, existing funds and services, and that all personnel supported through this contract will work on CARP activities for the percentage of time that is commensurate with the portion of their salary funded by this grant.
5. Grantee shall enroll as a user with the Integrated Justice Portal (IJPortal) and make use of the IJPortal services as applicable. Instructions for accessing and submitting crime reports through the IJPortal can be found at: [http://www.criminaljustice.ny.gov/crimnet/ojsa/crimereporting/ucr\\_refman/IJPortal-UCR-Data-Entry-Manual.pdf](http://www.criminaljustice.ny.gov/crimnet/ojsa/crimereporting/ucr_refman/IJPortal-UCR-Data-Entry-Manual.pdf).
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#### C. Funding:

1. Notwithstanding the provisions of paragraph 11 of Appendix A1, the parties agree that DCJS' prior approval is not required for the employment of a consultant when such employment is secured in relationship to a criminal matter as an expert witness, consultant or investigator. The parties agree that the employment shall be supported by a written agreement and requests for reimbursement supported by documentation identifying the criminal matter involved, services provided, time commitment and fee schedule.
2. This contract may be extended, increased, decreased, renewed, amended or renegotiated at the discretion of the Executive Deputy Commissioner of the Division of Criminal Justice Services or as otherwise agreed upon by the Parties.
3. 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.



**Award Contract****Project No.**

CR15-1023-E01

**Grantee Name**

Oneida County

06/14/2017

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Amendment created on - 08/08/2016  
Prior Contract Terms  
Contract Start Date - 01/01/2016  
Contract End Date - 12/31/2016  
Contract Amount - \$170,725.00

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

**Award Contract****Project No.**

CR15-1023-E01

**Grantee Name**

Oneida County

06/14/2017

**Appendix M - MWBE Contract Requirements (Local Assistance)****PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS: REQUIREMENTS AND PROCEDURES****I. General Provisions**

A. The Division of Criminal Justice Services (DCJS) is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (MWBE Regulations) for all state Contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

B. The Contractor to the subject contract (the Contractor and the Contract, respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the DCJS, to fully comply and cooperate with the DCJS in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (EEO) and contracting opportunities for certified minority and women-owned business enterprises (MWBEs). Contractor's demonstration of good faith efforts pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the Human Rights Law) or other applicable federal, state or local laws.

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

**II. Contract Goals**

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

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

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

**III. Equal Employment Opportunity (EEO)**

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

B. Contractor shall comply with the following provisions of Article 15-A:

1. Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

2. The Contractor agrees to the EEO Policy Statement as provided in Appendix M, or if the Contractor or Subcontractor has its own EEO policy statement it should include the following or similar language:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.

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

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

d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 2 and Paragraph E of this

Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

#### C. Staffing Plan

To ensure compliance with this Section, the Local Assistance MWBE Equal Employment Opportunity Staffing Plan Form is required for contracts with a total expenditure in excess of \$250,000. The Contractor shall submit the staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Local Assistance MWBE Equal Employment Opportunity Staffing Plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the Contract.

#### D. Workforce Employment Utilization Report

1. If the Local Assistance MWBE Equal Employment Opportunity Staffing Plan form is required, once a Contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the DCJS of any changes to the previously submitted Local Assistance MWBE Equal Employment Opportunity Staffing Plan. This information is to be submitted annually or as otherwise required by the DCJS during the term of the contract, for the purpose of reporting the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Local Assistance MWBE Workforce Employment Utilization Report form must be used to report this information.

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

3. In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or sub-contractor's total workforce, Contractor shall submit the Local Assistance MWBE Workforce Employment Utilization Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

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

#### IV. MWBE Utilization Plan

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

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

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

#### V. Waivers

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

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

#### VI. MWBE Subcontractor Utilization Quarterly Report

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

#### VII. Liquidated Damages & MWBE Participation

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

B. Such liquidated damages shall be calculated as an amount equaling the difference between:

1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

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

#### M/WBE AND EEO POLICY STATEMENT

The Contractor agrees to adopt the following policies with respect to the project being developed or services rendered in this

Contract with the Division of Criminal Justice Services:

**M/WBE**

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

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
- (2) Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.
- (3) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
- (4) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
- (5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
- (6) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

**EEO**

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document tis conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

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

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.

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

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract.

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

Certified by - on

Anthony J. Picente, Jr.  
County Executive



David Tomidy  
Director



# Oneida County Probation Department

321 Main Street, 2<sup>nd</sup> Floor, Utica, New York 13501

Utica ~ Phone: (315) 798-5914 Fax: (315) 624-3684  
Rome ~ Juvenile: (315) 356-1350 Adult: (315) 356-1300  
E-mail: [probation@ocgov.net](mailto:probation@ocgov.net) · Web Site: [www.ocgov.net](http://www.ocgov.net)

Deputy Director  
Patrick Cady

Supervisors  
Thomas Brognano  
Matthew Caracas  
Mark Joseph  
Holly Matthews  
John Sharrino

March 30, 2017

FN 20 17-281

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

**PUBLIC SAFETY  
WAYS & MEANS**

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

Anthony J. Picente, Jr.  
County Executive

Date 7/21/17

Re: Rome Safe Schools/Healthy Students Project  
2017-2018

Dear Mr. Picente:

Enclosed is an Agreement between the Probation Department and the Rome City School District wherein the school district reimburses the County for 50% of salaries, fringe benefits, and travel expenses for two full-time Probation Officers.

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

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

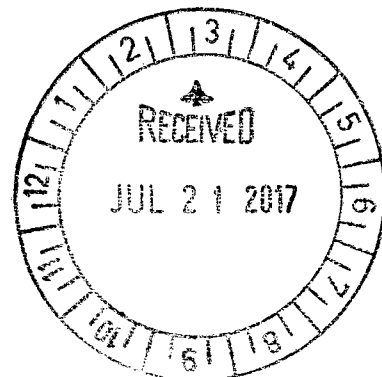
The Board and Your support of our programming continue to be most appreciated.

Very truly yours

DAVID TOMIDY  
PROBATION DIRECTOR

DT:kas

Enclosures: Contract, Contract Summary Sheet, Tracking Sheet



Oneida Co. Department: Probation

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

**ONEIDA COUNTY BOARD OF LEGISLATORS  
CONTRACT SUMMARY**

**Name & Address of Vendor:** Rome Safe Schools/Healthy Students Project  
Rome City School District  
Clough School, Bell Road  
Rome, New York 13440

**Title of Activity or Service:** Rome Safe Schools/Healthy Students Project

**Proposed Dates of Operation:** 7/1/2017 to 6/30/2018

**Client Population/Number to be Served:** Eligible students in the Rome School District

**Summary Statements:**

- 1) **Narrative Description of Proposed Services:** The Oneida County Probation Department provides Initial Response Team (IRT) services to the Rome City School District. It is an early intervention strategy where students just starting to display attendance and behavior problems are involved in a process wherein the Probation Department works with students, parents, school authorities, and service providers to effect positive outcomes and improvement.
- 2) **Program/Service Objectives and Outcomes:** This program is designed to reach 200 students and adjust 80% of those problems without formal Court intervention. In 2016 we worked with 257 cases and diverted 82%.
- 3) **Program Design and Staffing:** Two full-time Probation Officers are stationed full-time at Strough Junior High School, RFA, and Madison-Oneida Alternative Education buildings. They also service selected elementary schools as needed.

**Total Funding Requested:** \$80,995                      **Account#:** A3142 (Revenue)

**Oneida County Dept. Funding Recommendation:** \$80,995

**Proposed Funding Sources (Federal\$/State\$/County\$):** Rome City School District

**Cost Per Client Served:** In 2016 the cost per client served totaled \$610.00.

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

**O.C. Department Staff Comments:** Salaries, Fringe Benefits, and Travel are included in our 2017-2018 Budgets, and we receive further reimbursement from the Oneida County Youth Bureau and the NYS Office of Probation and Correctional Alternatives. This reduced the County share to \$38,355 at the conclusion of the 2016-2017 contract.

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

## **Agreement between Oneida County through its Probation Department and Rome City School District**

**THIS AGREEMENT** by and between ONEIDA COUNTY, a municipal corporation organized and existing under the laws of the State of New York, with its principal office located at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as the "County," through its PROBATION DEPARTMENT, with offices located at 321 Main Street, 2nd Floor, Utica, New York 13501, hereinafter referred to as "Probation Department," and ROME CITY SCHOOL DISTRICT, a city school district organized and existing under the laws of the State of New York, with its principal offices located at 409 Bell Road, Rome, New York 13440, hereinafter referred to as the "School District."

### **WITNESSETH**

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

**WHEREAS**, the School District seeks the Probation Department's IRT services to assist its students in the Rome Free Academy, Strough Middle School, and Madison-Oneida BOCES Alternative Education sites;

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

**1. TERM:**

- a. This Agreement shall be effective from July 1, 2017 until June 30, 2018, unless earlier terminated as provided hereafter.

**2. SCOPE OF SERVICES:**

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



- C. Counseling and assisting students, in the school setting, with problems relating to compliance;
  - D. Monitoring students' behavior at home, in school, and in the community;
  - E. Preparing progress reports on persons under probation supervision;
  - F. Establishing and maintaining contacts with social service and law enforcement agencies and cooperating therewith in matters of mutual interest.
- vii. Other Support Services may include but are not limited to mentoring and monitoring students referred by the School District; monitoring school hallways before, after, and between classes; assisting with school safety and security; and other services that the School District would reasonably expect from a Probation Officer.
- b. The Probation Department will provide two (2) full-time Probation Officers, who will provide the above-described services, as directed by the Probation Department, at the Rome Free Academy, Strough Middle School, and Madison-Oneida BOCES Alternative Education sites.

**3. REIMBURSEMENT FOR SERVICES:**

- a. The School District will reimburse the County in the amount of \$80,995.00 for conducting IRT services described above. Salary, fringe benefits, and related travel costs are included in the \$80,995.00 amount.
- b. Reimbursement for IRT services shall be made by the Probation Department's submission of a voucher to the School District, according to the School District's regular policy for payment of its vendors.

**4. INDEPENDENT CONTRACTOR STATUS:**

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

**5. TERMINATION:**

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

**6. INDEMNIFICATION:**

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

**7. NOTIFICATIONS:**

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

**8. AMENDMENT:**

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

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

ONEIDA COUNTY

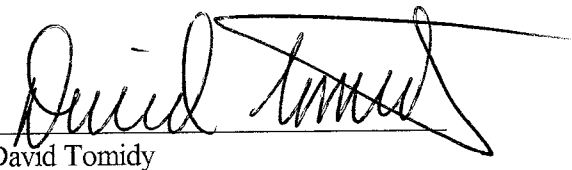
DATE: \_\_\_\_\_

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

Anthony J. Picente, Jr.  
Oneida County Executive

PROBATION DEPARTMENT


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

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

David Tomidy  
Director of Probation

ROME CITY SCHOOL DISTRICT

DATE: 7/6/17

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

Paul Fitzpatrick  
Board of Education President

APPROVED  
ONEIDA COUNTY ATTORNEY

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

Alison Stanulevich  
Asst. Oneida County Attorney

Anthony J. Picente, Jr.  
County Executive

David Tomidy  
Director



# Oneida County Probation Department

321 Main Street, 2<sup>nd</sup> Floor, Utica, New York 13501

Utica ~ Phone: (315) 798-5914 Fax: (315) 624-3684  
Rome ~ Juvenile: (315) 356-1350 Adult: (315) 356-1300  
E-mail: [probation@ocgov.net](mailto:probation@ocgov.net) · Web Site: [www.ocgov.net](http://www.ocgov.net)

Deputy Director  
Patrick Cady

Supervisors  
Thomas Brognano  
Matthew Caracas  
Mark Joseph  
Holly Matthews  
John Sharrino

May 26, 2017

FN 20 17-282

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

**PUBLIC SAFETY**  
**WAYS & MEANS**

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

Anthony J. Picente, Jr.  
County Executive  
Date 7/22/17

Re: Oneida/Madison County Agreement on PINS Protocols

Dear Mr. Picente:

Attached is an Agreement between Madison County and Oneida County memorializing the handling and processing of PINS cases in situations where the child resides in one county and commits alleged PINS behavior at school in the other county. The Counties have worked amicably on these PINS cases in the past, and continue to do so. The Counties now seek to formally define each county's obligations in this Agreement.

There are no financial concerns in this Agreement. Your continued support of our efforts is most appreciated. If you approve of this Agreement, please forward to the Board of Legislators for consideration at their next meeting.

Very truly yours,

DAVID TOMIDY  
PROBATION DIRECTOR

DT:kas  
Attachment



Oneida Co. Department: Probation Department

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

**ONEIDA COUNTY BOARD OF LEGISLATORS  
CONTRACT SUMMARY**

**Name & Address of Vendor:** Madison County  
Madison County Complex, Building 1  
P.O. Box 637  
133 North Court Street  
Wampsville, New York 13163

**Title of Activity or Service:** Oneida/Madison Counties PINS Cases

**Proposed Dates of Operation:** May 4, 2017 – May 4, 2022

**Client Population/Number to be Served:** PINS Cases that live in Madison County and go to school in Oneida County or vice versa.

**Summary Statements:**

1. **Narrative Description of Proposed Services:** Memorandum of understanding formally defining each county's obligations and responsibilities with these shared children displaying PINS issues. The counties have effectively worked together in the past on these cross county PINS cases. The counties now seek to formally memorialize the duties and responsibilities of each to ensure future PINS cases are handled amicably as well.
2. **Program/Service Objectives and Outcomes:** To ensure swift response to PINS matters and collaboration between counties.
3. **Program Design and Staffing:** Existing Staff

**Total Funding Requested:** \$0

**Account #:** N/A

**Oneida County Dept. Funding Recommendation:** \$0

**Proposed Funding Sources (Federal \$/State \$/County \$):** None

**Cost per Client Served:** NA

**Past Performance Data:** NA

**O.C. Departmental Staff Comments:** This resolution will regulate and itemize each county's functions and roles with this cross-county population.

## AGREEMENT

THIS AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_ 2017, by and between the COUNTY OF ONEIDA, a municipal corporation organized and existing pursuant to the laws of New York State, having offices at 800 Park Avenue, Utica, New York, hereinafter referred to as "Oneida County," and the COUNTY OF MADISON, municipal corporation organized and existing pursuant to the laws of New York State, having offices at 138 North Court Street, Wampsville, New York, hereinafter referred to as "Madison County" (individually referred to as the "Party," and collectively referred to as the "Parties").

