



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

October 10, 2018

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

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ONEIDA COUNTY DEPARTMENT OF LAW

Oneida County Office Building
800 Park Avenue ♦ Utica, New York 13501-2975
(315) 798-5910 ♦ fax: (315) 798-5603 ♦ www.ocgov.net

Anthony J. Picente, Jr.
County Executive

Peter M. Rayhill
County Attorney

September 24, 2018

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

FN 20 18-351
**ECONOMIC DEVELOPMENT
& TOURISM
WAYS & MEANS**

Re: Agreement with The Convention and Visitors Bureau for Oneida County, Inc.

Dear County Executive Picente:

Enclosed, please find an Agreement between the County and The Convention and Visitors Bureau for Oneida County, Inc., (Convention Bureau) which allocates the revenue collected from the Hotel Occupancy Tax to the Convention Bureau for the purpose of promoting tourism and convention activities throughout Oneida County.

For informational purposes, the total Hotel Occupancy Tax collected and paid to The Convention and Visitors Bureau for Oneida County, Inc. in 2017 was \$770,518.44. Final 2018 Hotel Occupancy Tax numbers are not yet available.

If the enclosed meets with your approval, I respectfully request that you forward the same to the Board of County Legislators for consideration at their next meeting.

Sincerely,

Amanda Lynn Cortese
Special Assistant County Attorney

Enclosures

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

Anthony J. Picente, Jr.
County Executive

Date 10-1-18

Oneida Co. Department: County Attorney

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

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor:

The Convention and Visitors Bureau for
Oneida County, Inc.
P.O. Box 551
Utica, New York 13503

Title of Activity or Service:

Regional tourism promotion

Proposed Dates of Operation:

10/1/18 – 9/30/2019

Client Population/Number to be Served:

Summary Statements

- 1) **Narrative Description of Proposed Services:** By way of this agreement the CVB will receive the County's bed tax money to promote tourism and operate the Visitors Information Center.
- 2) **Program/Service Objectives and Outcomes:** To help O.C. tourism and therefore the County's economy.
- 3) **Program Design and Staffing:** N/A

Total Funding Requested: N/A - Revenue

Account # A1740

The total contract amount is unknown as it is for payment of all Hotel Occupancy Tax Revenue. The total amount paid in 2017 was \$770,518.44. Final revenue numbers for 2018 are not yet available.

Oneida County Dept. Funding Recommendation: N/A

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

Cost Per Client Served: N/A

Past Performance Data: N/A

O.C. Department Staff Comments: None

AGREEMENT

THIS AGREEMENT, made this 1st day of October, 2018 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 at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as the "County," and **THE CONVENTION AND VISITORS BUREAU FOR ONEIDA COUNTY, INC.**, a domestic not-for-profit corporation organized and existing under the laws of the State of New York, with its principal office located at NYS Thruway, Exit 31, P.O. Box 551, Utica, New York 13503, hereinafter referred to as the "Bureau."

WHEREAS, the Bureau is a New York not-for-profit corporation located within the County of Oneida and formed for the purpose, among others, of developing and promoting tourism in Oneida County; and

WHEREAS, tourism is a major local industry having a significant economic impact on commerce in Oneida County; and

WHEREAS, the County is desirous of having the Bureau actively promote and market Oneida County as a visitor destination, and a site for meetings and conventions; and

WHEREAS, Section 224 of the County Law authorizes the County to enter into an agreement with the Bureau to provide promotional and marketing services; and

WHEREAS, the Board of County Legislators of the County of Oneida, by Resolution, has authorized the County Executive to execute this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between the parties hereto as follows:

1. **TERM:** The term of this Agreement shall be from October 1, 2018 to September 30, 2019.

2. **SCOPE OF SERVICES (“Services”):**

- A. The Bureau shall actively promote and market local and regional attractions and facilities located in and around Oneida County for the purpose of increasing visitors in our communities, and thereby, increasing the economic impact of tourism in the County.
- B. The Bureau shall consult and collaborate with the Board of County Legislators of the County, the County Executive, other area officials, tourism industry representatives, business leadership and others so as to enhance commerce in Oneida County through convention and tourism marketing activities.
- C. The Bureau shall operate the Information Center located at Exit 31 of the New York State Thruway. This Information Center shall be open to the public as follows:
 - i. July 1 through August 31, from 9:00 a.m. to 5:00 p.m., Monday through Sunday;
 - ii. September 1 through June 30, from 9:00 a.m. to 5:00 p.m., Monday through Friday; and from 10:00 a.m. through 6:00 p.m., Saturday through Sunday;
 - iii. The Information Center shall be closed on the following holidays: Christmas Day, New Year’s Day, Thanksgiving Day and Easter.
- D. Information Center programs shall include: attraction and event brochures, promotional literature, travel directions and personalized services when needed and appropriate, assistance in locating overnight lodging, a clean rest stop with accessible washrooms, and additional services required of visitors and travelers entering Oneida County.
- E. The Bureau shall conduct the following programs and activities:
 - i. Attend and participate in travel related shows and displays;
 - ii. Promote of Oneida County as a site for meetings and conventions;

- iii. Assist of meeting planners as needed;
- iv. Operate visitor information displays;
- v. Support and promote motor coach programs attracting visitors to Oneida County;
- vi. Manage the NYS Matching Funds Program in Oneida County;
- vii. Collaborate with other tourism/visitor-related organizations, including an annual contribution to the Central New York Region;
- viii. Prepare materials for use in promoting tourism, encouraging visitors, attracting meetings/conventions, and marketing Oneida County as a visitor destination;
- ix. Conduct a Bureau membership program;
- x. At its option, continue its Tourism Marketing Grant Assistance Program, for the promotion of tourism; and
- xi. Any other activities that contribute to accomplishing the mission and purposes of the Bureau.

F. The Bureau shall periodically prepare a strategic vision and marketing/promotional plan of action relating to Bureau activities. Such a Plan shall include provisions for measuring the outcomes of Bureau activities and programs, and reporting such information to the community.

3. **PERFORMANCE OF SERVICES:**

A. Bureau represents that it has the qualifications, the specialized skill(s), the experience and the ability to properly perform the Services. Bureau shall use its best efforts to perform the Services hereinabove such that the results are satisfactory to the County. Bureau shall be solely responsible for determining the method, details and means of performing the Services hereinabove, except where Federal, State or

Local Laws and Regulations impose specific requirements on performance of the same.

- B. Bureau may, at its own expense, employ or engage the services of such employees, subcontractors and/or partners as Bureau deems necessary to perform the Services (collectively, the "Assistants"). The Bureau is a legal entity, separate and distinct from the County. 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. Bureau shall be solely responsible and shall remain liable for the performance of the Services by the Assistants in a manner satisfactory to the County, in in compliance with any and all applicable Federal, State or Local Laws and Regulations. Bureau shall expressly advise the Assistants of the terms of this Agreement.
- C. Bureau acknowledges and agrees that Bureau and its Assistants have no authority to enter into contracts that bind the County or create obligations on the part of the County without the prior written authorization of the County.

4. **PAYMENT:**

- A. In accordance with Section 12 of Local Law No. 3 of 1993, the net revenue of the Oneida County Occupancy Tax received for the period of October 1, 2018 to September 30, 2019 shall be paid to the Bureau by the County in order to enable the Bureau to carry on the above-described activities.
- B. The Bureau shall file with the Clerk of the Board of County Legislators for the County, the Oneida County Comptroller, and the Oneida County Commissioner of Finance, a record of expenditures and receipts for the periods of October 1, 2018 through September 30, 2019 on or before October 30, 2019.

C. The Bureau hereby agrees that it will refund all funds remaining in the Bureau's "Cash" and "Cash Equivalent" accounts at the end of this Agreement term to the Oneida County Commissioner of Finance no later than March 30, 2020, except that the Bureau shall be entitled to keep:

- i. Any legally or contractually dedicated funds it may be holding;
- ii. Any funds being reserved for the Tourism Marketing Grant Assistance Program;
- iii. Any funds being reserved for capital purposes in amounts necessary for those purposes;
- iv. A \$100,000 cash reserve above and beyond those items listed in paragraphs 4(C)(i), 4(C)(ii) and 4(C)(iii) hereinabove; and
- v. The Bureau shall submit to the Oneida County Commissioner of Finance a complete list which specifies all such dedicated and reserved funds at the end of the contract period on or before October 30, 2018.

5. **TRANSFER OF ASSETS:** At such time as this Agreement and any subsequent agreements for these services shall expire, and the Bureau shall cease performing the activities for the County as described herein, the Bureau's assets shall become the sole and separate property of the County, without further compensation, and the Bureau shall cooperate in changing title to such assets.

6. **INDEPENDENT CONTRACTOR STATUS:**

A. It is expressly agreed that the relationship of the Bureau to the County shall be that of an Independent Contractor. The Bureau shall not be considered a department, division or branch of the County for any purpose and its Assistants shall not be deemed employees of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health

benefits. The Bureau, in accordance with its status as an independent contractor, covenants and agrees that its Assistants will conduct themselves in accordance with such status.

- B. Bureau acknowledges and agrees that its Assistants shall not be eligible for any County employee benefits, including retirement membership credits.
- C. The Bureau shall be solely responsible for applicable taxes for all compensation paid to the Bureau under this Agreement, and for compliance with all applicable labor and employment requirements, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for State or Federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). Bureau shall provide proof of workers' compensation insurance, where applicable, prior to execution of this Agreement.
- D. The Bureau 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.
- E. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Bureau's Independent Contractor status, it is agreed that both the County and the Bureau 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.
- F. The Bureau agrees to comply with Federal and State Laws as supplemented in the Department of Labor regulation and any other regulations of the Federal and State entities relating to such employment and Civil Rights requirements.

7. **INDEMNIFICATION:** The Bureau shall indemnify and hold harmless the County and its officers, agents and employees from any claims, demands, causes of action and judgments arising out of injuries to persons or property of whatever kind or nature as a result of furnishing the Services provided for in this Agreement.

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

A. Commercial General Liability (CGL) coverage with limits of Insurance of not less than \$1,000,000 each occurrence and \$2,000,000 Annual Aggregate.

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

ii. CGL coverage shall apply to any and all locations where the Bureau has operations.

iii. The County and any other parties required by the County shall be included as additional insureds. Coverage for the additional insureds shall apply as Primary and Non-contributing Insurance before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by or provided to, the additional insured(s).

B. Business Automobile Liability with limits of at least \$1,000,000 per each accident.

i. Business Auto coverage must include coverage for liability arising out of all owned, leased, hired and non-owned automobiles.

ii. Oneida County shall be included as additional insured on the auto policy.

Coverage for these additional insured shall be on a primary and non-contributing basis.

C. Workers' Compensation and Employers Liability: Statutory limits apply.

D. **Waiver of Subrogation**: the Bureau waives all rights against the County and their agents, officers, directors and employees for recovery of damages to the extent these damages are covered by CGL maintained per requirements stated above.

E. **Certificates of Insurance**: Prior to the start of any work, the Bureau shall provide a certificate of insurance to the County. Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement where one is required. These certificates and the insurance policies required above shall contain a provision that coverage afforded under the policies will not be canceled nor allowed to expire until at least 30 days prior written notice has been given to the County.

9. **DISPOSAL OF WASTE AND RECYCLABLES**: Pursuant to Oneida County Board of County Legislators Resolution No. 249 of May 26, 1999, the Bureau agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all wastes and recyclables generated within the Authority's service area by performance of this Agreement by Bureau and any subcontractors. Upon awarding of this Agreement, and before work commences, the Bureau will be required to provide the 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 Bureau and any subcontractor in performance of this Agreement will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.


10. **ADVICE OF COUNSEL:** Each party acknowledges that, in executing this Agreement, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Agreement.

IN WITNESS WHEREOF, the parties 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

THE CONVENTION AND VISITORS BUREAU FOR ONEIDA COUNTY, INC.

By 
KELLY BLAZOSKY
PRESIDENT

Approved

Amanda Lynn Cortese
Special Assistant County Attorney

FN 20 18-357

STATE OF NEW YORK
STATE BOARD OF ELECTIONS

GOVERNMENT OPERATIONS

WAYS & MEANS ELECTION COMMISSIONER CERTIFICATION

To the Clerk of the County (Board) (Legislature), County of Oneida.

I certify that:

At a meeting of the Democratic County Committee of the County of Oneida, or a duly constituted subcommittee thereof, as prescribed under NY State Election Law 3-204 paragraph 2, held on the 2nd day of October, 2018 at New Hartford, New York, under the provisions of the Election Law and rules of the County Committee, a quorum being present, Michael F. Galino II residing at 1000 Parkway East, Utica New York, 13501, was recommended by a majority of said committee as a suitable and qualified person for appointment to the office of Commissioner of Elections,

for the term beginning January 1, 2019

to fill an existing vacancy in said office for the remainder of the current term

and that said designee is a registered voter of the County of Oneida and a duly enrolled member of the Democratic Party.

Dated at New Hartford, New York

October 2, 2018.
(date)

W. Deid

(Chairman or Secretary)

WAYS & MEANS ELECTION COMMISSIONER CERTIFICATION

To the Clerk of the County(Board)(Legislature), County of Oneida.

I certify that:

At a meeting of the Republican County Committee of the County of Oneida, held on the 1st day of October, 2018, at Port's Hill Inn, Whitesboro New York, under the provisions of the Election Law and rules of the County Committee, a quorum being present, Rose M Geimaldi, residing at 54 Westmoreland Street Apt 2, Whitesboro, New York, 13492, was recommended by majority of said committee as a suitable and qualified person for appointment to the office of Commissioner of Elections,

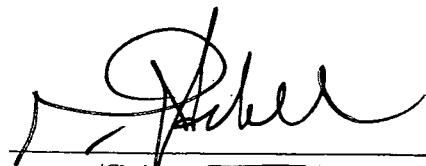
for the term beginning January 1, 2019

to fill an existing vacancy in said office for the remainder of the current term

and that said designee is a registered voter of the County of Oneida and a duly enrolled member of the Republican Party.

Dated at Whitesboro, New York

October 1, 2018.
(date)


(Chairman [redacted])

Anthony J. Picente Jr.
County Executive



AnneMarie Ambrose
Director

ONEIDA COUNTY DEPARTMENT OF CENTRAL SERVICES

Oneida County Office Building ♦800 Park Avenue ♦Utica, New York 13501

FN 20 18-355

September 24, 2018

GOVERNMENT OPERATIONS

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

WAYS & MEANS

Subject: ComSource, Inc. – Oneida County Phone System Upgrade Recommended Vendor

Dear Mr. Picente,

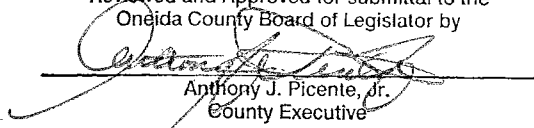
Oneida County Central Services is working towards the overall upgrade of the telephony system used in the County from an AVAYA system to a CISCO Unified Communications system. Recognizing the need for an immediate telephony upgrade at the Sheriff's Department and further planning to the rest of the County, Central Services issued a competitive Request for Proposal (RFP) (RFP 2018-246) and received five (5) responses. One of the responses was disqualified as it did not meet the minimum recommendations of the RFP and the remaining four (4) vendors were compared via a comparison matrix, which has been uploaded along with the accompanying contract documentation.

We thereafter conducted presentations giving each of the four vendors a chance to convince us why their solution was the most effective. We felt that ComSource, Inc. offered the most complete, cost-effective solution to meet the needs of this project. ComSource had a professional service to hardware/software cost ratio of 12% of the cost. The next vendor showed us a 23.76% ratio and the next was 23.96% ratio, respectively. One vendor was not ranked as they provided us with an incorrect communications brand.

This project is planned to provide the Sheriff's Department and E911 with a new phone system in 2018. This project will lay the necessary network infrastructure that will not only benefit the telephone system upgrade but can also be used as network backbone. That backbone infrastructure will serve as the backup infrastructure for the rest of the County as we roll out this project into 2019.

The cost of this project is, in total, \$1,300,000 and will be paid out of the capital project H-582, County-Wide Phone System.

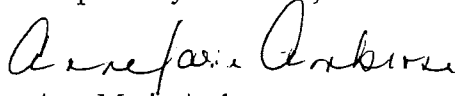
Reviewed and Approved for submittal to the
Oneida County Board of Legislators by


Anthony J. Picente, Jr.
County Executive

Date 10-5-18

Based on the fully responsive proposal, affordable rate, excellent customer service and the excellent telephony knowledge of the vendor, I respectfully request your approval of a 3-year contract to be awarded to ComSource, Inc., 8104 Cazenovia Rd, Manlius, NY 13104-9780 ph: 315-682-4115

Respectfully submitted,

A handwritten signature in cursive script that reads "AnneMarie Ambrose".

AnneMarie Ambrose

Director, Central Services

Encs.

Oneida Co. Department: Central Services

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

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: ComSource
8104 Cazenovia Rd, Building #3
Manlius, NY 13104

Title of Activity or Service: Telephone upgrade project Sheriff/E911 then complete County-wide

Proposed Dates of Operation: 2018 - 2019

Client Population/Number to be Served: All County Users

Summary Statements

1) Narrative Description of Proposed Services: Complete upgrade to Sheriff and E911 phone systems during the 2018 calendar year. Continued upgrade throughout the County into 2019 providing a Unified Voice system for all county users.

2) Program/Service Objectives and Outcomes: Consistent VOIP technologies
County-Wide

3) Program Design and Staffing: Current staff will be trained by vendor to operate

Total Funding Requested: \$1,300,000

Account # H-582 County Wide Phone System

Oneida County Dept. Funding Recommendation:

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

Cost Per Client Served:

Past Performance Data:

O.C. Department Staff Comments: Consistent, modern unified technologies to support the entire County and to allow shared services. Infrastructure upgrades for more reliable telephony. Unified communications to allow improved conferencing, County-wide alerting and text chatting, where designed.

INFORMATION TECHNOLOGY MASTER SERVICES AGREEMENT

This Information Technology Master Services Agreement (the "Agreement") is by and between **COMSOURCE, INC.**, a domestic business corporation organized and existing under the laws of the State of New York, whose principal place of business is 8104 Cazenovia Road, Building #3, Manlius, New York 13140, hereinafter called the "Vendor," and **ONEIDA COUNTY**, a municipal corporation existing and organized under the laws of the State of New York, whose principal place of business is 800 Park Avenue, Utica, New York 13501, hereinafter called the "County." This Agreement includes any current or future statement(s) of work (the "SOW") on the form attached hereto as Exhibit "A," and executed by each party, and all such documents are incorporated by this reference.

The Vendor provides information technology Professional Services, as hereinafter defined, related to the **Oneida County Unified Communications & VoIP Phone System #2018-246**, hereto attached as Exhibit "B." The parties have agreed that the Vendor will provide such Professional Services as the parties may agree, now and pursuant to future SOWs. Therefore, in consideration for the commitments set forth below, the adequacy of which consideration the parties hereby acknowledge, the parties agree as follows.

1. PROFESSIONAL SERVICES.

1.1. Professional Services. The Vendor shall provide to the County the following services, as requested, and as provided for in the Vendor's Proposal, a copy of which is attached hereto as Exhibit "C." Any and all of these services shall hereinafter be referred to, collectively, as the "Professional Services:"

(a) *Service Categories.* The services constituting Professional Services within the meaning of this Agreement shall include, but not be limited to, assessments, design, hardware and software (and provisioning of appropriate licensing), implementation, support, maintenance, providing complete documentation, including implementation of plans, testing and training in the categories of:

- (i) Cyber Security;
- (ii) Firewalls;
- (iii) IPS;
- (iv) IDS;
- (v) Telephony systems including VOIP and traditional TDM systems;
- (vi) Network Engineering of voice system;
- (vii) Network Engineering of data systems;
- (viii) Virtualization;
- (ix) Audio Visual and Presentation equipment;
- (x) LAN/WAN/WWAN; and
- (xi) Any other needed services.

(b) *Multiple Vendors.* The County reserves the right to utilize as many different vendors as it, in its sole discretion, determines to be necessary for the performance of any individual Professional Service. The Vendor hereby acknowledges that it is aware of this, and it understands and acknowledges that the County is not guaranteeing any

minimum number of hours the Vendor will be utilized, nor is the County making any promises as to the exclusivity of the assignment of the Vendor to any Professional Service.

1.2. Provision of Professional Services. The Vendor will provide the services as set forth in each SOW, and the County will provide any assistance and cooperation necessary or convenient to facilitate the Professional Services called for in any SOW. The process for submission and approval of an SOW is as follows:

- (a) *Negotiation.* The Vendor and the County shall negotiate the Professional Services to be completed by the Vendor, based upon the needs of the County.
- (b) *Quote & Proposed SOW.* Once the negotiations have been completed, the Vendor shall submit a detailed quote and proposed SOW to the County. The form of the proposed SOW shall conform to that of the aforementioned Exhibit "A," attached hereto. A sample quote has been attached to this Agreement as Exhibit "D." The quote and/or the proposed SOW shall include a detailed description of the materials to be used, the nature of the labor to be provided (along with the rates thereof), and a statement declaring what subcontractors the Vendor intends to utilize in the performance of the work covered by the proposed SOW. If the quote and proposed SOW are unacceptable to the County, for any reason, further negotiations may be conducted.
- (c) *Signed SOW & Purchase Order.* If the quote and proposed SOW are acceptable to the County, the County shall execute the SOW, and shall return a signed copy of the SOW to the Vendor along with a purchase order.
- (d) *Performance of Work.* Once the signed SOW and purchase order have been received, the Vendor shall begin to perform the Professional Services covered by the SOW. Under no circumstances is any work to be undertaken without a signed SOW. The Vendor agrees and hereby acknowledges that any expenditures or costs incurred by the Vendor prior to their receipt of a signed SOW are undertaken entirely at their sole risk and expense.
- (e) *Certificate of Completion.* At the completion of all the Professional Services called for in a signed SOW, the Vendor shall provide the County with a certificate of completion, signed by a representative of the Vendor. A sample of this certificate of completion is attached hereto as Exhibit "E." Once the County has ensured that the work covered by the SOW has been completed to its satisfaction, the County shall also sign the certificate of completion, returning a fully executed copy to the Vendor.

1.3. Deliverables.

- (a) *Acceptance & Rejection.* Any software or other deliverable created pursuant to any Professional Services (the "Deliverables") will be considered accepted (the "Acceptance") (a) when the County provides Vendor written notice of acceptance or (b) thirty (30) days after delivery, if the County has not first provided the Vendor with written notice of rejection. The County may reject a Deliverable only in the event that

it materially deviates from its specifications and requirements listed in the applicable SOW and only via written notice setting forth the nature of such deviation. In the event of such rejection, the Vendor will correct the deviation and redeliver the Deliverable within twenty (20) days. After redelivery pursuant to the previous sentence, the parties will again follow the acceptance procedures set forth in this Subsection 1.3(a).

- (b) *License to Deliverables.* Effective upon Acceptance of each Deliverable, the Vendor grants the County a nonexclusive, fully paid, royalty-free license to reproduce, modify, and use such Deliverable as necessary for the County's internal business purposes, provided the County complies with the restrictions set forth below in Subsection 1.3(c).
- (c) *Restrictions on Deliverables Rights.* The County will not distribute, publicly display, publicly perform, or sublicense any Deliverables (including without limitation any derivative work thereof). The Vendor retains ownership of all Deliverables, and the County receives no right, title, or interest in or to Deliverables except as specifically set forth in Subsection 1.3(b) above.

2. FEES & REIMBURSEMENT.

- 2.1. Payment. The County will pay Vendor the fees as set forth in each SOW, and shall reimburse such expenses as Vendor reasonably incurs in provision of the Professional Services.
- 2.2. Vouchers. Such payment shall be made by the County after receipt of vouchers presented by the Vendor on forms prescribed by the County and after audit and approval by the County's Department of Audit and Control and the County's Comptroller.

3. CONFIDENTIAL INFORMATION. "Confidential Information" refers to the following items that one party to this Agreement (the "Discloser") discloses to the other (the "Recipient"): (a) any document the Discloser marks "Confidential;" (b) any information the Discloser orally designates as "Confidential" at the time of disclosure, provided the Discloser confirms such designation in writing within ten (10) business days; and (c) any other nonpublic, sensitive information the Recipient should reasonably consider a trade secret or otherwise confidential. Notwithstanding the foregoing, Confidential Information does not include information that: (i) is in the Recipient's possession at the time of disclosure; (ii) is independently developed by the Recipient without use of or reference to Confidential Information; (iii) becomes known publicly, before or after disclosure, other than as a result of the Recipient's improper action or inaction; or (iv) is approved for release in writing by the Discloser. The Recipient is on notice that the Confidential Information may include the Discloser's valuable trade secrets.

- 3.1. Nondisclosure. The Recipient will not use Confidential Information for any purpose other than to facilitate the Professional Services (the "Purpose"). The Recipient: (a) will not disclose Confidential Information to any employee or contractor of the Recipient unless such person needs access in order to facilitate the Purpose and executes a nondisclosure agreement with the Recipient with terms no less restrictive than those of this Article 2.1; and (b) will not disclose Confidential Information to any other third party without the Discloser's prior written consent. Without limiting the generality of the foregoing, the Recipient will protect Confidential Information with the same degree of care it uses to

protect its own confidential information of similar nature and importance, but with no less than reasonable care. The Recipient will promptly notify the Discloser of any misuse or misappropriation of Confidential Information that comes to the Recipient's attention. Notwithstanding the foregoing, the Recipient may disclose Confidential Information as required by applicable law or by proper legal or governmental authority. The Recipient will give the Discloser prompt notice of any such legal or governmental demand and reasonably cooperate with the Discloser in any effort to seek a protective order or otherwise to contest such required disclosure, at the Discloser's expense.

- 3.2. Injunction. The Recipient agrees that breach of this Article 2.1 would cause the Discloser irreparable injury, for which monetary damages would not provide adequate compensation, and that in addition to any other remedy, the Discloser will be entitled to injunctive relief against such breach or threatened breach, without proving actual damage or posting a bond or other security.
- 3.3. Termination & Return. With respect to each item of Confidential Information, the obligations of Section 3.1 above (*Nondisclosure*) will terminate ten (10) years after the date of disclosure of the Confidential Information to the Recipient. Upon termination of this Agreement, the Recipient will return all copies of Confidential Information to the Discloser or certify, in writing, the destruction thereof.
- 3.4. Retention of Rights. This Agreement does not transfer ownership of Confidential Information or grant a license thereto. The Discloser will retain all right, title, and interest in and to all Confidential Information.
- 3.5. Exception & Immunity. Pursuant to the Defend Trade Secrets Act of 2016, 18 USC Section 1833(b), the Recipient is on notice and acknowledges that, notwithstanding the foregoing or any other provision of this Agreement:
 - (a) *Immunity*. An individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that- (A) is made- (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.
 - (b) *Use of Trade Secret Information in Anti-Retaliation Lawsuit*. An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual- (A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order.

4. REPRESENTATIONS & WARRANTIES.

- 4.1. From Vendor. The Vendor represents and warrants: (a) that all Professional Services will be performed in a professional and workmanlike manner; and (b) that all Deliverables will conform to their specifications set forth in the applicable SOW for a period of three (3)

years following Acceptance (as defined in Subsection 1.3(a) above). In the event of a breach of either warranty in this Section 4.1, the Vendor, at its own expense, will promptly re-perform the Professional Services or repair and redeliver the Deliverable in question.

- 4.2. From Each Party. Each party represents and warrants that it has the full right and authority to enter into, execute, and perform its obligations under this Agreement and that no pending or threatened claim or litigation known to it would have a material adverse impact on its ability to perform as required by this Agreement.
- 4.3. Warranty Disclaimers. Except as set forth above in this Article 4, the Vendor PROVIDES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY IMPLIED WARRANTY ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING: (a) VENDOR DOES NOT REPRESENT OR WARRANT THAT THE DELIVERABLES WILL PERFORM WITHOUT INTERRUPTION OR ERROR; AND (b) VENDOR DOES NOT REPRESENT OR WARRANT THAT THE DELIVERABLES WILL BE SECURE FROM HACKING OR OTHER UNAUTHORIZED INTRUSION OR THAT CUSTOMER DATA WILL REMAIN PRIVATE OR SECURE.

5. INDEMNIFICATION.

- 5.1. From Vendor. The Vendor will defend and indemnify the County and the County's Associates (as defined below in Section 5.3) against any "Indemnified Claim," meaning any third party claim, suit, or proceeding arising out of, related to, or alleging: (a) direct infringement of any patent, copyright, trade secret, or other intellectual property right by any Deliverable; or (b) injury to or death of any individual, or any loss of or damage to real or tangible personal property, caused by the act or omission of the Vendor or of any of its agents, subcontractors, or employees. The Vendor's obligations set forth in Subsection 5.1(a) above do not apply to the extent that an Indemnified Claim arises out of: (i) the County's breach of this Agreement; (ii) revisions to the Deliverable made without the Vendor's written consent; (iii) the County's failure to incorporate updates or upgrades that would have avoided the alleged infringement, provided Vendor offered such updates or upgrades without charges not otherwise required pursuant to this Agreement; (iv) the Vendor's design or modification of the Deliverable in compliance with specifications provided by the County; or (v) use of the Deliverable in combination with hardware or software not provided by the Vendor, unless (A) the SOW, or other documentation provided by the Vendor or agreed between the parties, (collectively, the "Documentation") refers to a combination with such hardware or software, without directing the user not to perform such a combination, or (B) such combination achieves functionality described in the Documentation (and the Documentation does not direct the user not to perform such combination). The Vendor's obligations set forth in Subsection 5.1(b) above do not apply to the extent that an Indemnified Claim arises out of the County's breach of this Agreement.
- 5.2. From County. The County will indemnify and defend the Vendor and the Vendor's Associates (as defined below in Section 5.3) against any "Indemnified Claim," meaning any

third party claim, suit, or proceeding arising out of or related to injury to or death of any individual, or any loss of or damage to real or tangible personal property, caused by the act or omission of the County or of any of its agents, subcontractors, or employees. Indemnified Claims listed in Subsection 5.2 above include, without limitation: (i) claims by any of the County's employees, contractors, or other users (collectively, "Users"); and (ii) claims related to unauthorized disclosure or exposure of personally identifiable information or other private information. Indemnified Claims listed above in Section 5.2 do not include any claim that would constitute an Indemnified Claim pursuant to Section 5.1(a) above.

- 5.3. Litigation & Additional Terms. The obligations of the indemnifying party (the "Indemnitor") pursuant to Section 5.1 or 5.2 above: (a) include retention and payment of attorneys and payment of court costs, as well as settlement at Indemnitor's expense and payment of judgments; and (b) will be excused to the extent that the other contracting party's ("Indemnified Party's") or any of such Indemnified Party's Associates' failure to provide prompt notice of the Indemnified Claim or reasonably to cooperate materially prejudices the defense. Indemnitor will control the defense of any Indemnified Claim, including appeals, negotiations, and any settlement or compromise thereof; provided Indemnified Party will have the right, not to be exercised unreasonably, to reject any settlement or compromise that requires that it admit wrongdoing or liability or subjects it to any ongoing affirmative obligations. (A party's "Associates" are its officers, directors, shareholders, parents, subsidiaries, agents, successors, and assigns.)

6. INSURANCE

- 6.1. The Vendor shall purchase and maintain insurance of the following types of coverage and limits of liability with an insurance carrier qualified and admitted to do business in the State of New York. The insurance carrier must have at least an A- (excellent) rating by A. M. Best.
- (a) Commercial General Liability (CGL) coverage with limits of insurance of not less than \$1,000,000 each occurrence and \$3,000,000 annual aggregate.
 - (i) CGL coverage shall be written on ISO Occurrence form CG 00 01 1001 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contracts, products-completed operations, and personal and advertising injury.
 - (ii) The County and any other parties required by the County shall be included as additional insureds. Coverage for the additional insureds shall apply as primary and non-contributing insurance before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by, or provided to, the additional insured(s).
 - (b) Workers' Compensation and Employer's Liability: Statutory limits apply.
 - (c) Professional Liability ("PL") coverage, including errors and omissions, with limits of insurance of not less than \$2,000,000 each occurrence and \$2,000,000 annual aggregate. (An umbrella or excess liability policy may be utilized to attain these PL

limits).