WHEREAS, Article 7 of the Family Court Act of New York, addresses Persons in Need of Supervision, hereinafter referred to as "PINS," and requires every county in New York State to designate a lead agency for the purpose of attempting to provide diversion services to potential PINS in order to divert such cases from resulting in the filing of a formal PINS petition in Family Court; and

WHEREAS, Oneida County has designated the Oneida County Probation Department as its lead agency for PINS diversion, and Madison County has designated the Madison County Department of Social Services as its lead agency for PINS diversion; and

WHEREAS, Section 717 of the Family Court Act requires that a PINS petition must be filed in the County where the alleged PINS behavior occurred; and

WHEREAS, the Parties understand that PINS diversion services must be provided under the supervision of the lead agency of the County in which the PINS petition must be filed; and

WHEREAS, many PINS cases originate as a result of a youth either failing to attend school or behaving incorrigibly at school; and

WHEREAS, there are youths residing in Oneida County who receive schooling in Madison County, as well as youths residing in Madison County who receive schooling in Oneida County, and that the schools these youths attend, from time to time, desire to file PINS petitions against such youths; and

WHEREAS, in such situations where a youth resides in one county but attends school in the other county and allegedly commits PINS behavior at school, even though the Lead Agency of the county where the alleged PINS behavior occurred must supervise the provision of Diversion Services, such Diversion Services are usually more effective when actually provided by the county in which the youth resides; and

WHEREAS, the Parties desire to enter into a formal agreement to memorialize the provision of PINS Diversion Services to youths who reside in one county and allegedly commit PINS behavior in the other county;

NOW THEREFORE, the Parties hereto agree as follows:

1. DEFINITIONS:

- a. "**Agreement**" shall mean this Agreement for the provision of Diversion Services between Oneida County and Madison County.
- b. "**Commissioner**" shall mean the Commissioner of the Madison County Department of Social Services located at Building 1, 133 North Court Street, Wampsville, New York, 13163.
- c. "**Director**" shall mean the Director of the Oneida County Probation Department located at the Boehlert Center at Union Station, 321 Main Street, Utica, New York, 13501.
- d. "**Diversion Services**" shall mean those services to be provided by each County to youth and their families prior to the filing of a PINS petition, as described in the Article 7 of the Family Court Act.
- e. "**Filing County**" shall mean the County to which the initial pre-PINS diversion referral is required to be made and also is the venue where the PINS petition must be filed.
- f. "**Lead Agency**" shall mean the agency designated by a county as the "lead agency" for the provision of diversion services as required by Section 735 of the Family Court Act.
- g. "**PINS**" shall mean a "person in need of supervision" as that term is defined in Section 712 (a) of the Family Court Act.
- h. "**Residence County**" shall mean the County where the youth referred for Diversion Services physically resides.

2. TERM OF AGREEMENT:

- a. The term of this Agreement shall be five (5) years commencing on May 4, 2017 and terminating on May 4, 2022, at which time it shall be automatically renewed and extended for an additional period of five (5) years unless terminated earlier as provided below.
- b. This Agreement may be terminated prior to the expiration of the term by:
  - i. either Party upon provision of written notice to the other Party in writing delivered at least ninety (90) days prior to the termination date stated in said notice; or
  - ii. by agreement in a written document signed by the authorized representative of each Party.

### 3. SCOPE OF SERVICES:

- a. For the entire term of this Agreement, the Lead Agency of the Filing County shall remain responsible for ensuring that Diversion Services are provided to all the youths who may be potential respondents in Family Court and who have allegedly committed PINS behavior in the Filing County. The Lead Agency of the Filing County shall also be responsible for promptly giving written notice to the potential petitioner whenever attempts to prevent the filing of a petition against a youth who allegedly committed PINS behavior in the Filing County have terminated, including an indication in such notice whether efforts were successful.
- b. If the youth of the Residence County allegedly commits PINS behavior in the Filing County, the person or agency seeking to file a PINS petition must still request Diversion Services through the Filing County.
- c. The Filing County shall refer the youth to the Residence County for the Residence County to provide Diversion Services required by the Family Court Act.
- d. Once the case has been referred to the Residence County, the Residence County shall regularly update the Filing County on the progress of the Diversion Services provided to the youth referred by the Filing County.
- e. When the Diversion Services are terminated by the Residence County, the Residence County will promptly give written notice of termination, as well as an indication whether Diversion Services were successful, to the Filing County.
- f. Upon receipt of written notice from the Residence County that Diversion Services were terminated, the Filing County shall promptly give written notice to the potential petitioner that Diversion Services have terminated, and shall indicate in such notice whether efforts were successful. This notification from the Filing County to the potential petitioner shall be in a form, and shall contain all statutory requirements, acceptable to the Family Court Clerk's Office of the Filing County, and shall include a copy of the written notice of termination from the Residence County.

### 4. COMPENSATION:

- a. Whenever the Residence County provides PINS Diversion Services for a youth referred by the Filing County, the Residence County will not seek reimbursement from the Filing County for the provision of those Diversion Services.

5. CONTACT INFORMATION:

- a. The primary contact at Oneida County shall be:

Name: David Tomidy, Director Oneida County Probation Department  
Address: Boehlert Center at Union Station  
321 Main Street  
Utica, NY 13501  
Phone: 315-798-5914

- b. The primary contact at Madison County shall be:

Name: Michael Fitzgerald, Commissioner  
Address: Madison County Complex, Building 1  
133 North Court Street, PO Box 637  
Wampsville, NY 13163  
Phone: 315-366-2248

6. MODIFICATIONS:

- a. Any modifications to this Agreement shall be made by an amendment in writing by the appropriate authorized representatives of Oneida County and Madison County.

7. INDEMNIFICATION:

- a. Oneida County shall be fully liable for the actions of its officers, agents, employees, or representatives and shall fully indemnify and save harmless Madison County, its officers, employees, agents, and representatives from suits, actions, damages and costs of every name, type and description relating to personal injury and damage to real or personal tangible property caused by Oneida County, its officers, agents, employees or representatives, without limitation; provided, however, that Oneida County shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of Madison County.
- b. Madison County shall be fully liable for the actions of its officers, agents, employees, or representatives and shall fully indemnify and save harmless Oneida County, its officers, employees, agents and representatives from suits, actions, damages and costs of every name, type and description relating to personal injury and damage to real or personal tangible property caused by Madison County, its officers, agents, employees or representatives, without limitation; provided, however, that Madison County shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of Oneida County.



8. RELATIONSHIP:

- a. It is intended by both Parties hereto that nothing in this Agreement shall be construed to authorize or create an employer/employee relationship between the Parties. Neither County shall in any way be deemed, be found, or represent itself as an employee, agent, or representative of the other County. The provision of services hereunder does not create any other relationship between Oneida County and Madison County.
- b. Each County shall cooperate in the event that any federal or state agency or department questions or challenges their independent status, and each County has the right to participate in all conferences, discussions or negotiations relative to any such matter concerning or arising from this Agreement.

9. PROTOCOLS, PROCEDURES AND RECORDS:

- a. The Commissioner and Director, or their respective designees, shall jointly develop, and may amend as necessary, such protocols and procedures concerning the contents, delivery and routing of notices, reports, and such other communications between Lead Agencies as they deem necessary or appropriate for the efficient provision, tracking and review of the Diversion Services and the reporting of results of diversion efforts in a manner sufficient for use by the Filing County in subsequent Court proceedings.
- b. Each County's Lead Agency personnel must observe, follow and abide by all such established protocols and procedures in the provision and reporting of services under this Agreement.
- c. Each County shall be responsible for obtaining and maintaining personnel records and other information concerning its employees in accordance with its own policies, procedures and collective bargaining agreements, including but not limited to records of time, leave, expenses incurred, applications, criminal background investigations, fingerprint reports, training, licensure, and educational requirements.
- d. Each County will be responsible for providing its own personnel with such training as it deems necessary or appropriate concerning provision of services, safety and security procedures, the confidentiality of records, laws, regulations, as well as the protocols and procedures to be used during the provision of Diversion Services under this Agreement.

10. TESTIMONY IN PROCEEDINGS:

- a. In the event that the actions of either Party, through the implementation of this Agreement, require the testimony of employees of the Residence County in the Family Court of the Filing County, the Residence County will make such

employees available to testify in the Filing County upon reasonable advance notice without subpoena. The Parties will make every reasonable effort to coordinate scheduling of such an appearance with each other.

- b. In the event that the actions of either Party, through the implementation of this Agreement, become the subject of any hearing, arbitration, or litigation other than the PINS proceeding, the other Party shall make appropriate personnel available to testify in such proceeding upon reasonable advance notice without subpoena. The Parties will make every reasonable effort to coordinate scheduling of such an appearance with each other.


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.  
County Executive

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

COUNTY OF MADISON:

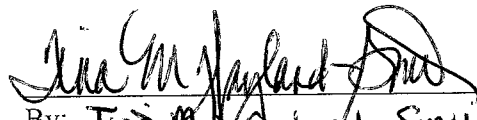
  
\_\_\_\_\_  
By: ~~John M. Becker, Chairman~~  
Board of Supervisors **Daniel S. Degear, Vice Chairman**

Date: 7/11/17

Approved for Oneida County:

\_\_\_\_\_  
Alison Stanulevich, Esq.  
Assistant County Attorney

Approved for Madison County:

  
\_\_\_\_\_  
By: ~~Tina M. Grayland-Smith~~  
Title: **County Attorney**



**ONEIDA COUNTY  
DEPARTMENT OF EMERGENCY SERVICES  
FIRE COORDINATOR  
911 CENTER**

ANTHONY J. PICENTE, JR.  
County Executive

KEVIN W. REVERE  
Director

120 Base Road ♦ Oriskany, New York 13424  
Phone: (315) 765-2526 ♦ Fax: (315) 765-2529

July 14, 2017

**FN 20** 17-283

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

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

**PUBLIC SAFETY  
WAYS & MEANS**

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

Date 7/17/17

Dear County Executive Picente,

On November 25<sup>th</sup>, 2015 the Board approved resolution number 359 which established Capital Project H-533, Emergency Services State Interoperable Communications Grant. This Capital Project was established from a NYS Department of Homeland Security and Emergency Services Grant of \$3.5 million to improve and enhance the County's Communications equipment in order to improve communications between all levels of municipal first responders.

This is an ongoing Capital Project and is in need of some additional funding to do some modifications at the Rome site, replace the Kirkland Tower and build a new tower in Bridgewater. (Please see additional Project Cost Summary which is attached). I will be glad to supply any additional information you may need for you or the Boards approval of this proposed amendment to Capital Project H-533.

I therefore request your Board's approval for an amendment to **Capital Project H-533 – Emergency Services – Statewide Interoperable Communications Grant:**

	<u>CURRENT</u>	<u>CHANGE</u>	<u>PROPOSED</u>
State Aid	\$3,500,000	\$ 0	\$3,500,000
Bonding	\$4,000,000	\$1,187,129	\$5,187,129
TOTAL.....	\$7,500,000	\$1,187,129	\$8,687,129

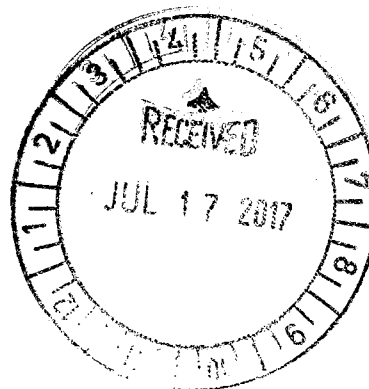
Thank you for your and the Board's kind attention to this request.

Very truly yours,

*Kevin W. Revere*

Kevin W. Revere  
Director of Emergency Services

CC: Comptroller  
County Attorney  
Budget



# 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

## ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

FN 20 17384

HEALTH & HUMAN SERVICES

July 11, 2017

HEALTH & HUMAN SERVICES  
HEALTH & HUMAN SERVICES  
HEALTH & HUMAN SERVICES

## WAYS & MEANS

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

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

Anthony J. Picente, Jr.  
County Executive  
Date 7/12/17

Dear Mr. Picente:

The Oneida County Health Department was awarded a COLA of \$21,719 from the New York State Department of Health (NYSDOH) for the Healthy Neighborhoods Program. This revenue was not included in the 2017 Health Department budget.

Therefore, the Health Department is requesting the following supplemental appropriation for the 2017 fiscal year

To: A4018.2955 – HN – Other Equipment .....\$21,719

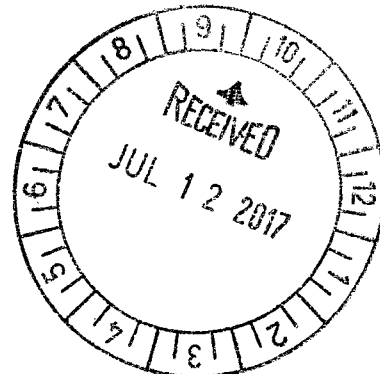
This appropriation will be supported by revenue in A3418 – State Aid – Healthy Neighborhoods Grant.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Patrice A. Bogan, MS, FNP-C  
Deputy Director of Health

cc: T. Keeler, Director of Budget



**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

July 19, 2017

FN 20 17-285

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

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

Anthony J. Picente, Jr.  
County Executive

HEALTH & HUMAN SERVICES

WAYS & MEANS

Date 7/20/17

Dear Mr. Picente:

I am submitting the following Purchase of Services Agreement for review and approval by the Board of Legislators between Oneida County Department of Social Services and Madison-Oneida BOCES.

The New York State Office of Temporary and Disability Assistance has encouraged local districts to design programs which assist applicants or recipients of public assistance in obtaining employment, therefore alleviating or reducing their need for Temporary Assistance.

This Agreement is with Madison-Oneida BOCES. They will operate Oneida County's Pride in Work Program for all TANF employable applicants/recipients. The program is a full-time four-week training combining life skills, work experience, job search, and the assistance of job developers. It is designed to reduce the number of new TANF cases in Oneida County.

The term of the Agreement is July 1, 2017 through September 30, 2017. The total cost for this Purchase of Services Agreement is \$94,497.50 and there is no local cost to support this contract. This service is going out to RFP and this is an interim agreement.

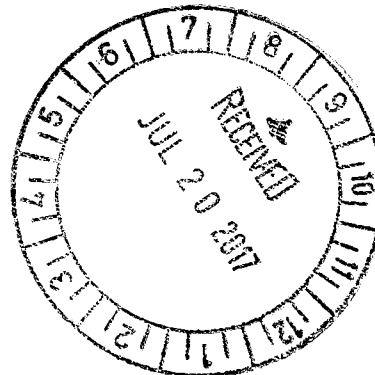
I am respectfully requesting that this matter be forwarded to the Board of Legislators for their review.

Thank you for your consideration.

Sincerely,

Lucille A. Soldato  
Commissioner

LAS/vlc  
attachment



# 13602

Oneida Co. Department Social Services

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

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

**Name of Proposing Organization:**

Madison-Oneida BOCES  
4937 Spring Road  
Verona, New York 13478

**Title of Activity or Services:** Job Readiness/ Job Placement & Pride in Work Program

**Proposed Dates of Operations:** July 1, 2017 through September 30, 2017

**Client Population/Number to be Served:** Safety Net Applicants and Temporary Assistance Recipients (TANF/Safety Net). Numbers are unlimited.

**SUMMARY STATEMENTS**

**1). Narrative Description of Proposed Services:** This is a full-time four-week program operated at the Access Center in Utica & the Adult Learning Center in Rome. A class begins every week in Utica & on a bi-weekly basis in Rome. The first two weeks are classroom training involving life skills, personal hygiene, decision making, work ethics, employment expectations, resume writing, interviewing techniques, and budgeting. The second two weeks involve an active job search combined with an assignment to a work experience.

The Contractor agrees to perform the "Pride in Work" program as follows:

- Administer TABE test or equivalent instrument to measure educational level,
- Teach job finding skills including resume preparation, application and interviewing skills,
- Training on computer and internet based application skills and communication,
- Help with oral communication and phone skills,
- Educate on attendance, dress and workplace etiquette, including conflict resolution,
- Improve motivation, self-confidence, and perseverance,
- Assist with job placement through a variety of methods including directing clients to appropriate job openings, and the use of employer incentive programs such as those operated by Social Services and the Workforce Investment Board/ Wage Subsidy Program.

**2). Program/Service Objectives and Outcomes** This is a full time, four week program designed to help Temporary Assistance Applicants/Safety Net find employment which would negate their need for temporary assistance benefits. Public Assistance Recipients that are considered employable will also be placed into the program to reduce their need for public assistance by obtaining employment.

**3). Program Design and Staffing Level -** This Contract is with the Office of Employment & Training and they have a subcontract with Madison/Oneida BOCES.

Staffing: Employment & Training

- 1 Full-time Project Coordinator
- 1 Full-time Job Developer
- 1 Full-time Job Placement Assistant
- 1 Full-time Work Skills Teacher I
- 1 Full-time Work Skills Teacher II
- 1 Full-time Work Skills Teacher III
- 1 Part time Program Supervisor

**Total Funding Requested: \$94,497.50**

**Oneida County Dept. Funding Recommendation:** Account # A6014.49543

**Mandated or Non-mandated:** Non-mandated, however the regulations require all employable TA recipients to participate in job activities to reduce their need for public assistance and Oneida County has elected to require all applicants to participate in job related activities prior to case opening .

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

<b>Federal</b>	100% =	\$94,497.50
<b>State</b>	0 % =	\$0
<b>County</b>	0 % =	\$0

**Cost Per Client Served:**

**Past performance Served:** The maximum cost of the Contract for the period January 1, 2016 through June 30, 2017 was \$506,275.00.

**O.C. Department Staff Comments:** The program has proved to be one of the most successful employment readiness programs operated by the Department. **This service is going out to RFP and this is an interim agreement.**

## AGREEMENT

THIS AGREEMENT, made and entered into by and between Oneida County, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at the Oneida County Office Building, 800 Park Avenue, Utica, New York 13501 (hereinafter called County), through its Oneida County Department of Social Services (hereinafter called Department), and Madison-Oneida BOCES, a Board of Cooperative Educational Services, a supervising school district and a municipal corporation organized and existing under the laws of the State of New York, with principal offices at 4937 Spring Road, PO Box 168, Verona, New York 13478 (hereinafter called Contractor).

WHEREAS, the Department desires to reduce the number of recipients of Temporary Assistance and Supplement Nutrition Assistance Program (SNAP) through placement in meaningful employment; and

WHEREAS, the Contractor has the experience and staff to train Temporary Assistance and SNAP recipients or applicants to obtain basic job skills and to assist in the job placement of those recipients or applicants who have successfully completed the program;

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

### SECTION I: TERM OF AGREEMENT

- A. This Agreement is to begin on July 1, 2017 and will end on September 30, 2017.
- B. This Agreement may be terminated by either party upon 30 days' written notice to the other party.

### SECTION II: SCOPE OF SERVICES

- A. The Contractor agrees to perform the "Pride in Work" program (hereinafter called Program) as follows:
  - 1. Administer Test of Adult Basic Education (TABE) or equivalent instrument to measure educational level;
  - 2. Teach Job finding skills to include resume preparation, application and interviewing skills, and updating registration with One Stop;
  - 3. Teach computer and internet based application skills and communication;
  - 4. Teach oral communication and phone skills;
  - 5. Teach attendance, dress and workplace etiquette, including conflict resolution;
  - 6. Teach motivation, self-confidence, and perseverance; and



7. Assist with job placement through a variety of methods including directing clients to appropriate job openings, and the use of employer incentive programs such as those operated by Social Services and the Workforce Investment Board/ Wage Subsidy Program.
- B. The Department agrees to determine eligibility, select participants for the Program and refer those selected participants to the program.
  - C. The Contractor currently has staff holding the titles of Work Skill Teacher, Project Coordinator, Job Developer and Job Developer Assistant. Through these job titles, Contractor is qualified to provide the services herein, and is able to meet the obligations of this Agreement.
  - D. The Contractor agrees to provide the Pride in Work program in both Utica and Rome. Contractor's staff for the Program shall include at least three (3) Work Skill Teachers, one (1) Project Coordinator, one (1) Job Developer and one (1) Job Developer Assistant.
  - E. Classes shall be provided to the Safety Net Population in Utica with a new class beginning weekly. Each class will run for a four (4) week duration. Classes shall also be provided in Utica to the Family Assistance Population with a new class beginning every other week for a four (4) week duration. Classes shall be provided in Rome for both the Safety Net and Family Assistance Population together with a new class beginning every other week for a four (4) week duration.
  - F. The Contractor shall maintain attendance documentation for each class described hereinabove and shall provide copies of the same to the Department on a monthly basis. Said documentation shall include any progress comments and verified excuses for any class missed by an attendee.
  - G. The Contractor agrees to immediately notify the Department of Program attendees that are no-shows; attendees that are terminated from the Program; attendees that are terminated from employment; and any new employment of attendees. Any report of new employment shall be verified after the start date with the following information: name and address of employer, start date, rate of pay, hours/days and shift, pay period, and expected date of the first pay.
  - H. The liaison for this Program shall be:
    1. From the Oneida County Department of Social Services: Philip Martini, Employment Supervisor; and
    2. From the Madison - Oneida BOCES: Kathleen Rinaldo, Continuing Education.

### SECTION III: REIMBURSEMENT FOR SERVICES

- A. Contractor shall be compensated the sum of \$31,499.17 per month for the months of July and August and the sum of \$31,499.16 for the month of September for the duration of this agreement. The total compensation for the term of this Agreement shall not exceed \$94,497.50. The Compensation detailed herein is inclusive of any costs associated with the program incurred by the Contractor, including but not limited to, staffing, instructional materials, supplies, bus passes for recipients, and office space.
- B. The activities provided by this Contract are not otherwise available on a non-reimbursable basis.
- C. The Contractor will bill on a monthly basis, on a County voucher with the supporting documentation attached, including the attendance documentation detailed hereinabove, participants' names, case numbers, and training status. The Contractor agrees to provide other data as is reasonably required by the Department.

### SECTION IV: PERFORMANCE OF SERVICES

- A. Contractor represents that Contractor is duly licensed (as applicable) and has the qualifications, the specialized skill(s), the experience and the ability to properly perform the services. Contractor shall use Contractor's best efforts to perform the services such that the results are satisfactory to the Department. Contractor shall be solely responsible for determining the location, method, details and means of performing the services, except where Federal, State or Local Laws and Regulations impose specific requirements on performance of the same.
- B. Contractor may, at Contractor's own expense, employ or engage the services of such employees, subcontractors and/or partners as Contractor deems necessary to perform the services (collectively, the "Assistants"). The Assistants are not and shall not be employees of the County, and the County shall have no obligation to provide Assistants with any salary or benefits. Contractor shall be solely responsible and shall remain liable for the performance of the services by the Assistants in a manner satisfactory to the Department, in in compliance with any and all applicable Federal, State or Local Laws and Regulations. Contractor shall expressly advise the Assistants of the terms of this Agreement.
- C. Contractor acknowledges and agrees that Contractor and its Assistants have no authority to enter into contracts that bind the County or create obligations on the part of the County without the prior written authorization of the County.
- D. Contractor shall inform the Department within twenty-four (24) hours if it is unable or unwilling to accept an assignment and/or perform services pursuant to this Agreement.

Contractor maintains the right to do so at any time, and County maintains the right to contract with other individuals or entities to perform the same services.

#### SECTION V: INDEPENDENT CONTRACTOR STATUS

- A. It is expressly agreed that the relationship of the Contractor and its Assistants to the County shall be that of independent contractors. The Contractor and its Assistants shall not be considered an employee of the County for any purpose including, but not limited to, claims for unemployment insurance, worker's compensation, retirement, or health benefits. The Contractor and its Assistants, in accordance with their status as independent contractors, covenant and agree that they will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the County by reason thereof and that he will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.
- B. Contractor warrants and represents that it is in the business of offering the same or similar services detailed herein and does offer the same or similar service(s) to other entities and/or the general public as a regular course of business. Contractor and County agree that Contractor is free to undertake other work arrangements during the term of this Agreement, and may continue to make his or her services available to the public.
- C. The Contractor and its Assistants shall not be eligible for compensation from the County due to a) illness; b) absence due to normal vacation; c) absence due to attendance at school or special training or a professional convention or meeting.
- D. Contractor acknowledges and agrees that neither Contractor, nor its Assistants, shall be eligible for any County employee benefits, including retirement membership credits.
- E. Contractor shall be solely responsibility for applicable taxes for all compensation paid to Contractor or its Assistants under this Agreement, and for compliance with all applicable labor and employment requirements with respect to Contractor's self-employment, sole proprietorship or other form of business organization, and with respect to the Assistants, including payroll deductions, worker's compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered State or Federal income tax, unemployment insurance, worker's compensation, disability insurance or social security insurance (FICA). Contractor shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Agreement.
- F. The Contractor will indemnify and hold the County harmless from all loss or liability incurred by the County as a result of the County not making such payments or withholdings.

- G. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's Independent Contractor status, it is agreed that both the County and the Contractor shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.
- H. The Contractor agrees to comply with Federal and State Laws as supplemented in the Department of Labor regulations and any other regulations of the Federal and State entities relating to such employment and Civil Rights requirements.

#### SECTION VI: EXPENSES

- A. Contractor is solely responsible for paying all of its business expenses related to furnishing the services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating expenses.

#### SECTION VII: TRAINING

- A. Contractor shall not be required to attend or undergo any training by the County. Contractor shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the services described herein, and shall be solely responsible for the cost of the same.

#### SECTION VIII. INSURANCE REQUIREMENTS

- A. The Contractor shall purchase and maintain insurance of the following types of coverage and limits of liability with an insurance carrier qualified and admitted to do business in the State of New York. The insurance carrier must have at least an A- (excellent) rating by A. M. Best.
  - 1. Commercial General Liability (CGL) coverage with limits of Insurance of not less than \$1,000,000 each occurrence and \$3,000,000 Annual Aggregate.
    - a. CGL coverage shall be written on ISO Occurrence form CG 00 01 1001 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contracts, products-completed operations, and personal and advertising injury.
    - b. The County and any other parties required by the County shall be included as additional insureds. Coverage for the additional insureds shall apply as Primary and Non-contributing Insurance before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by, or provided to, the additional insured(s).

2. Workers Compensation and Employers Liability
    - a. Statutory limits apply.
  3. Automobile Liability
    - a. Business Auto Liability with limits of at least \$1,000,000 each accident.
    - b. Business Auto coverage must include coverage for liability arising out of all owned, leased, hired and non-owned automobiles.
    - c. Oneida County shall be included as additional insureds on the auto policy. Coverage for these additional insureds shall be on a primary and non-contributing basis.
  4. Commercial Umbrella
    - a. Umbrella limits must be at least \$1,000,000.
    - b. Umbrella coverage must include as additional insureds all entities that are additional insureds on the CGL.
    - c. Umbrella coverage for such additional insureds shall apply as primary and non-contributing before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by, or provided to, the additional insured other than the CGL, Auto Liability and Employers Liability coverages maintained by the County of Oneida.
- B. Waiver of Subrogation: the Contractor waives all rights against the County and their agents, officers, directors and employees for recovery of damages to the extent these damages are covered by Commercial General Liability or Workers Compensation and Employers Liability insurance maintained per requirements stated above.
- C. Certificates of Insurance: Prior to the start of any work, the Contractor shall provide a certificate of insurance to the County. Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of the Contractor's Commercial General Liability Policy. The insurance policies required above shall contain a provision that coverage afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the County.

SECTION IX: ADVICE OF COUNSEL

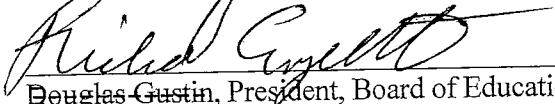
- A. Each party acknowledges that, in executing this Agreement, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Agreement.

SECTION X: MISCELLANEOUS PROVISIONS

- A. The Contractor agrees to maintain financial records and necessary supporting documents as required by the Department. Such financial and statistical records shall be subject at all reasonable times to inspection, review, or audit by authorized County, State, and or Federal personnel.
- B. All information contained in the Contractor's files shall be held confidential by the Contractor and the Department, pursuant to the applicable provisions of the Social Services Law and any New York State Department regulations promulgated thereunder, as well as any applicable Federal Laws and any regulations promulgated thereunder, and shall not be disclosed except as authorized by law.
- C. The Contractor shall indemnify and hold harmless the County from any liability whatsoever, for whatever reason, associated with the training or placement of any of its Temporary Assistance and SNAP clients enrolled in the Pride in Work Program, delivered by the Contractor.
- D. This Agreement cannot be assigned by the Contractor without obtaining written approval of the Department.
- E. The terms of this Agreement, including all 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. 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.
- F. This Agreement shall be binding upon both parties when fully signed and executed and upon approval of the appropriate legislative bodies where required.