- (i) The County and any other parties required by the County shall be included as additional insureds. PL 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).

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

7. LIMITATION OF LIABILITY.

- 7.1. Exclusion of Consequential Damages. IN NO EVENT WILL VENDOR BE LIABLE TO CUSTOMER FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT.
- 7.2. Exclusions. This Article 6.3 do not apply to: (a) claims pursuant to Article 3 (*Confidential Information*) or Article 5 (*Indemnification*) of this Agreement; or (b) claims for attorneys' fees or other litigation costs the County becomes entitled to recover as a prevailing party in any action.

8. TERM & TERMINATION.

- 8.1. Term. The term of this Agreement will commence on the date it is executed by both parties (the "Effective Date") and continue for an initial term of three (3) years. Up to two (2) renewal terms of one (1) year each will be considered upon the mutual written agreement of the parties.
- 8.2. Termination for Cause. Either party may terminate this Agreement for the other's material breach by written notice. Such notice will specify in detail the nature of the breach and will be effective in 30 days, or more if specified in the notice, unless the other party first cures the breach.
- 8.3. Termination for Convenience. The County may terminate this Agreement for convenience upon 30 days' advance written notice. On the date of such termination, County will pay Vendor for those services provided up to the date of such written termination.
- 8.4. Survival. The following provisions will survive termination or expiration of this Agreement: (a) any obligation of County to pay fees incurred before termination; (b)

Articles and Sections 1.3(c) (*Restrictions on Deliverables Rights*), 3 (*Confidential Information*), 4.3 (*Warranty Disclaimers*), 5 (*Indemnification*), 7 (*Limitation of Liability*), and 10.110.1 (*Feedback*); and (c) any other provision of this Agreement that must survive to fulfill its essential purpose.

9. INDEPENDENT CONTRACTORS

- 9.1. It is expressly agreed that the relationship of the Vendor to the County shall be that of an independent contractor. None of the Vendor's officers, agents, directors or employees shall be considered employees of the County for any purpose, including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Vendor, in accordance with the Vendor's status as an independent contractor, covenants and agrees that none of the Vendor's officers, agents, directors and employees will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, officers or employees of the County by reason 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.
- 9.2. The Vendor warrants and represents 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 Vendor and the County agree that the Vendor is free to undertake other work arrangements during the term of this Agreement, and may continue to make its services available to the public.
- 9.3. None of the Vendor's officers, agents, directors or employees shall be eligible for compensation from the County due to illness, absence due to normal vacation, absence due to attendance at school or special training, or a professional convention or meeting.
- 9.4. The Vendor acknowledges and agrees that none of its officers, agents, directors or employees shall be eligible for any County employee benefits, including retirement membership credits.
- 9.5. The Vendor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to the Vendor under this Agreement, and for compliance with all applicable labor and employment requirements with respect to the Vendor's form of business organization. With respect to the Vendor's officers, agents, directors and employees, this responsibility shall include payroll deductions, workers' compensation insurance, and provision of health insurance, where required. The County shall not be responsible for withholding from the payments provided for services rendered for state or federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). The Vendor shall provide proof of workers' compensation insurance, where applicable, prior to execution of this Agreement.
- 9.6. The Vendor 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.
- 9.7. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Vendor's independent contractor status, it is agreed that both the

County and the Vendor 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.

- 9.8. The Vendor agrees to comply with federal and state laws, as supplemented, with the United States Department of Labor regulations, and any other regulations of any federal and state entities relating to such employment and civil rights requirements.

10. MISCELLANEOUS.

- 10.1. Feedback. The Vendor has not agreed to and does not agree to treat as confidential any Feedback (as defined below) that the County or any user provides to the Vendor, and nothing in this Agreement or in the parties' dealings arising out of or related to this Agreement will restrict the Vendor's right to use, profit from, disclose, publish, keep secret, or otherwise exploit Feedback, without compensating or crediting the County or the User in question. Notwithstanding the provisions of Article 3 above, Feedback will not be considered Confidential Information, provided that information that the County transmits with Feedback, or is related to Feedback, may be considered Confidential Information. ("Feedback" refers to any suggestion or idea for improving or otherwise modifying any of Vendor's products or services.)
- 10.2. Notices. Notices pursuant to this Agreement will be sent to the addresses below, or to such others as either party may provide in writing. Such notices will be deemed received at such addresses upon the earlier of (i) actual receipt or (ii) delivery in person, by fax with written confirmation of receipt, or by certified mail return receipt requested.
- (a) *For the Vendor:* ComSource, Inc., 8104 Cazenovia Road, Building #3, Manlius, NY 13140
- (b) *For the County:* Oneida County Central Services, 800 Park Avenue, Utica, NY 13501 *and*
Oneida County Attorney, 800 Park Avenue, Utica, NY 13501
- 10.3. Force Majeure. No delay, failure, or default, other than a failure to pay fees when due, will constitute a breach of this Agreement to the extent caused by acts of war, terrorism, hurricanes, earthquakes, other acts of God or of nature, strikes or other labor disputes, riots or other acts of civil disorder, embargoes, or other causes beyond the performing party's reasonable control.
- 10.4. Subcontractors. The Vendor shall not subcontract any work to be performed under this Agreement without the prior written consent of the County, and any permitted subcontractor shall agree, in writing, to be bound by the terms of this Agreement as if it were the Vendor under this Agreement. The Vendor shall be responsible to the County for any failure by any subcontractor to comply with the terms of this Agreement.
- 10.5. Assignment & Successors. The Vendor may not assign this Agreement or any of its rights or obligations hereunder without the County's express written consent. Except to the extent forbidden in this Section 10.5, this Agreement will be binding upon and inure to the benefit

of the parties' respective successors and assigns.

- 10.6. Severability. To the extent permitted by applicable law, the parties hereby waive any provision of law that would render any clause of this Agreement invalid or otherwise unenforceable in any respect. In the event that a provision of this Agreement is held to be invalid or otherwise unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement will continue in full force and effect.
- 10.7. No Waiver. Neither party will be deemed to have waived any of its rights under this Agreement by lapse of time or by any statement or representation other than by an authorized representative in an explicit written waiver. No waiver of a breach of this Agreement will constitute a waiver of any other breach of this Agreement.
- 10.8. Choice of Law & Jurisdiction: This Agreement and all claims arising out of or related to this Agreement will be governed solely by the internal laws of the State of New York, including without limitation applicable federal law, without reference to: (a) any conflicts of law principle that would apply the substantive laws of another jurisdiction to the parties' rights or duties; (b) the 1980 United Nations Convention on Contracts for the International Sale of Goods; or (c) other international laws. The parties consent to the personal and exclusive jurisdiction of the federal and state courts of Oneida County, New York. This Section 10.8 governs all claims arising out of or related to this Agreement, including without limitation tort claims.
- 10.9. Conflicts. In the event of any conflict among any of the Exhibits to this Agreement and this main body, the following order of precedence will govern, with lower numbers governing over higher ones: (1) this main body of this Agreement; and (2) any SOW, with more recent SOW's taking precedence over later ones.
- 10.10. Construction. The parties agree that the terms of this Agreement result from negotiations between them. This Agreement will not be construed in favor of or against either party by reason of authorship.
- 10.11. Entire Agreement. The terms of this Agreement, including any attachments, amendments, addendums or appendixes attached hereto, constitute the entire understanding and agreement of the parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Agreement. By signing below, the parties agree and acknowledge that they have read, understood and agreed to all the terms contained in any addenda attached hereto, including, but not limited to, Addendum I (Standard Oneida County Conditions). No waiver, alterations or modifications of any of the provisions of this Agreement shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.
- 10.12. Execution in Counterparts. This Agreement may be executed in one or more counterparts. Each counterpart will be an original, but all such counterparts will constitute a single instrument.

10.13. Amendment. This Agreement may not be amended except through a written agreement by authorized representatives of each party.

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

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

10.16. Assignment. No party may assign this Agreement, or any part hereof, or any rights hereunder, without the written advance consent of all parties.

IN WITNESS THEREOF, the parties have executed this Agreement as of the Effective Date.

COUNTY OF ONEIDA

COMSOURCE, INC.

By: _____
(signature)

By: _____
(signature)

Name: **Anthony J. Picente, Jr.**

Name: **Kevin M. Hanlon**

Title: **Oneida County Executive**

Title: **Chief Executive Officer**

Date: _____

Date: _____

Approved

Robert E. Pronteau
Assistant County Attorney

EXHIBIT A

STATEMENT OF WORK NUMBER _____

Project Title: _____

This Statement of Work Number _____ (this “SOW”) is entered into pursuant to the _____ [date] Information Technology Master Services Agreement (the “Agreement”) by and between _____ (“Vendor”) and _____ (“County”).

This SOW is incorporated into the Agreement. In the event of any conflict with this SOW, the main body of the Agreement will govern. The provisions of this SOW govern only the subject matter hereof and not any other subject matter covered by the Agreement. Capitalized terms not otherwise defined in this SOW will have the meanings given in the main body of the Agreement.

I. Professional Services & Deliverables. Vendor will provide the following services: [Insert description of professional services. Include technical specifications for any Deliverables, materials to be used, types of labor to be employed (with the rates therefore), and any subcontractors to be utilized, or include reference to specifications attached to this SOW.]

II. County Cooperation. County will reasonably cooperate with Vendor in the provision of services and will provide the following assistance to Vendor: [Insert description of County responsibilities, or insert “N/A” if not applicable.]

III. Payment. County will pay Vendor as follows: [Insert payment schedule. Insert any payment/invoicing terms not already covered in main body of Agreement.]

IV. Additional Provisions. In addition, the parties agree as follows: [Insert additional terms or “N/A” if not applicable.]

This SOW is effective as of the latest date of execution set forth below.

CUSTOMER

VENDOR

By: _____

(signature)

By: _____

(signature)

Name:

(print)

Name:

(print)

Title:

Title:

Date:

Date:

Exhibit B

INVITATION TO RFP

Sealed RFPs, subject to the conditions contained herein, will be received by ONEIDA COUNTY CENTRAL SERVICES until 3:00 P.M., local time on Friday, August 3, 2018:

Oneida County Unified Communications & VoIP Phone System

RFP- # 2018-246

Specifications MUST be RECEIVED from Oneida County Central Services, phone AnneMarie Ambrose, Central Services Director at 315-798-5822, or mail request to Oneida County Central Services, 6th Floor, 800 Park Avenue, Utica, NY 13501, or download from the Oneida County website at <http://www.ocgov.net> (Public Notice Section.)

Copies of the described RFP may be examined at no expense at the department of Oneida County Central Services.

The return envelope must be clearly marked with the RFP # and addressed to the department of Oneida County Central Services.

Oneida County reserves the right to reject any or all proposals received.

The County of Oneida, in order to promote its established Affirmative Action Plan, invites sealed bids from minority groups. This policy regarding sealed bids and contracts applies to all persons without regard to race, creed, color, national origin, age, sex or handicap.

AnneMarie Ambrose
Director of Central Services

Dated: July 27, 2018

Oneida County Information Unified Communications & VoIP Phone System
RFP - #2018-246

GENERAL INFORMATION

The County of Oneida, New York is seeking a Unified Communications & Voice over Internet Protocol (VoIP) integrated voice and data system. The new system shall include Unified Messaging and integrate with Oneida County's Exchange 2013 e-mail system. All existing telephones should be replaced with equivalent IP phones that support basic telephony features. Some areas may require side cars or other phone variations. An employee should be able to log in anywhere on or off the company network (home phone, cell phone or computer) and automatically receive calls without administrative intervention.

Oneida County requires that any system have the capability to service remote locations with the same features and functionality as the main office should the need arise. Each location should be able to access all the features and functionality available at the main site even in the event of a service interruption. System directories, class of service for telephony capabilities, trunk group access, should apply to all locations.

The proposer will be expected to work directly with Oneida County's IT Staff and our service provider to ensure compatibility/call quality/reliability.

Oneida County also requires the ability to install a "failover/backup system" that will work in tandem with the main system to process calls as needed, either due to emergency, power outage or capacity issues. This "failover/backup system" will reside in an Oneida County location previously selected by the County.

Oneida County, in requesting this type of system, wishes to take advantage of the benefits that a VoIP system will bring. Each respondent should include in their response the benefits that their system will provide including, but not limited to, the increased efficiencies that staff will realize.

The successful proposer for this contract will be the sole authority and responsible party for the equipment and installation. The telephony brand to be installed will be CISCO. Oneida County's goal is to establish a relationship with a single point of contact for all support necessary for the project. If the vendor utilizes any subcontractors for any part of the system architecture, design, planning, installation or support it should be understood that the successful respondent will be the sole responsible party for all activities.

It is the intent of this Request for Proposal that the responder shall provide a complete, end to end solution for the installation. The vendor shall provide all design, planning, system architecture, installation, network analysis, training and post installation support for the project. The County of Oneida staff will act in oversight and advisory positions only. The system installation shall be rolled out with 1 to 2 key buildings immediately and then throughout the county over a 3-year plan. This plan shall be described in the response to this proposal request. The first installation will take place immediately in 2018 at an Oneida County specified building and the vendor will work with Oneida County Central Services to roll out the agreed upon system to each of the County

Buildings with an end result of one unified comprehensive, integrated voice and data system.

The vendor is also expected to provide a comprehensive training plan for all employees. It is expected that Oneida County Central Services staff will require technical training at various levels and that line staff will require training on the new systems. Oneida County Central Services staff will work with the vendor to develop a training plan that achieves these objectives. The vendor is expected to plan and conduct the installation of the project with minimal impact to daily operations and staff. Staff will work closely with the vendor to create a working project plan that will achieve these goals.

Vendor Response to this RFP should cover the following general topics:

- IP-based Voice capabilities and Intelligent Network Infrastructure
- Reliability
- Voice Quality
- Experience
- Voice Messaging
- System Administration
- Support/Service Capabilities
- Scalability
- System longevity
- Simplicity of Installation
- Training and Usage
- Failover/emergency backup option
- Interoperability to existing Avaya currently installed at various office spaces within Oneida County including 4 digit dialing.

*only during installation. 3 years plan to include complete replacement plan of Avaya system.

Requirements from vendor:

1. Vendor shall create one (1) original responses (labeled "original") with original signature and one (1) copy of that response. One (1) digital PDF copy for a total of three (3) responses.
2. The submission shall be sent to the contact at the address listed on the RFP, on or before the date shown.
3. The original submission shall be indexed with tabs as follows:
 - a. Section 1: RFP Cover Sheet (1page) & Summary Letter (1 page only)
 - b. Section 2: Scope of services
 - c. Section 3: Answers to Questions
 - d. Section 4: Pricing Schedule
 - e. Section 5: Additional Support Materials of Vendor A proposal must be in writing, and must be delivered by mail or in person. Oral, telephonic, facsimile, telegraphic, or electronically transmitted proposals are invalid and the County will not accept or consider them.
 - f. Proposals may be filed in person or by mail, but in any case must be received in the Oneida County Central Services Office by 3:00 p.m. on

Friday, August 3, 2018. Late proposals or postmarks will not be accepted. All proposals received will be retained by Oneida County. Proposals should be submitted in a sealed envelope bearing the name "Unified Communications and VOIP Systems" and be submitted to AnneMarie Ambrose, Director of Central Services, 800 Park Ave, Utica NY 13501. Oneida County reserves the right to reject all proposals, to request additional information concerning any proposals for purposes of clarifications, to accept or negotiate any modifications to any proposal, following the deadline for receipt of all proposals, and to waive any irregularities, if such would serve the best interest of the County, as determined by the County Council.

RFP Evaluation:

If an award is made as a result of this RFP, it shall be awarded to the respondent whose proposal is most advantageous to Oneida County with price and other factors considered. These include, responses to the RFP questions; demonstrated technical ability and expertise; financial stability; reference calls and/or recommendations; memberships, licenses, certifications or any other applicable memberships; presentations to the evaluation team (if applicable); on-site visits at vendor's site (if applicable), product samples which Oneida County may, at its discretion, request as part of the RFP process; any additional criteria deemed appropriate by the County which would lend itself to establishing the Service Provider's viability to perform the work as outlined in this RFP. Ongoing service agreements included with the RFP must include specific response times and financial penalties for the vendor if Service Level Agreement commitments are not met.

Oneida County will require all vendors to provide cost estimates for required software upgrades and maintenance for the next **five years** if these expenses are not included in an ongoing service agreement. If they are included, they need to be specified.

Evaluation Criteria:

1. **Qualifications of Firm** – Strength and stability of the firm; strength, stability, experience and technical competence of sub-consultants; logic of project organization; adequacy of labor commitment.

2. **Qualifications of Personnel** – Qualifications, education and experience of project staff; key personnel's level of involvement in performing related work.

3. **Completeness of Response** – Completeness of response in accordance with RFP instructions; exceptions to or deviation from the RFP requirements; inclusion of required licenses and certifications.

5. **Reasonableness of overall Cost and Price** – Reasonableness of the individual firm's fixed prices and/or hourly rates, and competitiveness of quoted firm's fixed prices with other proposals received; adequacy of the data in support of figures quoted; basis on which prices are quoted. Reasonableness of ongoing support cost and price.

Acceptance of Proposal Content:

Vendor understands that Oneida County reserves the right to award a contract without further discussions or clarifications with vendors. Thus, the contents of the RFP response and all pricing, terms and statements contained therein will be binding upon Vendor. Upon acceptance of the Proposal by Oneida County, the successful proposal, including all terms, conditions and pricing contained therein, will be incorporated into the awarded contract. Vendor understands that failure of the potentially successful offer or to accept this obligation may result in the selection of another offer or rejection of the submitted proposal.

Vendor must take great care to respond to all requirements of this RFP to the maximum extent possible. Vendor must clearly identify any limitations and/or exceptions to the requirements inherent in the proposed system. Vendor further understands that alternative approaches will be given consideration if the proposed approach clearly offers increased benefits to Oneida County.

No Obligation to Buy:

Oneida County reserves the right to refrain from contracting with any vendor. The release of this RFP does not compel Oneida County to purchase.

Withdrawal of Proposals:

Vendors may withdraw a proposal that has been submitted at any time up to the proposal closing date and time. To accomplish this, a written request signed by an authorized representative of the vendor must be submitted to the RFP Contact. The vendor may submit another proposal at any time up to the proposal closing date and time.

Cost of Preparing Proposals:

Oneida County is not liable for any costs incurred by vendors in the preparation and presentation of proposals and demonstrations submitted in response to this RFP.

Damage Liability:

The successful proposer is liable and responsible for any damage to the premises (floor, walls, etc) caused by vendor personnel, subcontractors or equipment during installation and is responsible for the removal of all project- related debris.

Summary of Requirements: The new Telephone, Voicemail and Unified Messaging system design should provide a uniform communication system for all Oneida County facilities and shall be expandable at the convenience of Oneida County Central Services. The new system must provide a single system in terms of dialing, feature access and administration. The system installation shall be rolled out with 1 to 2 key buildings immediately and then throughout the county's 23 buildings over a 3-year plan. This is subject to change.

Network Assessment/needs assessment:

The estimated total number of handsets, endpoints, and ports needed for each location will be determined by the proposer upon walkthrough which can be scheduled with Oneida County Central Services staff.

Cable:

The successful proposer will provide cable from and to locations determined by the assessment

The proposer will be responsible for wiring connections from the VoIP system to any communications equipment utilizing the VoIP system. Proposer is responsible for re-termination from existing system to new VoIP system.

Any additional cabling/wiring needed by the proposer to complete the installation should be included as part of the RFP response.

Required Services:

- Unified Messaging: Oneida County wishes to implement Unified Messaging and integrate the VoIP system with the Exchange E-Mail system. Oneida County is currently on Exchange 2013. The proposer shall propose the best way to achieve this with full functionality and with minimal impact on services. Proposer shall also provide any costs necessary for licensing that may be required to achieve this.

- Enterprise Mobility □ Oneida County wishes to enable our highly mobile workforce to communicate on the device of their choosing regardless of location (office, field, home etc.). The goal is constant connectivity and mobile unified communications no matter the location where staff may be. The solution should essentially extend the features of the desk phone to the mobile device.

- Call Accounting System □ A Call Accounting System (CAS) is required and must be part of the base proposal for this system. The CAS must include Call Dialing Report (CDR) for inbound, outbound and internal calls and usage reports for all types of inbound, outbound and internal calls. Specifically, Oneida County has an interest in metrics for call length, number of calls unanswered, going to voicemail and dropped calls. Please describe your solution to the Call Accounting System and attach sample reports. Proposer should also provide training for up to 3 employees in the administration, maintenance, programming and daily operation of the Call Accounting System.

- 911 Services □ Emergency 911 Services may be mandated for this system. The vendor shall provide a solution for 911 dialing from within the network that achieves all of the expected performance of a 911 system without substantially changing any of the expected normal operations of the system. If a staff person currently presses 911, it is expected that they will continue to perform the same activity and achieve the same result. Additional capabilities expected from the emergency call procedure are the ability to initiate an emergency call to be automatically routed to other desks within Oneida County.

Feature Set: The list below is a partial list of features that have been requested. It is provided as a baseline and as a starting point for the expected operations of the system. Oneida County expects the successful vendor will have had experience with corporations and other businesses of Oneida County's size and scope and will be able to provide consulting advice, input and insight into what other organizations are using and to provide suggestions that will enhance the usability and functionality of the system. Please identify which features are standard and which are added cost. Note that there are some features below which are not mandatory.

- Automatic call back (optional)
- Unified Communication
- Call Waiting
- Busy signal on call

- Call Forward Busy / No Answer / All Calls
- Call Redirect
- Call Hold / Release
- Call Park / Pickup
- Call Transfer
- Call Waiting
- Calling Line ID Name and Number
- Multiple Calls per Line Appearance
- Call Waiting Caller ID Name and Number
- Prime Line Select
- Shared Extension on Multiple Phones
- Bridged Call Appearances
- Speaker Phone Capable
- Auto / Speed Dial
- Programmable Buttons w/ paperless labels
- Paging & Group Paging
- Direct Inward Dial (DID)
- Extension Dialing between Locations
- Automatic Call Distribution (ACD) Groups
- Custom Call Routing (CCR)
- Find Me/Follow Me
- Group Call Pickup
- Fax/eFax Management/Fax to email/Fax Server
- Remote Maintenance / Administration
- Voice Mail
- Voice Mail forward to Email
- Night/ After Hours Service
- Soft phone features
- Consistent and excellent voice quality
- Toll Charges, classes of service for Toll restriction
- Make/ Drop Conference
- Add On Conference
- Conference bridging for internal and external
- Automatic alternate routing
- Call forward capability to external numbers
- SMDR (Station Message Detailed Report)
- Music on Hold
- Voice Mail Light Indicator
- Remote Handsets
- Voice over VPN
- Integration with leading smart phones & tablets (enterprise support & products for mobile)
- SIP Client Capable
- Call Recording

Single Point of Responsibility: Oneida County expects to have a single point of contact, i.e. a single point of authority and a single contracting entity for this project. Oneida County will not enter into any agreement that does not provide a single point of accountability for the installation of the system

Technical Requirements: The proposer must provide a complete system design showing the integration of the voice network into the data network. Further, the vendor must provide methodology for assuring voice quality throughout the system. Core system servers, switches, call managers and other equipment will be installed in the Oneida County Data Center. Remote site equipment will be installed in secure data closets at each remote site. Proposer will provide recommendations and drawing showing the placement of the equipment in the appropriate network racks or cabinets. If the amount of rack space is insufficient, proposer shall make sure additional racks or cabinets are included in the proposal. Respondent shall provide detailed specifications for all switching equipment, pricing and placement for the equipment. Maintenance costs of this equipment shall be reflected in the maintenance section of the response.

Redundancy/Failover. It is the intent of this proposal to have a system that has failover capabilities in case of system failure and to have an acceptable level of redundancy in case of power failure or other incident. Please provide your solution to assure the system is operational 24/7. It is our intent to explore the possibility of installing another “backup” system at another location that calls can be automatically rerouted to in the event of a main system failure. This system may reside in data center Oneida County Central Services has selected for this purpose or within the County of Oneida. It must also be able to process additional calls during peak times.

System Administration: Oneida County Central Services staff will administer the system. Installation of the new VoIP system will include training for staff in system administration. Remote administration of the system must be available to technical and operations staff. Respondent to supply all additional equipment and software needed for the system programming and operation.

System Design Requirements: Oneida County uses a 4-digit internal dialing plan. There are disparate systems using different dialing schemes. These systems must be reformulated to be unified on the same 4-digit dialing exchange. Proposer will provide assistance in developing the new plan and assuring correct operations. Interoperability with the Avaya phone system currently installed at several departments throughout the County must be included in the design. 4 digit dialing and the ability to see if users are online or available through 3rd party software or other proposed hardware/software is desired. **Security:** The system should have security set features built in that allow the administrator to remotely administer security levels of users. It should fully integrate with Oneida County’s Active Directory and should allow the administrator to control class of service and class of restriction. The winning proposer will also supply ALL system level passwords to Oneida County Central Services.

Vendor Requirements: The successful proposer will provide documentation showing call handling and device addressing schemes, an initial inventory of equipment for each completed location including model and serial numbers of phones, switches and routers, as well as any other relevant equipment.

Project Management: Proposer is expected to provide a Project Manager for this installation that will interface with the Project Manager from Oneida County Central Services who will be the main contact with the vendor for the duration of the project. This

Project Manager will be assigned to Oneida County throughout the life of the project. Oneida County reserves the right to request a change in project management based on performance.

Maintenance and Support: Vendor shall provide Oneida County Central Services with a complete listing of available service and support plans. These shall include the range of offered services including all levels of support plus the escalation plan. As follows:

- An itemized list of services for each site.
- Ongoing Maintenance cost
- Forecast any increase for 2-3 years for hardware, software maintenance, licensing needs
- Respondent to provide detail of local support, hours or limits of coverage for service and repairs.
- Respondent to provide their maintenance plan options with one hour or less response times.

- Provide software upgrade plans inclusive in Maintenance.

Transition Plan: Oneida County Central Services expects the installation of the new system to have little or no impact to on-going operations. The proposer is expected to have experience in this area and to provide Oneida County Central Services with a plan to accomplish this as follows:

- Respondent to create a design to move the units off the old system to the new system with minimized disruption to staff and to create a preplanned schedule for notification purposes.
- Respondent to provide how (and validate procedure) the parallel process will migrate old to new.
- All documentation, installation, reports and materials must be provided to Oneida County Central Services prior to commencement of installation, followed by submission of any Moves, Adds, Changes (MAC)

Other Costs: Proposer must list any and all charges, expenses and/or costs to be incurred by Oneida County that are not included in this section. Failure to do so may result in disqualification.

CONTRACT CONSIDERATIONS

1. Oneida County intends to award a single contract for these services. The contract is anticipated to be for 36 months with two 12 month options.
2. Interested vendors are encouraged to contact AnneMarie Ambrose, Director of Central Services, 315-798-5822, to clarify the requirements of this RFP or to arrange a walk-thru prior to proposal submission.
3. This RFP and the successful proposal will become attachments to the resulting contract or agreement. Oneida County takes the issue of privacy and confidentiality very seriously and values the trust you place in us. Please be advised that, all information contained within County contracts is a public record once you provide it, and may be subject to public inspection and copying if not otherwise protected by federal or state law.
4. All proposers are hereby advised that Oneida County intends to contact references provided as a part of any proposal and may solicit and secure background information based on the information, including references, provided in response to this RFP. By submission of a proposal, all Proposers agree to such activity and release Oneida County from all claims arising from such activity. Proposals will be evaluation based on the County's analysis and ranking of each firm's responses relative to the activities described in this RFP.
5. Scoring Criteria and Weights are as follows:

CRITERIA	MAXIMUM POINTS
a. Experience of key personnel	30
b. Completeness of description	20

c. Demonstration of understanding	20
d. Strength of references	20
e. Cost	<u>10</u>
TOTAL	100

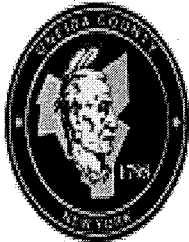
Exhibit C

Section 1: RFP Cover Sheet & Summary Letter



COVER PAGE

**RFP# 2018-246 Response For:
Cisco VoIP**



Oneida County
ocgov.net New York

TO: Anne Marie Ambrose, Director
Oneida County Central Services
Oneida County Office Building
800 Park Ave., 6th Floor
Utica, New York 13501
Phone: 315.798.5859 Fax: 315.797.3047
Email: centser@ocgov.net

Dear AnneMarie,

Thank you for the continued opportunities to do business together again.

ComSource has prepared this RFP Response for:

Oneida County Information Unified Communications & VoIP Phone System RFP - #2018-246

We look forward to an ongoing successful business partnership and discussing the specifics of this proposal with you.

Respectfully,

Ron

Ron Terra
Regional Sales Manager
ComSource, Inc.
rterra@comsourceny.com
315-395-4502 cell#

Mike

Mike Fay
Executive Vice President of Business Development
ComSource, Inc.
MFay@comsourceny.com
315-682-4115

Section 2: Scope of Services

RFP SCOPE

GENERAL INFORMATION

The County of Oneida, New York is seeking a Unified Communications & Voice over Internet Protocol (VoIP) integrated voice and data system. The new system shall include Unified Messaging and integrate with Oneida County's Exchange 2013 e-mail system. All existing telephones should be replaced with equivalent IP phones that support basic telephony features. Some areas may require side cars or other phone variations. An employee should be able to log in anywhere on or off the company network (home phone, cell phone or computer) and automatically receive calls without administrative intervention.

Oneida County requires that any system have the capability to service remote locations with the same features and functionality as the main office should the need arise. Each location should be able to access all the features and functionality available at the main site even in the event of a service interruption. System directories, class of service for telephony capabilities, trunk group access, should apply to all locations.

The proposer will be expected to work directly with Oneida County's IT Staff and our service provider to ensure compatibility/call quality/reliability.

Oneida County also requires the ability to install a "failover/backup system" that will work in tandem with the main system to process calls as needed, either due to emergency, power outage or capacity issues. This "failover/backup system" will reside in an Oneida County location previously selected by the County.

Oneida County, in requesting this type of system, wishes to take advantage of the benefits that a VoIP system will bring. Each respondent should include in their response the benefits that their system will provide including, but not limited to, the increased efficiencies that staff will realize.

The successful proposer for this contract will be the sole authority and responsible party for the equipment and installation. The telephony brand to be installed will be CISCO. Oneida County's goal is to establish a relationship with a single point of contact for all support necessary for the project. If the vendor utilizes any subcontractors for any part of the system architecture, design, planning, installation or support it should be understood that the successful respondent will be the sole responsible party for all activities. It is the intent of this Request for Proposal that the responder shall provide a complete, end to end solution for the installation. The vendor shall provide all design, planning, system architecture, installation, network analysis, training and post installation support for the project. The County of Oneida staff will act in oversight and advisory positions only. The system installation shall be rolled out with 1 to 2 key buildings immediately and then throughout the county over a 3-year plan. This plan shall be described in the response to this proposal request. The first installation will take place immediately in 2018 at an Oneida County specified building and the vendor will work with Oneida County Central Services to roll out the agreed upon system to each of the County Buildings with an end result of one unified comprehensive, integrated voice and data system.

The vendor is also expected to provide a comprehensive training plan for all employees. It is expected that Oneida County Central Services staff will require technical training at various levels and that line staff will require training on the new systems. Oneida County Central Services staff will work with the vendor to develop a training plan that achieves these objectives. The vendor is expected to plan and conduct the installation of the project with minimal impact to daily operations and staff. Staff will work closely with the vendor to create a working project plan that will achieve these goals.

SUMMARY OF REQUIREMENTS

The new Telephone, Voicemail and Unified Messaging system design should provide a uniform communication system for all Oneida County facilities and shall be expandable at the convenience of Oneida County Central Services. The new system must provide a single system in terms of dialing, feature access and administration. The system installation shall be rolled out with 1 to 2 key buildings immediately and then throughout the county's 23 buildings over a 3-year plan. This is subject to change.

Network Assessment/needs assessment:

The estimated total number of handsets, endpoints, and ports needed for each location will be determined by the proposer upon walkthrough which can be scheduled with Oneida County Central Services staff.

Cable:

The successful proposer will provide cable from and to locations determined by the assessment. The proposer will be responsible for wiring connections from the VoIP system to any communications equipment utilizing the VoIP system. Proposer is responsible for re-termination from existing system to new VoIP system.

Any additional cabling/wiring needed by the proposer to complete the installation should be included as part of the RFP response.

Vendor Response to this RFP should cover the following general topics:

In order to be sure we have addressed all these topics, we have answered each one individually, "inline" with the topic.

ComSource answers are in Blue Italic below each topic.

- **IP-based Voice capabilities and Intelligent Network Infrastructure**

IP Based Voice capabilities helps organizations communicate more effectively by helping them to streamline operational processes, reach the right resources the first time and increase productivity. Cisco uses the approach of an Intelligent network that are application aware and in this case the voice application. This allows the network to automatically ip phones with the proper access rights based on the devices and the proper power and quality of services settings without intervention on a phone by phone basis.

- **Reliability**

Cisco has built its voice solution with reliability and service goals in mind. Multiple layers of redundancy including cluster fail-over and site redundancy, consistent QoS policies, and an intelligent networking allows Cisco to be one of the most reliable systems.

- **Voice Quality**

An end to end call flow approach is used for Call quality, during the design process the network will be analyzed to review current bandwidth that is available. Codes will be selected for appropriate call legs and QoS policies will be configured as such.

- **Experience**

ComSource Inc. has multiple Cisco certified engineers in both Cisco enterprise networking and the Cisco Collaboration suite. Our engineers have designed and deployed multiple Cisco Voice solutions varying in range from 100 to 2500 devices. Our engineers have experience in designing and deploying voice solutions for County Governments, Large Healthcare institutions and Education.

- **Voice Messaging**

Voice Messaging will be implemented as part of this solution including Unified Messaging with Exchange 2013, It is estimated the 565 voicemail boxes will be used.

- **System Administration**

System Administration is all performed through web based tools. This allows for easy configuration and troubleshooting. The design of the system will be such that a standard exists to easily identify site, phone, and users and they utilize the system. We will provide administrative training for these tools along with this project.

- **Support/Service Capabilities**

Support services are provided with this solution with a manufacturer 1 year technical phone support/ hardware replacement, and during implementations over the next 3 years full support will be provided by the vendor.

- **Scalability**

The Business Edition 7000 is designed to scale from 1000 to 5000 users and up to 1500 devices supporting multiple sites on enterprise class Cisco UCS Servers.

- **System Longevity**

System longevity will vary depending on the component of the system. Server hardware typically lasts between 5 and 6 years. Phone hardware will last 10+ years. While the system as designed will last much longer than that software upgrades if performed on a regular basis will ensure the system stays in a supported state and this will have an impact on hardware requirements.

- **Simplicity of Installation**

Following standards and best practices will allow for a very simple installation. Once built to a standard configuration the system is easily replicated to the remaining locations. The system comes pre-loaded with applications already installed to the most current versions. The most critical component to a simple installation is defining call flows and phone configuration standards prior to beginning installation.

- **Training and Usage**

Training will be provided for both System Administrators and End Users. This can be accomplished effectively a couple different way. First we can hold training classes for individual in classes of 15 to 20 individuals. The customer can also designate a trainer that gets trained on the system and performs the training classes. In addition, training quick sheets based on model of phones can be distributed to phone users. For System Administrator training, we typically conduct one on one customized training that will be tailored to skill level. Above the individualized training class, during installation, configuration and deployment of the system it is encouraged for the designated System Administrator to be heavily involved to understand the system completely.

- **Failover/Emergency Backup Option**

The system is designed in a clustered environment. This will include multiple application servers for each application that can service phones and voicemail. Real time replication will happen between these application clusters. The phones will have multiple servers to connect to in order to maintain an operational state. Multiple call paths to the PSTN will exist for each phone to have multiple gateways for calling in the event that one becomes unavailable. Third, gateways deployed at each site will provide local calling services in the event that the WAN is unavailable, this requires PSTN services located at each site for this to function.

- **Interoperability to existing Avaya** (currently installed at various office spaces within Oneida County including 4-digit dialing. *only during installation. 3 years plan to include complete replacement plan of Avaya system).

It is anticipated that new system will match the current dialing environment. Overlapping extensions may be assigned new extensions, however all D.I.D.'s will remain the same. Integration to the current IP based system can be accomplished and as each site is cutover to the new system, the dial plans on both the current system and the new system will have to be updated. This will be defined specifically in the cut over documents. A standard dial plan will be built for the simplicity of managing the system.

REQUIRED SERVICES

- **Unified Messaging:** Oneida County wishes to implement Unified Messaging and integrate the VoIP system with the Exchange E-Mail system. Oneida County is currently on Exchange 2013. The proposer shall propose the best way to achieve this with full functionality and with minimal impact on services. Proposer shall also provide any costs necessary for licensing that may be required to achieve this.

Voicemail to email integration of Exchange will be implemented for the users defined to have this feature "enabled". The requirements and configuration of the exchange server will be provided.

- **Enterprise Mobility:** Oneida County wishes to enable our highly mobile workforce to communicate on the device of their choosing regardless of location (office, field, home etc.). The goal is constant connectivity and mobile unified communications no matter the location where staff may be. The solution should essentially extend the features of the desk phone to the mobile device.

Mobility services will be configured for single number reach (ringing the cell phone and desk phones at the same time), mobile voice access, and desktop call pickup. Mobility features will be further designed as the system is built.

- **Call Accounting System:** A Call Accounting System (CAS) is required and must be part of the base proposal for this system. The CAS must include Call Dialing Report (CDR) for inbound, outbound and internal calls and usage reports for all types of inbound, outbound and internal calls. Specifically, Oneida County has an interest in metrics for call length, number of calls unanswered, going to voicemail and dropped calls. Please describe your solution to the Call Accounting System and attach sample reports. Proposer should also provide training for up to 3 employees in the administration, maintenance, programming and daily operation of the Call Accounting System.

Call Accounting will be provided using XIMA Software and training on the software will be provided as well. In addition, real-time dashboards can be created to monitor the calling volumes on the system.

- **911 Services:** Emergency 911 Services may be mandated for this system. The vendor shall provide a solution for 911 dialing from within the network that achieves all of the expected performance of a 911 system without substantially changing any of the expected normal operations of the system. If a staff person currently presses 911, it is expected that they will continue to perform the same activity and achieve the same result. Additional capabilities expected from the emergency call procedure are the ability to initiate an emergency call to be automatically routed to other desks within Oneida County.

Call Flow for 911 Services will be specifically designed by site and tested. The system design will allow the user to directly dial "911" without any other buttons or keys to be entered. The 911 call can be directed by the county

- **Feature Set:** The list below is a partial list of features that have been requested. It is provided as a baseline and as a starting point for the expected operations of the system. Oneida County expects the successful vendor will have had experience with corporations and other businesses of Oneida County's size and scope and will be able to provide consulting advice, input and insight into what other organizations are using and to provide suggestions that will enhance the usability and functionality of the system. Please identify which features are standard and which are added cost. Note that there are some features below which are not mandatory.

ComSource has experience in these features and others that may be available. We will work closely with Oneida County to determine which features are most appropriate for the user community in each department.

- Automatic call back (optional)

Standard

- Unified Communication

Standard

- Call Waiting

Standard

- Busy signal on call

Standard

- Call Forward Busy / No Answer / All Calls

Standard

- Call Redirect

Standard

- Call Hold / Release

Standard

- Call Park / Pickup

Standard

- Call Transfer

Standard

- Call Waiting

Standard

- Calling Line ID Name and Number

Standard

- Multiple Calls per Line Appearance

Standard

- Call Waiting Caller ID Name and Number

Standard

- Prime Line Select

Standard

- Shared Extension on Multiple Phones

Standard

- Bridged Call Appearances

Standard

- Speaker Phone Capable

Standard

- Auto / Speed Dial

Standard

- Programmable Buttons w/ paperless labels

Standard

- Paging & Group Paging

Standard for up to 50 Phones

Additional Cost for Informacast by Singlewire to support the 1600 phone total. This software is included with the proposal.

- Direct Inward Dial (DID)

Standard

- Extension Dialing between Locations

Standard

- Automatic Call Distribution (ACD) Groups

Standard

- Custom Call Routing (CCR)

Standard

- Find Me/Follow Me

Standard

- Group Call Pickup

Standard

- Fax/eFax Management/Fax to email/Fax Server

The ability to Fax is included with the system. Fax to email and a Fax Server require additional software which is included as optional in this proposal.

- Remote Maintenance / Administration

Standard

- Voice Mail

Standard

- Voice Mail forward to Email

Standard

- Night/ After Hours Service

Standard

- Soft phone features

Softphone capabilities are included with the system, however please note that for users with both a softphone and a desk phone an additional license or level of license is required to support multiple devices per user.

- Consistent and excellent voice quality

Standard

- Toll Charges, classes of service for Toll restriction

Standard

- Make/ Drop Conference

Standard

- Add On Conference

Standard

- Conference bridging for internal and external

Standard

- Automatic alternate routing

Standard

- Call forward capability to external numbers

Standard

- SMDR (Station Message Detailed Report)

Standard

- Music on Hold

Standard

- Voice Mail Light Indicator

Standard

- Remote Handsets

Standard

- Voice over VPN

Standard

- Integration with leading smart phones & tablets (enterprise support & products for mobile)

Integration with leading smart phones and tables are included with the system, however please note that for users with both a smart phone, tablet and desk phone and additional license or level of license is required to support multiple devices per user.

- SIP Client Capable

Standard

- Call Recording

Call Recording configuration and capabilities exist within the Cisco solutions. A Call Recording Server is required and is included as an optional item within this proposal.

Single Point of Responsibility: Oneida County expects to have a single point of contact, i.e. a single point of authority and a single contracting entity for this project. Oneida County will not enter into any agreement that does not provide a single point of accountability for the installation of the system.

A dedicated project manager will be assigned to the project. The designated responsible party will be your current Account Manager. The Account Manager is ultimately responsible for all things relative to your account and your business with ComSource Inc.

Technical Requirements: The proposer must provide a complete system design showing the integration of the voice network into the data network. Further, the vendor must provide methodology for assuring voice quality throughout the system. Core system servers, switches, call managers and other equipment will be installed in the Oneida County Data Center. Remote site equipment will be installed in secure data closets at each remote site. Proposer will provide recommendations and drawing showing the placement of the equipment in the appropriate network racks or cabinets. If the amount of rack space is insufficient, proposer shall make sure additional racks or cabinets are included in the proposal. Respondent shall provide detailed specifications for all switching equipment, pricing and placement for the equipment. Maintenance costs of this equipment shall be reflected in the maintenance section of the response.

A detailed system design will be provided along with AS-Build reporting. We will review the current network and determine the best method to implement QoS and Voice VLAN across the network including the Data Center.

Redundancy/Failover: It is the intent of this proposal to have a system that has failover capabilities in case of system failure and to have an acceptable level of redundancy in case of power failure or other incident. Please provide your solution to assure the system is operational 24/7. It is our intent to explore the possibility of installing another "backup" system at another location that calls can be automatically rerouted to in the event of a main system failure. This system may reside in data center Oneida County Central Services has selected for this purpose or within the County of Oneida. It must also be able to process additional calls during peak times.

All applications are configured in a redundant fashion that replicate in real time. The applications are active/active meaning that all servers in the cluster can service phones and users. The phones are configured with multiple servers to connect to and will automatically fail over should their primary server become unavailable. The gateways also perform the same fail over function.

System Administration: Oneida County Central Services staff will administer the system. Installation of the new VoIP system will include training for staff in system administration. Remote administration of the system must be available to technical and operations staff. Respondent to supply all additional equipment and software needed for the system programming and operation.

We typically conduct one-on-one customized training that will be tailored to skill level for System Administrators. Above the individualized training class, during installation, configuration and deployment of the system it is encouraged for the designated System Administrator to be heavily involved to understand the system completely.

System Design Requirements: Oneida County uses a 4-digit internal dialing plan. There are disparate systems using different dialing schemes. These systems must be reformulated to be unified on the same 4-digit dialing exchange. Proposer will provide assistance in developing the new plan and assuring correct operations. Interoperability with the Avaya phone system currently installed at several departments throughout the County must be included in the design. 4 digit dialing and the ability to see if users are online or available through 3rd party software or other proposed hardware/software is desired.

The system will be designed such that, it best meets the needs of a comprehensive consolidated dialing plan that include 4-digit dialing between sites when the project is complete. The foundation of the system that is built for the first two sites in the near term will be structured such that remaining sites can be implemented with consistent standards based approach.

Security: The system should have security set features built in that allow the administrator to remotely administer security levels of users. It should fully integrate with Oneida County's Active Directory and should allow the administrator to control class of service and class of restriction. The winning proposer will also supply ALL system level passwords to Oneida County Central Services.

System and devices will be configured with security best practices for voice communications. This involves, where possible, required phone hardening, encryption, port security and gateway security. The applications will be configured for secure access.

Vendor Requirements: The successful proposer will provide documentation showing call handling and device addressing schemes, an initial inventory of equipment for each completed location including model and serial numbers of phones, switches and routers, as well as any other relevant equipment.

"As-Built" reporting will show devices and addressing schemes. Inventory of all equipment will be provided throughout the project and final documentation provided at the end of the project which shows deployment location.

Project Management: Proposer is expected to provide a Project Manager for this installation that will interface with the Project Manager from Oneida County Central Services who will be the main contact with the vendor for the duration of the project. This Project Manager will be assigned to Oneida County throughout the life of the project. Oneida County reserves the right to request a change in project management based on performance.

A dedicated project manager will be assigned to the project and will be assigned to this project throughout the life of the project.

Maintenance and Support: Vendor shall provide Oneida County Central Services with a complete listing of available service and support plans. These shall include the range of offered services including all levels of support plus the escalation plan. As follows:

- An itemized list of services for each site.
- Ongoing Maintenance cost
- Forecast any increase for 2-3 years for hardware, software maintenance, licensing needs
- Respondent to provide detail of local support, hours or limits of coverage for service and repairs.
- Respondent to provide their maintenance plan options with one hour or less response times.
- Provide software upgrade plans inclusive in Maintenance.

Maintenance and Support Services are provided with a combination of both Cisco and ComSource remote and onsite support. Cisco support is required to provide required patching, software updates and additional troubleshooting when required.

1-Yr Ongoing Manufacturer maintenance costs are summarized in the quote provided, it is anticipated that this pricing can not be guaranteed but, historically, we have seen no more than 5% price increase year over year from Cisco. These would be the on-going maintenance costs until they are either no longer desired by the client, replaced components, or no longer offered by Cisco.

The system will be supported by our Central New York team of engineers, typically during normal business hours of 8am to 5pm. This included both On-Site and Remote Support. Remote support requires the use of an Oneida County supplied VPN access, with access to the voice system and voice network. Response time for Remote Support is 1hr and On-Site support is 4 hours. Hourly-Rates are provided for each of these. Software upgrades for the next 5 years has been provided on the pricing worksheet as optional, this will provide the labor to upgrade the system software and not hardware This is recommended to perform at least once per year.

Transition Plan: Oneida County Central Services expects the installation of the new system to have little or no impact to on- going operations. The proposer is expected to have experience in this area and to provide Oneida County Central Services with a plan to accomplish this as follows:

- Respondent to create a design to move the units off the old system to the new system with minimized disruption to staff and to create a preplanned schedule for notification purposes.
- Respondent to provide how (and validate procedure) the parallel process will migrate old to new.
- All documentation, installation, reports and materials must be provided to Oneida County Central Services prior to commencement of installation, followed by submission of any Moves, Adds, Changes (MAC).

A detailed transition plan will be developed to provide the least impact to operations to include the migration from the old system to the new system. It is not uncommon to perform service impacting events after business hours and that is expected. Upon completion of a site migration all service calls and changes to the initial deployment will be documented and tracked.

Other Costs: Proposer must list any and all charges, expenses and/or costs to be incurred by Oneida County that are not included in this section. Failure to do so may result in disqualification.

Additional Potential Costs

There is the potential to run a significant amount of cabling should the cabling plant not be in proper order. For example, if 10% of the 1600 phones require a new cable run then using the cost of either \$325 per drop for \$500 per drop depending on building conditions, this could require an additional \$80,000 worth of expense. It is anticipated that the cabling plant is fine and there will not be much cabling required for this system.

The number of Call Recording and Simultaneous Fax Lines were estimated. The optional costs used in the proposal are a good base lines for pricing. Include in this proposal is 30 Channels of Simultaneous Faxing using a Fax Server and 30 Simultaneous Call Recording Channels. Depending on whether the County chooses to utilize on-demand call recording and/or all call recording could have a significant impact the number of licenses required.

The number of users utilizing the Softphone and/or Mobile Phone/Tablet Integrations can have significant impact on the cost of the licensing. Each user using these features will require either an Enhanced Plus license or CUWL License.

Potential Cost Savings

This is an estimated proposal based on quantity estimates and network assumptions and designed to give the full picture of the potential costs associated with implementing this system. It is anticipated that the assumptions made about this project are accurate based on many years of experience deploying IP based voice systems. The timing of actual purchases and transition planning may have an impact on pricing. A conservative approach was used to provide the clearest picture on costs associated with the deployment of this solution. PSTN Services site by site play a significant role in the pricing of the solutions.

As an example, PRI services were provided for in each of the voice gateways to get an order of magnitude. PRI Services may not exist in all locations, and if they do they may be consolidated to save cost on both this project on operational expenses going forward. For instance, if only 5 of the sites required PRI services then that would be a significant saving on the overall cost of the project. Another example would be the Analog Voice Gateways, if only 5 sites require this gateway then that would be a great area for significant cost savings for this project. Voice Gateways will ONLY be required for each unique address.

RFP Evaluation:

If an award is made as a result of this RFP, it shall be awarded to the respondent whose proposal is most advantageous to Oneida County with price and other factors considered. These include, responses to the RFP questions; demonstrated technical ability and expertise; financial stability; reference calls and/or recommendations; memberships, licenses, certifications or any other applicable memberships; presentations to the evaluation team (if applicable); on-site visits at vendor's site (if applicable), product samples which Oneida County may, at its discretion, request as part of the RFP process; any additional criteria deemed appropriate by the County which would lend itself to establishing the Service Provider's viability to perform the work as outlined in this RFP.

Ongoing service agreements included with the RFP must include specific response times and financial penalties for the vendor if Service Level Agreement commitments are not met.

Oneida County will require all vendors to provide cost estimates for required software upgrades and maintenance for the next **five years** if these expenses are not included in an ongoing service agreement. If they are included, they need to be specified.

Evaluation Criteria:

1. **Qualifications of Firm** – Strength and stability of the firm; strength, stability, experience and technical competence of sub-consultants; logic of project organization; adequacy of labor commitment.
 2. **Qualifications of Personnel** – Qualifications, education and experience of project staff; key personnel's level of involvement in performing related work.
 3. **Completeness of Response** – Completeness of response in accordance with RFP instructions; exceptions to or deviation from the RFP requirements; inclusion of required licenses and certifications.
 4. **Reasonableness of overall Cost and Price** – Reasonableness of the individual firm-fixed prices and/or hourly rates, and competitiveness of quoted firm-fixed prices with other proposals received; adequacy of the data in support of figures quoted; basis on which prices are quoted. Reasonableness of ongoing support cost and price.
-

Qualifications of Firm and Personnel

The COMSOURCE Approach

APPROACH – We understand the challenges and needs of NYS County government. That is why we have a dedicated SLED Team (State Local Education) at Comsource. The growing group of professionals on this team has a combined experience of decades assisting clients with relevant technology tailored for the demands of this industry vertical.

- At Comsource the Regional Sales Manager is the focal point of the customer experience. The county would be contacted by their RSM and dedicated project manager, to obtain availability and schedules for projects. Ron Terra is your dedicated RSM, regional sales manager. His email would be RTerra@comsourceny.com or 315-395-4502 cell#
- The project team would come onsite with the STATEMENT OF WORK as provided to meet with key stakeholders.

STRENGTH AND EXPERIENCE-

- Intelligent Virtualization
- Networking
- Security
- VOIP
- Performance Optimization
- Data Protection and Management

Headquartered at 8104 Cazenovia Road, Building #3, Manlius NY 13104, ComSource is led by these executives:

- **Founder and CEO Kevin Hanlon**
 - **President – Jim Carrick**
 - **CFO – Tracy Stauffer**
 - **CTO – Rami Hyary**
 - **EVP – Michael Fay**

We were founded in 1989 and have experience steady and profitable debt free growth ever since.

Comsource is growing as we add new staff regularly. We are currently 30 employees throughout NY State and Pennsylvania, with 6 sales and service offices. Rochester, Syracuse, Cortland, Potsdam, Albany, and Scranton PA.

Additional Facts about Comsource :

- Our team has been supporting clients for Global 1000, Higher Education, Enterprise Businesses as well as Federal, State, and local Government customers for over 29 years.
- Our certifications, expertise and experience spans all facets of High Performance Compute, Flash and Tiered Storage, Networking, Backup & Recovery, Voice over IP, Data Center Optimization, and Security
- The ComSource business model allows us to be extremely responsive, nimble, and service oriented while acting as a “checks and balances” liaison between the technology manufacturer community and our customers.
- Our financial services offerings extend outside the traditional “glass house” data center to include all types of personal and mobile computing technologies. In the last 5 years alone, we have negotiated well over \$100 million in lease origination. Our team strives to provide the best financing options available, combined with outstanding customer service. ComSource True Choice™ Solutions include:
 - Operating and Capital lease options
 - Competitive lease rates and program terms
 - Flexibility to upgrade technology or change to a different manufacturer
 - Personalized service – one point of contact for all service needs
 - Customized real-time electronic asset management

Section 3: Answers to Questions

Q: How many phones will the County need for the entire deployment?

A: 1600 Phones

Q: How many voicemail boxes will the County need for the entire deployment?

A: 565

Q: Will the County be supplying PoE Capable Ports?

A: Upgrades to switching infrastructure will be cover by a different County project.

Q: What does the deployment timeline look like?

A: The deployment is anticipated to cover the span of up to 3 years maximum.

Q: How would you like the pricing to be supplied prior to performing walkthroughs to verify site specific PSTN services, phone counts, and user licenses?

A: Provide the initial site full cost with a unit cost breakdown estimate, and an estimated County wide cost.

Q: How would you like us to represent pricing for years 2 and 3 as pricing may change for the better due to volume discounts and or worse due to market fluctuations?

A: Provide the best estimate based on volume pricing.

Q: What diagrams would you like to see as part of the response?

A: Provide a logical voice diagram and how it connects to the network.

Section 4: Pricing Schedule

Section 5: Additional Support Materials

Key Personnel

Comsource has provided a couple individuals resumes that may be considered for the project. This is just a partial listing of our growing staff with the highest relevance to the needs of this project. We also employ a large subsidiary network of contract professionals, that may or may not be needed for this VoIP project.

- Resumes attached

References

Comsource maintains hundreds of very satisfied clients with thousands of successful projects completed, the following 3 companies are just some of the long list of happy customers. We have performed several projects with each of these clients.

A.) Craig Delardi - Aspen Dental Management

281 Sanders Creek Pkwy
East Syracuse, NY 13057
(315) 454-6000
cdelardi@aspendental.com

Comprised of 600+ National offices
Over 40 million dental customers

B.) Mat Rudd - Kinney Drugs Inc.

520 E Main St, Gouverneur, NY 13642
(315) 287-3601
matrudd@kphhealthcareservices.com

Comprised of 110 Pharmacies in Northeast US
Serving millions of customers

C.) Nick Martino - Aria Health

4900 Frankford Avenue
Philadelphia, PA 19124
Phone: 215-831-2000
NMartino@ariahealth.org

Comprised of 3 Large Hospitals and dozens of clinics throughout Pennsylvania.
Serving millions of patients.

AD-HOC Pricing List for Oneida County

In the event that additional services are required for this project or for elements outside of the scope of this project, below is a partial listing of ComSource Services:

- **Cyber Security** – Rate is dependent upon project, very specific in nature and variety of services requested.
- **Firewalls** – hourly labor rate - \$145 per hour
- **IPS** – hourly labor rate - \$145 per hour
- **IDS** – hourly labor rate - \$145 per hour
- **Telephony systems** including VOIP and traditional TDM systems – Hourly labor will vary between \$90 per hour for Move, Adds, Changes, up to \$135 per hour for VoIP configuration.
- **Network Engineering** of voice system – hourly labor rate - \$125 per hour
- **Network Engineering** of data systems – hourly labor rate - \$125 per hour
- **Virtualization** – hourly labor rate - \$135 per hour
- **Audio Visual** and Presentation equipment (ComSource partners with R-Options Inc.) – hourly labor rate – could will vary between \$90 per hour and \$125 per hour depending on project and prevailing wage.
- **LAN/WAN/WWAN** – hourly labor rate - \$125 per hour
- **Windows/Linux** – hourly labor rate will vary between \$100 per hour and \$165 per hour based on advanced requirement.
- **Microsoft product support** – hourly labor rate will vary between \$100 per hour and \$165 per hour based on advanced requirement.
- **Group Policy** and administering Active Directory – hourly labor rate - \$125 per hour
- **Complex IP Protocols** – hourly labor rate - \$165 per hour
- **Point to Point Microwave and WiFi** – hourly labor rate - \$125 per hour
- **Database design of MS ACCESS and Sql** – hourly labor rate - \$165 per hour
- **SCCM** – hourly labor rate - \$165 per hour
- **Solarwinds, Nagios** or other SNMP systems – hourly labor rate - \$125 per hour
- **CISCO Meraki** – hourly labor rate - \$125 per hour
- **Printing** – hourly labor rate - \$125 per hour

Exhibit D



8104 Cazenovia Road Manlius, NY 13104-9780
Phone: (315) 682-4115 Fax: (315) 682-4165
www.comsourceny.com

April 23rd, 2018

AnneMarie Ambrose, Director
Oneida County Central Services
Oneida County Office Building
800 Park Ave.
Utica, New York 13501
Phone: 315.798.5822 Fax: 315.797.3047
Email: centser@ocgov.net

AnneMarie,

ComSource greatly appreciates the opportunity to provide a quote for :

Qty	Mfr #	Description	List	Discount Price each hour	Extended Total

SAMPLE



8104 Cazenovia Road Manlius, NY 13104-9780
Phone: (315) 682-4115 Fax: (315) 682-4165
www.comsourceny.com

Notes: Pricing does not include taxes or installation, if applicable. Quote is valid for 30 days.

If you have any questions, please do not hesitate to reach out to us.

We look forward to working with you on this opportunity.

Thank you,

Ron

Ron Terra
Regional Sales Manager
ComSource, Inc.
rterra@comsourceny.com

Exhibit E



Prepared for:
{Customer }

Prepared by:
Ron Terra

Project Completion Certification

This document is to serve as certification from {CUSTOMER} that ComSource, Inc. has completed all deliverables per project Statement of Work "SOW" for {PROJECT}.

By signing this document, you certify that ComSource, Inc. has successfully completed all the Deliverables concerning your original work agreement and any change orders for the project.

Any work requested beyond the signing of this agreement will need to be part of a new "SOW" and Project.

It has been a pleasure working with you!

ComSource, Inc

{ CUSTOMER }

Signature: _____

Signature: _____

Name: Ron Terra

Name: _____

Title: Regional Sales Manager

Date: _____

Date: _____

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

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

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative

agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:

- i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
- i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a

criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and

D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;

ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.

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

i. The Contractor will or will continue to provide a drug-free workplace by:

A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

B. Establishing an ongoing drug-free awareness program to inform employees about:

1) The dangers of drug abuse in the workplace;

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

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

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

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

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

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

- i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the

Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

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

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

When applicable to the services provided pursuant to the Contract:

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

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

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

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

5. NON-ASSIGNMENT CLAUSE.

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

6. WORKER'S COMPENSATION BENEFITS.

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

7. NON-DISCRIMINATION REQUIREMENTS.

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

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as

determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

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

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

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records

shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

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

12. CONFLICTING TERMS.

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

13. GOVERNING LAW.

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

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

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

16. GRATUITIES AND KICKBACKS.

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

request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

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

17. AUDIT

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

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

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services

(hereinafter “OGS”) website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

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

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

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

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

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

- a. For the purposes of this provision, the “use of tobacco” shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.
- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that

delivers vapor which is inhaled by an individual user as he or she simulates smoking.

- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida;
and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

Anthony J. Picente Jr.
County Executive



AnneMarie Ambrose
Director

ONEIDA COUNTY DEPARTMENT OF CENTRAL SERVICES

Oneida County Office Building ♦800 Park Avenue ♦Utica, New York 13501

August 22, 2018

FN 20 18-356

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

GOVERNMENT OPERATIONS

WAYS & MEANS

Subj: Recommendation of Upgrade to E911 Dispatch Phone System

Dear Mr. Picente,

The enclosed agreement will allow West Safety Solutions Corp. (West) to provide an upgrade to the Emergency Services 911 dispatch phone system. West is the only vendor who is able to provide this type of equipment, software, and maintenance service to the County, as the equipment list and software for the VIPER/Power 911 Telephone Hardware Upgrade is proprietary to West. The earlier version of this proprietary software is already installed at the 911 Center, and now needs to be upgraded. Quotes and bids were not obtained from other vendors as West is a sole source provider.

The quote provided will upgrade both the current dispatch phone system and backup phone system located at an offsite facility. This backup location is currently planned for the County Office Building.

This agreement spans a period of seven years, with the majority of expenses occurring in the first year. The purchase will be made out of Capital Project H-582: County Wide Phone Systems. The initial investment will include 2 nodes (locations) and related professional services to implement at a total cost of \$493,667.56 in the first year. This agreement will also include the additional six years of recurring services at a cost of \$120,090 and maintenance expenses of \$409,642.

The total project costs will be \$1,023,419.56 over seven years.

If you approve of this agreement, I respectfully request that it be forwarded to the Board of Legislators for their approval to contract with West to supply equipment, software and maintenance for this system.

Sincerely,

AnneMarie Ambrose
Director, Central Services

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

Anthony J. Picente, Jr.
County Executive

Date 10-2-18

Oneida Co. Department: Central Services

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

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: West Safety Solutions Corp.
1601 Dry Creek Drive
Longmont, CO 80503

Title of Activity or Service: Equipment and Services – Emergency Services Dispatch system update

Proposed Dates of Operation: Upon Execution 2018 – October 1, 2025

Client Population/Number to be Served: All who rely on the services of E911

Summary Statements

- 1) Narrative Description of Proposed Services:** West Safety Solutions Corp. will update and install new equipment, provide a backup center, and provide ongoing upgrades, service and maintenance for the E911 Center operating systems.
- 2) Program/Service Objectives and Outcomes:** Maintaining the call systems, data and technology operations of the E911 Center at their optimum operating capacity at all times, and to have a backup system in place if there is ever a critical failure or need for expanded operations.
- 3) Program Design and Staffing:** West will provide all professional staff, technicians and installers for this project.