**[SIGNATURES APPEAR ON THE NEXT PAGE]**

MADISON-ONEIDA BOCES

  
\_\_\_\_\_  
~~Douglas Gustin~~, President, Board of Education  
Richard Engelbrecht

7-12-17  
\_\_\_\_\_  
Date

COUNTY OF ONEIDA

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

\_\_\_\_\_  
Date

DEPARTMENT OF SOCIAL SERVICES

\_\_\_\_\_  
Lucille A. Soldato, Commissioner

\_\_\_\_\_  
Date

Approved:

By: \_\_\_\_\_  
Maryangela Scalzo, Assistant County Attorney

\_\_\_\_\_  
Date

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—
    1. the stipulated wage scale as provided in Labor Law, Section 220, subdivision 3, as amended or
    2. 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 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.

(c) The fact that bidder

1. has published price lists, rates, or tariffs covering items being procured; or

2. has informed prospective customers of proposed or pending publication of new or revised price lists for such items; or

3. 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 of, or recipients of public assistance by both public organization and private enterprises who are under contractual AGREEMENT to the Department for the provision of goods and services. Contractors will be expected to make best efforts in this area.
- c. The Contractor agrees to identify, in writing, the person(s) who will be responsible for directing the work to be done under this AGREEMENT. No change or substitution of such responsible person(s) will be made without prior approval in writing from the Department, to the degree that such change is within the reasonable control of the Contractor

Notices

- a. All notices permitted or required hereunder shall be in writing and shall be transmitted either by:
  1. By certified or registered United States mail, return receipt requested;
  2. By Facsimile transmission;
  3. By personal delivery;
  4. By expedited delivery service; or
  5. By e-mail

Notices to the Department shall be addressed to the Commissioner of Social Services at the Address, 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;
  1. No litigation shall be brought against the State of New York, the New York State Office of Children and Family Services or against Oneida County or the Department or other local government or local social services district with funds provided under this 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.
  2. Opinions prepared by consultant law firms construing the statues of Constitution of the State of New York do not constitute the view of the State unless the prior written approval of the Attorney General is obtained. Requests for said approval shall be submitted to the Solicitor General, Division of the Appeals and Opinions Bureau, department of Law, The Capital, Albany, New York 12224
  3. The Contractor shall provide to the Department in a format provided by the Department such additional information concerning the provision of legal services as the Department shall require.
- f. The Department will designate a contract Manager who shall have authority relating to the technical services and operational functions of this AGREEMENT and activities completed or contemplated there under. The Contract Manager and those individuals designated by him/her in writing shall have the prerogative to make announced or unannounced on-site visits to the project. Project reports and issues of interpretation or direction relating to this AGREEMENT shall be directed to the Contract Manager.

- g. Except where the Department otherwise authorizes or directs in writing, the Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, for the performance of the obligations contained herein until it has received the prior written approval of the Department, which shall have the right to review and approve each and every subcontract prior to giving written approval to the contractor to enter into the subcontract. All AGREEMENTS between the Contractor and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of this AGREEMENT (2) that nothing contained in the subcontract shall impair the rights of the Department under this AGREEMENT, (3) that nothing contained in the subcontract, nor under this AGREEMENT, shall be deemed to create any contractual relationship between the subcontractor and the Department, and (4) incorporating all provisions regarding the rights of the Department as set forth in Agreement, where applicable. The Contractor specifically agrees that the Contractor shall be fully responsible to the Department for the acts and omissions of subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by the Contractor.
- h. The Contractor warrants that it, its staff and any and all Subcontractors which must be approved by the Department, have all the necessary licenses, approvals and certifications currently required by the law of any applicable local, state or federal government to perform the services pursuant to this AGREEMENT and/or subcontract entered into under this AGREEMENT. The contractor further agrees such required licenses, approvals and certificates will be kept in full force and effect during the term of this Agreement, and/or any extension thereof, and to secure any new licenses, approvals or certificates within the required time frames and/or to require its staff and Subcontractors to obtain and requisite licenses, approvals or certificates. In the event the contractor, its staff, and/or Subcontractors are notified of a denial or revocation of any license, approval or certification to perform the services under 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:
  1. Payroll Expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, employee personal history folders, and cost allocation plans, if applicable.
  2. Payroll Taxes and Fringe Benefits: cancelled checks, copies of related bank statements, reporting forms, and invoices for Fringe Benefit expenses.
  3. Non-Personal Services Expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, and cost allocation plans, if applicable.
  4. Receipt and Deposit of Advance and Reimbursements: Itemized bank stamped deposit slips, and a copy of the related bank statements.
  5. The Contractor agrees that any equipment purchased with funds under this agreement is the property of the Department and will remain with or will be returned to the Department in the event of the termination of this Agreement,

Although not required, the Department recommends that the Contractor retain records directly pertinent to this 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:



1. The Contractor has had a license or contract suspended, revoked or terminated by a governmental agency.
2. The Contractor has had a claim, lien, fine, or penalty imposed or secured against the Contractor by a governmental agency.
3. The Contractor has initiated a bankruptcy proceeding or such a proceeding has been initiated against the Contractor
4. The Contractor has been issued a citation, notice, or violation order by a governmental agency finding the Contractor to be in violation of any local, state, or federal laws.
5. The Contractor has been advised by a governmental agency that a determination to issue a citation, notice or violation order finding the Contractor to be in violation of any local, state or federal laws is pending before a governmental agency
6. The contractor has not paid all due and owed local, state and federal taxes to the proper authorities
7. The contractor has engaged in any other actions of a similarly serious nature.

Where the Contractor has disclosed any of the above to the Department, 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

- a. 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.
- b. The Contractor shall complete Contract Evaluations as required by the Department as well as Statistical Data as needed by the Department and New York State to meet the reporting requirements.

## CONFIDENTIALITY AND PROTECTION OF HUMAN SUBJECTS

- a. The Contractor agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this project. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this AGREEMENT in conformity with the provisions of applicable State, Federal, and 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 an Employee Confidentiality Certification and employee Background Certification before any such employees and volunteers are permitted access to youth in the care or custody of the Department and/or any financial and/or client identifiable information concerning such youth. Additionally, Department will require a database check of the 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 an Employee Confidentiality Certification before any such employees and volunteers are permitted access to any financial and/or client identifiable information concerning such youth.

- c. 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 re-disclosure 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

- a. 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 the term of this Agreement, the Contractor shall be required to immediately notify the Department so that the Department may assess whether the Contractor continues to be a responsible vendor. Should the Contractor fail to notify the Department of any change in the vendor responsibility information or should the Department otherwise determine that the Contractor has ceased to be a responsible vendor for the purposes of this AGREEMENT, the Department may terminate this AGREEMENT upon thirty (30) days written notice to the Contractor. Said notice of termination shall be sent by way of registered or certified mail return receipt requested, or shall be delivered by hand, receiving Contractor's receipt therefore. Said notice shall specify the reason(s) that the Contractor has been found to no longer be a responsible vendor.

Upon determination that the Contractor is no longer a responsible vendor the Department may, in its discretion and as an alternative to termination pursuant to this paragraph, notify the contractor of the determination that the Contractor has ceased to be a responsible vendor and set forth the corrective action that will be required of the Contractor to maintain 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

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

1. Recovery of any funds expended in violation of the AGREEMENT;
  2. Suspension of Payments
  3. Termination of the AGREEMENT; and/or
  4. Employment of another entity to fulfill the requirements of the AGREEMENT.
- c. 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.
- d. Nothing herein shall preclude the Department from taking actions otherwise available to it under law.
- e. 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.
- f. 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

- a. In accordance with the Department, contractors may be placed on fiscal sanction when the Department identifies any of the following issues:

1. The Contractor has received an advance, overpayment or other funds under this or another agreement that has not been refunded to the Department within the established timeframe;
2. A Department or other audit identifies significant fiscal irregularities and/or that funds are due to the Department
3. The Contractor has not provided satisfactory services as required under the terms of this or another Department agreement;
4. The Contractor has not provided fiscal or program reports as required under the terms of this or another Department agreement;
5. A Department, County, State or Federal prosecutorial or investigative agency identifies possible criminal activity, or significant fiscal or programmatic irregularities on the part of the Contractor;
6. The Contractor is not in compliance with State, Federal, or County statutes or regulations, or applicable Department guidelines, policies and/or procedures; or
7. Unsafe physical conditions exist at a program site operated by the Contractor and funded under an agreement with the Department

b. 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 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

- a. 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.
- b. 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.
- c. 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.

- d. The Contractor attests they have not been debarred by the Federal Government from contracting to provide services funded by any Federal money.
- e. 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.
- f. 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.

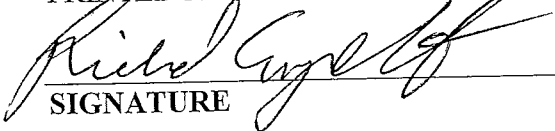
This Agreement shall be binding upon both parties when fully signed and executed and upon approval of the appropriate legislative bodies where required.

As the duly authorized representative of the Contractor, I hereby certify that the Contractor will comply with the above Standard Clauses.

Madison-Oneida BOCES, a Board of Cooperative Educational Services  
NAME OF CONTRACTED AGENCY

Richard Engelbrecht  
~~Douglas Gustin~~, President, Board of Education

PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

  
SIGNATURE

7-12-17  
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 July, 2017 between the County of Oneida, hereinafter known as **COUNTY**, and a contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as **CONTRACTOR**.

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

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

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

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

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

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

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

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

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

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

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

2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.

b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,

1. The Contractor certifies that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - b. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contracts under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1(b) of this certification; and
  - d. Have not within a three-year period, preceding this Contract, had one or more public transactions (Federal, State, or local) for cause or default; and
2. Where the Contractor is unable to certify any of the statements in this certification, he or she shall attach an explanation to this Contract.

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

1. The Contractor will or will continue to provide a drug-free workplace by:

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

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

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

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

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

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

When applicable to the services provided pursuant to the Contract:

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

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

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

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

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

c. The Contractor shall:

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

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

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



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

**5. Non-Assignment Clause.**

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

**6. Workers' Compensation Benefits.**

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

**7. Non-Discrimination Requirements.**

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

**8. Wage and Hours Provisions.**

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

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

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

**10. Records.**

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

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

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

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

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

**12. Conflicting Terms.**

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

**13. Governing Law.**

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

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

The Contractor certifies and warrants that all wood products to be used under this Contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of

the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the Contractor to establish to meet with the approval of the County.

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

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

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

**16. Gratuities and Kickbacks.**

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

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

**17. Audit**

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

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

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

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

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

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

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

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

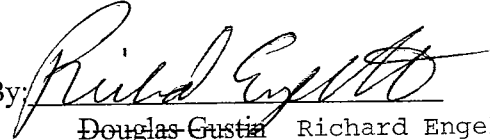
responsibility review with respect to any Bidder/Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

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:   
~~Douglas Gustia~~ Richard Engelbrecht  
President, Board of Education

Approved:

\_\_\_\_\_  
Maryangela Scalzo  
Assistant County Attorney

# 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

PATRICE A. BOGAN, MS, FNP  
INTERIM DIRECTOR OF HEALTH

## ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

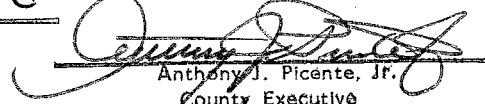
June 21, 2017

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

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

FN 20

17-286

  
Anthony J. Picente, Jr.  
County Executive

Re: Healthy Neighborhood Program  
Contract Number 014773

HEALTH & HUMAN SERVICES

Date 7/27/17

Dear County Executive Picente:

**WAYS & MEANS**

Attached are five (5) copies of an amendment to the Master Contract between Oneida County through its Health Department and the New York State Department of Health for the performance of the Healthy Neighborhood program.

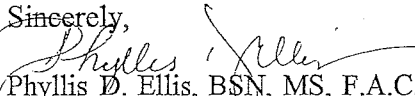
Through this grant, the Oneida County Health Department – Environmental Health is responsible for focusing on low income neighborhoods in the area of Rome and its adjoining towns, which include urban and rural neighborhoods with aging neglected housing stock and mobile home parks that exhibit external signs of conditions that could promote health concerns. This grant is 100% state funded.

This is a five year grant which began on April 1, 2014 and ends March 31, 2019. The annual terms were expected to be funded equally at \$263,582. The current term of April 1, 2017 through March 31, 2019 and the final term of April 1, 2018 through March 31, 2019 have each been reduced by \$23,195 per year, for a new annual funding amount of \$240,387.

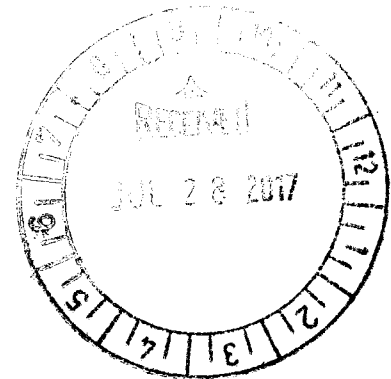
This is not a program mandated by Public Health Law.

If this contract 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  
pb



Oneida Co. Department: Public Health

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

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name & Address of Vendor:** New York State Department of Health  
Bureau of Community Environmental Health and  
Food Protection  
Corning Tower, Empire State Plaza, Room 1395  
Albany, New York 12237

**Title of Activity or Service:** Healthy Neighborhood Program

**Proposed Dates of Operation:** April 1, 2014 through March 31, 2019

**Client Population/Number to be Served:** Oneida County residents in the area of Rome and  
its adjoining towns

**Summary Statements**

- 1) **Narrative Description of Proposed Services:** The Environmental Health Division was awarded a five year grant entitled the Healthy Neighborhood program. This grant seeks to build upon the efforts to improve environmental health surveillance in Oneida County by focusing on low income neighborhoods with aging neglected housing stock and mobile home parks that exhibit external signs of conditions that could promote health concerns. Home assessments with consent which provide opportunities for education, outreach, and referral to community resources along with the distribution of home safety items occur under the work plan of this grant.
- 2) **Program/Service Objectives and Outcomes:**
- 3) **Program Design and Staffing:** Staffing and Activities are 100% grant reimbursable

**Total Funding Requested:** New grant total of \$1,271,520. The original amount was \$263,582 annually. The last two years of this grant are being decreased by \$46,390 (\$23,195 per year). For the last two years of the grant (2017-2018 and 2018-2019), the annual amount will be \$240,387.

**Expense Account:** A4018.2115, A4018.2125, A4018.2955, A4018.4915, and A4018.4925

**Revenue Account:** A3418

**Oneida County Dept. Funding Recommendation: \$1,271,520**

**Proposed Funding Sources (Federal \$/ State \$/County \$):** 100% NYSDOH funded

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

**Past Performance Data:** N/A

**O.C. Department Staff Comments:** None



**STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE**

<p>STATE AGENCY (Name &amp; Address):</p> <p>NYS Department of Health          Bur. of Community Environmental Health &amp; Food Protection          Empire State Plaza, Corning Tower Bldg., Room 1395          Albany, NY 12237</p>	<p>BUSINESS UNIT/DEPT. ID: DOH01/3450000</p> <p>CONTRACT NUMBER: C029589</p> <p>CONTRACT TYPE:</p> <p><input checked="" type="checkbox"/> Multi-Year Agreement  <input type="checkbox"/> Simplified Renewal Agreement  <input type="checkbox"/> Fixed Term Agreement</p>
<p>CONTRACTOR SFS PAYEE NAME:</p> <p>Oneida County Health Department</p>	<p>TRANSACTION TYPE:</p> <p><input type="checkbox"/> New  <input type="checkbox"/> Renewal  <input checked="" type="checkbox"/> Amendment</p>
<p>CONTRACTOR DOS INCORPORATED NAME:</p>	<p>PROJECT NAME:</p> <p>Healthy Neighborhoods Program</p>
<p>CONTRACTOR IDENTIFICATION NUMBERS:</p> <p>NYS Vendor ID Number: 1000002595          Federal Tax ID Number: 15-6000460          DUNS Number (if applicable):</p>	<p>AGENCY IDENTIFIER:</p> <p>CFDA NUMBER (Federally Funded Grants Only):</p> <p>93.991</p>
<p>CONTRACTOR PRIMARY MAILING ADDRESS:</p> <p>Adirondack Bank Building, 5th Floor          185 Genesee Street          Utica, NY 13501</p> <p>CONTRACTOR PAYMENT ADDRESS:</p> <p><input type="checkbox"/> Check if same as primary mailing address</p> <p>Joseph J. Timpano          800 Park Avenue          Utica, NY 13501</p> <p>CONTRACT MAILING ADDRESS:</p> <p><input checked="" type="checkbox"/> Check if same as primary mailing address</p>	<p>CONTRACTOR STATUS:</p> <p><input type="checkbox"/> For Profit  <input checked="" type="checkbox"/> Municipality, Code:30-0100000  <input type="checkbox"/> Tribal Nation  <input type="checkbox"/> Individual  <input type="checkbox"/> Not-for-Profit</p> <p>Charities Registration Number:</p> <p>Exemption Status/Code:</p> <p><input type="checkbox"/> Sectarian Entity</p>

Contract Number: # C029589

**STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE**

<p><b>CURRENT CONTRACT TERM:</b> From: 04/01/2014      To: 03/31/2019</p> <p><b>CURRENT CONTRACT PERIOD:</b> From: 04/01/2014      To: 03/31/2019</p> <p><b>AMENDED TERM:</b> From:                      To:</p> <p><b>AMENDED PERIOD:</b> From:                      To:</p>	<p><b>CONTRACT FUNDING AMOUNT</b> <i>(Multi-year - enter total projected amount of the contract; Fixed Term/Simplified Renewal - enter current period amount):</i></p> <p>CURRENT: \$ 1,317,910</p> <p>AMENDED: \$ 1,271,520</p> <p><b>FUNDING SOURCE(S)</b></p> <p><input checked="" type="checkbox"/> State <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Other</p>
---	--

*FOR MULTI-YEAR AGREEMENTS ONLY - CONTRACT PERIOD AND FUNDING AMOUNT:*  
(Out years represent projected funding amounts)

#	CURRENT PERIOD	CURRENT AMOUNT	AMENDED PERIOD	AMENDED AMOUNT
1	04/01/14 - 03/31/15	\$ 263,582		
2	04/01/15 - 03/31/16	\$ 263,582		
3	04/01/16 - 03/31/17	\$ 263,582		
4	04/01/17 - 03/31/18	\$ 263,582		\$ 240,387
5	04/01/18 - 03/31/19	\$ 263,582		\$ 240,387

**ATTACHMENTS PART OF THIS AGREEMENT:**

- Attachment A:
  - A-1 Program Specific Terms and Conditions
  - A-2 Federally Funded Grants
  
- Attachment B:
  - B-1 Expenditure Based Budget
  - B-2 Performance Based Budget
  - B-3 Capital Budget
  - B-1(A) Expenditure Based Budget (Amendment)
  - B-2(A) Performance Based Budget (Amendment)
  - B-3(A) Capital Budget (Amendment)
  
- Attachment C: Work Plan
- Attachment D: Payment and Reporting Schedule
- Other:

Contract Number: # C029589

IN WITNESS THEREOF, the parties hereto have executed or approved this Master Contract on the dates below their signatures.

CONTRACTOR:

Oneida County Health Department

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

Anthony J. Picente, Jr.

Printed Name

Title: County Executive

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

STATE AGENCY:

New York State Department of Health  
Center for Environmental Health

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

Michael J. Cambridge

Printed Name

Title: Deputy Director, Center for Environmental Health

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

STATE OF NEW YORK

County of Oneida

On the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me personally appeared Anthony J. Picente, Jr. to me known, who being by me duly sworn, did depose and say that he/she resides at \_\_\_\_\_, that he/she is the County Executive of the Oneida County, the contractor described herein which executed the foregoing instrument; and that he/she signed his/her name thereto as authorized by the contractor named on the face page of this Master Contract.

(Notary) \_\_\_\_\_

ATTORNEY GENERAL'S SIGNATURE

STATE COMPTROLLER'S SIGNATURE

\_\_\_\_\_

\_\_\_\_\_

Printed Name

Printed Name

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

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

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

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

Contract Number: # C029589

Page 1 of 1, Master Contract for Grants Signature Page

APPROVED  
ONEIDA COUNTY ATTORNEY  
BY Thompson D Bara  
ASST ONEIDA COUNTY ATTORNEY



## Department of Health

ANDREW M. CUOMO  
Governor

HOWARD A. ZUCKER, M.D., J.D.  
Commissioner

SALLY DRESLIN, M.S., R.N.  
Executive Deputy Commissioner

May 12, 2017

Phyllis D. Ellis, BSN, MS, FACHE, PH Director  
Oneida County Department of Health  
185 Genesee St., 5<sup>th</sup> Floor  
Utica, New York 13501

Dear Ms. Ellis:

This letter is to inform you that the 2017-18 enacted State budget appropriation reflects a reduction of 20.173% to the General Fund Local Assistance portion of the Healthy Neighborhoods Program (HNP) budget. The HNP also receives a sub-allocation from the Department of Financial Services from the Lead Poisoning Prevention and Assistance Program, and an allocation from the Federal Preventive Health and Health Services Block Grant. No reduction has been made to those funds. Together, the resulting overall reduction to each HNP contract will be 8.8% from the 2016-17 award.

Your new allocation for the April 1, 2017 – March 31, 2018 cycle is \$240,387. We will work with your program staff to execute amended contracts, including revised budgets and workplans.

If we can assist with any questions or concerns, please do not hesitate to contact us.

Sincerely,

Brian M. Miner, Director  
Bureau of Community Environmental Health  
and Food Protection

cc: J. Strepelis  
D. Gilmore  
L. Sheltra  
R. Sokol  
T. Carroll  
J. Bobier

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BUDGET NARRATIVE/JUSTIFICATION ATTACHMENT  
 PERSONAL SERVICES

Contractor: Oneida County Health Department  
 Contract Period: April 1, 2017 - March 31, 2018  
 Contract Number: C029589

PERSONAL SERVICE DESCRIPTION

Title	Incumbent	Duties Description
Program Coordinator	Kathleen Paciello	Quarterly Reports, Budget, Workplans, Annual Reports, community meetings and presentations and provides support to staff
Senior Sanitarian	Francis Zimmer	Program preparation and development, community presentations, program promotion, field visits, data collection, product inventory, survey completion and review and reports
Sanitarian	Eric Jackson	Program preparation and development, community presentations, program promotion, field visits, data collection, product purchases, educational handout inventory, product inventory, survey completion and review, and reports
Sr. Sanitarian	Bobbi Kahl	Program preparation and development, community presentations, program promotion, field visits, data collection, product purchases, educational handout inventory, product inventory, survey completion and review, and reports
Public Health Technician I	Richard O'Brien	Program preparation and development, staff support, community presentations, program promotion, field visits, data collection, survey review and faxing, survey error reports and resolution, data review, and reports.

Public Health Technician I	Mathew Lince	Program preparation and development, staff support, community presentations, program promotion, field visits, data collection, survey review and faxing, survey error reports and resolution, data review, and reports
Principal Clerk	Jackie St. Thomas	Educational material mailings, survey faxing
Principal Clerk	Betty Ryan	Educational material mailings, survey faxing, general clerical duties

BUDGET NARRATIVE/JUSTIFICATION ATTACHMENT  
 NON-PERSONAL SERVICES

Contractor: Oneida County Health Department  
 Contract Period: April 1, 2017 - March 31, 2018  
 Contract Number: C029589

NON-PERSONAL SERVICE DESCRIPTION

Item	Amount	Description
Travel	\$555	Approx. 1,000 miles at .535 per mile.
Equipment	\$29,583	Office supplies, storage supplies, equipment, home health/safety products to include: ant traps, band-aids, bathtub faucet covers and traction strips, water thermometers, batteries for smoke/ carbon monoxide detectors and flashlights, cabinet locks, carbon monoxide detectors, 1 gallon cleaning buckets, cockroach traps, fire extinguishers, garbage bags, hand soap, hypoallergenic mattress and pillow covers, LED flashlights, night lights, mouse traps, night lights, oven locks, pack and play cribs with sheets, paper towels, pinch guards, radon test kits, shock stops, Simple Green cleaner, smoke detectors, table corner guards, toilet locks, toothbrushes and toothpaste (adult and child). Additional items may be purchased on an as needed basis. Note: furniture straps are also provided to families. These are provided free of charge. Note that due to \$23,195 grant reduction product budget was reduced \$22,000 and deliverables will be reduced 5%.
Operating Expenses	\$1,000	Outreach products and supplies, advertisements, promotional products, printing.
	\$31,138	



**STATE OF NEW YORK  
MASTER CONTRACT FOR GRANTS**

This State of New York Master Contract for Grants (Master Contract) is hereby made by and between the State of New York acting by and through the applicable State Agency (State) and the public or private entity (Contractor) identified on the face page hereof (Face Page).

**WITNESSETH:**

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

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

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

**STANDARD TERMS AND CONDITIONS**

**I. GENERAL PROVISIONS**

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

**B. Required Approvals:** In accordance with Section 112 of the State Finance Law (or, if the Master Contract is with the State University of New York (SUNY) or City University of New York (CUNY), Section 355 or Section 6218 of the Education Law), if the Master Contract exceeds \$50,000 (or \$85,000 for contracts let by the Office of General Services, or the minimum thresholds agreed to by the Office of the State Comptroller (OSC) for certain SUNY and CUNY contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount including, but not limited to, changes in amount, consideration, scope or contract term identified on the Face Page (Contract Term), it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the New York Attorney General Contract Approval Unit (AG) and OSC. If, by the Master Contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the AG and OSC.

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

five million dollars; and, in addition, such amendment may be subject to prior approval by the applicable State Agency as detailed in Attachment D (Payment and Reporting Schedule).

**C. Order of Precedence:**

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

1. Standard Terms and Conditions
2. Modifications to the Face Page
3. Modifications to Attachment A-2<sup>1</sup>, Attachment B, Attachment C and Attachment D
4. The Face Page
5. Attachment A-2<sup>2</sup>, Attachment B, Attachment C and Attachment D
6. Modification to Attachment A-1
7. Attachment A-1
8. Other attachments, including, but not limited to, the request for proposal or program application

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

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

**F. Modifications:** To modify the Attachments or Face Page, the parties mutually agree to record, in writing, the terms of such modification and to revise or complete the Face Page and all the

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<sup>1</sup> To the extent that the modifications to Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the modifications to Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).

<sup>2</sup> To the extent that the terms of Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the Federal requirements of Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).

appropriate attachments in conjunction therewith. In addition, to the extent that such modification meets the criteria set forth in Section I.B herein, it shall be subject to the approval of the AG and OSC before it shall become valid, effective and binding upon the State. Modifications that are not subject to the AG and OSC approval shall be processed in accordance with the guidelines stated in the Master Contract.

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

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

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

**J. Notice:**

1. All notices, except for notices of termination, shall be in writing and shall be transmitted either:
  - a) by certified or registered United States mail, return receipt requested;
  - b) by facsimile transmission;
  - c) by personal delivery;
  - d) by expedited delivery service; or
  - e) by e-mail.
2. Notices to the State shall be addressed to the Program Office designated in Attachment A-1 (Program Specific Terms and Conditions).
3. Notices to the Contractor shall be addressed to the Contractor's designee as designated in Attachment A-1 (Program Specific Terms and Conditions).
4. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or e-mail, upon receipt.

5. The parties may, from time to time, specify any new or different e-mail address, facsimile number or address in the United States as their address for purpose of receiving notice under the Master Contract by giving fifteen (15) calendar days prior written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under the Master Contract. Additional individuals may be designated in writing by the parties for purposes of implementation, administration, billing and resolving issues and/or disputes.