Total Funding Requested: \$1,023,419.56

Account # H-582

Oneida County Dept. Funding Recommendation: 1,023,419.56

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

Cost Per Client Served: N/A

Past Performance Data: West Systems are the current sole providers for E911 dispatch systems. The systems have been highly reliable and are now in need of an upgrade and backup.

O.C. Department Staff Comments: The amount quoted above is comprised of \$302,957.25 for Systems, \$117,393.31 for Professional Services, \$140,105 for Recurring Services and \$462,964 for Maintenance Services over the term of this agreement.

Agreement for Services, Software, and Equipment (Government Customers)

This Agreement for Services, Software, and Equipment is between West Safety Solutions Corp. ("West"), a foreign business corporation licensed to do business in the State of New York, with its principal offices located at 1601 Dry Creek Dr., Longmont, CO 80503, and the County of Oneida, a municipal corporation existing pursuant to the laws of the State of New York, with its principal offices located at 800 Park Avenue, Utica, New York (the "Customer"), dated as of the latest signature date ("Effective Date"). The parties may enter into orders, quotes, or statements of work referencing this agreement (each, an "Order") describing the West services ("Services"), software object code and accompanying documentation ("Software"), and/or hardware or other equipment ("Equipment") that West agrees to provide to Customer. "Agreement" means this Agreement for Services and all Orders. "Affiliate" has the meaning in Rule 405 of the U.S. Securities Act of 1933, as amended. Notwithstanding the foregoing, in no event shall any company or entity owned or controlled by Apollo Global Management, LLC, other than West Corporation and its subsidiaries, be deemed a West "Affiliate" for purposes of this Agreement.

1. Term

This Agreement begins on the Effective Date and does not have a defined end date; rather, this Agreement will apply to any Order for the duration of such Order. Termination of any Order will not affect this Agreement or any other Order. The Quote for this project, provided by West to the Customer (Quote #24370, attached hereto as Addendum I), describes a seven year period starting from the commencement of the project.

2. Confidentiality

Exhibit "A:" Confidentiality and FOIA applies to disclosure and use of Confidential Information (as defined in Exhibit A) exchanged under this Agreement and disclosures required by applicable freedom of information or public records laws.

3. Software

3.1. License Grant

Subject to this Agreement, West grants to the Customer a personal, non-exclusive, non-transferable, non-sublicensable license to use Software at the location ("Site") and on the number of servers, workstations, and users or other applicable metric set forth in the Order, solely for the Customer's internal purposes, to copy Software onto a storage device, and to make one copy solely for backup and disaster recovery purposes.

3.2. Restrictions

The Customer will not itself, or through any Affiliate, agent, or other third party: (a) sell, lease, sublicense, or otherwise transfer Software; (b) decompile, disassemble, reverse engineer, or otherwise attempt to derive source code from Software; (c) modify or enhance Software, or write or develop any derivative software, or any other functionally compatible, substantially similar, or competitive products; (d) network Software or use Software to provide processing services to third parties, commercial timesharing, rental, or sharing arrangements, or otherwise use Software on a service bureau basis; (f) provide, disclose, divulge, or make available to, or permit use of Software by any third party without West's prior written consent; or (g) use or copy Software except as permitted hereunder.

3.3. Audit

On 45 days' written notice, West may audit the Customer's use of Software. The Customer agrees to cooperate with West's audit and provide reasonable assistance and access to information. Any such audit will not unreasonably interfere with the Customer's normal business operations. The

Customer agrees to pay within 30 days of written notification any fees applicable to the Customer's use of the programs in excess of the Customer's license rights. If the Customer does not pay, and does not notify West of a dispute concerning the fees and commence negotiations concerning those fees, West can end the Customer's maintenance and support, licenses, and this Agreement. The Customer agrees that West will not be responsible for any of the Customer's costs incurred in cooperating with the audit.

4. Maintenance and Support Services

To the extent that an Order provides for maintenance and support Services for Equipment and Software, such Services will be provided in accordance with West's then-current Maintenance and Support Services Terms located at <https://www.west.com/legal-privacy/terms/#call-handling>, a copy of which is attached hereto as Exhibit "B."

5. Limited Warranty

5.1. Software and Equipment Limited Warranty

West warrants that the West Software and Equipment will perform substantially in accordance with West's specifications for 12 months from Acceptance Date (see Section 13 below). West will, at its sole discretion and as Customer's sole remedy, repair or replace the problem Software and Equipment, provided that the problem can be reproduced on either West's or the Customer's systems. Replacement parts are warranted to be free from defects in material and workmanship for 90 days, or for the remainder of the limited warranty period of the West Equipment they are replacing, whichever is longer. The limited warranty includes remote support services (help desk) during the warranty period. Freight costs to ship defective Equipment to West are borne by the Customer, with return at West's expense. West will pass through to the Customer any third party manufacturer warranties for products supplied by West. The Customer's access to and use of third party Equipment and Software will be and remain subject to all terms, conditions and licenses imposed by the manufacturers and/or third party licensors of such third party Equipment or Software.

5.2. Services Limited Warranty

West warrants that Services will be provided in a workmanlike manner, in accordance with industry standards and by individuals with suitable skills and abilities.

5.3. Disclaimer

West will not be obligated to repair or replace any Software or Equipment which (i) has been repaired by others; (ii) has been abused or improperly handled, stored, altered, or used

with third party material or equipment; (iii) has been subject to power failures or surges, lightning, fire, flood, or accident; or (iv) has not been installed by West or a West authorized technician. EXCEPT AS STATED IN THIS SECTION, WEST DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, DATA ACCURACY, CONDITION OF DATA, OR LOSS OF DATA, NETWORK CONNECTIVITY, INTEROPERABILITY, OR THAT SOFTWARE, EQUIPMENT, SERVICES, OR RELATED SYSTEMS WILL BE UNINTERRUPTED OR ERROR-FREE.

6. Customer Materials

The Customer will provide information reasonably requested by West to perform Services, including as applicable: telecommunication or cell site specifications; the Customer or third party databases; network architectures and diagrams; performance statistics; interfaces and access to the Customer systems, including third party systems; routing and network addresses and configurations ("Customer Materials"). The Customer warrants that (a) the Customer is solely responsible for the content and rights to Customer Materials; (b) Customer Materials will be accurate; and (c) West's use of Customer Materials will not violate the rights of any third party. The Customer will retain ownership of all Customer Materials.

7. Limitation of Liability

7.1. Limitation

NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, EXEMPLARY, SPECIAL, PUNITIVE, CONSEQUENTIAL, OR INCIDENTAL DAMAGES OR LOSS OF GOODWILL, DATA, OR PROFITS, OR COST OF COVER. THE TOTAL LIABILITY OF WEST FOR ANY REASON WILL BE LIMITED TO THE AMOUNT PAID BY CUSTOMER UNDER THE RELEVANT ORDER IN THE TWELVE MONTHS PRIOR TO THE CLAIM. THESE LIMITS ON LIABILITY APPLY WHETHER THE CLAIM ARISES OUT OF BREACH OF WARRANTY, CONTRACT, TORT, OR STRICT LIABILITY, AND EVEN IF THE DAMAGES ARE POSSIBLE OR FORESEEABLE.

7.2. Time Limit

ANY SUIT MUST BE FILED WITHIN TWO YEARS AFTER THE CAUSE OF ACTION ACCRUES.

8. Indemnification

8.1. West Indemnity

West will indemnify, defend, and hold harmless the Customer, from third-party claims, actions, suits, proceedings, costs, expenses, damages, and liabilities, including reasonable attorney fees and expenses (collectively, "Claims") for physical injury or death or tangible property damage to the extent caused by West's negligence or willful misconduct.

8.2. Customer Indemnity

Except to the extent prohibited by applicable law, the Customer will indemnify, defend, and hold harmless West, its Affiliates, and their officers, directors, employees, and agents from Claims (a) relating to Customer Materials or a breach of the Section titled Customer Materials; (b) relating to any Customer product or service; or (c) for physical injury or death

or tangible property damage to the extent caused by the Customer's gross negligence or willful misconduct.

8.3. Procedures

The indemnified party will (a) notify the other party of any Claim; (b) relinquish control of the defense and settlement; and (c) assist the indemnifying party as reasonably requested. The indemnifying party may settle any Claim without the indemnified party's consent if the settlement does not affect the rights of the indemnified party. The indemnified party may participate in the defense at its expense.

9. Termination

If either party fails to cure a material default within ten days for late payments, or 30 days for other default, after notice specifying the default, the non-defaulting party may terminate the Agreement or applicable Order, and pursue any other available remedies at law or equity. The cure period will extend for 30 more days if West uses good faith efforts to cure. Software licenses will remain in force until terminated, if at all, due to an uncured material default. On termination of a Software license, the Customer will, to the extent applicable, (a) cease using Software, and (b) certify to West within one month after termination that the Customer has destroyed or has returned to West the Software and all copies. This requirement applies to copies in all forms, partial and complete, in all types of media and computer memory, and whether or not modified or merged into other materials.

10. Intellectual Property

West retains full and exclusive ownership of and all rights in, to and under its trademarks, service marks, tradenames and logos, and any design, data, specification, know-how, software, device, technique, algorithm, method, discovery or invention, whether or not reduced to practice, relating to Services, Software, and Equipment, and any development, enhancement, improvement or derivative works thereto, except for Customer Materials (collectively, including all intellectual property rights, "West IP"). Customer receives no other right, title, or interest in, to, or under West IP. West IP is West's Confidential Information (as defined in Exhibit A hereto). The Customer will cooperate to take such actions reasonably requested to vest ownership of West IP in West.

The Customer will not disclose or allow access to West IP, including without limitation, software and systems, by anyone other than the Customer's employees and subcontractors who have a need to access West IP and who are bound by law or written agreement to comply with the Customer's duties under this Agreement. Neither party will reverse engineer, decompile, disassemble, or translate the other party's intellectual property or confidential information. Each party reserves all rights to its intellectual property and confidential information.

11. Delivery

Equipment will be shipped FCA point of origin (Incoterms 2000) on completion of the manufacturing process, and Software will either be shipped using the above method, or made available for download from a site designated by West. All shipping and handling charges will be prepaid by West and charged to Customer. For RMA requests or other returns,

West's Defective Equipment Return Policy, Project, and Spares Equipment Return Policy will apply.

12. On-Site Services

12.1. West Obligations

If West performs Services at the Customer's premises, such as installation ("Installation"), site survey, project management, training, or cutover services (as applicable, "On-Site Services"), West will:

- If Installation is purchased, install and perform acceptance testing on Software and Equipment at the Site in accordance with West's normal installation and testing practices.
- If training is purchased, perform training as specified in the Order.
- Designate a project manager with authority, competence, and responsibility to communicate information to West and to act as liaison between West and the Customer.

12.2. Customer Obligations

If On-Site Services are ordered, the Customer will, at its expense:

- Designate a general project coordinator, with authority, competence, and responsibility to communicate information to West and to act as liaison between the Customer and West.
- Ensure that staff: (i) are available during nonstandard work times as necessary (early, late, and weekends) (ii) monitor acceptance testing; and (iii) are on-site for technical training, if applicable.
- Provide reasonably unobstructed access for Installation and testing of Software, Equipment and cabling, including obtaining any necessary consents from the landlord, building owner, or others.
- Ensure that any of the Customer equipment meets West's specifications.
- Provide, within the Site, suitable and easily accessible secure storage of tools, test sets, lockers and employees' personal effects.
- Ensure that the Site will meet all temperature, humidity controlled, air-conditioned, and other environmental requirements set forth in the applicable specifications, and will be dry and free from dust.
- Provide all patching, painting, openings, conduits, floor reinforcements, or other furniture or mechanical modifications pertinent to Installation.
- Provide ample electric current of proper voltage for any necessary purpose suitably terminated in a room where it is required, including properly grounded copper cold water pipe before meter ground as specified by West.
- Provide an exclusive VPN tunnel to allow for remote diagnostics and a modem for establishing the remote access by West.
- Dispose of all Equipment packing material.
- Maintain, at all times, a procedure, external to Software and Equipment, for the reconstruction of lost or altered files, data, or programs deemed necessary by the Customer.
- Ensure that West is promptly informed of any problems with Software or Equipment.

- Ensure that the Customer's third party vendors collaborate with West in a reasonable and timely manner, to the extent possible.

12.3. Exclusions, Changes

If On-Site Services are prevented, interrupted or delayed due to the Customer's failure to meet its obligations stated above, or if the Customer unreasonably and unexpectedly delays or changes the agreed-on schedule for On-Site Services, the Customer will be responsible for applicable travel and lodging costs, charges at West's standard hourly rates for the time during which such On-Site Services were prevented, interrupted or delayed, any other direct costs incurred by West, and West's then-current rescheduling fees (currently \$300.00 per person, per day, of time scheduled to be On-Site). West will not be deemed to be in default nor be held responsible for any delays or failures resulting from an event of Force Majeure or for any delays resulting from the Customer or any of the Customer's third party vendors or from the Customer's obligations stated above. Changes to the design or installation plan by the Customer after the original Order will be considered a request for a change order. On receipt of a request for a change order, West will, within ten business days, either accept or refuse the request for a change order, and will issue a new quote to cover any costs, if applicable, associated with the change order.

13. Acceptance

If West is not performing Installation, Software and Equipment will be deemed accepted when West has completed its shipping obligations. If West is performing Installation, then the Customer will provide West with a written notice of acceptance or rejection, based on a Severity Level 1 or 2 failure (as defined in Exhibit "B," Maintenance and Support Services Terms), within ten calendar days after West's notice of System Cutover ("Notification Date"), which acceptance will not be unreasonably withheld or conditioned. If the Customer does not accept the Software and Equipment, it will notify West in writing within ten calendar days of the Notification Date, and will specify the Severity Level 1 or 2 failure. West will use commercially reasonable efforts to promptly diagnose and correct all identified failures, and the acceptance process will be repeated until acceptance occurs. If the Customer fails to provide written notice of rejection as stated above within the time stated above, acceptance will be deemed to have occurred. "System Cutover" will mean the first date that Software and Equipment is used for live call-taking or dispatching. If Software and/or Equipment are being installed at multiple Sites, the above acceptance process will apply to each Site. The date of acceptance of the first Site will be referred to as the "Acceptance Date." Services will be deemed accepted when performed.

14. Payment

14.1. Payment Terms

If Installation is not purchased, then all fees will be invoiced on shipment. If Installation is purchased, Customer will be invoiced according to the following terms:

- 30% on acceptance of Customer's Order
- 30% on shipment
- 30% on System Cutover

- 10% on Acceptance Date

Maintenance and Support Services will be payable as stated in the Order, either (i) in advance according to the above percentage breakdown, or (ii) annually in equal payments, which payments will be due on each anniversary of Acceptance Date. Other Services will be invoiced when performed. Dedicated On-Site Services will be invoiced when the on-site personnel are first made available to Customer.

14.2. Payment Method

Customer will pay all invoices within 30 days of invoice date, without setoff or deduction, preferably via electronic funds (ACH, EFT, or wire transfer). West will apply payments to the oldest outstanding invoice.

14.3. Taxes

Customer will bear all applicable taxes, duties, and other government charges relating to Services (including applicable interest and penalties), except taxes based on West's income. Any tax exemption must be supported by appropriate documentation.

14.4. Executory Nature of Funds

It is understood and agreed by all parties, that this Agreement is funded through funds appropriated and made available by the Oneida County Board of Legislators. If, at any time, those funds become unavailable or are exhausted, the funding for this Agreement shall likewise terminate. Should the funding become unavailable, the Customer shall be under no obligation to make any further payments under this Agreement. All parties' obligations to the others under this Agreement shall terminate, effective immediately, upon notification of the unavailability of the appropriated funds.

14.5. Cancellation Fees

Cancellation of any element of an Order before shipment or performance of Services will result in cancellation charges equal to 25% of the price of the cancelled item. Anything that has been specifically developed for the Customer, including any special order or custom Software or Equipment, is not cancellable. Cancellation or rescheduling is not permissible after shipment. Delays by Customer to delivery, Installation Services, or acceptance testing that in the aggregate exceed six months may, in West's discretion, be treated as a cancellation of the Order, and be subject to the greater of the above fees, or West's total expenses allocated to the project through such date.

14.6. Payments Final

All amounts paid are final and nonrefundable. Equipment and Software may be returned only pursuant to a valid warranty claim or as permitted as part of Maintenance and Support Services.

15. Insurance

Each party will maintain: (a) Workers' Compensation insurance required by law; (b) employer's liability insurance with limits of at least \$500,000 for each claim; (c) comprehensive automobile liability insurance if the use of motor vehicles is required, with limits of at least \$1,000,000 combined single limit for bodily injury and property damage for each claim; (d) Commercial General Liability insurance, including Blanket Contractual Liability and Broad Form

Property Damage, with limits of at least \$1,000,000 combined single limit for bodily injury and property damage for each claim, and at \$3,000,000 annual aggregate; (e) Professional Liability or Errors and Omissions insurance of at least \$1,000,000 for each claim; and (f) excess or umbrella liability at a limit of at least \$5,000,000 per claim. The CGL, excess or umbrella liability and automobile liability policies will designate the other as an additional Insured. On request, the other party will furnish certificates evidencing the foregoing insurance. Each party will strive to notify the other at least 30 days before any cancellation or termination of its policy.

16. Miscellaneous

16.1. Force Majeure

Neither party is liable for delays or defaults in its performance hereunder (except for its payment obligations) due to causes beyond its reasonable control, including: acts of God or government; war, terrorism, fire, or explosion; flood; extreme weather; epidemic; riots; embargoes; viruses; technology attacks; labor disturbances; failure or unavailability of the Internet, telecommunications, transportation, utilities, or suppliers.

16.2. Independent Contractors, Beneficiaries

The parties are independent contractors. Officers, agents, directors and employees of either party, in accordance with the status of the parties as independent contractors, covenant and agree that they will conduct themselves consistent with such status; that they will neither hold themselves out as, nor claim to be, officers or employees of the other party by reason thereof, and 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 other party, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security coverage or retirement membership or credit.

No agency, joint venture, or partnership is created under this Agreement. This Agreement benefits Customer and West only; there are no third party beneficiaries.

16.3. Interpretation, Conflict, Severability

"Including" means including, without limitation. "Days" means calendar days. If any terms of this Agreement and an Order conflict, the Order will govern for that Order only. Any provision held unenforceable by a court will be enforced to the fullest extent permitted by law and will not affect the other provisions. No course of dealing or failure to exercise any right or obligation is an amendment or waiver. This Agreement may be modified or amended only in a writing signed by the parties.

16.4. Assignment

This Agreement will be binding on the permitted successors and assigns. Neither party may transfer or assign this Agreement without the prior written consent of the other, not to be unreasonably withheld, except that West may assign this Agreement to an Affiliate or to an acquirer of all or part of its business or assets without consent.

16.5. Applicable Law and Remedies

This Agreement is governed by the laws of the State of New York, without regard to choice of law principles. Each party waives all rights to a jury trial. Injunctive relief will apply to any

breach of Sections 2 or 10 above. All rights and remedies are in addition to any other rights or remedies at law or in equity, unless designated as an exclusive remedy in this Agreement. Each party will be entitled to the same governmental or other immunity or other protections afforded by any law, rule, or regulation to the other party, and neither party will object to or interfere with the other party's application of this sentence. The parties agree that any legal action shall be filed in a court of competent jurisdiction in Oneida County, New York.

West expressly agrees that in the event an action is filed in a court of competent jurisdiction in Oneida County, New York, service of said action on the entity and address listed at the beginning of this Agreement, namely, West Safety Solutions Corp., C/O Corporation Service Company, 80 State Street, Albany, NY 12207, by certified mail, return receipt requested, shall be deemed good and sufficient service

16.6. Compliance with Laws

Each party has or will timely obtain all consents, licenses, permits, and certificates required to perform under this Agreement. Each party will comply with laws, rules, regulations, and court orders applicable to it or Services. West may cease or modify Services or these terms as reasonably required to comply with changes in law. The Customer recognizes and agrees to comply with West's Code of Ethical Business Conduct located at <https://www.west.com/legal-privacy/code-of-ethics/>, a copy of which is attached hereto as Addendum II.

16.7. Advertising and Publicity

Neither party will use the other party's name or marks in any press release, advertisement, promotion, speech or publicity, without the other party's prior written consent, except that

IN WITNESS WHEREOF, The parties hereby execute and authorize this Agreement as of the Effective Date.

THE COUNTY OF ONEIDA

 Authorized Signature
 Anthony J. Picente, Jr.

 Name Typed or Printed
 Oneida County Executive

 Title Date signed

Address for Notices:

800 Park Ave.
 Utica, New York 13501
 Attn: Annemarie Ambrose, Director of Central Services
 Fax: 315-797-3047

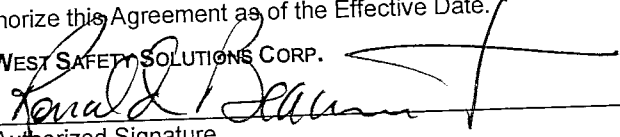
West may use the Customer's name and marks in its customer lists, sales or promotional materials without consent, provided a copy of said materials is provided to the Customer for its review.

16.8. Affiliates, Changes

Services may be provided, in whole or part, by West or its Affiliates. West Safety Communications Inc. may provide regulated portions of Services. West may modify or improve Services, Software, and Equipment during the term.

16.9. Notices, Entire Agreement, Survival, Signature

All notices must be in writing and delivered to the address below. Notices are effective on receipt when sent by certified or registered U.S. Mail, charges prepaid, return receipt requested, or when delivered by hand, overnight courier, or fax with confirmed receipt. This Agreement constitutes the entire agreement and supersedes any prior written or oral agreements or understandings related to its subject matter. Sections titled Invoice and Payment, Confidentiality, Limited Warranty, Limitation of Liability, Indemnification, Intellectual Property, and Miscellaneous will survive termination of this Agreement. By signing below, the parties agree and acknowledge that they have read, understood, and agreed to all the terms contained in any addenda attached hereto, including, but not limited to, Addendum III (Standard Oneida County Conditions). No waiver, alterations or modifications of and provisions of this Agreement shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound. This Agreement may be executed in counterparts, by facsimile, or electronically, and is not enforceable unless executed by both parties.

WEST SAFETY SOLUTIONS CORP.


 Authorized Signature
 Ronald Beaumont

 Name Typed or Printed
 President Sep 13, 2018

 Title Date signed

Address for Notices:

1601 Dry Creek Dr.
 Longmont, CO 80503
 Attn: Legal Department, copy Attn: VP Finance
 Fax: 720-494-6600

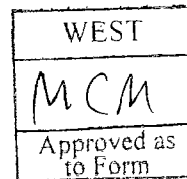


Exhibit A: Confidentiality and FOIA

Except to the extent disclosures are required under applicable freedom of information or public records laws or regulations, the terms of this Exhibit A-Confidentiality and FOIA will apply to information disclosed under this Agreement. Customer may disclose the West's Confidential Information only to the extent required by applicable law or regulation. Customer will give sufficient notice to West to allow West to claim applicable exemptions, make applicable objections, or seek appropriate limits or restrictions on use and disclosure of its Confidential Information.

1. Definitions

"Confidential Information" means all information disclosed by or on behalf of either party ("Discloser") to the other party ("Recipient") that is marked as confidential or proprietary or that by its nature or context constitutes information that a reasonable businessperson would treat as proprietary, confidential, or private, even if not so marked. Confidential Information includes, but is not limited to, a party's financial, business, technical, marketing, sales, customer, product, pricing, strategy, personnel, software, systems, methods, processes, practices, intellectual property, trade secrets, software, data, contract terms, or other business information.

2. Exclusions

Confidential Information does not include any information that: (a) was or becomes generally available to the public through no breach of this Exhibit; (b) was previously known by Recipient or is disclosed to Recipient by a third party without any obligation of confidentiality; or (c) is independently developed by Recipient without use of Discloser's Confidential Information.

3. Use and Disclosure

Recipient and its employees, Affiliates, agents, and contractors will: (a) use Confidential Information only for the Agreement; (b) disclose Confidential Information only to its employees, Affiliates, agents, and contractors with a "need to know" for the Agreement; (d) use the same standard of care to protect Discloser's Confidential Information as Recipient uses to protect its own similar confidential or proprietary information, but not less than reasonable care appropriate to the type of information; (e) reproduce Discloser's confidentiality or proprietary notices, legends, or markings on all copies or extracts of Confidential Information; and (f) use and disclose Confidential Information as authorized in writing by Discloser. Recipient is responsible for compliance with this Exhibit by its employees, Affiliates, agents, and contractors.

4. Required Disclosure

If required to disclose any Confidential Information by law or court order, Recipient will promptly notify the Discloser (unless prohibited by law) and cooperate with Discloser, at Discloser's expense, to seek protective orders or appropriate restrictions on use and disclosure. Confidential Information disclosed under this Section will continue to be subject to all terms of this Exhibit for all other purposes.

5. Return or Destruction

Within 30 days after termination of the Agreement or written request of Discloser, Recipient will return or destroy Discloser's Confidential Information. Recipient will certify return or destruction if requested by Discloser. Recipient may retain Discloser's Confidential Information to the extent required by law. This Exhibit A will survive and continue to

apply to Discloser's Confidential Information that is not reasonable to return or destroy (for example, retained in archive or backup systems) as long as it is retained by or for Recipient.

6. FOIL

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

Exhibit B

West Call Handling CPE Standard Maintenance and Support Services

These Maintenance and Support Services terms ("MSS Terms") describe the current offerings for maintenance and support services for West Call Handling equipment and software sold to a customer ("System"). These MSS Terms apply to any of the services described below that appear on a West quote ("Quote"). These terms are in addition to, and do not modify the terms of the applicable agreement between the parties ("Agreement"). If any of these MSS Terms conflict with the Agreement or the Quote, the terms of the Quote will prevail as they relate to the MSS Terms only and the MSS Terms will prevail over the terms of the Agreement. All capitalized terms not defined in these MSS Terms will have the meanings set out for such terms in the Agreement.

West's standard limited warranty runs for twelve months from acceptance. This limited warranty includes Software Protection and Remote Technical Support during the warranty period.

The following are the current West service offerings:

- Software Protection and Remote Technical Support
- Software Subscription Service
- On-Site Support Services
- Hardware Protection Service
- Remote Monitoring of Sentry Alarms Services
- VIPER® Alarm Monitoring Service
- Remote Operating System Update Service
- Remote Anti-Virus Update Service

Also included in Table 1 in Section 9 below are Response Time Goals and Severity Levels

General Note: Please note that for all services described in these MSS Terms, West will not be obligated to repair or replace any software or equipment which (i) has been repaired by others; (ii) has been abused or improperly handled, stored, altered, or used with third party material or equipment; (iii) has been subject to power failures or surges, lightning, fire, flood or accident; or (iv) has not been installed by West, a West authorized technician, or by customer or its agent in an approved manner.

1. Software Protection and Remote Technical Support

1.1. Availability

This service is included in the standard warranty, and a mandatory requirement for the receipt of any technical support after the warranty period.

1.2. Offering Summary

Bundled offering which provides access to software maintenance releases as well as remote technical support that allow for 24x7x365 assistance from West's centralized Support Center for the West System. Customer may not purchase Software Protection and Remote Technical Support for a subset of the West System; all 911 call taking positions must be covered.

1.3. About Software Protection

This offering provides for the availability of software product updates. Installation and training (if needed) are not included. Any required hardware or operating system changes are also not included.

West will provide periodic software release bulletins to customers which announce and explain important product updates for West Software. Customers may then request the new release or version from West, based on applicability of the release to customer's System. Customer is responsible for installation of all these releases, unless the On-Site Maintenance Service is purchased. If On-Site Maintenance has not been purchased and the customer prefers to have West deploy a new release, West will dispatch

appropriate personnel to perform the upgrade on a mutually agreed upon date at West's then current prices for such services.

The customer is encouraged to periodically install new Software updates. Software releases are available for a limited time. If the System is not maintained to a currently supported equipment and software version, future software releases may not be compatible with customer's existing System.

1.4. Remote Technical Support

Support is provided by associates who specialize in the diagnosis and resolution of system performance issues. Remote Technical Support is available 24/7 through both a toll free hotline and a secure customer Internet portal. All service inquiries are tracked by a state-of-the-art CRM trouble ticket system that can be queried by customers through the online portal to obtain the most up-to-date status on their issues.

Response times for Remote Technical Support are based on system issue severity levels as defined in Table 1 in Section 9 below. Problems which are not resolved within predefined time limits are automatically escalated to management within Sales, Product Management and Engineering for action.

1.5. West Responsibilities

- Respond to service requests based on appropriate severity level response goals
- Assess the system issue(s)
- Apply technical expertise, knowledge and resources to restore system to functionality, or assist customer to apply the identified fix
- Escalate issues for review when required
- Communicate progress and resolution with the specific customer contact
- Provide to the customer bulletins announcing the availability of software releases, and deliver software in disc form to the customer as requested

1.6. Customer Responsibilities

- Log all requests for assistance directly with the Technical Support Center, either through the toll-free hotline or the online portal
- Provide the following information when initiating a service request:
 - Site Name/ID number/Agency Location
 - Contact Name and Number
 - Problem Description
- Ensure that the individual requesting support is appropriately trained and knowledgeable regarding the operation of the System
- Provide additional symptoms and information as they occur pertinent to resolving systems issues
- Respond to West communications regarding case status and resolution in a timely manner
- Allow West remote access to obtain system availability and performance data. If remote access capability is not available, the purchase of On-Site Support Services may be required.
- Notify West before performing any activity that may impact the System (including software installation, hardware upgrades, network upgrades or de-activation)
- Store and maintain all software needed to restore the system as well as all system back-ups
- Install software

1.7. Conditions not covered under this Service offering

- Assistance with third-party software or hardware not provided by West
- Assistance with user configuration, usage scenarios and items covered in standard end user training or operating manuals provided to the customer. This includes any moves, adds or deletes to the user configuration which has resulted in system performance issues. Support for these subjects is available through purchase of end-user training curriculum.
- Assistance with equipment configuration change requests not associated with problems on the installed West equipment

- West installation support. Installation services can be purchased separately from West.
- Assistance with Geographic Information Systems ("GIS") data updates performed by the end user, or resulting problems
- Consultation for new software or equipment
- Software does not provide new features or functionality upgrades
- Corrections of problems, and assistance regarding problems, caused by third party software and operator errors, including the entry of incorrect data and the maintenance of inadequate back-up copies and improper procedures
- Upgrade of the customer's operating system, hardware or third party software may be required from time to time to support Maintenance Releases. West will not be responsible for the cost of such upgrade.

1.8. Reinstatement of West Software Protection and Remote Technical Support

If Software Protection and Remote Technical Support lapses, the customer's access to the Support Center will be discontinued, and reinstatement fees will apply as follows if the customer desires to receive any technical support services:

- Payment for the lapsed period at the prevailing rate; plus
- Purchase of Software Protection and Remote Technical Support for the current period; plus
- System recertification fees in the form of a Class A inspection at \$1,500 per day plus related travel and expense charges.

2. Software Subscription Service

2.1. Availability

This service is not included in the standard warranty; available for separate purchase only if (i) customer's System software is current, or (ii) the services are purchased for a new system deployment or for a specific system component purchase.

2.2. Service Description

Software Subscription Service provides the customer with access to software upgrades including new features. This offering only provides for the availability of the software. Installation and training (if needed) are not included. Any required hardware or operating system changes are also not included.

West will provide periodic software release bulletins to customers which announce and explain new feature releases for West Software. Customers may then request the new release or version from West, based on applicability of the release to customer's System. The customer is responsible for installation of all these releases, unless the On-Site Maintenance Service is purchased. If On-Site Maintenance has not been purchased and the customer prefers to have West deploy a new release, West will dispatch appropriate personnel to perform the upgrade on a mutually agreed upon date at West's then current prices for such services.