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

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

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

**N. Non-Assignment Clause:** In accordance with Section 138 of the State Finance Law, the Master Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet, or otherwise disposed of without the State's previous written consent, and attempts to do so shall be considered to be null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract, let pursuant to Article XI of the State Finance Law, may be waived at the discretion of the State Agency and with the concurrence of OSC, where the original contract was subject to OSC's approval, where the assignment is due to a reorganization, merger, or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that the merged contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless the Master Contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

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

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

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

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

**S. Reciprocity and Sanctions Provisions:** The Contractor is hereby notified that if its principal place of business is located in a country, nation, province, state, or political subdivision that penalizes New York State vendors, and if the goods or services it offers shall be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that it be denied contracts which it would otherwise obtain.<sup>3</sup>

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

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

**V. Federally Funded Grants and Requirements Mandated by Federal Laws:** All of the Specific Federal requirements that are applicable to the Master Contract are identified in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto. To the extent

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<sup>3</sup>As of October 9, 2012, the list of discriminatory jurisdictions subject to this provision includes the states of Alaska, Hawaii, Louisiana, South Carolina, West Virginia and Wyoming. Contact NYS Department of Economic Development for the most current list of jurisdictions subject to this provision.

that the Master Contract is funded, in whole or part, with Federal funds or mandated by Federal laws, (i) the provisions of the Master Contract that conflict with Federal rules, Federal regulations, or Federal program specific requirements shall not apply and (ii) the Contractor agrees to comply with all applicable Federal rules, regulations and program specific requirements including, but not limited to, those provisions that are set forth in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto.

## II. TERM, TERMINATION AND SUSPENSION

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

**B. Renewal:**

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

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

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

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

## **C. Termination:**

### **1. Grounds:**

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

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

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

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

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

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

### **2. Notice of Termination:**

a) Service of notice: Written notice of termination shall be sent by:

(i) personal messenger service; or

(ii) certified mail, return receipt requested and first class mail.

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

(i) if the notice is delivered by hand, the date of receipt shall be established by the receipt given to the Contractor or by affidavit of the individual making such hand delivery attesting to the date of delivery; or

(ii) if the notice is delivered by registered or certified mail, by the receipt returned from the United States Postal Service, or if no receipt is returned, five (5) business days from the date of mailing of the first class letter, postage prepaid, in a depository under the care and control of the United States Postal Service.

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

a) Upon receipt of notice of termination, the Contractor agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the State.

b) The State shall be responsible for payment on claims for services or work provided and costs incurred pursuant to the terms of the Master Contract. In no event shall the State be liable for expenses and obligations arising from the requirements of the Master Contract after its termination date.

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

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

a) the repayment to the State of any monies previously paid to the Contractor; or

b) the return of any real property or equipment purchased under the terms of the Master Contract; or

c) an appropriate combination of clauses (a) and (b) of Section II(C)(4) herein.

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

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



as the State issues a formal written notice authorizing a resumption of performance under the Master Contract.

### III. PAYMENT AND REPORTING

#### A. Terms and Conditions:

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

## **B. Advance Payment and Recoupment:**

1. Advance payments, which the State in its sole discretion may make to not-for-profit grant recipients, shall be made and recouped in accordance with State Finance Law Section 179(u), this Section and the provisions of Attachment D (Payment and Reporting Schedule).
2. Initial advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the first day of the Contract Term or, if renewed, in the period identified on the Face Page. Subsequent advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the dates specified in Attachment D (Payment and Reporting Schedule).
3. For subsequent contract years in multi-year contracts, Contractor will be notified of the scheduled advance payments for the upcoming contract year no later than 90 days prior to the commencement of the contract year. For simplified renewals, the payment schedule (Attachment D) will be modified as part of the renewal process.
4. Recoupment of any advance payment(s) shall be recovered by crediting the percentage of subsequent claims listed in Attachment D (Payment and Reporting Schedule) and Section III(C) herein and such claims shall be reduced until the advance is fully recovered within the Contract Term. Any unexpended advance balance at the end of the Contract Term shall be refunded by the Contractor to the State.
5. If for any reason the amount of any claim is not sufficient to cover the proportionate advance amount to be recovered, then subsequent claims may be reduced until the advance is fully recovered.

## **C. Claims for Reimbursement:**

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

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

2. Consistent with the selected reimbursement claiming schedule in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the appropriate following provisions:

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

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

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

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

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

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

d) Milestone/Performance Reimbursement:<sup>4</sup> Requests for payment based upon an event or milestone may be either severable or cumulative. A severable event/milestone is independent of accomplishment of any other event. If the event is cumulative, the successful completion of an event or milestone is dependent on the previous completion of another event.

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

e) Fee for Service Reimbursement:<sup>5</sup> Payment shall be limited to only those fees specifically agreed upon in the Master Contract and shall be payable no more frequently than monthly upon submission of a voucher by the contractor.

f) Rate Based Reimbursement:<sup>6</sup> Payment shall be limited to rate(s) established in the Master Contract. Payment may be requested no more frequently than monthly.

g) Scheduled Reimbursement:<sup>7</sup> The State Agency shall generate vouchers at the frequencies and amounts as set forth in Attachment D (Payment and Reporting Schedule), and service

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<sup>4</sup> A milestone/ performance payment schedule identifies mutually agreed-to payment amounts based on meeting contract events or milestones. Events or milestones must represent integral and meaningful aspects of contract performance and should signify true progress in completing the Master Contract effort.

<sup>5</sup> Fee for Service is a rate established by the Contractor for a service or services rendered.

<sup>6</sup> Rate based agreements are those agreements in which payment is premised upon a specific established rate per unit.

<sup>7</sup> Scheduled Reimbursement agreements provide for payments that occur at defined and regular intervals that provide for a specified dollar amount to be paid to the Contractor at the beginning of each payment period (i.e. quarterly, monthly or bi-annually). While these payments are related to the particular services and outcomes defined in the Master Contract, they are not dependent upon particular services or expenses in any one payment period and provide the Contractor with a defined and regular payment over the life of the contract.

reports shall be used to determine funding levels appropriate to the next annual contract period.

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

i) Fifth Quarter Payments:<sup>8</sup> Fifth quarter payment shall be paid to the Contractor at the conclusion of the final scheduled payment period of the preceding contract period. The State Agency shall use a written directive for fifth quarter financing. The State Agency shall generate a voucher in the fourth quarter of the current contract year to pay the scheduled payment for the next contract year.

3. The Contractor shall also submit supporting fiscal documentation for the expenses claimed.
4. The State reserves the right to withhold up to fifteen percent (15%) of the total amount of the Master Contract as security for the faithful completion of services or work, as applicable, under the Master Contract. This amount may be withheld in whole or in part from any single payment or combination of payments otherwise due under the Master Contract. In the event that such withheld funds are insufficient to satisfy Contractor's obligations to the State, the State may pursue all available remedies, including the right of setoff and recoupment.
5. The State shall not be liable for payments on the Master Contract if it is made pursuant to a Community Projects Fund appropriation if insufficient monies are available pursuant to Section 99-d of the State Finance Law.
6. All vouchers submitted by the Contractor pursuant to the Master Contract shall be submitted to the State Agency no later than thirty (30) calendar days after the end date of the period for which reimbursement is claimed. In no event shall the amount received by the Contractor exceed the budget amount approved by the State Agency, and, if actual expenditures by the Contractor are less than such sum, the amount payable by the State Agency to the Contractor shall not exceed the amount of actual expenditures.
7. All obligations must be incurred prior to the end date of the contract. Notwithstanding the provisions of Section III(C)(6) above, with respect to the final period for which reimbursement is claimed, so long as the obligations were incurred prior to the end date of the contract, the Contractor shall have up to ninety (90) calendar days after the contract end date to make expenditures; provided, however, that if the Master Contract is funded, in whole or in part, with Federal funds, the Contractor shall have up to sixty (60) calendar days after the contract end date to make expenditures.

#### **D. Identifying Information and Privacy Notification:**

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<sup>8</sup> Fifth Quarter Payments occurs where there are scheduled payments and where there is an expectation that services will be continued through renewals or subsequent contracts. Fifth Quarter Payments allow for the continuation of scheduled payments to a Contractor for the first payment period quarter of an anticipated renewal or new contract.

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

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

#### **E. Refunds:**

1. In the event that the Contractor must make a refund to the State for Master Contract-related activities, including repayment of an advance or an audit disallowance, payment must be made payable as set forth in Attachment A-1 (Program Specific Terms and Conditions). The Contractor must reference the contract number with its payment and include a brief explanation of why the refund is being made. Refund payments must be submitted to the Designated Refund Office at the address specified in Attachment A-1 (Program Specific Terms and Conditions).

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

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

#### **G. Program and Fiscal Reporting Requirements:**

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

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

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

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

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

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

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

(v) *Consolidated Fiscal Report (CFR)*: The Contractor shall submit a CFR, which includes a year-end cost report and final claim not later than the time period listed in Attachment D (Payment and Reporting Schedule).

b) If the Performance-Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

- (i) *Progress Report*: The Contractor shall provide the State Agency with a written progress report using the forms and formats as provided by the State Agency, summarizing the work performed during the period. These reports shall detail the Contractor's progress toward attaining the specific goals enumerated in Attachment C (Work Plan). Progress reports shall be submitted in a format prescribed in the Master Contract.
- (ii) *Final Progress Report*: Final scheduled payment is due during the time period set forth in Attachment D (Payment and Reporting Schedule). The deadline for submission of the final report shall be the date set forth in Attachment D (Payment and Reporting Schedule). The State Agency shall complete its audit and notify the Contractor of the results no later than the date set forth in Attachment D (Payment and Reporting Schedule). Payment shall be adjusted by the State Agency to reflect only those services/expenditures that were made in accordance with the Master Contract. The Contractor shall submit a detailed comprehensive final progress report not later than the date set forth in Attachment D (Payment and Reporting Schedule), summarizing the work performed during the entire Contract Term (i.e., a cumulative report), in the forms and formats required.

3. In addition to the periodic reports stated above, the Contractor may be required (a) to submit such other reports as are required in Table 1 of Attachment D (Payment and Reporting Schedule), and (b) prior to receipt of final payment under the Master Contract, to submit one or more final reports in accordance with the form, content, and schedule stated in Table 1 of Attachment D (Payment and Reporting Schedule).

#### **H. Notification of Significant Occurrences:**

1. If any specific event or conjunction of circumstances threatens the successful completion of this project, in whole or in part, including where relevant, timely completion of milestones or other program requirements, the Contractor agrees to submit to the State Agency within three (3) calendar days of becoming aware of the occurrence or of such problem, a written description thereof together with a recommended solution thereto.
2. The Contractor shall immediately notify in writing the program manager assigned to the Master Contract of any unusual incident, occurrence, or event that involves the staff, volunteers, directors or officers of the Contractor, any subcontractor or program participant funded through the Master Contract, including but not limited to the following: death or serious injury; an arrest or possible criminal activity that could impact the successful completion of this project; any destruction of property; significant damage to the physical plant of the Contractor; or other matters of a similarly serious nature.

### **IV. ADDITIONAL CONTRACTOR OBLIGATIONS, REPRESENTATIONS AND WARRANTIES**

#### **A. Contractor as an Independent Contractor/Employees:**

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

agree that if the Contractor is a New York State municipality, the Contractor shall be permitted to hold itself out, and claim, to be a subdivision of the State.

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

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

**B. Subcontractors:**

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

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

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

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



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

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

**C. Use Of Material, Equipment, Or Personnel:**

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

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

**D. Property:**

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

a) If an item of Property required by the Contractor is available as surplus to the State, the State at its sole discretion, may arrange to provide such Property to the Contractor in lieu of the purchase of such Property.

b) If the State consents in writing, the Contractor may retain possession of Property owned by the State, as provided herein, after the termination of the Master Contract to use for similar purposes. Otherwise, the Contractor shall return such Property to the State at the Contractor's cost and expense upon the expiration of the Master Contract.

c) In addition, the Contractor agrees to permit the State to inspect the Property and to monitor its use at reasonable intervals during the Contractor's regular business hours.

d) The Contractor shall be responsible for maintaining and repairing Property purchased or procured under the Master Contract at its own cost and expense. The Contractor shall procure and maintain insurance at its own cost and expense in an amount satisfactory to the State Agency, naming the State Agency as an additional insured, covering the loss, theft or destruction of such equipment.

e) A rental charge to the Master Contract for a piece of Property owned by the Contractor shall not be allowed.

f) The State has the right to review and approve in writing any new contract for the purchase of or lease for rental of Property (Purchase/Lease Contract) operated in connection with the provision of the services or work, as applicable, as specified in the Master Contract, if applicable, and any modifications, amendments, or extensions of an existing lease or purchase prior to its execution. If, in its discretion, the State disapproves of any Purchase/Lease Contract, then the State shall not be obligated to make any payments for such Property.

g) No member, officer, director or employee of the Contractor shall retain or acquire any interest, direct or indirect, in any Property, paid for with funds under the Master Contract, nor retain any interest, direct or indirect, in such, without full and complete prior disclosure of such interest and the date of acquisition thereof, in writing to the Contractor and the State.

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

a) For cost-reimbursable contracts, all right, title and interest in such Property shall belong to the State.

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

3. For Federally funded contracts, title to Property whose requisition cost is borne in whole or in part by monies provided under the Master Contract shall be governed by the terms and conditions of Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws).

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

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

## **E. Records and Audits:**

### **1. General:**

a) The Contractor shall establish and maintain, in paper or electronic format, complete and accurate books, records, documents, receipts, accounts, and other evidence directly pertinent to its performance under the Master Contract (collectively, Records).

b) The Contractor agrees to produce and retain for the balance of the term of the Master Contract, and for a period of six years from the later of the date of (i) the Master Contract and (ii) the most recent renewal of the Master Contract, any and all Records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under the Master Contract. Such Records may include, but not be limited to, original books of entry

(e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:

(i) personal service expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, cash and check disbursement records including copies of money orders and the like, vouchers and invoices, records of contract labor, any and all records listing payroll and the money value of non-cash advantages provided to employees, time cards, work schedules and logs, employee personal history folders, detailed and general ledgers, sales records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

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

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

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

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

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

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

## **2. Cost Allocation:**

a) For non-performance based contracts, the proper allocation of the Contractor's costs must be made according to a cost allocation plan that meets the requirements of OMB Circulars A-87, A-122, and/or A-21. Methods used to determine and assign costs shall conform to generally accepted accounting practices and shall be consistent with the method(s) used by the Contractor to determine costs for other operations or programs. Such accounting standards and practices shall be subject to approval of the State.

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

3. **Federal Funds:** For records and audit provisions governing Federal funds, please see Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws).

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

**G. Publicity:**

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

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

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

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

3. Notwithstanding the above, (i) if the Contractor is an educational research institution, the Contractor may, for scholarly or academic purposes, use, present, discuss, report or publish any material, data or analyses, other than Confidential Information, that derives from activity under the Master Contract and the Contractor agrees to use best efforts to provide copies of any manuscripts arising from Contractor's performance under this Master Contract, or if requested by the State, the Contractor shall provide the State with a thirty (30) day period in which to review each manuscript for compliance with Confidential Information requirements; or (ii) if the Contractor is not an educational research institution, the Contractor may submit for publication, scholarly or academic publications that derive from activity under the Master Contract (but are not deliverable under the Master Contract), provided that the Contractor first

submits such manuscripts to the State forty-five (45) calendar days prior to submission for consideration by a publisher in order for the State to review the manuscript for compliance with confidentiality requirements and restrictions and to make such other comments as the State deems appropriate. All derivative publications shall follow the same acknowledgments and disclaimer as described in Section IV(G)(2) (Publicity) hereof.

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

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

**J. Equal Opportunities for Minorities and Women; Minority and Women Owned Business Enterprises:** In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if the Master Contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting State Agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting State Agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting State Agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of

\$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the Contractor certifies and affirms that (i) it is subject to Article 15-A of the Executive Law which includes, but is not limited to, those provisions concerning the maximizing of opportunities for the participation of minority and women-owned business enterprises and (ii) the following provisions shall apply and it is Contractor's equal employment opportunity policy that:

1. The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status;
2. The Contractor shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts;
3. The Contractor shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;
4. At the request of the State, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative shall not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative shall affirmatively cooperate in the implementation of the Contractor's obligations herein; and
5. The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants shall be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

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

**K. Omnibus Procurement Act of 1992:** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and

women-owned business enterprises, as bidders, subcontractors and suppliers on its procurement contracts.

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

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

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

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

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

**L. Workers' Compensation Benefits:**

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

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

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

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

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

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

3. the history and results of any audit or investigation; and
4. copies of wage reporting information.

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

**N. Vendor Responsibility:**

1. If a Contractor is required to complete a Questionnaire, the Contractor covenants and represents that it has, to the best of its knowledge, truthfully, accurately and thoroughly completed such Questionnaire. Although electronic filing is preferred, the Contractor may obtain a paper form from the OSC prior to execution of the Master Contract. The Contractor further covenants and represents that as of the date of execution of the Master Contract, there are no material events, omissions, changes or corrections to such document requiring an amendment to the Questionnaire.
2. The Contractor shall provide to the State updates to the Questionnaire if any material event(s) occurs requiring an amendment or as new information material to such Questionnaire becomes available.
3. The Contractor shall, in addition, promptly report to the State the initiation of any investigation or audit by a governmental entity with enforcement authority with respect to any alleged violation of Federal or state law by the Contractor, its employees, its officers and/or directors in connection with matters involving, relating to or arising out of the Contractor's business. Such report shall be made within five (5) business days following the Contractor becoming aware of such event, investigation, or audit. Such report may be considered by the State in making a Determination of Vendor Non-Responsibility pursuant to this section.
4. The State reserves the right, in its sole discretion, at any time during the term of the Master Contract:
  - a) to require updates or clarifications to the Questionnaire upon written request;
  - b) to inquire about information included in or required information omitted from the Questionnaire;
  - c) to require the Contractor to provide such information to the State within a reasonable timeframe; and
  - d) to require as a condition precedent to entering into the Master Contract that the Contractor agree to such additional conditions as shall be necessary to satisfy the State that the Contractor is, and shall remain, a responsible vendor; and
  - e) to require the Contractor to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity. By signing the Master Contract, the Contractor agrees



to comply with any such additional conditions that have been made a part of the Master Contract.

5. The State, in its sole discretion, reserves the right to suspend any or all activities under the Master Contract, at any time, when it discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor shall be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the State issues a written notice authorizing a resumption of performance under the Master Contract.

6. The State, in its sole discretion, reserves the right to make a final Determination of Non-Responsibility at any time during the term of the Master Contract based on:

a) any information provided in the Questionnaire and/or in any updates, clarifications or amendments thereof; or

b) the State's discovery of any material information which pertains to the Contractor's responsibility.

7. Prior to making a final Determination of Non-Responsibility, the State shall provide written notice to the Contractor that it has made a preliminary determination of non-responsibility. The State shall detail the reason(s) for the preliminary determination, and shall provide the Contractor with an opportunity to be heard.

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

**P. Consultant Disclosure Law:**<sup>9</sup> If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services, then in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

**Q. Wage and Hours Provisions:** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the

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<sup>9</sup> Not applicable to not-for-profit entities.

prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

**ATTACHMENT A-1**  
**AGENCY AND PROGRAM SPECIFIC CLAUSES**  
**Part A. Agency Specific Clauses**

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

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

**B. Prohibition on Purchase of Tropical Hardwoods:**

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

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

**C. MacBride Fair Employment Principles:** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the

MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

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

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

NYS Department of Economic Development  
Division for Small Business  
Albany, New York 12245  
Telephone: 518-292-5100  
Fax: 518-292-5884  
email: [opa@esd.ny.gov](mailto:opa@esd.ny.gov)

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development  
Division of Minority and Women's Business Development

633 Third Avenue  
New York, NY 10017  
212-803-2414  
email: [mwbecertification@esd.ny.gov](mailto:mwbecertification@esd.ny.gov)  
<http://esd.ny.gov/MWBE/directorySearch.html>

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

**F. Certification of Registration to Collect Sales and Compensating Use Tax by Certain State Contractors, Affiliates, and Subcontractors:** To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

G. The CONTRACTOR certifies that all revenue earned during the budget period as a result of services and related activities performed pursuant to this contract shall be used either to expand those program services funded by this AGREEMENT or to offset expenditures submitted to the STATE for reimbursement.

**H. Administrative Rules and Audits:**

1. If this contract is funded in whole or in part from federal funds, the CONTRACTOR shall comply with the following federal grant requirements regarding administration and allowable costs:

a) For a local or Indian tribal government, use the principles in the common rule, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," and Office of Management and Budget (OMB) Circular A-87, "Cost Principles for State, Local and Indian Tribal Governments".

b) For a nonprofit organization other than  
(i) an institution of higher education,  
(ii) a hospital, or  
(iii) an organization named in OMB Circular A-122, "Cost Principles for Non-profit Organizations", as not subject to that circular,

use the principles in OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-profit Organizations," and OMB Circular A-122.

c) For an Educational Institution, use the principles in OMB Circular A-110 and OMB Circular A-21, "Cost Principles for Educational Institutions".

d) For a hospital, use the principles in OMB Circular A-110, Department of Health and Human Services, 45 CFR 74, Appendix E, "Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals" and, if not covered for audit purposes by OMB Circular A-133, "Audits of States Local Governments and Non-profit Organizations", then subject to program specific audit requirements following Government Auditing Standards for financial audits.

2. If this contract is funded entirely from STATE funds, and if there are no specific administration and allowable costs requirements applicable, CONTRACTOR shall adhere to the applicable principles in "1" above.

3. The CONTRACTOR shall comply with the following grant requirements regarding audits.

a) If the contract is funded from federal funds, and the CONTRACTOR spends more than \$500,000 in federal funds in their fiscal year, an audit report must be submitted in accordance with OMB Circular A-133.

b) If this contract is funded from other than federal funds or if the contract is funded from a combination of STATE and federal funds but federal funds are less than \$500,000, and if the CONTRACTOR receives \$300,000 or more in total annual payments from the STATE, the CONTRACTOR shall submit to the STATE after the end of the CONTRACTOR's fiscal year an audit report. The audit report shall be submitted to the STATE within thirty days after its completion but no later than nine months after the end of the audit period. The audit report shall summarize the business and financial transactions of the CONTRACTOR. The report shall be prepared and certified by an independent accounting firm or other accounting entity, which is demonstrably independent of the administration of the program being audited. Audits performed of the CONTRACTOR's records shall be conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States covering financial audits. This audit requirement may be met through entity-wide audits, coincident with the CONTRACTOR's fiscal year, as described in OMB Circular A-133. Reports, disclosures, comments and opinions required under these publications should be so noted in the audit report.

4. For audit reports due on or after April 1, 2013, that are not received by the dates due, the following steps shall be taken:

a) If the audit report is one or more days late, voucher payments shall be held until a compliant audit report is received.

b) If the audit report is 91 or more days late, the STATE shall recover payments for all STATE funded contracts for periods for which compliant audit reports are not received.

c) If the audit report is 180 days or more late, the STATE shall terminate all active contracts, prohibit renewal of those contracts and prohibit the execution of future contracts until all outstanding compliant audit reports have been submitted.

**I.** The CONTRACTOR shall accept responsibility for compensating the STATE for any exceptions which are revealed on an audit and sustained after completion of the normal audit procedure.

**J.** The STATE, its employees, representatives and designees, shall have the right at any time during normal business hours to inspect the sites where services are performed and observe the services being performed by the CONTRACTOR. The CONTRACTOR shall render all assistance and cooperation to the STATE in making such inspections. The surveyors shall have the responsibility for determining contract compliance as well as the quality of service being rendered.

**K.** The CONTRACTOR has an affirmative duty to take prompt, effective, investigative and remedial action where it has actual or constructive notice of discrimination in the terms, conditions or privileges of employment against (including harassment of) any of its employees by any of its other employees, including managerial personnel, based on race, creed, color, sex, national origin, age, disability, sexual orientation or marital status.

**L.** The CONTRACTOR shall not discriminate on the basis of race, creed, color, sex, national origin, age, disability, sexual orientation or marital status against any person seeking services for which the CONTRACTOR may receive reimbursement or payment under this AGREEMENT

**M.** The CONTRACTOR shall comply with all applicable federal, State and local civil rights and human rights laws with reference to equal employment opportunities and the provision of services.

**N.** Unless the CONTRACTOR is a political sub-division of New York State, the CONTRACTOR shall provide proof, completed by the CONTRACTOR's insurance carrier and/or the Workers' Compensation Board, of coverage for:

1. Workers' Compensation, for which one of the following is incorporated into this contract as **Attachment E-1**:

a) **CE-200** -- Certificate of Attestation For New York Entities With No Employees And Certain Out Of State Entities, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR

b) **C-105.2** -- Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the **U-26.3**; OR

c) **SI-12** -- Certificate of Workers' Compensation Self-Insurance, OR **GSI-105.2** -- Certificate of Participation in Workers' Compensation Group Self-Insurance

2. Disability Benefits coverage, for which one of the following is incorporated into this contract as **Attachment E-2**:

a) **CE-200**, Certificate of Attestation For New York Entities With No Employees And Certain Out Of State Entities, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR

b) **DB-120.1** -- Certificate of Disability Benefits Insurance OR

c) **DB-155** -- Certificate of Disability Benefits Self-Insurance

**O.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208). Contractor shall be liable for the costs associated with any breach if caused by Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of Contractor's agents, officers, employees or subcontractors.

**P.** All products supplied pursuant to this agreement shall meet local, state and federal regulations, guidelines and action levels for lead as they exist at the time of the State's acceptance of this contract.

**Q.** All bidders/contractors agree that all state funds dispersed under this bid/contract will be bound by the terms, conditions, obligations and regulations promulgated or to be promulgated by the Department in accordance with E.O. 38, signed in 2012, governing restrictions on executive compensation.

**R.** The CONTRACTOR shall submit to the STATE (*quarterly*) voucher claims and reports of expenditures on such forms and in such detail as the STATE shall require. The CONTRACTOR shall submit vouchers to the State's designated payment office located in the:

**Bureau of Community Environmental Health and Food Protection  
Empire State Plaza, Corning Tower Building, Room 1395  
Albany, New York 12237**

**S.** If the CONTRACTOR is eligible for an annual cost of living adjustment (COLA), enacted in New York State Law, that is associated with this grant AGREEMENT, payment of such COLA shall be made separate from payments under this AGREEMENT and shall not be applied toward or amend amounts payable under Appendix B of this Agreement.

Before payment of a COLA can be made, the STATE shall notify the CONTRACTOR, in writing, of eligibility for any COLA. The CONTRACTOR shall be required to submit a written certification attesting that all COLA funding will be used to promote the recruitment and retention of staff or respond to other critical non-personal service costs during the State fiscal year for which the cost of living adjustment was allocated, or provide any other such certification as may be required in the enacted legislation authorizing the COLA.

**T. Certification Regarding Environmental Tobacco Smoke:** Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through State or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions



of the law may result in the imposition of a monetary penalty of up to \$1000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing this AGREEMENT, the CONTRACTOR certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The CONTRACTOR agrees that it will require that the language of this certification be included in any subawards which contain provisions for children's services and that all subrecipients shall certify accordingly.

U. Pursuant to the Master Contract's Standard Terms and Conditions, I. (General Provisions); J. (Notices), such notices shall be addressed as follows or to such different addresses as the parties may from time to time designate:

**State of New York Department of Health**

Name: Michael J. Cambridge

Title: Deputy Director, Center for Environmental Health

Address: Empire State Plaza, Corning Tower Bldg., Room 1619, Albany, NY 12237

Telephone Number: 518/402-7500

Facsimile Number: 518/402-7509

E-Mail Address: Michael.Cambridge@health.ny.gov

**Insert Vendor/Grantee Name Here**

Name: Phyllis D. Ellis, BSN, MS, FACHE

Title: Director of Health

Address: Adirondack Bank Bldg., 5<sup>th</sup> Floor, 185 Genesee Street, Utica, NY 13501

Telephone Number: 315/798-5633

Facsimile Number: 315/266-6138

E-Mail Address: pellis@ocgov.net

**Part B. Program Specific Clauses**

Additional Department of Health program specific clauses follow in Attachment A-1 Part B.

**ATTACHMENT A-2  
FEDERALLY FUNDED GRANTS**

**Part A. AGENCY SPECIFIC CLAUSES**

**A. Federal Certifications:** This section shall be applicable to this AGREEMENT only if any of the funds made available to the CONTRACTOR under this AGREEMENT are federal funds.