The customer is encouraged to periodically install new Software releases because to keep the System current. Software releases are available for a limited time; if the System is not maintained to a currently supported equipment and software version, future software releases may not be compatible with customer's existing System.

2.3. West Responsibilities

- Provide to the customer bulletins announcing the availability of software releases, and deliver software in disc form to the customer as requested

2.4. Customer Responsibilities

- Contact a West Sales account representative to order an available software release
- Install the software

2.5. Conditions not covered under this Service offering

- Consultation for new software or equipment
- Corrections of problems, and assistance regarding problems, caused by third party software and operator errors, including the entry of incorrect data and the maintenance of inadequate back-up copies and improper procedures
- Upgrade of the customer's operating system, hardware or third party software may be required from time to time to support New Releases, Maintenance Releases or Upgrades of the Software. West will not be responsible for the cost of such upgrade

3. On-Site Support Services

3.1. Availability

This service is not included in the standard warranty; available for separate purchase.

3.2. Service Description

On-site Support Services are primarily designed to assist with issues that require System expertise in troubleshooting and restoration at the customer's location.

On-site Support Services include travel costs and time and labor related to the service incident. Also included in the service are quarterly on-site preventative and routine maintenance reviews (four per year) of the customer's System. These maintenance visits can include the installation of routine updates to software. Training, configuration changes, reprogramming and System upgrade labor are not included in this offering, but are available for purchase.

On-Site Support Services options include the designation of a technician dedicated specifically to the customer's deployment(s), or alternately a non-dedicated resource available for use with other customers. West may engage third-party vendors to provide the On-Site Support Services.

Regardless of designation, the response times of On-Site Support Service technicians are based on system issue severity levels as defined in Table 1 in Section 9 below.

3.3. West Responsibilities

- Dispatch a technician to customer's site when the issue cannot be resolved remotely
- When on-site, assist customer in performing System diagnostics
- Provide on-site technician visit on a quarterly basis to perform preventative and routine maintenance activities

3.4. Customer Responsibilities

- Perform responsibilities as detailed in the Remote Technical Support section (above)
- Brief on-site technician on issue(s) and actions taken
- Allow West both on-site and remote access to the System
- Validate issue resolution prior to close of the case.
- Cooperate with West and perform all acts that are reasonable or necessary to enable West to provide the On-Site Support Services. These include maintaining a suitable environment (heat, light, and power) and providing the technician with full, free, and safe access to the System. All sites must be accessible by standard service vehicles

3.5. Conditions not covered under this Service offering

- Assistance with third-party software or hardware not provided by West
- Assistance with user configuration, usage scenarios and items covered in standard end user training or operating manuals provided to the customer. This includes any moves, adds or deletes to the user configuration which has resulted in system performance issues. Support for these subjects is available through purchase of end-user training curriculum.
- West Hardware/Software System Upgrade support (other than associated with a Software Subscription Service). Upgrade services can be purchased separately from West.
- West installation support. Installation services can be purchased separately from West.
- Assistance with GIS data updates performed by the end user, or resulting problems.

4. Hardware Protection Service

4.1. Availability

This service is not included in the standard warranty. It is available for separate purchase.

4.2. Service Description

The Hardware Protection Service provides for the replacement of any non-operating West provided hardware component, with the exception of monitors. This offering only provides for the replacement of the hardware item. Installation services and training (if needed) are not included. This service does not cover items where warranty has been voided due to abuse, Force Majeure or other actions.

When the West Technical Support Center concludes that an item is non-operational, a fully functioning new or refurbished unit will be shipped to the customer. This unit will then become the property of the customer and will restore the functionality of the non-working item, but it may not be the exact same model as the original. The shipment of the replacement item will include a pre-printed shipping label used for the return of the non-working item from the customer.

4.3. West Responsibilities

- Once a hardware item has been determined to be non-operational, initiate the replacement of the item.
- Providing a pre-printed return label to the customer for use in their return of the original non-functioning unit back to West.

4.4. Customer Responsibilities

- If a replacement unit has been provided by West, the customer will return the non-functioning unit within 30 days of new item receipt.

4.5. Conditions not covered under this Service offering

- Replacement of non-operation hardware not provided by West
- Replacement of non-operational workstation monitors
- Hardware items deemed to be non-functional as a result of abuse, Force Majeure or other actions
- Installation of the replacement hardware

4.6. Suspension of West Hardware Protection Coverage

If the original non-functioning hardware is not returned within 30 days after receipt of a replacement item, the customer's ability to use service will be suspended. The service will be reinstated upon receipt of the non-functioning hardware.

Suspension of the service can also occur as a result of non-payment for the Hardware Protection maintenance contract.

5. Sentry® Alarm Monitoring Services

5.1. Availability

This service is not included in the standard warranty; available for separate purchase.

5.2. Service Description

West offers Remote Monitoring of the System through a remote centralized network systems management solution, also known as "West Sentry". West Sentry monitors all West products as well as most third party equipment, and forwards alarms and alerts to a centralized West Network Operations Center for monitoring. This service requires the purchase of West Sentry hardware from West.

West's Technical Support Center will receive the remote customer alarms and alerts 24x7x365 notifying West of any irregular behavior including faults and performance threshold crossings requiring attention. Minimum action includes contacting of either the customer directly or the assigned on-site service personnel to provide the appropriate technical response.

Automatic remote troubleshooting of the alarm is performed only if Remote Technical Support services are purchased.

The dispatching of West technician support after an alarm is received and troubleshooting has been performed is available only if On-Site Support Services are purchased.

5.3. West Responsibilities

- Remote Monitoring of customer based PSAP Equipment
- Contacting of either the PSAP directly or their assigned on-site service personnel upon receipt of the alarm, as appropriate
- Clearing of the alarm

5.4. Customer Responsibilities

- Establish business rules regarding alarm notifications and escalation conditions within the Sentry system
- Designation of Customer contact points or its assigned on-site service personnel

6. VIPER Alarm Monitoring Service

6.1. Availability

This service is not included in the standard warranty; available for separate purchase.

6.2. Service Description

The VIPER Alarm Monitoring service is a remote problem detection offering. This service monitors the integrated alarm messaging and notifications of the VIPER CPE for irregular behavior, including faults and performance threshold breaches. To enable the monitoring functionality, West will configure the VIPER CPE to transmit alarm messages through an installed firewall, across the Customer's Internet connection, to the West Network Operating Center ("NOC").

The NOC will receive the remote alarms and alerts 24x7x365 notifying West of the health and status of the VIPER CPE. Upon receipt of an alarm, West will contact either the Customer directly or the assigned on-site service personnel to provide the appropriate technical response. West will perform automatic remote troubleshooting of the alarm as part of the Customer's Remote Technical Support service

coverage. The dispatching of a West technician for support after an alarm is received and initial troubleshooting has been performed is available for customers who have purchased On-Site Support Services.

6.3. West Responsibilities

- Remote Monitoring of Customer-based VIPER CPE
- Contacting either the PSAP directly or its assigned on-site service personnel upon receipt of the alarm, as appropriate
- Clearing the alarm

6.4. Customer Responsibilities

- Establish business rules regarding alarm notifications and escalation conditions within the VIPER CPE
- Designation of contact points or its assigned on-site service personnel
- High-speed network access

Summary of Monitoring Features		
	VIPER Alarm Monitoring	Sentry-based Monitoring
Alerting Environment	Integrated VIPER Alarm Messages and Notifications. <u>Primary Alarm Sources:</u> CAD Router CDR Manager Config Dist Service Domain Name Server Third-Party gateways ALI Server PMG Console Process Monitor Soft Switch Fault Manager Telephony Server CIM Server Zoo Replication Manager Alarm contact	Nearly all aspects of a 9-1-1 system - the West Call Handling Equipment and most 3rd party equipment utilized at a PSAP. Includes all integrated VIPER alarms, and health status detection of installed equipment. Monitoring of the hardware equipment for potential failure (full hard drive, workstation fan malfunction, etc.) is a primary driver for use of this service over that of VIPER Alarm Monitoring.
Alert Delivery Options	To the West Network Operations Center	To the Local PSAP To the West Network Operations Center
Local PSAP Alert Options	[none]	Audible and Visual Alarm Panel alerts, e-mail, pager & SMS messages
Hardware	Firewall Appliance (1)	Firewall Appliance (1) Sentry Server and Console Kit (1)
Software	Software Media Set (1) ELM Class 1 Application (1) ELM Class 2 Application (1)	Sentry Media Kit (1) ELM Class 1 App (1 per server) ELM Class 2 App (1 per Position & IP Agent)
Services	Viper Alarm Monitoring Service (per position workstation-each year)	Sentry Monitoring Service (per ELM App installed-each year)

Summary of Monitoring Features		
	VIPER Alarm Monitoring	Sentry-based Monitoring
Alarm Handling Process	Alarms from the VIPER are transmitted directly to the West Network Operations Center.	Alarms from the VIPER and all monitored hardware sources are collected at the Sentry server which then transmits the alerts to the local PSAP and/or to the West NOC.

7. Remote Operating System (“OS”) Update Service

7.1. Availability

This service is not included in the standard warranty; available for separate purchase.

7.2. Service Description

The OS Update Service provides system administrators who need to manage and distribute Microsoft OS updates the ability to do so directly through the VIPER Primary Domain Controller. When Microsoft issues security updates for its OS software, the OS Update Service makes them quickly available to CPE administrators.

Before delivering a Microsoft OS update to a Customer, West will review the OS patch content to understand its relevance to the VIPER product family. Once a patch is determined to be applicable, it is certified by West’s Validation Engineering team and packaged for deployment. The deployable OS update is then loaded to the West centralized server. The VIPER Primary Domain Controller is then ready, upon authorization from the Customer’s system administrator, to distribute the updates on the applicable Windows equipment, including all servers and position workstations.

The deployment process includes the ability for the Customer to track and report on the deployment of updates to the System via the VIPER Primary Domain Controller.

7.3. West Responsibilities

- Make available OS updates for deployment which are certified for applicability on VIPER CPE products.

7.4. Customer Responsibilities

- Provide high-speed, secure broadband (business grade DSL or T1 link) network access. (Note: West does not quote or provide high speed internet access as a product offering. For network access service, contact a local Internet Service Provider (“ISP”).)
- Manually synchronize the System with the West Care Access Server to download any available OS Update files. If desired, this function can be programmed to occur on a pre-determined schedule.
- Manually trigger the distribution of the OS Updates to the customer machines in the System (servers and workstations). If desired, this function can be programmed to occur on a pre-determined schedule.
- Restart the Customer machines on the System as required by the Microsoft update (per the West-defined restart process). Some Microsoft OS updates require a restart of the Customer machines for them to take effect.

7.5. Conditions not covered under this Service offering

- The distribution of the OS Update on disc, drive or other hardware media
- Replacement of non-operational workstation monitors
- Provision of updates to any West software products, or Anti-Virus offerings

8. Remote Anti-Virus (“AV”) Update Service

8.1. Availability

This service is not included in the standard warranty; available for separate purchase.

8.2. Service Description

This service provides system administrators who need to manage and distribute Symantec signature updates the ability to do so directly through the VIPER primary domain controller. When new signature updates are issued and certified by West, the AV Update service makes them quickly available to CPE administrators.

Before delivering an antivirus signature update to a Customer, West will review the content to understand its relevance to the VIPER product family. Once a signature update is determined to be applicable, it is certified by West’s Validation Engineering team and packaged for deployment. The deployable signature update is then loaded onto the West centralized server. The Symantec Endpoint Protection manager running on the premise VIPER primary domain controller receives the updates from the West server and is then able, upon authorization from the Customer’s system administrator, to distribute them on the applicable Windows equipment, including all servers and position workstations.

The deployment process includes the ability for the Customer to track and report on the deployment of signature updates to all of Customer’s System via the VIPER primary domain controller.

8.3. West Responsibilities

- Make available antivirus signature updates for deployment which are certified for applicability on VIPER CPE products.

8.4. Customer Responsibilities

- Provide high-speed, secure broadband (business grade DSL or T1 link) network access. (Note: West does not quote or provide high speed internet access as a product offering. For network access service, contact a local ISP.
- Manually synchronizing the VIPER system with the West Care Access Server to download any available antivirus signature updates. If desired, this function can be programmed to occur on a pre-determined schedule.
- Manually trigger the distribution of the antivirus signature updates to the customer machines in the System (servers and workstations). If desired, this function can be programmed to occur on a pre-determined schedule.
- Must have a valid Symantec Endpoint Protection Enterprise Edition software license (version 12.1.1 or above) on each customer machine in the System (servers and workstations) that receives the updates. This license can be purchased from West, please see ordering notes below.

8.5. Conditions not covered under this Service offering

- The distribution of the antivirus signature updates on disc, drive or other hardware.
- Provision of updates to any antivirus software products other than Symantec Endpoint Protection Enterprise edition (version 12.1.1 or above).
- Provision of updates to OS or any West software products.

9. Response Time Goals and Severity Levels

Table 1: Remote Technical and On-Site Support Services Response-Time Goals by Severity Levels.

Severity Level	Definition	Remote Response Time Goal	On-Site Response Time Goal*	Problem Correction
1 Product Failure or Loss of Service	Severity Level 1 problems involve a System failure and a major loss of functionality that renders the entire System inoperable.	15 minutes	4 hours	West will provide the customer with a program code correction, program code patch, or a procedure for the customer to bypass or work around the defect in order to continue operations. If a bypass procedure is used, West will continue defect resolution activity, on a high severity basis, until a program correction code or patch is provided to the customer.
2 Severely Impaired functionality (more than 50%)	Severity Level 2 problems involve the failure or loss of functionality of non-critical functional components or features, while the System itself remains operable. Severity Level 2 involves a major impact such as a loss of 50% of call taking capacity or a loss of all of dispatch or the loss of a major functionality (e.g. no delivery of either ANI or ALI).	1 hour	4 hours	West will provide the customer a program code correction, program code patch, or a procedure for the customer to bypass or work around the defect to continue operations. If a bypass procedure is used, West will continue problem or defect resolution activity, on a high severity basis, until a program correction code or patch is provided to the customer.
3 Non-Critical System Failure (Less than 50%)	This class of problem requires action from the Call Center within a short time. Severity Level 3 problems may cause performance degradation or system components to malfunction. Severity Level 3 may involve one position non-functioning.	8 Business hours	Next Business Day	West will provide the customer with a program code correction in a maintenance release.

Severity Level	Definition	Remote Response Time Goal	On-Site Response Time Goal*	Problem Correction
4 Minor Issue	This class of problem is non-service Affecting and includes problems such as incorrect operation of a minor functionality or System component that is infrequently used, and problems that have feasible work-around available (e.g. incorrect operation of a functionality of 911 without loss of all of dispatch). Core functionality is not affected.	Next Business Day	Next Business Day	Code correction may be provided in a future maintenance release or a commercially reasonable effort to provide a work around solution.
5 Inquiry	This is not a class of problem, but is an inquiry only.	2 Business Days	Does not apply	Does not apply.

*On-site response time goal is based on the time from which West determines an on-site technician is necessary. On-site response is only available if Customer has purchased On-Site Services.

Addendum I



System Upgrade

for

Oneida County, NY

(Direct Sale)

Quote Number: 24370

Version: 7

July 11, 2018

The terms and conditions available at west.com/legal-privacy/terms/call-handling will apply to this Quote, unless the parties have entered into a separate mutually executed agreement, or Customer is purchasing under a cooperative purchasing agreement. The terms of this Quote will govern any conflict with the above-mentioned terms, and Customer's issuance of a purchase order for any or all of the items described in this Quote will constitute acknowledgement and acceptance of such terms. No additional terms in Customer's purchase order will apply. This document contains confidential and proprietary information owned by West Safety Solutions Corp. or its affiliates, and such information may not be used or disclosed by any person without prior written consent.

Summary All Sites - 7 Years

Item	Cost
Oneida County (Node A)	\$756,508.56
Oneida County (Node B)	\$266,911.00
Total:	\$1,023,419.56

Year	Systems	Professional Services	Recurring Services	Maintenance Services	Totals
Year 1	\$302,957.25	\$117,393.31	\$20,015.00	\$53,302.00	\$493,667.56
Year 2			\$20,015.00	\$68,797.00	\$88,812.00
Year 3			\$20,015.00	\$68,797.00	\$88,812.00
Year 4			\$20,015.00	\$68,797.00	\$88,812.00
Year 5			\$20,015.00	\$68,797.00	\$88,812.00
Year 6			\$20,015.00	\$67,237.00	\$87,252.00
Year 7			\$20,015.00	\$67,237.00	\$87,252.00
Totals	\$302,957.25	\$117,393.31	\$140,105.00	\$462,964.00	\$1,023,419.56

Summary - 7 Years - Oneida County (Node A)

Item	Cost
Systems	\$163,681.25
Services	\$69,793.31
Recurring Services	\$120,785.00
Maintenance	\$402,249.00
Total:	\$756,508.56

Year	Systems	Professional Services	Recurring Services	Maintenance Services	Totals
Year 1	\$163,681.25	\$69,793.31	\$17,255.00	\$47,157.00	\$297,886.56
Year 2			\$17,255.00	\$59,702.00	\$76,957.00
Year 3			\$17,255.00	\$59,702.00	\$76,957.00
Year 4			\$17,255.00	\$59,702.00	\$76,957.00
Year 5			\$17,255.00	\$59,702.00	\$76,957.00
Year 6			\$17,255.00	\$58,142.00	\$75,397.00
Year 7			\$17,255.00	\$58,142.00	\$75,397.00
Totals	\$163,681.25	\$69,793.31	\$120,785.00	\$402,249.00	\$756,508.56

Configuration Parameters - Oneida County (Node A)

Site Configuration

Total Positions	13
Total Number of E9-1-1 CAMA Trunks	Up to 12
Total Number of FXO Lines	Up to 8
Total Number of ISDN-PRI channels (T1)	1
SIP	Not Included
ECCP	Not Included
PowerOPS	0
VIPER ACD	0
Add-on for Radio Recorder	Not Included

Systems

VIPER	\$64,047.50
Power Stations	\$73,287.75
Power 911	\$0.00
Power Metrics Setup Fees	\$7,000.00
Sentry	\$2,410.00
TXT29-1-1 Setup Fees	\$9,500.00
Power 911 Hardware	\$5,415.00
Object Server Hardware	\$4,071.00
Common Hardware	\$5,200.00
Peripheral Hardware	\$10,900.00
Network Equipment	\$4,850.00
Project Management Services	\$18,493.31
TXT29-1-1 Recurring Services	\$92,400.00

Professional Services

Staging	\$5,000.00
Project Survey	\$3,350.00
Installation	\$16,950.00
Engineering Services	\$3,000.00

Recurring Services

Power Metrics Recurring Srv	\$28,385.00
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Maintenance

Software Subscription	\$116,550.00
Software Protection and Remote Tech Support	\$39,960.00
On-Site Maintenance	\$194,250.00
Hardware Protection	\$35,310.00
Antivirus Recurring Fees	\$8,379.00
Sentry Monitoring Service	\$7,800.00

Model#	Description	Qty	List Price	Selling Price	Total
VIPER					
912871/BB	Mediant 1000B Prebuilt Building Block	1			
912890/BB	Media Kit Prebuilt Building Block	1			
912870/1T1	Mediant 1000 Spare Part Digital Voice Module Single Span	3			
912870/LIC	Mediant 1000 Access License (per Chassis)	1			
912800	VIPER Gateway Shelf	3			
912801	CAMA Interface Module (CIM)	3			
912811/U	Application Server Position Access License Upgrade	15			
912812/U	PBX Access License Upgrade	13			
912814	Admin Interface Module (AIM)	2			
912817	7 Foot IT Cabinet	1			
P10008	License to Connect Non-Intrado Recording Device	1			
C10036	Power Cord Cable with A/C twist lock connector	3			
912820/48	Cisco C3650-48-TS-S 48 port Switch (with stacking module)	2			
911771	C-Blade - VIPER Primary Application Server	1			
911772	C-Blade - VIPER Secondary Application Server	1			
911773	C-Blade - VIPER Softswitch	2			
911780	C-Blade Image - VIPER	1			
911781	C-Blade Image - Windows	1			
				Subtotal	\$64,047.50
Power Stations					
914121/1	IWS Workstation - Software and Configuration	13			
P10097	23" LED Backlit Monitor	13			
914600/3	IWS External Programmable Keypad - 24 Buttons	13			
911801	A9C G3, Desk Mounting Kit	13			
911809	A9C G3, Call Handling Accessories	13			
911810-1	A9C G3 Bundle	13			
911785	Position Image - Power Station Gen3	1			
				Subtotal	\$73,287.75
Power 911					
913100/BAK/U	Power 911 Backup License Upgrade	1			
913100/U	Power 911 Client Access License Upgrade	12			
913202/U	Power 911 Server Access License Upgrade	12			
				Subtotal	\$0.00
Power Metrics Setup Fees					
P10195	Power Metrics Advanced - Service set-up: single RDDM-Server Class	1			
				Subtotal	\$7,000.00

Sentry

915137/1	Set-Up Fee	1		
E10830	LICENSE, ELM Enterprise Manager 6.7, Class I	1		
E10831	LICENSE, ELM Enterprise Manager 6.7, Class II	1		
915102/CD	VIPER Alarm Monitoring Media Set	1		
			Subtotal	\$2,410.00

TXT29-1-1 Setup Fees

TCCOTF3	TCC Status Change Provisioning One-Time-Fee per PSAP (11+ seats)	1		
			Subtotal	\$9,500.00

Power 911 Hardware

911775	C-Blade - Power 911 DB Server	1		
			Subtotal	\$5,415.00

Object Server Hardware

914962	IWS Server RACK - Type A	1		
914121/3	IWS Object Server - Underlying Software	1		
			Subtotal	\$4,071.00

Common Hardware

914956	1U Keyboard/LCD/Trackball/8-Port KVM	1		
P10114/R	Backup Disk Solution for Windows Server (Rack-Mount)	1		
			Subtotal	\$5,200.00

Peripheral Hardware

600150	Punch Blocks	3		
207-990000-046	Cable Cheat - 25PR, 25', MF	3		
960103	Network Cabling	40		
			Subtotal	\$10,900.00

Network Equipment

912810/E	Quad Ethernet Switch WIC	2		
912810/R	1921 Integrated Services Router	2		
914148	West Firewall Appliance	1		
914148/CD	Call Handling Firewall - Media Set	1		
			Subtotal	\$4,850.00

Staging

950852	Front Room Equipment Staging - Per Position	13		
950853	Back Room Equipment Staging - Per Cabinet	1		
			Subtotal	\$5,000.00

Project Survey

950100	Project Survey (per Site)	1		
960575	Living Expense per Day per Person	3		
960580	Travel Fee per Person	1		
			Subtotal	\$3,350.00

Installation

950104	Professional Services (per Day)	9		
960575	Living Expense per Day per Person	11		
960580	Travel Fee per Person	1		
			Subtotal	\$16,950.00

Engineering Services

950516	Network Provisioning Services per day	2		
			Subtotal	\$3,000.00

Project Management Services

950510	Project Management Services	1		
			Subtotal	\$18,493.31

TXT29-1-1 Recurring Services

P10062	ITS Service (Annual) Year 1	1		
ITXTARF3	TXT29-1-1 P911 Integrated Annual Recurring Fee per PSAP (11+ Seats) Year 1	1		
P10062	ITS Service (Annual) Year 2	1		
ITXTARF3	TXT29-1-1 P911 Integrated Annual Recurring Fee per PSAP (11+ Seats) Year 2	1		
P10062	ITS Service (Annual) Year 3	1		
ITXTARF3	TXT29-1-1 P911 Integrated Annual Recurring Fee per PSAP (11+ Seats) Year 3	1		
P10062	ITS Service (Annual) Year 4	1		
ITXTARF3	TXT29-1-1 P911 Integrated Annual Recurring Fee per PSAP (11+ Seats) Year 4	1		
P10062	ITS Service (Annual) Year 5	1		
ITXTARF3	TXT29-1-1 P911 Integrated Annual Recurring Fee per PSAP (11+ Seats) Year 5	1		
P10062	ITS Service (Annual) Year 6	1		
ITXTARF3	TXT29-1-1 P911 Integrated Annual Recurring Fee per PSAP (11+ Seats) Year 6	1		
P10062	ITS Service (Annual) Year 7	1		
ITXTARF3	TXT29-1-1 P911 Integrated Annual Recurring Fee per PSAP (11+ Seats) Year 7	1		
			Subtotal	\$92,400.00

Power Metrics Recurring Srv

P10208	Power Metrics Advanced - 10-19 pos. annual service per PSAP Year 1	1		
P10219	Power Metrics Suite - Annual access	1		

P10208	contract per PSAP Year 1 Power Metrics Advanced - 10-19	1	
P10219	pos. annual service per PSAP Year 2 Power Metrics Suite - Annual access	1	
P10208	contract per PSAP Year 2 Power Metrics Advanced - 10-19	1	
P10219	pos. annual service per PSAP Year 3 Power Metrics Suite - Annual access	1	
P10208	contract per PSAP Year 3 Power Metrics Advanced - 10-19	1	
P10219	pos. annual service per PSAP Year 4 Power Metrics Suite - Annual access	1	
P10208	contract per PSAP Year 4 Power Metrics Advanced - 10-19	1	
P10219	pos. annual service per PSAP Year 5 Power Metrics Suite - Annual access	1	
P10208	contract per PSAP Year 5 Power Metrics Advanced - 10-19	1	
P10219	pos. annual service per PSAP Year 6 Power Metrics Suite - Annual access	1	
P10208	contract per PSAP Year 6 Power Metrics Advanced - 10-19	1	
P10219	pos. annual service per PSAP Year 7 Power Metrics Suite - Annual access	1	
P10208	contract per PSAP Year 7 Power Metrics Advanced - 10-19	1	
			Subtotal
			\$28,385.00

Software Subscription

950999/SUB1-BU	Software Sub Service - 1 Year/Position – Back Up Position Year 1	1	
950999/SUB1-S	Software Sub Service - 1 Year/Position – Supplemental Position Year 1	2	
950999/SUB1	Software Subscription Service - 1 Year/Position Year 1	10	
950999/SUB1-BU	Software Sub Service - 1 Year/Position – Back Up Position Year 2	1	
950999/SUB1-S	Software Sub Service - 1 Year/Position – Supplemental Position Year 2	2	
950999/SUB1	Software Subscription Service - 1 Year/Position Year 2	10	
950999/SUB1-BU	Software Sub Service - 1 Year/Position – Back Up Position Year 3	1	
950999/SUB1-S	Software Sub Service - 1 Year/Position – Supplemental Position Year 3	2	
950999/SUB1	Software Subscription Service - 1 Year/Position Year 3	10	
950999/SUB1-BU	Software Sub Service - 1 Year/Position – Back Up Position Year 4	1	
950999/SUB1-S	Software Sub Service - 1 Year/Position	2	

950999/SUB1	-- Supplemental Position Year 4 Software Subscription Service - 1 Year/Position Year 4	10
950999/SUB1-BU	Software Sub Service - 1 Year/Position -- Back Up Position Year 5	1
950999/SUB1-S	Software Sub Service - 1 Year/Position -- Supplemental Position Year 5	2
950999/SUB1	Software Subscription Service - 1 Year/Position Year 5	10
950999/SUB1-BU	Software Sub Service - 1 Year/Position -- Back Up Position Year 6	1
950999/SUB1-S	Software Sub Service - 1 Year/Position -- Supplemental Position Year 6	2
950999/SUB1	Software Subscription Service - 1 Year/Position Year 6	10
950999/SUB1-BU	Software Sub Service - 1 Year/Position -- Back Up Position Year 7	1
950999/SUB1-S	Software Sub Service - 1 Year/Position -- Supplemental Position Year 7	2
950999/SUB1	Software Subscription Service - 1 Year/Position Year 7	10
Subtotal		\$116,550.00

Software Protection and Remote Tech Support

950999/PRO1-BU	Soft Protect and Remote Tech Support - 1 Year/Pos -- Back Up Pos Year 2	1
950999/PRO1-S	Soft Protect and Remote Tech Support - 1 Year/Pos -- Supplemental Pos Year 2	2
950999/PRO1	Software Protection and Remote Technical Support - 1 Year/Position Year 2	10
950999/PRO1-BU	Soft Protect and Remote Tech Support - 1 Year/Pos -- Back Up Pos Year 3	1
950999/PRO1-S	Soft Protect and Remote Tech Support - 1 Year/Pos -- Supplemental Pos Year 3	2
950999/PRO1	Software Protection and Remote Technical Support - 1 Year/Position Year 3	10
950999/PRO1-BU	Soft Protect and Remote Tech Support - 1 Year/Pos -- Back Up Pos Year 4	1
950999/PRO1-S	Soft Protect and Remote Tech Support - 1 Year/Pos -- Supplemental Pos Year 4	2
950999/PRO1	Software Protection and Remote Technical Support - 1 Year/Position Year 4	10
950999/PRO1-BU	Soft Protect and Remote Tech Support - 1 Year/Pos -- Back Up Pos Year 5	1
950999/PRO1-S	Soft Protect and Remote Tech Support - 1 Year/Pos -- Supplemental Pos Year 5	2
950999/PRO1	Software Protection and Remote Technical Support - 1 Year/Position Year 5	10
950999/PRO1-BU	Soft Protect and Remote Tech Support - 1	1

950999/PRO1-S	Year/Pos – Back Up Pos Year 6 Soft Protect and Remote Tech Support - 1	2
950999/PRO1	Year/Pos – Supplemental Pos Year 6 Software Protection and Remote Technical Support - 1 Year/Position Year 6	10
950999/PRO1-BU	Soft Protect and Remote Tech Support - 1 Year/Pos – Back Up Pos Year 7	1
950999/PRO1-S	Soft Protect and Remote Tech Support - 1 Year/Pos – Supplemental Pos Year 7	2
950999/PRO1	Software Protection and Remote Technical Support - 1 Year/Position Year 7	10
Subtotal		\$39,960.00

On-Site Maintenance

950999/ONS1-3-S	On-Site Maint - 1 Year/Pos – 21+ pos sys - Supplemental Position Year 1	2
950999/ONS1-3-BU	On-Site Maint - 1 Year/Pos – 21+ pos sys – Back Up Position Year 1	1
950999/ONS1-3	On-Site Maintenance (1 Year), (per position / per year for 21+ positions) Year 1	10
950999/ONS1-3-S	On-Site Maint - 1 Year/Pos – 21+ pos sys - Supplemental Position Year 2	2
950999/ONS1-3-BU	On-Site Maint - 1 Year/Pos – 21+ pos sys – Back Up Position Year 2	1
950999/ONS1-3	On-Site Maintenance (1 Year), (per position / per year for 21+ positions) Year 2	10
950999/ONS1-3-S	On-Site Maint - 1 Year/Pos – 21+ pos sys - Supplemental Position Year 3	2
950999/ONS1-3-BU	On-Site Maint - 1 Year/Pos – 21+ pos sys – Back Up Position Year 3	1
950999/ONS1-3	On-Site Maintenance (1 Year), (per position / per year for 21+ positions) Year 3	10
950999/ONS1-3-S	On-Site Maint - 1 Year/Pos – 21+ pos sys - Supplemental Position Year 4	2
950999/ONS1-3-BU	On-Site Maint - 1 Year/Pos – 21+ pos sys – Back Up Position Year 4	1
950999/ONS1-3	On-Site Maintenance (1 Year), (per position / per year for 21+ positions) Year 4	10
950999/ONS1-3-S	On-Site Maint - 1 Year/Pos – 21+ pos sys - Supplemental Position Year 5	2
950999/ONS1-3-BU	On-Site Maint - 1 Year/Pos – 21+ pos sys – Back Up Position Year 5	1
950999/ONS1-3	On-Site Maintenance (1 Year), (per position / per year for 21+ positions) Year 5	10
950999/ONS1-3-S	On-Site Maint - 1 Year/Pos – 21+ pos sys - Supplemental Position Year 6	2
950999/ONS1-3-BU	On-Site Maint - 1 Year/Pos – 21+ pos sys – Back Up Position Year 6	1
950999/ONS1-3	On-Site Maintenance (1 Year), (per position	10