1. Lobbying Certification (except as otherwise provided in Part B of this Attachment A-2)

a) If the CONTRACTOR is a tax-exempt organization under Section 501 (c)(4) of the Internal Revenue Code, the CONTRACTOR certifies that it will not engage in lobbying activities of any kind regardless of how funded.

b) The CONTRACTOR acknowledges that as a recipient of federal appropriated funds, it is subject to the limitations on the use of such funds to influence certain Federal contracting and financial transactions, as specified in Public Law 101-121, section 319, and codified in section 1352 of Title 31 of the United States Code. In accordance with P.L. 101-121, section 319, 31 U.S.C. 1352 and implementing regulations, the CONTRACTOR affirmatively acknowledges and represents that it is prohibited and shall refrain from using Federal funds received under this AGREEMENT for the purposes of lobbying; provided, however, that such prohibition does not apply in the case of a payment of reasonable compensation made to an officer or employee of the CONTRACTOR to the extent that the payment is for agency and legislative liaison activities not directly related to the awarding of any Federal contract, the making of any Federal grant or loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement. Nor does such prohibition prohibit any reasonable payment to a person in connection with, or any payment of reasonable compensation to an officer or employee of the CONTRACTOR if the payment is for professional or technical services rendered directly in the preparation, submission or negotiation of any bid, proposal, or application for a Federal contract, grant, loan, or cooperative agreement, or an extension, continuation, renewal, amendment, or modification thereof, or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract, grant, loan or cooperative agreement.

c) This section shall be applicable to this AGREEMENT only if federal funds allotted exceed \$100,000.

(i) The CONTRACTOR certifies, to the best of his or her knowledge and belief, that:

- No federal appropriated funds have been paid or will be paid, by or on behalf of the CONTRACTOR, to any person for influencing or attempting to influence an

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

- If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

(ii) The CONTRACTOR shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(iii) The CONTRACTOR shall disclose specified information on any agreement with lobbyists whom the CONTRACTOR will pay with other Federal appropriated funds by completion and submission to the STATE of the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions. This form may be obtained by contacting either the Office of Management and Budget Fax Information Line at (202) 395-9068 or the Bureau of Contracts at (518) 474-7896. Completed forms should be submitted to the New York State Department of Health, Bureau of Contracts, Empire State Plaza, Corning Tower Building, Room 2756, Albany, 12237-0016.

(iv) The CONTRACTOR shall file quarterly updates on the use of lobbyists if material changes occur, using the same standard disclosure form identified in (c) above to report such updated information.

d) The reporting requirements enumerated in subsection (3) of this paragraph shall not apply to the CONTRACTOR with respect to:

- (i) Payments of reasonable compensation made to its regularly employed officers or employees;

- (ii) A request for or receipt of a contract (other than a contract referred to in clause (c) below), grant, cooperative agreement, subcontract (other than a subcontract referred to in clause (c) below), or subgrant that does not exceed \$100,000; and
- (iii) A request for or receipt of a loan, or a commitment providing for the United States to insure or guarantee a loan, that does not exceed \$150,000, including a contract or subcontract to carry out any purpose for which such a loan is made.

2. Certification Regarding Environmental Tobacco Smoke: Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through State or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a monetary penalty of up to \$1000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing this AGREEMENT, the CONTRACTOR certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The CONTRACTOR agrees that it will require that the language of this certification be included in any subawards which contain provisions for children's services and that all subrecipients shall certify accordingly.

3. Certification Regarding Debarment and Suspension: Regulations of the Department of Health and Human Services, located at Part 76 of Title 45 of the Code of Federal Regulations (CFR), implement Executive Orders 12549 and 12689 concerning debarment and suspension of participants in federal programs and activities. Executive Order 12549 provides that, to the extent permitted by law, Executive departments and agencies shall participate in a government-wide system for non-procurement debarment and suspension. Executive Order 12689 extends the debarment and suspension policy to procurement activities of the federal government. A person who is debarred or suspended by a federal agency is excluded from federal financial and non-financial assistance and benefits under federal programs and activities, both directly (primary covered transaction) and indirectly (lower tier covered transactions). Debarment or suspension by one federal agency has government-wide effect.

Pursuant to the above-cited regulations, the New York State Department of Health (as a participant in a primary covered transaction) may not knowingly do business with a person who is debarred, suspended, proposed for debarment, or subject to other government-wide exclusion (including any exclusion from Medicare and State health care program participation on or after

August 25, 1995), and the Department of Health must require its prospective contractors, as prospective lower tier participants, to provide the certification in Appendix B to Part 76 of Title 45 CFR, as set forth below:

a) APPENDIX B TO 45 CFR PART 76-CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION-LOWER TIER COVERED TRANSACTIONS

**Instructions for Certification**

- (i) By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
- (ii) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- (iii) The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
- (iv) The terms *covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded*, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules Implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- (v) The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

- (vi) The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions.
- (vii) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded From Federal Procurement and Non-procurement Programs.
- (viii) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (ix) Except for transactions authorized under paragraph "e" of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

b) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

- (i) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department agency.
- (ii) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**B. Administrative Rules and Audits:**

1. If this contract is funded in whole or in part from federal funds, the CONTRACTOR shall comply with the federal grant requirements regarding administration and allowable costs:

a) For local and Indian tribal governments, non-profit organizations; and educational institutions, use the administrative requirements and cost principles (Subparts A through E) in Office of Management and Budget (OMB), Title 2 Code of Federal Regulations (CFR), Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards.

b) Exceptions: Pursuant to 2 CFR Part 200 Appendix IX, for a hospital, use the cost principles in Department of Health and Human Services, 45 CFR Part 74, Appendix E, "Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals". For hospital administrative requirements, use OMB, 2 CFR, Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

For fixed amount awards, cost principles (Subpart E) do not apply.

2. If this contract is funded entirely from STATE funds, and if there are no specific administration and allowable costs requirements applicable, CONTRACTOR shall adhere to the applicable principles in "1" above.

3. The CONTRACTOR shall comply with the following grant requirements regarding audits.

a) If the contract is funded from federal awards, and the CONTRACTOR expends \$750,000 or more (or the amount per the current federal regulations 2 CFR Part 200 as revised, which is scheduled to be updated every 5 years) in federal awards during their fiscal year, an audit report must be submitted in accordance with Subpart F of OMB, 2 CFR, Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

b) If this contract is funded from other than federal awards or if the contract is funded from a combination of STATE and federal awards but federal awards are less than \$750,000 (or the amount per the current federal regulations 2 CFR Part 200 as revised, which is scheduled to be updated every 5 years), and if the CONTRACTOR expends \$750,000 or more in total annual payments from the STATE, the CONTRACTOR shall submit to the STATE after the end of the CONTRACTOR's fiscal year an audit report. The audit report shall be submitted to the STATE within thirty days after its completion but no later than nine months after the end of the audit period. The audit report shall summarize the business and financial transactions of the CONTRACTOR. The report shall be prepared and certified by an independent accounting firm or other accounting entity, which is demonstrably independent of the administration of the program being

audited. Audits performed of the CONTRACTOR's records shall be conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States covering financial audits. This audit requirement may be met through entity-wide audits, coincident with the CONTRACTOR's fiscal year, as described in OMB, 2 CFR, Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Reports, disclosures, comments and opinions required under these publications should be so noted in the audit report.

4. For audit reports that are not received by the dates due, the following steps shall be taken:
  - a) If the audit report is one or more days late, voucher payments shall be held until a compliant audit report is received.
  - b) If the audit report is 180 days or more late, the STATE shall terminate all active contracts, prohibit renewal of those contracts and prohibit the execution of future contracts until all outstanding compliant audit reports have been submitted.

#### **Part B. Program Specific Federal Clauses**

Attachment A-2 Part B intentionally omitted.



**ATTACHMENT D  
PAYMENT AND REPORTING SCHEDULE**

**I. PAYMENT PROVISIONS**

In full consideration of contract services to be performed the State Agency agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page hereof. All payments shall be in accordance with the budget contained in the applicable Attachment B form (Budget), which is attached hereto.

**A. Advance Payment, Initial Payment and Recoupment Language (if applicable):**

1. The State Agency will make an advance payment to the Contractor, during the initial period, in the amount of (\_\_\_\_%) percent (\_\_\_\_%) the budget as set forth in the most recently approved applicable Attachment B form (Budget).
2. The State Agency will made an initial payment to the Contractor in the amount of \_\_\_\_ percent (\_\_\_\_%) of the annual budget as set forth in the most recently approved applicable Attachment B form (Budget). This payment will be no later than \_\_\_\_ days from the beginning of the budget period.
3. Scheduled advance payments shall be due in accordance with an approved payment schedule as follows:

Period: ____	Amount: ____	Due Date: ____
Period: ____	Amount: ____	Due Date: ____
Period: ____	Amount: ____	Due Date: ____
Period: ____	Amount: ____	Due Date: ____

4. Recoupment of any advance payment(s) or initial payments(s) shall be recovered by crediting (\_\_\_\_%) of subsequent claims and such claims will be reduced until the advance is fully recovered within the contract period.

**B. Interim and/or Final Claims for Reimbursement**

Claiming Schedule (*select applicable frequency*):

- Quarterly Reimbursement  
Due date 30 days after end of each quarter
- Monthly Reimbursement  
Due Date \_\_\_\_
- Biannual Reimbursement  
Due date \_\_\_\_

- Fee for Service Reimbursement  
Due date \_\_\_\_\_
- Rate Based Reimbursement  
Due Date \_\_\_\_\_
- Fifth Quarter Reimbursement  
Due date \_\_\_\_\_
- Milestone/Performance Reimbursement  
Due date/Frequency \_\_\_\_\_
- Scheduled Reimbursement  
Due Date/Frequency \_\_\_\_\_
- Interim Reimbursement as Requested by Contractor: \_\_\_\_\_

## II. REPORTING PROVISIONS

### A. Expenditure-Based Reports (*select the applicable report type*):

- Narrative/Qualitative Report  
The Contractor will submit, on a monthly basis, not later than \_\_\_\_\_ from the end of the quarter, the report described in Section III(G)(2)(a)(i) of the Master Contract.
- Statistical/Quantitative Report  
The Contractor will submit, on a quarterly basis, not later than \_\_\_\_\_ days from the end of the quarter, the report described in Section III(G)(2)(a)(ii) of the Master Contract.
- Expenditure Report  
The Contractor will submit, on a quarterly basis, not later than \_\_\_\_\_ days after the end date for which reimbursement is being claimed, the report described in Section III(G)(2)(a)(iii) of the Master Contract.
- Final Report  
The Contractor will submit the final report as described in Section III(G)(2)(a)(iv) of the Master Contract, no later than 30 days after the end of the contract period.
- Consolidated Fiscal Report (CFR)<sup>1</sup>  
The Contractor will submit the CFR on an annual basis, in accordance with the time frames designated in the CFR manual. For New York City contractors, the due date shall be May 1 of each year; for Upstate and Long Island contractors, the due date shall be November 1 of each year.

<sup>1</sup> The Consolidated Fiscal Reporting System is a standardized electronic reporting method accepted by Office of Alcoholism & Substance Services, Office of Mental Health, Office of Persons with Developmental Disabilities and the State Education Department, consisting of schedules which, in different combinations, capture financial information for budgets, quarterly and/or mid-year claims, an annual cost report, and a final claim. The CFR, which must be submitted annually, is both a year-end cost report and a year-end claiming document.

## **B. Progress-Based Reports**

### 1. Progress Reports

The Contractor shall provide the report described in Section III(G)(2)(b)(i) of the Master Contract in accordance with the forms and in the format provided by the State Agency, summarizing the work performed during the contract period (see Table 1 below for the annual schedule).

### 2. Final Progress Report

Final scheduled payment will not be due until \_\_\_\_\_ days after completion of agency's audit of the final expenditures report/documentation showing total grant expenses submitted by vendor with its final invoice. Deadline for submission of the final report is \_\_\_\_\_. The agency shall complete its audit and notify vendor of the results no later than \_\_\_\_\_. The Contractor shall submit the report not later than \_\_\_\_\_ days from the end of the contract.

## **C. Other Reports**

The Contractor shall provide reports in accordance with the form, content and schedule as set forth in Table 1.

**TABLE 1 – REPORTING SCHEDULE**

<b>PROGRESS REPORT #</b>	<b>PERIOD COVERED</b>	<b>DUE DATE</b>
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		

**III. SPECIAL PAYMENT AND REPORTING PROVISIONS**



ONEIDA COUNTY  
OFFICE OF THE COUNTY EXECUTIVE

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

August 8, 2017

FN 20 17-287

Board of Legislators  
Oneida County  
800 Park Ave.  
Utica, NY 13501

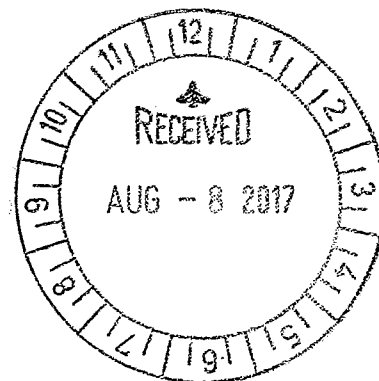
**READ & FILED**

Dear Honorable Members:

In accordance with the terms of the Oneida County Charter, I wish to appear before you on Thursday October 5, 2017 at 10:00 am to present the proposed Oneida County Operating Budget and Capital Project Plan for the year 2018.

Respectfully submitted,

Anthony J. Picente Jr.  
Oneida County Executive



# 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

## ADMINISTRATION

Phone: (315) 798-6400 • Fax: (315) 266-6138 • Email: publichealth@ocgov.net

August 8, 2017

FN 20

17-284

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

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

HEALTH & HUMAN SERVICES

Anthony J. Picente, Jr.  
County Executive

WAYS & MEANS



Date

8/9/17

Dear Mr. Picente,

Beginning in 2016, Oneida County Health Department began analysis of the operational components of the Early Intervention program. The local health department is responsible to coordinate the E.I. program, meaning it is the gatekeeper for all referrals, assessments and service plans developed for each identified child.

Once a child is identified as appropriate to be evaluated for program services, an initial Service Coordinator (OCHD Family Service Specialist) is assigned. Once the initial assessment is performed, the Ongoing Service Coordinator is assigned.

Recently there have been two agencies designated to receive the required training and approval from NYS DOH to provide ongoing service coordination. Additional agencies have since been certified, which allowed for decreasing capacity at OCHD.

Therefore, it is requested that Family Service Specialists decrease from seven to three, eliminating four positions. Please forward this request to the Board of Legislators for their action at their September meeting.

During this planning time, the Director of Early Intervention resigned. At that time, the E.I. program has been merged organizationally under Special Children Services division.

Sincerely,

Phyllis D. Ellis  
Director of Health

cc: Al Candido  
John Talerico