	/ per year for 21+ positions) Year 6		
950999/ONS1-3-S	On-Site Maint - 1 Year/Pos – 21+ pos sys - Supplemental Position Year 7	2	
950999/ONS1-3-BU	On-Site Maint - 1 Year/Pos – 21+ pos sys – Back Up Position Year 7	1	
950999/ONS1-3	On-Site Maintenance (1 Year), (per position / per year for 21+ positions) Year 7	10	
			Subtotal \$194,250.00

Hardware Protection

950999/HPMN1-BRD	Hardware Protect Multi-Node System - 1 Year/Back Room Deployment Year 2	1	
950999/HPMN1-S	Hardware Protect Multi-Node System - 1 Year/Pos - Supplemental Position Year 2	2	
950999/HPMN1-BU	Hardware Protect Multi-Node System - 1 Year/Pos – Back Up Position Year 2	1	
950999/HPMN1	Hardware Protection Multi-Node System - 1 Year/Position Year 2	10	
950999/HPMN1-BRD	Hardware Protect Multi-Node System - 1 Year/Back Room Deployment Year 3	1	
950999/HPMN1-S	Hardware Protect Multi-Node System - 1 Year/Pos - Supplemental Position Year 3	2	
950999/HPMN1-BU	Hardware Protect Multi-Node System - 1 Year/Pos – Back Up Position Year 3	1	
950999/HPMN1	Hardware Protection Multi-Node System - 1 Year/Position Year 3	10	
950999/HPMN1-BRD	Hardware Protect Multi-Node System - 1 Year/Back Room Deployment Year 4	1	
950999/HPMN1-S	Hardware Protect Multi-Node System - 1 Year/Pos - Supplemental Position Year 4	2	
950999/HPMN1-BU	Hardware Protect Multi-Node System - 1 Year/Pos – Back Up Position Year 4	1	
950999/HPMN1	Hardware Protection Multi-Node System - 1 Year/Position Year 4	10	
950999/HPMN1-BRD	Hardware Protect Multi-Node System - 1 Year/Back Room Deployment Year 5	1	
950999/HPMN1-S	Hardware Protect Multi-Node System - 1 Year/Pos - Supplemental Position Year 5	2	

950999/HPMN1-BU	Hardware Protect Multi-Node System - 1 Year/Pos – Back Up Position Year 5	1		
950999/HPMN1	Hardware Protection Multi-Node System - 1 Year/Position Year 5	10		
950999/HPMN1-BRD	Hardware Protect Multi-Node System - 1 Year/Back Room Deployment Year 6	1		
950999/HPMN1-S	Hardware Protect Multi-Node System - 1 Year/Pos - Supplemental Position Year 6	2		
950999/HPMN1-BU	Hardware Protect Multi-Node System - 1 Year/Pos – Back Up Position Year 6	1		
950999/HPMN1	Hardware Protection Multi-Node System - 1 Year/Position Year 6	10		
950999/HPMN1-BRD	Hardware Protect Multi-Node System - 1 Year/Back Room Deployment Year 7	1		
950999/HPMN1-S	Hardware Protect Multi-Node System - 1 Year/Pos - Supplemental Position Year 7	2		
950999/HPMN1-BU	Hardware Protect Multi-Node System - 1 Year/Pos – Back Up Position Year 7	1		
950999/HPMN1	Hardware Protection Multi-Node System - 1 Year/Position Year 7	10		
			Subtotal	\$35,310.00

Antivirus Recurring Fees

914143	Symantec EndPoint Protection Manager (EPM) - Year 1	19		
914143	Symantec EndPoint Protection Manager (EPM) - Year 2	19		
914143	Symantec EndPoint Protection Manager (EPM) - Year 3	19		
914143	Symantec EndPoint Protection Manager (EPM) - Year 4	19		
914143	Symantec EndPoint Protection Manager (EPM) - Year 5	19		
914143	Symantec EndPoint Protection Manager (EPM) - Year 6	19		
914143	Symantec EndPoint Protection Manager (EPM) - Year 7	19		
			Subtotal	\$8,379.00

Sentry Monitoring Service

915137/SL	Per Power 911 position remote monitoring	13
	- VIPER alarms annual recurring fee Year 1	
915137/SL	Per Power 911 position remote monitoring	13
	- VIPER alarms annual recurring fee Year 2	
915137/SL	Per Power 911 position remote monitoring	13
	- VIPER alarms annual recurring fee Year 3	
915137/SL	Per Power 911 position remote monitoring	13
	- VIPER alarms annual recurring fee Year 4	
915137/SL	Per Power 911 position remote monitoring	13
	- VIPER alarms annual recurring fee Year 5	

Subtotal **\$7,800.00**

Total **\$738,015.25**

Summary - 7 Years - Oneida County (Node B)

Item	Cost
Systems	\$139,276.00
Services	\$47,600.00
Recurring Services	\$19,320.00
Maintenance	\$60,715.00
Total:	\$266,911.00

Year	Systems	Professional Services	Recurring Services	Maintenance Services	Totals
Year 1	\$139,276.00	\$47,600.00	\$2,760.00	\$6,145.00	\$195,781.00
Year 2			\$2,760.00	\$9,095.00	\$11,855.00
Year 3			\$2,760.00	\$9,095.00	\$11,855.00
Year 4			\$2,760.00	\$9,095.00	\$11,855.00
Year 5			\$2,760.00	\$9,095.00	\$11,855.00
Year 6			\$2,760.00	\$9,095.00	\$11,855.00
Year 7			\$2,760.00	\$9,095.00	\$11,855.00
Totals	\$139,276.00	\$47,600.00	\$19,320.00	\$60,715.00	\$266,911.00

Configuration Parameters - Oneida County (Node B)

Site Configuration

Total Positions	10
Total Number of E9-1-1 CAMA Trunks	12
Total Number of FXO Lines	8
Total Number of ISDN-PRI channels (T1)	0
SIP	Not Included
ECCP	Not Included
PowerOPS	0
VIPER ACD	0
Add-on for Radio Recorder	Not Included

Systems

VIPER	\$45,562.50
Power Stations	\$54,902.50
Power 911	\$22,455.00
Power Metrics Setup Fees	\$4,000.00
Sentry	\$910.00
TXT29-1-1 Setup Fees	\$5,125.00
Object Server Hardware	\$4,071.00
Peripheral Hardware	\$8,400.00
Network Equipment	\$4,850.00
Project Management Services	\$14,600.00
TXT29-1-1 Recurring Services	\$12,600.00

Professional Services

Staging	\$3,750.00
Project Survey	\$1,700.00
Installation	\$13,550.00
Engineering Services	\$3,000.00

Recurring Services

Power Metrics Recurring Srv	\$6,720.00
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Maintenance

Software Subscription	\$10,500.00
Software Protection and Remote Tech Support	\$3,600.00
On-Site Maintenance	\$17,500.00
Hardware Protection	\$14,100.00
Antivirus Recurring Fees	\$6,615.00
Sentry Monitoring Service	\$8,400.00

Model#	Description	Qty	List Price	Selling Price	Total
VIPER					
912890/BB	Media Kit Prebuilt Building Block	1			
912800	VIPER Gateway Shelf	3			
912801	CAMA Interface Module (CIM)	3			
912811	Application Server License	11			
912812	PBX Access License	10			
912813	48V Power Supply and Shelf - VIPER System	2			
912814	Admin Interface Module (AIM)	2			
P10008	License to Connect Non-Intrado Recording Device	1			
912716/24	Cisco C2960X-24TS-L 24 port switch (without stacking module)	2			
912716/S	Cisco Stacking module for C2960-X	2			
911771	C-Blade - VIPER Primary Application Server	1			
911772	C-Blade - VIPER Secondary Application Server	1			
911773	C-Blade - VIPER Softswitch	2			
911780	C-Blade Image - VIPER	1			
				Subtotal	\$45,562.50
Power Stations					
914121/1	IWS Workstation - Software and Configuration	10			
P10096	21.5" LED Backlit Monitor	10			
914600/3	IWS External Programmable Keypad - 24 Buttons	10			
911801	A9C G3, Desk Mounting Kit	10			
911809	A9C G3, Call Handling Accessories	10			
911810-1	A9C G3 Bundle	10			
911785	Position Image - Power Station Gen3	1			
				Subtotal	\$54,902.50
Power 911					
913100/BAK	Power 911 Backup License	10			
913202	Power 911 Server Access License	10			
				Subtotal	\$22,455.00
Power Metrics Setup Fees					
P10193	Power Metrics Advanced - Service set-up: single RDDM	1			
				Subtotal	\$4,000.00

Sentry

E10830	LICENSE, ELM Enterprise Manager 6.7, Class I	1		
E10831	LICENSE, ELM Enterprise Manager 6.7, Class II	1		
915102/CD	VIPER Alarm Monitoring Media Set	1		
			Subtotal	\$910.00

TXT29-1-1 Setup Fees

ITXTOTF4	TXT29-1-1 P911 Integrated One-time-fee per PSAP (5-10 seats)	1		
P10063	ITS Equipment	1		
			Subtotal	\$5,125.00

Object Server Hardware

914962	IWS Server RACK - Type A	1		
914121/3	IWS Object Server - Underlying Software	1		
			Subtotal	\$4,071.00

Peripheral Hardware

600150	Punch Blocks	3		
207-990000-046	Cable Cheat - 25PR, 25', MF	3		
960103	Network Cabling	30		
			Subtotal	\$8,400.00

Network Equipment

912810/E	Quad Ethernet Switch WIC	2		
912810/R	1921 Integrated Services Router	2		
914148	West Firewall Appliance	1		
914148/CD	Call Handling Firewall - Media Set	1		
			Subtotal	\$4,850.00

Staging

950858	Backroom Staging - Additional work when no Cabinet	1		
950852	Front Room Equipment Staging - Per Position	10		
			Subtotal	\$3,750.00

Project Survey

950100	Project Survey (per Site)	1		
960575	Living Expense per Day per Person	1		
			Subtotal	\$1,700.00

Installation

950104	Professional Services (per Day)	7		
960575	Living Expense per Day per Person	9		
960580	Travel Fee per Person	1		
			Subtotal	\$13,550.00

Engineering Services

950516	Network Provisioning Services per day	2		
			Subtotal	\$3,000.00

Project Management Services

950510	Project Management Services	1		
			Subtotal	\$14,600.00

TXT29-1-1 Recurring Services

P10062	ITS Service (Annual) Year 1	1		
P10062	ITS Service (Annual) Year 2	1		
P10062	ITS Service (Annual) Year 3	1		
P10062	ITS Service (Annual) Year 4	1		
P10062	ITS Service (Annual) Year 5	1		
P10062	ITS Service (Annual) Year 6	1		
P10062	ITS Service (Annual) Year 7	1		
			Subtotal	\$12,600.00

Power Metrics Recurring Srv

P10219	Power Metrics Suite - Annual access contract per PSAP Year 1	1		
P10219	Power Metrics Suite - Annual access contract per PSAP Year 2	1		
P10219	Power Metrics Suite - Annual access contract per PSAP Year 3	1		
P10219	Power Metrics Suite - Annual access contract per PSAP Year 4	1		
P10219	Power Metrics Suite - Annual access contract per PSAP Year 5	1		
P10219	Power Metrics Suite - Annual access contract per PSAP Year 6	1		
P10219	Power Metrics Suite - Annual access contract per PSAP Year 7	1		
			Subtotal	\$6,720.00

Software Subscription

950999/SUB1-BU	Software Sub Service - 1 Year/Position – Back Up Position Year 1	10		
950999/SUB1-BU	Software Sub Service - 1 Year/Position – Back Up Position Year 2	10		
950999/SUB1-BU	Software Sub Service - 1 Year/Position	10		

950999/SUB1-BU	– Back Up Position Year 3 Software Sub Service - 1 Year/Position	10
950999/SUB1-BU	– Back Up Position Year 4 Software Sub Service - 1 Year/Position	10
950999/SUB1-BU	– Back Up Position Year 5 Software Sub Service - 1 Year/Position	10
950999/SUB1-BU	– Back Up Position Year 6 Software Sub Service - 1 Year/Position	10
950999/SUB1-BU	– Back Up Position Year 7 Software Sub Service - 1 Year/Position	10
Subtotal		\$10,500.00

Software Protection and Remote Tech Support

950999/PRO1-BU	Soft Protect and Remote Tech Support - 1 Year/Pos – Back Up Pos Year 2	10
950999/PRO1-BU	Soft Protect and Remote Tech Support - 1 Year/Pos – Back Up Pos Year 3	10
950999/PRO1-BU	Soft Protect and Remote Tech Support - 1 Year/Pos – Back Up Pos Year 4	10
950999/PRO1-BU	Soft Protect and Remote Tech Support - 1 Year/Pos – Back Up Pos Year 5	10
950999/PRO1-BU	Soft Protect and Remote Tech Support - 1 Year/Pos – Back Up Pos Year 6	10
950999/PRO1-BU	Soft Protect and Remote Tech Support - 1 Year/Pos – Back Up Pos Year 7	10
Subtotal		\$3,600.00

On-Site Maintenance

950999/ONS1-3-BU	On-Site Maint - 1 Year/Pos – 21+ pos sys – Back Up Position Year 1	10
950999/ONS1-3-BU	On-Site Maint - 1 Year/Pos – 21+ pos sys – Back Up Position Year 2	10
950999/ONS1-3-BU	On-Site Maint - 1 Year/Pos – 21+ pos sys – Back Up Position Year 3	10
950999/ONS1-3-BU	On-Site Maint - 1 Year/Pos – 21+ pos sys – Back Up Position Year 4	10
950999/ONS1-3-BU	On-Site Maint - 1 Year/Pos – 21+ pos sys – Back Up Position Year 5	10
950999/ONS1-3-BU	On-Site Maint - 1 Year/Pos – 21+ pos sys – Back Up Position Year 6	10
950999/ONS1-3-BU	On-Site Maint - 1 Year/Pos – 21+ pos sys – Back Up Position Year 7	10
Subtotal		\$17,500.00

Hardware Protection

950999/HPMN1-BRD	Hardware Protect Multi-Node System - 1 Year/Back Room Deployment Year 2	1
950999/HPMN1-BU	Hardware Protect Multi-Node	10

	System - 1 Year/Pos – Back Up Position Year 2		
950999/HPMN1-BRD	Hardware Protect Multi-Node System - 1 Year/Back Room Deployment Year 3	1	
950999/HPMN1-BU	Hardware Protect Multi-Node System - 1 Year/Pos – Back Up Position Year 3	10	
950999/HPMN1-BRD	Hardware Protect Multi-Node System - 1 Year/Back Room Deployment Year 4	1	
950999/HPMN1-BU	Hardware Protect Multi-Node System - 1 Year/Pos – Back Up Position Year 4	10	
950999/HPMN1-BRD	Hardware Protect Multi-Node System - 1 Year/Back Room Deployment Year 5	1	
950999/HPMN1-BU	Hardware Protect Multi-Node System - 1 Year/Pos – Back Up Position Year 5	10	
950999/HPMN1-BRD	Hardware Protect Multi-Node System - 1 Year/Back Room Deployment Year 6	1	
950999/HPMN1-BU	Hardware Protect Multi-Node System - 1 Year/Pos – Back Up Position Year 6	10	
950999/HPMN1-BRD	Hardware Protect Multi-Node System - 1 Year/Back Room Deployment Year 7	1	
950999/HPMN1-BU	Hardware Protect Multi-Node System - 1 Year/Pos – Back Up Position Year 7	10	
			Subtotal
			\$14,100.00

Antivirus Recurring Fees

914143	Symantec EndPoint Protection Manager (EPM) - Year 1	15	
914143	Symantec EndPoint Protection Manager (EPM) - Year 2	15	
914143	Symantec EndPoint Protection Manager (EPM) - Year 3	15	
914143	Symantec EndPoint Protection Manager (EPM) - Year 4	15	
914143	Symantec EndPoint Protection Manager (EPM) - Year 5	15	
914143	Symantec EndPoint Protection Manager (EPM) - Year 6	15	
914143	Symantec EndPoint Protection Manager (EPM) - Year 7	15	
			Subtotal
			\$6,615.00

Sentry Monitoring Service

915137/SL	Per Power 911 position remote monitoring - VIPER alarms annual recurring fee Year 1	10
915137/SL	Per Power 911 position remote monitoring - VIPER alarms annual recurring fee Year 2	10
915137/SL	Per Power 911 position remote monitoring - VIPER alarms annual recurring fee Year 3	10
915137/SL	Per Power 911 position remote monitoring - VIPER alarms annual recurring fee Year 4	10
915137/SL	Per Power 911 position remote monitoring - VIPER alarms annual recurring fee Year 5	10
915137/SL	Per Power 911 position remote monitoring - VIPER alarms annual recurring fee Year 6	10
915137/SL	Per Power 911 position remote monitoring - VIPER alarms annual recurring fee Year 7	10

Subtotal **\$8,400.00**

Total **\$252,311.00**

Notes

- 1 This quote provides pricing to upgrade an existing standalone site to a multi-node solution using C-Blade servers with new cabinet for 12 call takers and 1 dark backup position. Node B is a dark backup site for 10 positions and will utilize the existing cabinet from Node A. Network Connectivity assumes a *SINGLE* WAN.

TXT29-1-1 has been priced as a renewal for 7 years beginning 10/27/2019 – 10/26/2020 with reconfiguration of TCC and newly added TXT service for new Node B.

Customer to provide the following peripheral equipment, as required:

Additional Backroom Equipment Required:

Two (2) modems to ALI Database

One (1) ACDR Printer (serial printer i.e. Microline 320)

One (1) Network Laser Printer

Amphenol cables and punch blocks

One (1) Dial-Up Line for Remote Monitoring and Maintenance must be provisioned.

Additional Power IWS Equipment Required:

Each IWS computer required sufficient CAT5 Network Cabling (2 per position, minimum) not normally supplied by West Safety Solutions, Corp, to reach the Network Switches (The switches are installed in the VIPER cabinet).

The Standard Operating Procedure & Premise Information Modules require customer input of data.

- 2 All inter-site connectivity is the responsibility of the Customer. WAN equipment, software, and connectivity to be procured, installed, and configured by the Customer

Unless otherwise specified in this quotation, routers are not included.

Two (2) connections are required between each site and the WAN.

WAN Requirements

- Layer 3 routing must be provided between all locations
 - Certified CAT5e/CAT6 between all network switches
 - Guaranteed Bandwidth for all West Safety Solutions Corp applications
 - Low Latency (< 40ms)
 - Low Jitter (< 5ms)
 - Support for DHCP Relay/Forwarding (per RFC 1542) from all VIPER subnets to their associated primary Application Server
 - Support for QoS (Quality of Service) as needed
 - Security against intrusion and virus attack
 - Reliable links (fault tolerant) – no single point of failure may cause a Layer 3 disruption for more than four (4) seconds, multicast may not be disrupted for more than ten (10) seconds.
 - DNS Caching and forwarding from satellite sites to all VIPER Application Servers
 - Support for Multicast traffic between all subnets of a discrete VIPER system (however Multicast traffic between satellite subnets is not required).
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- Multicast traffic must not pass between separate discrete VIPER systems
 - A Dial-Up Line for Remote Monitoring and Maintenance must be provisioned
-

3 The 3rd Party Recorder Interface Kit provides the following:

- 1) Physical IP packet-capture solution. This is the mechanism by which the VIPER SIP and RTP packets are securely shared with the 3rd party recorder.
- 2) VIPER 3rd party recording license. This is the VIPER-side license that enables a 3rd party recorder to have a one-way IP connection to VIPER. One is needed per VIPER node.
- 3) Packet description document. This document details all of the VIPER SIP/RTP messages that are relevant for a 3rd party recorder.

Please note that in all cases, West Safety Solutions Corp will not be responsible for the support or provisioning of the 3rd party recorder.

4 Sentry fees do not include West Safety Solutions Corp. monitoring of the site's performance via the Sentry system.

The Sentry Monitoring System has been configured to monitor all West Safety Solutions, Corp-Provided hardware which has an IP address. This includes, but is not limited to, Servers, workstations, A9C, network switches, routers, etc.

5 **West Safety Solutions Corp.'s Remote Monitoring Service** monitors all IWS products as well as most third party equipment. The service forwards alarms and alerts to a centralized West Safety Solutions Corp. Network Operations Center for monitoring. This service requires the purchase of Sentry hardware from West Safety Solutions, Corp.

West Safety Solutions Corp.'s Technical Support Center receives remote customer alarms and alerts 24x7x365, notifying West Safety Solutions Corp. of any irregular behavior including faults and performance threshold crossings requiring attention. Minimum action includes contacting of either the customer directly or the assigned on-site service personnel to provide the appropriate technical response.

Automatic remote troubleshooting of the alarm is performed only if Remote Support services are purchased.

The dispatching of West Safety Solutions Corp. technician support after an alarm is received and troubleshooting has been performed is available only if On-Site Support Services are purchased.

West Safety Solutions Corp Responsibilities:

- Remote Monitoring of customer based PSAP equipment.
- Contacting of either the PSAP directly or their assigned on-site service personnel upon receipt of the alarm.
- Clearing of the alarm upon notification of the customer.

Customer Responsibilities:

- Establish business rules regarding alarm notifications and escalation conditions within the Sentry system. Designation of customer contact points or its assigned on-site service personnel.
-

6 **Professional Services:** This quote represents an estimate of labor costs to perform the work described in this quote. If the amount of labor needed to correct the issue can't be accomplished time allotted in this quote, West will contact the customer representative before performing additional labor. If the actual labor to perform the work is significantly less than the amount quoted, the final charge may be adjusted.

7 ITS provides an alternative to customers that have not purchased our platinum level A9-1-1 Routing Service which provides 9-1-1 calls and signaling over redundant diverse MPLS links between the West Safety Solutions Corp. Data Center and the customer facility. The ITS solution establishes a secure VPN between the customer facility and the West Safety Solutions Corp. Data Center over a VPN utilizing the customer's Public IP connection.

Please note that the Installation services are already included and are based on the following part numbers:

- 950104 – Professional Services (Per Day)
 - 960575 – Living Expenses (Per Day)
 - 960580 – Travel Fee (Per Person)
-

8 The Project Survey is intended to identify any additional miscellaneous equipment or services required to ensure smooth installation and operation of the quoted system. Additional costs may be incurred upon completion of the Project Survey.

9 Comprehensive Project Management

This is a service offered to partners that do not have a Project Manager assigned to the project, where West Safety Solutions, Corp's Comprehensive Project Management (CPM) provides a Project Manager that coordinates all project activity.

The CPM provides complete, end-to-end project management support and services that could include on-site support, project documentation, formal reporting, as well as coordination of deliveries both internally as well as with the partner and the end customer.

The CPM level of service includes all services in the basic level plus the following:

- Site survey is reviewed (or initiated and then reviewed) to verify that site and system environment are ready for installation
 - Scope of Work is completed (includes a Project Schedule of key dates)
 - Review system design
 - Site and/or network diagram are completed as required
 - 3rd Party contractors included in the sales order are contacted and managed
 - Project kick-off meeting is scheduled with the end customer and held via conference call or optionally on site
 - Comprehensive risk assessment and mitigation planning
 - Overall project coordination
 - Weekly project status meetings are scheduled, led and documented
 - Customer configuration for staging is collected and communicated
 - Equipment staging (if ordered) and shipping is managed"
 - Coordinate on-site delivery
 - Equipment receipt and inventory is validated
-

-
- West Safety Solutions Corp. resources are scheduled and managed with project implementation and cut-over requirements
 - Maintain all project related communications and documentation
 - Complete Site Book for delivery to end customer at time of handover to service
 - Variable: Project Manager Presence on-site (with additional per day and travel cost components). This is typically required for project kickoff (if on-site), final site evaluation, and cut-over project management services
-

10 Basic Project Management

This is a limited service designed for partners that have a Project Manager assigned to the project, where West Safety Solutions Corp. Project Management supports the activities of the partner Project Manager. Basic Project Management is provided at 2% of Hardware and Software price to channel partner.

This level of service includes the following:

- Serving as West Safety Solutions Corp. single point of contact during project implementation.
- Validating the order against the price quote that was provided by our quotations group.
- Conducting a Line by Line order review with sales and technical staff to ensure solution correctness and follow up change order process as required.
- Develop a project plan and schedule jointly with the partner Project manager.
- Complete a basic Scope of Work (SOW) for inclusion in the partner's comprehensive SOW.
 - Assess project risk jointly with partner Project Manager.
 - Support the effort to gather customer information required for staging (if ordered) the system.
- Ensuring that equipment is shipped per a mutually agreed upon schedule (normal processing is 8 weeks from receipt of order).
- Develop and communicate Communication and Escalation plans.
- Ensuring that Services are provided per a mutually agreed upon schedule.
 - Schedule and coordinate site survey, installation and training resources as purchased.
- Participate in customer kickoff meeting by phone.
- Participate in weekly or bi-weekly customer status meetings by phone.
- Coordinate all West Safety Solutions Corp. on site resource activities including customer communication, checklists, resource release, etc.
- Maintain West Safety Solutions Corp. issue list during implementation and provide follow up resolution.
- Maintain West Safety Solutions Corp. post-cut punch list and provide follow up on resolution.
- Complete project acceptance documentation and handover to service.

This level of service assumes that a partner Project Manager or equivalent personnel will be responsible for scheduling and managing all other activity related to the project.

- 11 Software Subscription Service** provides the customer with access to software upgrades including new features. This offering only provides for the availability of the software. Installation and training (if needed) are not included. Any required hardware or operating system changes are also not included.

West Safety Solutions, Corp. will provide periodic software release bulletins to customers which announce and explain new feature releases for West Safety Solutions Corp. software. Customers may then request the new release or version from West Safety Solutions Corp. based on applicability of the release to customer's system. The customer is responsible for installation of all these releases, unless the On-Site Maintenance Service is purchased. If On-Site Maintenance has not been purchased and the customer prefers to have West Safety

Solutions Corp. deploy a new release, West Safety Solutions Corp. will dispatch appropriate personnel to perform the upgrade on a mutually agreed upon date at West Safety Solutions Corp.'s then current prices for such services.

12 **Software Protection and Remote Technical Support** is a coverage requirement with the purchase and ownership of West Safety Solutions Corp. CPE system equipment. The coverage requirement is effective after the expiration of the system warranty, but a purchase order for the service, for at least one year duration, is required at the time of any new system purchase.

Software Protection and Remote Technical Support cannot be deleted from quotes or system orders.

Once a Software Protection and Remote Technical Support service contract is established for the site during system initial purchase, all items subsequently added to the site will not require an additional contract, but the acquisition of additional positions will increase the price of the services.

a. For sites with one year coverage contracts, the increased price will be reflected in the quote at the next contract renewal point.

b. For sites with multi-year agreements, the customer will be required to retract the remaining years of the original purchase order and issue a new purchase order for the remaining period covering the original system and new positions.

If a contract for Software Protection and Remote Technical Support expires without renewal, causing a lapse in coverage, the customer's access to the Support Center will be discontinued and a notification of services termination will be issued. Reinstatement of the lapsed coverage will require the following from the customer:

a) Payment in full for the lapsed period at the prevailing per-seat rate

b) Purchase of a new maintenance agreement (one-year or five-year)

c) System Recertification fees in the form of a Class A inspection at \$1,500.00 per day plus related travel and expense charges.

Software Protection

This offering provides for the availability of software product updates. Installation and training (if needed) are not included. West Safety Solutions Corp. will publish periodic software release bulletins to customers which announce important product updates for West Safety Solutions Corp. software. Customers may then request the new update from West Safety Solutions Corp. based on applicability of the release to customer's system.

Customer is responsible for installation of all these releases, unless the On-Site Maintenance Service is purchased.

If On-Site Maintenance has not been purchased and the customer prefers to have West Safety Solutions Corp. deploy a new release, West Safety Solutions Corp. will dispatch appropriate personnel to perform the upgrade on a mutually agreed upon date at West Safety Solutions Corp.'s then current prices for such services.

Remote Technical Support

Support is provided by associates who specialize in the diagnosis and resolution of system performance issues.

Remote Technical Support is available 24/7 through both a toll free hotline and a secure customer Internet portal.

All service inquiries are tracked by a state-of-the-art CRM trouble ticket system that can be queried by customers through the online portal to obtain the most up-to-date status on their issues.

13 **On-site Support Services** are primarily designed to assist with issues that require system expertise in troubleshooting and restoration at the customer's location.

On-site Support Services include travel costs and time and labor related to the service incident. Also included in the service are quarterly on-site preventative and routine maintenance reviews (four per year) of the customer's West Safety Solutions Corp. system. These maintenance visits can include the installation of routine updates to software. Training, configuration changes, reprogramming and system upgrade labor are not included in this

offering, but are available for purchase.

On-Site Support Services options include the designation of a technician dedicated specifically to the customer's deployment(s), or alternately a non-dedicated resource available for use with other customers. West Safety Solutions Corp. may engage third-party vendors to provide the On-Site Support Services.

- 14** **Hardware Protection Service** provides for the replacement of any non-operating West Safety Solutions Corp. provided hardware component, with the exception of monitors. This offering only provides for the replacement of the hardware item. Installation services and training (if needed) are not included. This service does not cover items where warranty has been voided due to abuse, Force Majeure or other actions.

When the West Safety Solutions Corp. Technical Support Center concludes that an item is non-operational, a fully functioning new or refurbished unit will be shipped to the customer. This unit will then become the property of the customer and will restore the functionality of the non-working item, but it may not be the exact same model as the original. The shipment of the replacement item will include a pre-printed shipping label used for the return of the nonworking item from the customer.

- 15** West Safety Solutions, Corp's fully integrated Text to 9-1-1 solution is incorporated into the Power 9-1-1 display complete with drop down text. Text messages "ring" just like 9-1-1 calls coming in and are routed under the same routing/ACD rules applied by the PSAP. Text sessions can be transferred to any enabled user on the Viper system. All wireless carriers currently enabling text messaging can be reached through this system.

Pricing is based on the number of positions and PSAPs in the quote. The only variable cost is related to connectivity and the network engineering hours needed to configure the connectivity based upon the PSAP's requirements. Connectivity is available via the A9-1-1 ESInet or the PSAP's internet interface, which will be secured by West Safety Solutions, Corp.

TXT29-1-1 services will be provided in accordance with the applicable Service Guide at <https://www.west.com/legal-privacy/terms/#call-handling>.

PSAP billing will begin upon completion of deployment and text readiness delivery from West to the PSAP. Completion is defined as the PSAP being able to accept text messages.

- 16** **Power Metrics**
West retains title to all premise-based equipment and software provided to customer in connection with the Power Metrics service (including RDDMs), which will be removed and returned to West at the conclusion of the service.
-

Terms

VENDOR NAME **West Safety Solutions Corp**
1601 Dry Creek Drive
Longmont, CO 80503

Include quote number and customer EIN/Tax Identification Number on P.O.

SUBMIT P.O. ordermanagement.safetyservices@west.com

PRICING All prices are in USD
Taxes, if applicable, are extra.
Shipping charges are extra unless specified on the quote.

SHIPPING TERMS FCA (Montreal), INCOTERMS 2010

PAYMENT Per Contract

DELIVERY TBD

VALIDITY **Quote expires on November 08, 2018.** However, part numbers beginning with Q, such as QXXXXX, constitute unique third-party components. These components, including model and price, (i) may be subject to change at any time; and (ii) are non-cancellable, non-refundable, and non-exchangeable at any time.

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Revision History

Revision Level	Proposal Writer	Notes	Date Revised
1	CSTENGEL	Initial Request	February 22, 2018
2	RSOOR	Removed Dedicated Onsite Maintenance	March 23, 2018
3	RSOOR	Removed TXT29-1-1	March 29, 2018
4	RCRAWFORD	HGAC discount	April 06, 2018
5	MDESEVE	Revised to be Direct, removed Power Ops, Removed Training & CCS per Sales, adjusted maintenance on Node A	June 11, 2018
7	CSTENGEL	Add 7 year TXT renewal for Host with 7 years for new Node B with reconfiguration to TCC.	July 11, 2018

Addendum II



Code of Ethics

[WEST CORPORATION \(HTTPS://WWW.WEST.COM\)](https://www.west.com) > [LEGAL & PRIVACY \(HTTPS://WWW.WEST.COM/LEGAL-PRIVACY/\)](https://www.west.com/legal-privacy/) > [CODE OF ETHICS](#)

Code of Ethics

Amended and Restated Code of Ethical Business Conduct

This Code of Ethical Business Conduct (“Code”) is intended as an overview of West’s guiding principles and not as a restatement of West’s policies and procedures.

West’s reputation as an ethical company is essential to our success. Our reputation needs to be managed and developed with the same care we extend to our clients. In carrying out the business of West, we deal with investors, clients, vendors, government officials, community leaders, the press and the general public. It is essential all of our dealings be legal and above reproach, and must not, in any way, compromise West’s interests, its policies or its reputation for the highest standards of business ethics.

We believe West directors, officers and employees should disclose any activity that may have the appearance of being unethical. In so doing, not only can we take appropriate disciplinary or legal action, but we may be able to take steps to prevent the situation that gives rise to the questioned activity.

Merely operating within the law is just the beginning of the ethical conduct we insist upon and expect. The following is a broad statement of West’s expectations regarding legal and ethical conduct. This statement is intended to be interpreted in the spirit of its intent and not literally, as it is virtually impossible to address every situation or condition that may arise.

In the event of any conflict between the Code and the certificate of incorporation or bylaws of the Company, including, without limitation, provisions related to business opportunities presented to members of the Board of Directors, the provisions set forth in the certificate of incorporation or bylaws, as applicable, shall control.

Business Conduct:

Each director and officer should be aware of the ethical practices of each of the people he or she manages. We must maintain an attitude within West unethical actions or the appearance of unethical actions are not acceptable.

West Corporation (https://www.west.com)
This Code cannot and is not intended to cover every applicable law or provide answers to all questions that might arise; for that we must rely on each person's good sense of what is right, including a sense of when it is proper to seek guidance from others on the appropriate course of conduct.

Conflict of Interest:

All directors, officers and employees of West are expected to avoid any activity, investment, interest or association which interferes with or is reasonably likely to interfere with the independent exercise of his or her judgment when it is related to West's interests. Directors, officers and employees of West have a duty of loyalty to West, and must therefore avoid any actual or apparent conflict of interest with West.

It is impossible to cover every possible conflict of interest, and at times it will not be easy to distinguish between proper and improper activity. However, the most common conflicts are:

- Having a financial interest, directly or indirectly, in any supplier, client or competitor of West. All interests of 1% or greater in a supplier, client or competitor should be fully disclosed.
- Engaging in a business transaction on behalf of West with a relative by blood or marriage, or with a firm where such relative is an officer or representative, without prior full disclosure and written clearance.
- Accepting any money, gifts of other than nominal value, unusual hospitality, loans or any other preferential treatment from any supplier, client or competitor of West.

In short, we cannot be influenced by improper personal considerations which might consciously or unconsciously affect our judgment regarding the best interests of West. If a director, officer or employee becomes aware of an actual or apparent conflict of interest, he or she should discuss it with the appropriate manager and disclose it to West's General Counsel.

Corporate Opportunities:

No director, officer or employee of West may:

- Take for himself or herself personally any business opportunity discovered through the use of West's property, information or position;
- Use West's property, information or position for personal gain; or
- Compete with West.

Employees, officers and directors owe a duty to West to advance its legitimate interests when the opportunity to do so arises.

Information About Competitors:

As a business that competes in the marketplace, we seek economic knowledge about our competitors. However, West officers, directors and employees shall not engage in illegal or improper acts to acquire a competitor's trade secrets or customer lists. In addition, we will not hire a competitor's employees for the purpose of obtaining confidential information about the competitor.

Confidentiality:

All directors, officers and employees should maintain the confidentiality of information entrusted to them by West, its business partners, suppliers, clients or others related to West's business. Such information must not be disclosed

to others, except when disclosure is authorized by West or legally mandated, Confidential information includes all nonpublic information that might be of use to competitors, or harmful to West or its clients if disclosed.

Dealing with Suppliers and Clients:

West's overall view regarding its relations with suppliers and clients is simple. They must be treated as West expects to be treated – with fairness.

West strives to ensure it does not have or contribute to adverse human rights impacts (including modern slavery or human trafficking) within its business or through its supply chains. There is an ongoing commitment to engage only those suppliers that uphold the same principles as West. In the event suppliers fail to take steps to cease or prevent adverse human rights impacts, West will reconsider its business relationships with those suppliers.

Contributions to Political Parties, Candidates or Government Officials:

West's policy is precise and specific. Contributions by a corporation to political parties or candidates involving federal offices in the United States are expressly forbidden by Federal law. West obeys the law. In addition, while political contributions to parties or candidates may be legal in some states and in some foreign countries, no West corporate funds may be used for such purposes without the express prior approval of the General Counsel of West. West is an active participant in the democratic process at the national, state and local levels within the parameters of the law. West also encourages all employees to participate in our political system by voting, speaking out on public issues, and becoming active in civic and political activities. It is important, however, that directors, officers and employees clearly distinguish their personal view from those of West, unless specifically authorized by West to speak on West's behalf.

Payments to Government Personnel:

The U.S. Foreign Corrupt Practices Act prohibits giving anything of value, directly or indirectly, to officials of foreign governments or foreign political candidates in order to obtain or retain business. It is strictly prohibited to make illegal payments to government officials of any country.

In addition, the U.S. government has a number of laws and regulations regarding business gratuities which may be accepted by U.S. government personnel. The promise, offer or delivery to an official or employee of the U.S. government of a gift, favor or other gratuity in violation of these rules would not only violate Company policy but could also be a criminal offense. State and local governments, as well as foreign governments, may have similar rules.

Accuracy of West's Records:

All official records showing the conduct of West's business must be accurate and complete in all material respects. All those involved in the preparation of such materials should consider the accuracy of the records of critical importance, and should understand West does not maintain, nor does it countenance, any off-the-books funds for any purposes. It is the policy of West to fully and fairly disclose the financial condition of West in compliance with applicable accounting principles, laws, rules and regulations. All books and records of West shall be kept in such a way as to fully and fairly reflect all West transactions in accordance with generally accepted accounting principles.

There must be full, fair, accurate, timely, and understandable disclosure in reports and documents filed with governmental agencies and in other public communications made by West, as well as in documents prepared for our equity and debt holders.

Retention of Records:

Disposal or destruction of West records and files should comply with company policy. In addition, when litigation or a government investigation is pending or imminent, relevant records must not knowingly be destroyed until the matter is closed.

Insider Information:

Federal law and the Securities and Exchange Commission's regulations prohibit the use of "inside" (i.e., material nonpublic) information when trading in West's securities. The Insider Trading and Securities Fraud Enforcement Act of 1988 imposes significant criminal and civil penalties for insider trading.

Examples of such information include possible acquisitions, mergers, stock splits, dividends, earnings, new contracts, new products or discoveries, major management changes, expansion plans, data which may be proprietary, or data which has not yet been disclosed to the investment public and other important corporate developments. As a result of these regulations, West personnel should follow the West Insider Trading Policy located on West's intranet.

Dealings with Clients:

West's business is built upon the principle of effective, courteous management of client contacts. West treats all clients and their consumers with dignity and respect.

Equal Opportunity:

West's employees have been, and will continue to be, the key to our success. West strongly supports and recognizes its responsibility to provide equal employment opportunities to all qualified individuals. West places a high value on diversity. West strongly believes all people are unique and valuable, and should be respected for their individual abilities.

In support of this goal, West has established a company policy regarding discrimination or harassment on the basis of race, gender, age, color, religion, disability status, veteran status, sexual orientation, marital status or ethnic, national or any other characteristic protected by law. This policy applies to all personnel relationships, including but not limited to: promotions, transfers, training, job assignments, job stations, hours of work, rates of pay, working conditions, terminations, and all terms and conditions of employment.

Legal Conduct and Compliance with this Code:

West's policy is that all of its directors, officers and employees shall conduct business on behalf of West in full compliance with the laws of the many jurisdictions in which West may conduct business. Accordingly, the provisions of the present Code are not intended as a substitute for applicable national laws and regulations and the scope of the Code's application shall be limited to the extent incompatible with such laws and regulations. Under

the laws of certain countries in which the Company has a presence, legal conduct and compliance with this Code may require further adaptations and directors, officers and employees should refer to the appropriate country annex that addresses such matters.

Any director, officer or employee who acquires knowledge of a violation of a law or this Code, or has cause to believe that a law or this Code has been violated, must immediately report this situation to the General Counsel, the Chief Executive Officer, the Chief Financial Officer or outside legal counsel for West. If you wish to remain anonymous, you may report a violation of this Code by calling the Telephone Hotline at 800-480-9503. The Telephone Hotline is answered by an independent company and is available 24 hours a day every day. No director, officer or employee who reports such a situation, in good faith, shall be penalized for his or her reporting of any violation or suspected violation of a law or this Code. To the fullest extent possible, the identity of a person making a report will be kept confidential. If a West person believes he or she is being treated unfairly because of reporting a violation or potential violation, this should be brought to the immediate attention of the General Counsel or a Vice President of Employee Relations of West.

Any employee who ignores or violates any of West's ethical standards, and any manager who penalizes a subordinate for trying to follow these ethical standards, will be subject to corrective action. However, it is not the threat of discipline that should govern your actions. West expects you to share its belief that a dedicated commitment to ethical behavior is the right thing to do and is good business.

Violations of this Code will result in disciplinary action that may include termination, referral for criminal prosecution and reimbursement to West for any losses or damages resulting from the violation. As with all matters involving investigations of violations and discipline, principles of fairness and dignity will be applied pursuant to the procedures developed and used by West's Employee Relations Department.

Waivers:

Any waivers of this Code for directors or executive officers must be approved by the Board of Directors of West and must be promptly disclosed (with reasons for the waiver) as required by applicable law and our contractual requirements.

Foreign Hotline Numbers:

Australia: 1-800-983-589

Canada: 844-768-0879

China: 400-120-3529

France: +33-975182340

Germany: +49-32211001267

India: 000-800-100-4371

Mexico: 01-800-681-8161

Philippines: 1-800-1-116-1165

Singapore: +65-31581730

United Kingdom: 0-808-189-3366

[Legal & Privacy \(https://www.west.com/legal-privacy/\)](https://www.west.com/legal-privacy/) [West Corporation \(https://www.west.com\)](https://www.west.com/)

[Acceptable Use Policy \(https://www.west.com/legal-privacy/aup/\)](https://www.west.com/legal-privacy/aup/)

[CALEA \(https://www.west.com/legal-privacy/calea/\)](https://www.west.com/legal-privacy/calea/)

[Code of Ethics \(https://www.west.com/legal-privacy/code-of-ethics/\)](https://www.west.com/legal-privacy/code-of-ethics/)

[Terms & Conditions \(https://www.west.com/legal-privacy/terms/\)](https://www.west.com/legal-privacy/terms/)

[TSP Services \(https://www.west.com/legal-privacy/tsp-services/\)](https://www.west.com/legal-privacy/tsp-services/)

[Revenue Generation Service Agreement \(https://www.west.com/specialized-agent-services/revenue-generation/service-agreement/\)](https://www.west.com/specialized-agent-services/revenue-generation/service-agreement/)

[E911 Regulations \(https://www.west.com/legal-privacy/e911-regulations/\)](https://www.west.com/legal-privacy/e911-regulations/)

[About Us \(https://www.west.com/about-us/\)](https://www.west.com/about-us/)

[Unified Communications Services \(https://www.west.com/unified-communications/\)](https://www.west.com/unified-communications/)

[Interactive Services \(https://www.west.com/interactive-services/\)](https://www.west.com/interactive-services/)

[Specialized Agent Services \(https://www.west.com/specialized-agent-services/\)](https://www.west.com/specialized-agent-services/)

[Telecom Services \(https://www.west.com/telecom-services/\)](https://www.west.com/telecom-services/)


[Safety Services \(https://www.west.com/safety-services/\)](https://www.west.com/safety-services/)

[Careers \(https://www.west.com/careers/\)](https://www.west.com/careers/)

Follow West:  (<https://www.facebook.com/WestCorporation>)

 (<https://twitter.com/WestCareers>)

 (<https://www.linkedin.com/company/west-corporation>)

 (<https://plus.google.com/100061248625445625135/posts>)

 (<http://www.youtube.com/WestCorporationHQ>)



[. \(https://www.west.com\)](https://www.west.com)

West Corporation is a global provider of communication and network infrastructure services. West helps its clients more effectively communicate, collaborate and connect with their audiences through a diverse portfolio of solutions that include unified communications services, safety services, interactive services such as automated notifications, telecom services and specialty agent services.

For 30 years, West has provided reliable, high-quality, voice and data services. West has sales and operations in the United States, Canada, Europe, the Middle East, Asia Pacific and Latin America. For more information, please call 1-800-841-9000.

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Addendum III

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

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

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative

agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:

- i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
- i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a

criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and

D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;

ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.

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

i. The Contractor will or will continue to provide a drug-free workplace by:

A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

B. Establishing an ongoing drug-free awareness program to inform employees about:

1) The dangers of drug abuse in the workplace;

- 2) The Contractor's policy of maintaining a drug-free workplace;
- 3) Any available drug counseling, rehabilitation, and employee assistance program; and
- 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;

C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;

D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:

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

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

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

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

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

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

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

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

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

- i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the

Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

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

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

When applicable to the services provided pursuant to the Contract:

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

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

c. The Contractor shall:

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

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

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

5. NON-ASSIGNMENT CLAUSE.

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

6. WORKER'S COMPENSATION BENEFITS.

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

7. NON-DISCRIMINATION REQUIREMENTS.

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

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as

determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

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

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

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records

shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

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

12. CONFLICTING TERMS.

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

13. GOVERNING LAW.

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

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

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

16. GRATUITIES AND KICKBACKS.

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

request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

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

17. AUDIT

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

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

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services

(hereinafter “OGS”) website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

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

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

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

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

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

- a. For the purposes of this provision, the “use of tobacco” shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.
- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that

delivers vapor which is inhaled by an individual user as he or she simulates smoking.

- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida;
and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.



Undersheriff Robert Swenszkowski
Chief Deputy Jonathan G. Owens

Chief Deputy Gregory Pflieger
Chief Deputy Joseph A. Lisi

Sheriff Robert M. Maciol

August 22, 2018

FN 20 18-357

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

**PUBLIC SAFETY
WAYS & MEANS**

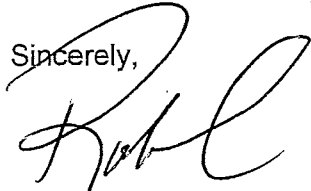
Dear County Executive Picente:

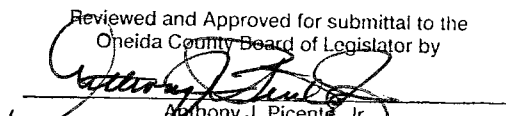
The Sheriff's Office is requesting approval of an agreement for their Special Detail Law Enforcement Services. The Sheriff's Office is requesting this be a template agreement that can be used with all municipalities and private parties who utilize the Sheriff's Special Detail Services.

The Sheriff's Office is often called upon by organizers of special events, such as field days, craft fairs, auctions, etc., to provide additional safety patrols at these events. The Sheriff's Office is reimbursed by these organizers for each hour worked by an officer at that officer's hourly rate as per the OCSO fee schedule in effect at the time services are rendered.

In order to accept the reimbursement, we are in need of an agreement signed by the County Executive and the municipality or private party that has benefited from these Services.

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

Sincerely,

Robert M. Maciol
Sheriff

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

Anthony J. Picente, Jr.
County Executive
Date 10-4-18

Oneida Co. Department: Sheriff's Office

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

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: Various municipalities and private entities

Title of Activity or Service: Template agreement for use by those entities who wish to utilize Special Detail Law Enforcement Services

Proposed Dates of Operation: Upon execution – September 30, 2023

Client Population/Number to be Served: Citizens of Oneida County

Summary Statements

1) **Narrative Description of Proposed Services:** Template agreement outlining services and payment for Special Detail Law Enforcement Services. This template will be used to establish the terms of agreement for both municipalities and private parties that engage the services of the Sheriff's Office.

2) **Program/Service Objectives and Outcomes:** The Sheriff's Office provides Special Detail Law Enforcement Services at various events when requested to enhance public safety. The Sheriff's Office is reimbursed for the deputy's hours spent patrolling the event.

3) **Program Design and Staffing:** Deputies from the Sheriff's Office.

Total Funding Requested: \$TBD as needed **Account #** A1526 (Revenue)

Oneida County Dept. Funding Recommendation: \$TBD as needed

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

Cost Per Client Served: N/A

Past Performance Data: N/A

O.C. Department Staff Comments: The Sheriff's Office requests that this be a template agreement for use with all municipalities and private parties who wish to utilize Special Detail Law Enforcement Services. This is a great option for those who wish to obtain additional safety and security services at their events.

Agreement for Special Detail Law Enforcement Services

THIS AGREEMENT (the "Agreement"), by and between the County of Oneida, a municipal corporation organized and existing under the laws of the State of New York, with its principal offices located at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as the "County," by and through the Oneida County Sheriff's Office, with offices located at 6065 Judd Road, Oriskany, New York 13424, hereinafter referred to as the "OCSO," and _____, with its principal offices located at _____, hereinafter referred to as the "Recipient" (each individually referred to as a "Party" and collectively referred to as the "Parties").

WHEREAS, The Recipient is desirous of contracting with the County, through the OCSO, for the provision of Special Detail Law Enforcement Services (the "Services") at its event, specifically _____ (Event name and description), located at _____ (address Event is to be held) (hereinafter referred to as the "Event"); and

WHEREAS, The County and the OCSO are agreeable to render such Services to the Recipient in exchange for reimbursement from the Recipient;

NOW THEREFORE, The County and the Recipient enter into this Agreement for the provision of Services at Recipient's Event in accordance with the terms and conditions set forth herein.

1. DATE AND TIME OF SERVICES.

a. The Special Detail Law Enforcement Services will be provided by the OCSO Deputy/Deputies as follows:

Date: _____
Time: _____
Number of Deputies: _____
Number of Total Hours: _____
Event Contact Person: _____
Event Contact Phone: _____

b. The Recipient may terminate this Agreement if they decide not to utilize the OCSO's Services by providing notice at least twenty-four (24) hours prior to the start time of the Event.

2. COUNTY'S RESPONSIBILITIES.

a. The OCSO Deputies shall provide Services and patrol the Recipient's Event, and enforce all laws and regulations.

b. The OCSO shall provide all standard equipment and uniforms to the Deputies. The OCSO will provide the patrol car, equipped with all appurtenances for law enforcement business. The OCSO will be responsible for maintenance and repair of the patrol car.

c. The OCSO will bill the Recipient following the Event, pursuant to Section 4 of this Agreement.

d. The OCSO, following the Event, will provide the Recipient with a report of any incidents and violations, and any other support information agreed upon between the County and the Recipient.

e. The OCSO shall comply with all Federal, State, and Local statutes, rules, and regulations, as same may be amended from time to time.

f. The OCSO Deputies shall remain on the detail for the duration of the Event, and shall only respond to calls for law enforcement services in the area when necessary and when directed to leave the detail. The Deputies will return to the Event as soon as possible once another law enforcement officer has

relieved the Deputies. The Recipient understands that the OCSO has a duty to the general public and must constantly assess how best to allocate its Deputies. Recipient understands and agrees that they will have no recourse, pursuant to this Agreement or otherwise, against the OCSO if this were to occur.

3. RECIPIENT RESPONSIBILITIES. The Recipient agrees to pay the County for the Services within thirty (30) days of receipt of an invoice from the OCSO.

4. BILLING AND PAYMENT.

a. The County shall bill the Recipient for Services rendered within ten (10) days following the Event. Invoices will reference this Agreement and be itemized to include Deputy's names, hourly rates, and hours worked.

b. The cost of Services shall be reimbursed at a per hour rate as per the OCSO fee schedules in effect at the time that Services are rendered.

5. COORDINATION.

a. The OCSO and Recipient organizer shall act as coordinating agents and provide communication and cooperation between the Parties.

b. OCSO Deputies will be under the direction and control of the OCSO. It is understood and agreed between the Parties that the Recipient will not interfere with the Sheriff's authority. The Oneida County Sheriff maintains absolute authority over the Deputies and the Services provided under this Agreement.

6. NO SPECIAL DUTY. Nothing in this Agreement shall create a special duty to the Recipient or to any third party. The OCSO cannot promise or guarantee crime prevention, safety, or security.

7. INDEPENDENT CONTRACTOR.

a. It is expressly agreed that the relationship of the Recipient to the County shall be that of an independent contractor. Neither the Recipient nor the County shall be considered an employee of the other for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Recipient and the County, in accordance with their status as independent contractors, covenant and agree that they will conduct themselves in accordance with such independent contractor status, that neither the Recipient nor the County, nor any of their employees or assistants, shall hold themselves out as, nor claim to be, officers or employees of the other Party 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 other Party.

b. The Recipient and the County agree that the County is free to undertake other work arrangements, and may continue to make its Services available to the public.

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

8. TRAINING. The Deputies shall not be required to attend or undergo any training, other than what is required by the OCSO. The OCSO 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. The Recipient shall not require the Deputies to undergo any additional training.

9. INDEMNIFICATION.

a. The Recipient agrees to indemnify, save, and hold harmless the County and the OCSO, their agents, officers, servants, employees, and subcontractors from any claims, demands, causes of action,

and/or judgments arising out of injury to person or property of whatever kind or nature caused by the negligence, willful misconduct, or any acts or failure to act on the part of the Recipient, its agents, servants, employees or subcontractors in connection with the performance of this Agreement, and to defend at its own cost, such action or proceeding.

b. The County agrees to indemnify, save, and hold harmless the Recipient, its agents, officers, servants, employees, and subcontractors from any claims, demands, causes of action, and/or judgments arising out of injuries to person or property of whatever kind or nature caused by the negligence or willful misconduct on the part of the County and/or the OCSO, its agents, servants, employees, or subcontractors in connection with the performance of this Agreement, and to defend at their own cost, such action or proceeding.

10. NOTICE. All notices to the County should be sent to:

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

With a copy sent to the OCSO at:

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

All notices to the Recipient should be sent to:

11. 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.

12. ASSIGNMENT. This Agreement may not be assigned by either Party.

13. AMENDMENT. 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.

14. 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 this Agreement.

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

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

For Oneida County

Anthony J. Picente, Jr.
County Executive

Date

For the Oneida County Sheriff's Office

Robert M. Maciol,
Oneida County Sheriff

Date

For _____

By: _____
Title: _____

Date

Approved

Alison Stanulevich, Esq.
Assistant County Attorney

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

October 3, 2018

FN 20 18-358

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

PUBLIC SAFETY

WAYS & MEANS

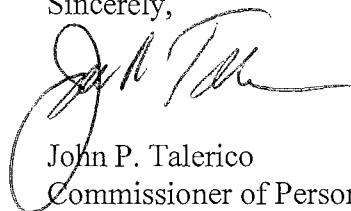
Dear County Executive Picente:

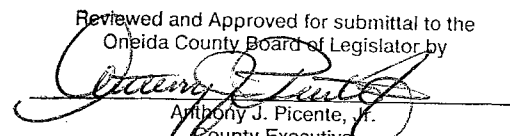
Attached for your review and approval is correspondence from Sheriff Robert M. Maciol requesting the creation of thirty-four (34) part-time Special Patrol Officer positions in Sheriff – Special Patrol Officers, Cost Center 3121.

As stated in Sheriff Maciol's letter, he is requesting thirty-four (34) part-time Special Patrol Officer positions (Grade 32W at \$25.48 per hour) to be assigned to various school districts within the county. These school districts are looking for Special Patrol Officers to provide safety and security on school grounds for children and staff alike.

If you concur with his request, please forward this letter to the Board of Legislators and ask that they create thirty-four (34) part-time Special Patrol Officer positions (Grade 32W at \$25.48 per hour).

Sincerely,


John P. Talerico
Commissioner of Personnel

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

Anthony J. Picente, Jr.
County Executive
Date 10-3-18

Copy: Sheriff
County Attorney
Budget

Office of the Sheriff

Undersheriff Joseph A. Lisi



County of Oneida

Chief Deputy Gregory Pflieger
Chief Deputy Jonathan G. Owens

Sheriff Robert M. Maciol

October 2, 2018

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

FN 20 _____ - _____

Re: MSD 222

Dear Commissioner Talerico:

Enclosed please find MSD 222 with regard to the creation of thirty four (34) Special Patrol Officer positions. Various school districts within the county are looking to have the Sheriff's Office provide security on school grounds. The special patrol officers will be used for security purposes at the various school districts.

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

Thank you for your time and consideration in this matter.

Sincerely,

Robert M. Maciol
Sheriff

RECEIVED
PERSONNEL
DEPARTMENT
OCT 3 2018

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

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

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

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



Undersheriff Joseph A. Lisi

Chief Deputy Jonathan G. Owens
Chief Deputy Gregory Pflieger

Sheriff Robert M. Maciol

October 3, 2018

FN 20 18-357

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

PUBLIC SAFETY

WAYS & MEANS

Dear County Executive Picente:

Additional schools in Oneida County have inquired about utilizing Special Patrol Officers (SPOs) for the 2018-2019 school year. I ask that Board Resolution No. 215 be amended to include the following:

That the Oneida County Board of Legislators approves Agreements between Oneida County through its Sheriff's Office and any School District and Educational Center in Oneida County that wishes to participate in this initiative for a term commencing September 1, 2018 and ending August 31, 2019.

All agreements will use the same template as was originally approved at the August 8, 2018 Board of Legislators Meeting.

If you have any questions or concerns with regard to my request, please do not hesitate to contact me.

Thank you for your time in this matter.

Sincerely,

Robert M. Maciol
Sheriff

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

Anthony J. Picente, Jr.
County Executive
Date 10-5-18

ONEIDA COUNTY BOARD OF LEGISLATORS

RESOLUTION NO. 215

INTRODUCED BY: *Messrs. Flisnik, D'Onofrio, Waterman*

2ND BY: *Mr. Idzi*

RE: APPROVAL OF AGREEMENTS BETWEEN ONEIDA COUNTY, THROUGH ITS SHERIFF'S OFFICE, AND VARIOUS SCHOOL DISTRICTS

WHEREAS, This Board is in receipt of correspondence from Oneida County Sheriff, Robert M. Maciol, requesting approval of an Agreement between Oneida County, through its Sheriff's Office, and Camden Central School District, for the provision of four (4) part-time Special Patrol Officers (SPOs) to be utilized within the Camden Central School District to increase law enforcement presence, to decrease the number of incidents at the district, and to ensure building safety and security measures are in place and being followed by students, staff, parents and other visitors, and

WHEREAS, Sheriff Maciol has requested that this Agreement be approved as a template for similar arrangements with other school districts, which are of the same contents, with the exception of school district name, locality, and dollar amount, and

WHEREAS, The template will be utilized to enter into Agreement between Oneida County, through its Sheriff's Office, and the following school districts: Camden Central School District, Whitesboro Central School District, Westmoreland Central School District, Sauquoit Valley Central School District, Clinton Central School District, and Holland Patent Central School District, and

WHEREAS, Oneida County will provide and pay the SPO's hourly rate and employment benefits in accordance with the applicable salary schedules and employment practices of the County, subject to fifty percent (50%) reimbursement by the school districts, and

WHEREAS, In accordance with Oneida County Charter Section 2202, said Agreements must be approved by the Oneida County Board of Legislators, now, therefore, be it hereby

RESOLVED, That the Oneida County Board of Legislators approves Agreements between Oneida County, through its Sheriff's Office, and the following school districts for a term commencing September 1, 2018 and ending August 31, 2019: Camden Central School District, Whitesboro Central School District, Westmoreland Central School District, Sauquoit Valley Central School District, Clinton Central School District, and Holland Patent Central School District.

APPROVED: Public Safety Committee (August 1, 2018)
Ways and Means Committee (August 8, 2018)

DATED: (August 8, 2018)

Adopted by the following vote:

AYES 21 NAYS 0 ABSENT 2 Mrs. Pratt & Mr. Hendricks



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

September 10, 2018

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

FN 20 18-360

PUBLIC SAFETY
WAYS & MEANS

Dear County Executive Picente,

We have been informed by the NYS Division of Homeland Security & Emergency Services that Oneida County has been awarded \$187,141.00 as our share of the 2019 NYS Homeland Security Public Safety Answering Points Operations Grant (PSAP grant) program. This will fund four dispatch positions. A copy of the contract for the grant is attached.

Therefore, I respectfully request:

- A.) That you seek the Board of Legislators approval of the attached contract; and,
- B.) Your electronic approval of the attached contract.

Sincerely,

Kevin W. Revere
Director of Emergency Services

CC: Comptroller
Budget
Personnel

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

Anthony J. Picente, Jr.
County Executive

Date 9-19-18

Oneida Co. Department: Emergency Services

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

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: New York State Division of Homeland Security
and Emergency Services
1220 Washington Avenue
Building 7A, Suite 710
Albany, NY 12242

Title of Activity or Service: Homeland Security PSAP Grant FY2019

Proposed Dates of Operation: 1/1/2019- 12/31/2019

Client Population/Number to be Served: Oneida County

Summary Statements

- 1) **Narrative Description of Proposed Services:** This grant will provide funding for four (4) public safety call-answering staff members (4 dispatchers at \$46,785.25 each). This will aid the County in improving public safety and enhancing emergency preparedness across the State.
- 2) **Program/Service Objectives and Outcomes:** To enhance public safety by conducting PSAP operations activities and supporting statewide interoperable communications for first responders.
- 3) **Program Design and Staffing:** State funding for four public safety call-answering staff members.

Total Funding Requested: \$187,141.00

Account # A3308

Oneida County Dept. Funding Recommendation: \$187,141.00

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

Cost Per Client Served: N/A

Past Performance Data: N/A

O.C. Department Staff Comments: None

<p>STATE AGENCY New York State Division of Homeland Security and Emergency Services 1220 Washington Avenue Building 7A Suite 710 Albany, NY 12242</p>	<p>NYS COMPTROLLER'S NUMBER: C198138 (Contract Number) ORIGINATING AGENCY CODE: 01077</p>
<p>GRANTEE/CONTRACTOR: (Name & Address) Oneida County 800 Park Avenue Utica, NY 13501</p>	<p>TYPE OF PROGRAMS: PS2018 CFDA NUMBER: DHSES NUMBERS: WM18198138</p>
<p>FEDERAL TAX IDENTIFICATION NO: 15-6000460 MUNICIPALITY NO: (if applicable) 300100000 000 SFS VENDER NO: 1000002595 DUN & BRADSTREET NO: 075814186</p>	<p>INITIAL CONTRACT PERIOD: FROM 01/01/2019 TO 12/31/2019 FUNDING AMOUNT FOR INITIAL PERIOD: \$187,141.00</p>
<p>STATUS: Contractor is not a sectarian entry. Contractor is not a not-for-profit organization.</p>	<p>MULTI-YEAR TERM: (if applicable)</p>
<p>CHARITIES REGISTRATION NUMBER: _____ (Enter number of Exempt) If "Exempt" is entered above, reason for exemption. <u>0 - not exempt</u></p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;"> <p>Contractor has _____ has not _____ timely filed with the Attorney General's Charities Bureau all required periodic or annual written reports.</p> </div>	<p>APPENDIX ATTACHED AND PART OF THIS AGREEMENT</p> <p>___ 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 and Special Conditions</p> <p>___ APPENDIX X Modification Agreement Form (to accompany modified appendices for changes in terms or considerations on an existing period or for renewal periods)</p> <p>___ DHSES-55 Budget Amendment/Grant Extension Request</p> <p>___ Other - Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion</p>
<p>IN WITNESS THEREOF, the parties hereto have electronically executed or approved this AGREEMENT on the dates of their signatures.</p>	
<p>NYS Division of Homeland Security and Emergency Services BY: , Date: State Agency Certification: "In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract". GRANTEE: BY: Hon. Anthony J. Picente jr., County Executive Date:</p>	
<p>ATTORNEY GENERAL'S SIGNATURE _____ Title: _____ Date: _____</p>	<p>COMPTROLLER'S SIGNATURE _____ Title: _____ Date: _____</p>

Award Contract

Project No.

PS18-1031-D00

Grantee Name

Oneida County

09/07/2018

Award Contract

Project No.

PS18-1031-D00

Grantee Name

Oneida County

09/07/2018

Award Contract**Project No.**

PS18-1031-D00

Grantee Name

Oneida County

09/07/2018

NEW YORK STATE
DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES
GRANT CONTRACT

APPENDIX A-1

The Contract is hereby made by and between the State of New York, acting by and through the New York State Division of Homeland Security and Emergency Services (DHSES or State Agency) and the public or private entity ('Contractor' or 'Subrecipient') identified on the face page hereof (Face Page).

WITNESSETH:

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

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

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

STANDARD TERMS AND CONDITIONS

I. GENERAL TERMS AND CONDITIONS

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

B. Required Approvals: In accordance with Section 112 of the State Finance Law (or, if the Contract is with the State University of New York (SUNY) or City University of New York (CUNY), Section 355 or Section 6218 of the Education Law), if the Contract exceeds \$50,000 (or \$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 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 categories that does not affect the amount, consideration, scope or other terms of such contract may be subject to the approval of the Offices of the State Comptroller and Attorney General 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 Appendix C (Payment and Reporting Schedule).

C. Contract Parts: This Contract incorporates the face pages attached, this Appendix and all of the marked Appendices identified on the face page hereof.

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

1. Appendix A-1¹

2. Modifications to the Face Page

3. Modifications to Appendices B, C and D

4. The Face Page

5. Appendices B, C and D

6. Other attachments, including, but not limited to, the request for proposal or program application

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

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

G. Contract Period: The period of this Contract shall be as specified on the face page hereof.

H. Contract Performance: The Contractor shall perform all services or work, as applicable, and comply with all provisions of the Contract to the satisfaction of the State. The Contractor shall provide services or work, as applicable, and meet the program objectives summarized in Appendix D (Work Plan and Special Conditions) in accordance with the provisions of the Contract, relevant laws, rules and regulations, administrative, program and fiscal guidelines, and where applicable, operating certificate for facilities or licenses for an activity or program. For federally-funded grants, DHSES will conduct an evaluation to determine risks posed by Contractors in managing federal awards. Consistent with 2 CFR §200.331, the results of the evaluation may result in the imposition special conditions to this Contract including but not limited to increased monitoring, suspension of reimbursements and cancellation of the Contract.

I. Modifications: To modify the Contract, 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 the term, is subject to the approval of the NYS Office of the State Comptroller. Any other modifications shall be processed in accordance with DHSES guidelines as stated in this Contract.

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

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

L. 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.

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

4. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery services or certified or registered United States mail, as of the date of first attempted delivery at the address and in

the manner provided herein, or in the case of facsimile transmission or e-mail, upon receipt.

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

M. 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.

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

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

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

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

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

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

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

U. 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.²

V. 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.

W. 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.

X. Federally Funded Grants: All of the specific federal requirements that are applicable to the Contract are identified in Section V (FEDERALLY FUNDED GRANT REQUIREMENTS) of this Appendix. To the extent that the Contract is funded in whole or part with federal funds, (i) the provisions of the Contract that conflict with federal rules, federal regulations, or federal program specific requirements shall not apply and (ii) the Contractor agrees to comply with all applicable federal rules, regulations and program specific requirements including, but not limited to, those provisions that are set forth in Section V (FEDERALLY FUNDED GRANT REQUIREMENTS) of this Appendix. To the extent that section V (FEDERALLY FUNDED GRANT REQUIREMENTS) conflict with any other provisions of the Contract, the federal requirements of Section V shall supersede all other provisions of the Contract where required.

Y. The Contractor must meet the program objectives summarized in the Program Work Plan and Special Conditions (Appendix D) to the satisfaction of DHSES in accordance with provisions of the Contract, relevant laws, rules and regulations, administrative and fiscal guidelines and, where applicable, operating certificates for facilities or license for an activity or program.

II. TERM, TERMINATION AND SUSPENSION

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

B. Renewal:

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

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

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

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

C. Termination:

1. Grounds:

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

b. Cause: The State may terminate the Contract immediately, upon written notice of termination to the Contractor, if the

Contractor fails to comply with any of the terms and conditions of the Contract and/or with any laws, rules, regulations, policies, or procedures that are applicable to the Contract.

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

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

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

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

2. Notice of Termination:

a. **Service of notice:** Written notice of termination shall be sent by:

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

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

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

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

a. Upon receipt of notice of termination, the Contractor agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the State.

b. The State shall be responsible for payment on claims for services or work provided and costs incurred pursuant to the terms of the Contract. In no event shall the State be liable for expenses and obligations arising from the requirements of the Contract after its termination date.

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

Where the Contract is terminated for cause based on Contractor's failure to use some or all of the real property or equipment purchased pursuant to the Contract for the purposes set forth herein, the State may, 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 Contract; or
- c. an appropriate combination of clauses (a) and (b) of Section II(C)(4) herein.

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

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

III. PAYMENT AND REPORTING

A. Terms and Conditions:

1. In full consideration of contract services to be performed, DHSES 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 Contract shall not be reimbursed.
3. The Contractor must provide complete and accurate billing invoices to the State in order to receive payment. Provided, however, the State may, at its discretion, automatically generate a voucher in accordance with an approved contract payment schedule. Billing invoices submitted to the State must contain all information and supporting documentation required by Appendix C (Payment and Reporting Schedule) and Section III(C) herein. The State may require the Contractor to submit billing invoices electronically.
4. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the head of DHSES, 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. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm, by email at epunit@osc.state.ny.us, or by telephone at (518) 474-4032. Contractor acknowledges that it will not receive payment on any vouchers submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Director has expressly authorized payment by paper check as set forth above.
5. If travel expenses are an approved expenditure under this Contract, travel expenses shall be reimbursed at the lesser of the rates set forth in the written standard travel policy of the Contractor, the OSC guidelines, or United States General Services Administration rates. No out-of-state travel costs shall be permitted unless specifically detailed and pre-approved by the State.
6. Timeliness of advance payments or other claims for reimbursement, and any interest to be paid to Contractor for late payment, shall be governed by Article 11-A of the State Finance Law to the extent required by law.
7. Article 11-B of the State Finance Law sets forth certain time frames for the Full Execution of contracts or renewal contracts with not-for-profit organizations and the implementation of any program plan associated with such contract. For purposes of this section, 'Full Execution' shall mean that the contract has been signed by all parties thereto and has obtained the approval of the AG and OSC. Any interest to be paid on a missed payment to the Contractor based on a delay in the Full Execution of the 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 Appendix C (Payment and Reporting Schedule).
2. 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.
3. For subsequent contract years in multi-year contracts, Contractor will be notified of the scheduled advance payments for the upcoming contract year no later than 90 days prior to the commencement of the contract year. For simplified renewals, the payment schedule (Appendix C) will be modified as part of the renewal process.
4. Recoupment of any advance payment(s) shall be recovered by crediting the percentage of subsequent claims listed in Appendix C (Payment and Reporting Schedule) and Section III(C) herein and such claims shall be reduced until the

advance is fully recovered within the Contract Term. Any 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 Contract in accordance with this Section and the applicable claiming schedule in Appendix C (Payment and Reporting Schedule).

Vouchers submitted for payment shall be deemed to be a certification that the payments requested are for project expenditures made in accordance with the items as contained in the applicable Appendix B 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 Appendix C (Payment and Reporting Schedule), the Contractor shall comply with the appropriate following provisions:

a. Quarterly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Appendix D (Work Plan and Special Conditions). The Contractor shall submit to DHSES quarterly voucher claims and supporting documentation. The Contractor shall submit vouchers to DHSES in accordance with the procedures set forth in Section III(A)(3) herein.

b. Monthly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Appendix D (Work Plan and Special Conditions). The Contractor shall submit to DHSES monthly voucher claims and supporting documentation. The Contractor shall submit vouchers to DHSES in accordance with the procedures set forth in Section III(A)(3) herein.

c. Biannual Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Appendix D (Work Plan and Special Conditions). The Contractor shall submit to DHSES biannually voucher claims and supporting documentation. The Contractor shall submit vouchers to DHSES in accordance with the procedures set forth in Section III(A)(3) herein.

d. Milestone/Performance Reimbursement:³ Requests for payment based upon an event or milestone may be either severable or cumulative. A severable event/milestone is independent of accomplishment of any other event. If the event is cumulative, the successful completion of an event or milestone is dependent on the previous completion of another event. Milestone payments shall be made to the Contractor when requested in a form approved by the State, and at frequencies and in amounts stated in Appendix C (Payment and Reporting Schedule). DHSES shall make milestone payments subject to the Contractor's satisfactory performance.

e. Fee for Service Reimbursement:⁴ Payment shall be limited to only those fees specifically agreed upon in the Contract and shall be payable no more frequently than monthly upon submission of a voucher by the contractor.

f. Rate Based Reimbursement:⁵ Payment shall be limited to rate(s) established in the Contract. Payment may be requested no more frequently than monthly.

g. Scheduled Reimbursement:⁶ DHSES shall generate vouchers at the frequencies and amounts as set forth in Appendix C (Payment and Reporting Schedule).

h. Interim Reimbursement: DHSES may generate vouchers on an interim basis and the amounts requested by the Contract as set forth in Attachment C (Payment and Reporting Schedule).

i. Fifth Quarter Payments:⁷ Fifth quarter payment shall be paid to the Contractor at the conclusion of the final scheduled payment period of the preceding contract period. DHSES shall use a written directive for fifth quarter financing. DHSES 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 Contract as security for the faithful completion of services or work, as applicable, under the Contract. This amount may be withheld in whole or in part from any single payment or combination of payments otherwise due under the Contract. In the event that such withheld

funds are insufficient to satisfy Contractor's obligations to the State, the State may pursue all available remedies, including the right of setoff and recoupment.

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

6. All vouchers submitted by the Contractor pursuant to the Contract shall be submitted to DHSES 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 DHSES, and, if actual expenditures by the Contractor are less than such sum, the amount payable by DHSES to the Contractor shall not exceed the amount of actual expenditures.

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

D. Identifying Information and Privacy Notification:

1. Every voucher or New York State Claim for Payment submitted to a State Agency by the Contractor, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property, must include the Contractor's Vendor Identification Number assigned by the Statewide Financial System, and any or all of the following identification numbers: (i) the Contractor's Federal employer identification number, (ii) the Contractor's Federal social security number, and/or (iii) DUNS number. Failure to include such identification number or numbers may delay payment by the State to the Contractor. Where the Contractor does not have such number 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 DHSES contracting to purchase the goods or services or lease the real or personal property covered by the Contract. This information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York, 12236.

E. Refunds:

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

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

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

G. Program and Fiscal Reporting Requirements:

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

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

comply with the following applicable provisions:

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

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

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

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

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

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 Appendix C (Payment and Reporting Schedule).

b. If the Performance-Based Reports option is indicated in Appendix C (Payment and Reporting Schedule), the Contractor shall provide DHSES with the following reports as required by the following provisions and Appendix C (Payment and Reporting Schedule) as applicable:

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

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

3. In addition to the periodic reports stated above, the Contractor may be required (a) to submit such other reports as are required in Table 1 of Appendix C (Payment and Reporting Schedule), and (b) prior to receipt of final payment under the Contract, to submit one or more final reports in accordance with the form, content, and schedule stated in Table 1 of Appendix C (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 DHSES 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 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 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. The Contractor shall be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries and management of its project personnel. These functions shall be carried out in accordance with the provisions of the Contract, and all applicable Federal and State laws and regulations.

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

B. Subcontractors:

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

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

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

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

5. If requested by the State, when a subcontract is executed, the Contractor must 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 DHSES, as applicable, rendered and required supporting documentation and reports as necessary to permit Contractor to meet claim deadlines and documentation requirements as established in Appendix C (Payment and Reporting Schedule) and Section III. Subcontractors shall be paid by the Contractor on a timely basis after submitting the required reports and vouchers for reimbursement of services 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 Contract for any activity other than those provided for under the Contract, except with the State's prior written permission.

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

D. Property:

1. Property is real property, equipment, or tangible personal property having a useful life of more than one year and an acquisition cost of \$1,000 or more per unit.
 - a. If an item of Property required by the Contractor is available as surplus to the State, the State 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 Contract to use for similar purposes. Otherwise, the Contractor shall return such Property to the State at the Contractor's cost and expense upon the expiration of the Contract.
 - c. In addition, the Contractor agrees to permit the State to inspect the Property and to monitor its use at reasonable intervals during the Contractor's regular business hours.
 - d. The Contractor shall be responsible for maintaining and repairing Property purchased or procured under the Contract at its own cost and expense. The Contractor shall procure and maintain insurance at its own cost and expense in an amount satisfactory to DHSES naming DHSES as an additional insured, covering the loss, theft or destruction of such equipment.
 - e. A rental charge to the Contract for a piece of Property owned by the Contractor shall not be allowed.
 - f. The State has the right to review and approve in writing any new contract for the purchase of or lease for rental of Property (Purchase/Lease Contract) operated in connection with the provision of the services or work, as applicable, as specified in the Contract, if applicable, and any modifications, amendments, or extensions of an existing lease or purchase prior to its execution. If, in its discretion, the State disapproves of any Purchase/Lease Contract, then the State shall not be obligated to make any payments for such Property.
 - g. No member, officer, director or employee of the Contractor shall retain or acquire any interest, direct or indirect, in any Property, paid for with funds under the Contract, nor retain any interest, direct or indirect, in such, without full and complete prior disclosure of such interest and the date of acquisition thereof, in writing to the Contractor and the State.
2. For non-Federally-funded contracts, unless otherwise provided herein, the State shall have the following rights to Property purchased with funds provided under the Contract:
 - a. For cost-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 Contract shall be governed by the terms and conditions of Section V (FEDERALLY FUNDED GRANT REQUIREMENTS) contained herein.
4. Upon written direction by the State, the Contractor shall maintain an inventory of all Property that is owned by the State as provided herein.
5. The Contractor shall execute any documents which the State may reasonably require to effectuate the provisions of this section.

E. Records and Audits:

1. General:

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

records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

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

iii. non-personal services expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, cost allocation plans, and bid and procurement documentation, such as quotes, proposals and selection records, 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 DHSES or State Agencies involved in the Contract that provided funding, shall have access to the Records during the hours of 9:00 a.m. until 5:00 p.m., Monday through Friday (excluding State recognized holidays), at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.

d. The State shall protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) 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 2 CFR Part 200. Methods used to determine and assign costs shall conform to generally accepted accounting practices and shall be consistent with the method(s) used by the Contractor to determine costs for other operations or programs. Such accounting standards and practices shall be subject to approval of the State.

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

3. Federal Funds: For records and audit provisions governing Federal funds, please see Section V (FEDERALLY FUNDED GRANT REQUIREMENTS) of this Appendix A-1.

F. Confidentiality: The Contractor agrees that it shall use and maintain information relating to individuals who may receive services, and their families pursuant to the Contract, or any other information, data or records deemed confidential by the State (Confidential Information) only for the limited purposes of the Contract and in conformity with applicable provisions of State and Federal law. The Contractor (i) has an affirmative obligation to safeguard any such Confidential Information from unnecessary or unauthorized disclosure and (ii) must comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; 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 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 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 DHSES and the results of such testing must be satisfactory to DHSES before web content shall be considered a qualified deliverable under the Contract or procurement.

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

J. Equal Opportunities for Minorities and Women; Minority and Women Owned Business Enterprises: In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if the Contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting State Agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting State Agency; or (ii) a written agreement in excess of \$100,000.00 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 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 Contract is greater than \$1 million, the Omnibus Procurement Act of 1992 requires that by signing the Contract, the Contractor certifies the following:

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

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

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

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

L. Workers' Compensation Benefits:

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

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

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

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

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

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

3. the history and results of any audit or investigation; and

4. copies of wage reporting information.

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

N. Vendor Responsibility:

1. If a Contractor is required to complete a Questionnaire, the Contractor covenants and represents that it has, to the best of its knowledge, truthfully, accurately and thoroughly completed such Questionnaire. Although electronic filing is preferred, the Contractor may obtain a paper form from the OSC prior to execution of the Contract. The Contractor further covenants and represents that as of the date of execution of the Contract, there are no material events, omissions, changes or corrections to such document requiring an amendment to the Questionnaire.

2. The Contractor shall provide to the State updates to the Questionnaire if any material event(s) occurs requiring an amendment or as new information material to such Questionnaire becomes available.

3. The Contractor shall, in addition, promptly report to the State the initiation of any investigation or audit by a governmental entity with enforcement authority with respect to any alleged violation of Federal or state law by the Contractor, its employees, its officers and/or directors in connection with matters involving, relating to or arising out of the Contractor's business. Such report shall be made within five (5) business days following the Contractor becoming aware of such event, investigation, or audit. Such report may be considered by the State in making a Determination of Vendor Non-Responsibility pursuant to this section.

4. The State reserves the right, in its sole discretion, at any time during the term of the Contract:

a. to require updates or clarifications to the Questionnaire upon written request;

b. to inquire about information included in or required information omitted from the Questionnaire;

c. to require the Contractor to provide such information to the State within a reasonable timeframe; and

d. to require as a condition precedent to entering into the Contract that the Contractor agree to such additional conditions as shall be necessary to satisfy the State that the Contractor is, and shall remain, a responsible vendor; and

e. to require the Contractor to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity. By signing the Contract, the Contractor agrees to comply with any such additional conditions that have been made a part of the Contract.

5. The State, in its sole discretion, reserves the right to suspend any or all activities under the Contract, at any time, when it discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor shall be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the State issues a written notice authorizing a resumption of performance under the Contract.

6. The State, in its sole discretion, reserves the right to make a final Determination of Non-Responsibility at any time during the term of the Contract based on:

a. any information provided in the Questionnaire and/or in any updates, clarifications or amendments thereof; or

b. the State's discovery of any material information which pertains to the Contractor's responsibility.

7. Prior to making a final Determination of Non-Responsibility, the State shall provide written notice to the Contractor that it has made a preliminary determination of non-responsibility. The State shall detail the reason(s) for the preliminary determination, and shall provide the Contractor with an opportunity to be heard.

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

P. Consultant Disclosure Law:⁸ If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and

mental health services, accounting, auditing, paralegal, legal, or similar services, then in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

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

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

1. General Provisions

a. The Division of Homeland Security and Emergency Services (DHSES) 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 DHSES, to fully comply and cooperate with the DHSES 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.

2. Contract Goals

a. For purposes of this contract, DHSES has established overall goals for Minority and Women-Owned Business Enterprises ('MWBE') participation which are specified in the contract work plan.

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

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

3. Equal Employment Opportunity (EEO)

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

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

- i. Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
- ii. The Contractor shall maintain an EEO policy statement and submit it to the DHSES if requested.
- iii. If Contractor or Subcontractor does not have an existing EEO policy statement, Section 4 below may be used to develop one.
- iv. The Contractor's EEO policy statement shall include the following, or similar, language:

- a) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
- b) The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
- c) The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
- d) The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection (iv) and Paragraph 'e' of this Section 3, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

c. Staffing Plan

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Local Assistance MWBE Equal Employment Opportunity Staffing Plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

d. Workforce Employment Utilization Report

- i. Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the DHSES 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 DHSES during the term of the contract, for the purpose of reporting the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Local Assistance MWBE Workforce Employment Utilization Report form must be used to report this information.
- ii. Separate forms shall be completed by Contractor and any Subcontractor performing work on the Contract.
- iii. In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Local Assistance MWBE Workforce Employment Utilization Report and indicate that the information provided relates to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Local Assistance MWBE Workforce Employment Utilization Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

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

4. MWBE Utilization Plan

- a. The Contractor represents and warrants that Contractor has submitted a Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Form either prior to, or at the time of, the execution of the contract.
- b. Contractor agrees to use such Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Form for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in the contract workplan.

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

5. Waivers

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

6. MWBE Subcontractor Utilization Quarterly Report

Contractor is required to report MWBE Subcontractor utilization, as part of the quarterly claim process, to the DHSES by the last day of the month following the end of each calendar quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

7. Liquidated Damages - MWBE Participation

a. Where DHSES 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 DHSES 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 DHSES, Contractor shall pay such liquidated damages to the DHSES within sixty (60) days after they are assessed by the DHSES unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the DHSES.

8. MWBE AND EEO Policy Statement

a. The Contractor agrees to adopt the following policies or similar policies with respect to the project being developed or services rendered in this contract with the Division of Homeland Security and Emergency 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 its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

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

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this 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.

S. Additional Terms

1. The Contractor agrees that if the project is not operational within 60 days of the execution date of the Contract, it will report by letter to DHSES the steps taken to initiate the project, the reasons for delay, and the expected starting date. If the project is not operational within 90 days of the execution date of the Contract, the Contractor will submit a second statement to DHSES explaining the delay. DHSES may either cancel the project and redistribute the funds or extend the implementation date of the project beyond the 90-day period when warranted by extenuating circumstances.

2. The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of DHSES, 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 financial capacity.

a. The DHSES Commissioner, 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 DHSES 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 the notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of DHSES, or his or her designee, issues a written notice authorizing a resumption of performance under the Contract.

b. Upon written notice to the Contractor, and a reasonable opportunity to be heard with the appropriate DHSES officials or staff, the Contract may be terminated by the DHSES Commissioner, or his or her designee at the Contractor's expense where the Contractor is determined by the DHSES Commissioner, or his or her designee, to be non-responsible. In such event, the Commissioner, 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.

3. DHSES shall make payments and any reconciliation in accordance with the Payment and Reporting Schedule (Appendix C). DHSES shall pay the Contractor for completed, approved projects, a sum not to exceed the amount noted on the Face Page hereof. The Contractor must not request payments or reimbursements that duplicate funding or reimbursement from any other source for Contractor costs and services pursuant to this Contract.

4. The Contractor shall submit detailed itemization forms or a form deemed acceptable to DHSES for personal service, fringe benefit and non-personal service expenditures with any voucher and fiscal cost report requesting reimbursement.

Grant-related expenditures shall be reported on Fiscal Cost Reports approved by DHSES. For Federally-funded awards, the detailed Itemization forms shall include the required certifications pursuant to 2 CFR §200.415. These reports must be prepared periodically and as defined in Appendix C of this Contract. All reported expenditures must reconcile to the program accounting records and the approved budget. Prior period adjustments shall be reported in the same accounting period that the correction is made.

5. The Contractor's request for travel, meals or lodging reimbursement shall be in accordance with Appendix B, Budget, and, unless written authorization has been received from DHSES, shall not exceed rates authorized by the NYS Office Of State Comptroller (Audit and Control). Rates may be viewed online at: <http://www.osc.state.ny.us/agencies/travel/travel.htm>.

6. The Contractor's employment of a consultant must be supported by a written Contract executed by the Contractor and the consultant. A consultant is defined as an individual or organization hired by the Contractor for the stated purpose of accomplishing a specific task relative to the funded project. All consultant services must be obtained in a manner that provides for fair and open competition. The Contractor shall retain copies of all solicitations seeking a consultant, written Contracts and documentation justifying the cost and selection of the consultant, and make them available to DHSES upon request. The Contractor further agrees that it shall assume sole and complete responsibility for fulfilling all the obligations set forth in the Contract and the Contractor must guarantee the work of the consultant as if it were its own. Failure to follow these guidelines may result in a disallowance of costs.

7. Additionally, Contractor must adhere to the following guidelines at a minimum when making all procurements, including consultant services. Failure to follow these guidelines may result in a disallowance of costs.

a. A Contractor who proposes to purchase goods or services from a particular vendor without competitive bidding must obtain the prior written approval of DHSES. 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 Office of the State Comptroller, State Procurement Council, and the U.S. Department of Homeland Security. A copy of DHSES' approval must also be submitted with the voucher for payment.

b. The rate for consultant services, and cost of equipment or goods, shall be reasonable and consistent with the amount paid for similar services or goods and equipment in the marketplace. Time and effort reports are required for consultants.

c. Written justification and documentation for all procurements must be maintained on file, and made available to DHSES upon request. 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 responsible bidder or best value).

d. A Contractor that is a State entity must make all procurements in accordance with State Finance Law Article 11 and any other applicable regulations.

e. A Contractor that is a local government must make all procurements in accordance with General Municipal Law Article 5-A, and any other applicable regulations.

f. A Contractor that is a not-for-profit and all other entities that do not meet the descriptions in Section III(S)(7)(d) or (e) herein must make all procurements as noted below:

i. If the Contractor is eligible to purchase an item or service from a government contract or is able to purchase such item or service elsewhere at a lower than or equal price, then such purchase may be made immediately.

ii. A Contractor may purchase any single piece of equipment, single service or multiples of each that cost up to \$999 at its discretion.

iii. Before purchasing any piece of equipment, service or multiples of each that have an aggregate cost between \$1,000 and \$4,999, a Contractor must secure at least three telephone quotes and create a record for audit of such quotes.

iv. Before purchasing any piece of equipment, service or multiples of each that have an aggregate cost of between \$5,000 and \$9,999, the Contractor must secure at least three written quotes on a vendor's stationery and maintain a record of the competitive procurement process for audit purposes.

v. A Contractor spending in aggregate of \$10,000 and above must use a competitive bidding process. Guidance may be obtained from DHSES. 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.

g. Acceptance of State support for interoperable and emergency communications projects, including funding through the Interoperable Emergency Communication Grant Program, requires that Contractors must use open-standard/vendor-neutral technologies to allow for other public safety/public service agencies (including State agencies and authorities) and jurisdictions in your region to operate on your radio system(s) when required, regardless of the total percentage of system funding from the State. This access for other agencies must be permitted to support operational and interoperable goals, and without restriction as to specific manufacturers' subscriber equipment. All reasonably compatible subscriber equipment must be permitted to be operated on your system by outside agencies, thus allowing coordinated efforts between local and state public safety/public service agencies and maximizing resources and capabilities.

h. DHSES reserves the right to suspend program funds if the Contractor is found to be in noncompliance with the provisions of this Contract or other grant Contracts between the Contractor and DHSES or, if the Contractor or principals of the Contractor are under investigation by a New York State or local law enforcement agency for noncompliance with State or federal laws or regulatory provisions or, if in DHSES' judgment, the services provided by the Contractor under the Contract are unsatisfactory or untimely.

i. DHSES shall provide the Contractor with written notice of noncompliance.

ii. Upon the Contractor's failure to correct or comply with the written notice by DHSES, DHSES reserves the right to terminate this Contract, recoup funds and recover any assets purchased with the proceeds of this Contract.

i. DHSES reserves the right to use approved grant related expenditures to offset disallowed expenditures from any grant funded through its offices upon appropriate notification to the Contractor, or upon reasonable assurance that the Contractor is not in compliance with these terms.

j. As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of 'persons' who are engaged in 'investment activities in Iran' (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act's effective date, at which time it will be posted on the OGS website.

i. By entering into this Contract, Contractor (or any assignee) 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>.

ii. 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.

iii. During the term of the Contract, should DHSES 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.

iv. DHSES 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.

V. FEDERALLY FUNDED GRANT REQUIREMENTS

A. Hatch Act. The Contractor agrees, as a material condition of the Contract, to comply with all applicable provisions of the Hatch Act (5 U.S.C. 1501 et seq.), as amended.

B. Requirement for System of Award Management: Unless you are exempted from this requirement under 2 CFR 25.110, you as the subrecipient must maintain the currency of your information in the System of Award Management (SAM) until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term. Pursuant to section 2 CFR §200.210(a)(2), Contractors must maintain a current unique entity identifier prior to and during the life of the Contract.

C. In accordance with 2 CFR §§200.112 and 200.113, Contractor understands and agrees that it must: (1) disclose in writing any potential conflict of interest to DHSES; and (2) disclose, in a timely manner, in writing to DHSES all violations of federal and state criminal law involving fraud, bribery, or gratuity violations potentially affecting the grant award. Failure to make

required disclosures can result in any remedy available to DHSES for Contractor's noncompliance, including suspension or debarment.

D. The Contractor must ensure that, for all contracts entered into by the Contractor, the contract provisions required by 2 CFR §200.326 (and Appendix II to 2 CFR Part 200) are included in such contracts. The Contractor further agrees to impose and enforce this requirement for any Contractor subaward agreements.

E. Where advance payments are approved by DHSES, the Contractor agrees to expend the advance payments in accordance with the purposes set forth in Appendix D and consistent with Appendix B. The advanced funds must be placed in an interest-bearing account and are subject to the rules outlined in 2 CFR Part 200, (Uniform Administrative Requirements for Grants and Cooperative Contracts to State and Local Governments) which require Contractors to promptly remit back to the federal government, through New York State Division of Homeland Security and Emergency Services, any interest earned on these advanced funds. The Contractor may keep interest earned up to \$500 per federal fiscal year for administrative expenses. This maximum limit is not per award; it is inclusive of all interest earned as the result of all federal grant program funds received per year. Interest must be reported on Fiscal Cost Reports and remitted to DHSES quarterly.

F. Audit Requirements. This Contract, and any sub-awards resulting from this Contract, may be subject to fiscal and program audits by DHSES, NYS Office of State Comptroller, pertinent federal agencies, and other designated entities to ascertain financial compliance with federal and/or State laws, regulations, and guidelines applicable to this Contract. The Contractor shall meet all audit requirements of the federal government and State of New York. Such audits may include review of the Contractor's accounting, financial, and reporting practices to determine compliance with the Contract and reporting requirements; maintenance of accurate and reliable original accounting records in accordance with governmental accounting standards as well as generally accepted accounting principles; and specific compliance with allowable cost and expenditure documentation standards prescribed by applicable federal, State, and DHSES guidelines.

G. Equipment Markings. The Contractor further agrees that, when practicable, any equipment purchased with grant funding shall be prominently marked as follows: 'Purchased with funds provided by the U.S. Department of Homeland Security.'

H. Administrative, Cost and Audit Requirements: The Contractor must comply with the most recent version of the Administrative Requirements, Cost Principles, and Audit requirements. Failure to do so may result in disallowance of costs upon audit. A list of regulations and guidance applicable to United States Department of Homeland Security (DHS) grants are listed below:

1. General Administrative Requirements:

a. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

2. Cost Principles:

a. 2 CFR Part 200, Subpart E

3. Audit Requirements:

a. 2 CFR Part 200, Subpart F

I. Contracting with small and minority firms, women's business enterprise and labor surplus area firms.

1. Consistent with 2 CFR §200.321, the grantee and any subgrantees will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

2. Affirmative steps must include:

- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
- e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- f. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in subsections (2)(a) through (e) of this section.

J. Compliance with Laws, Regulations and Program Guidance. The Contractor shall ensure it is aware of and complies with

all applicable laws, regulations and program guidance. It is the responsibility of the Contractor to become familiar with and comply with all terms and conditions associated with acceptance of funds.

K. Adequate Documentation: The Contractor must ensure full compliance with all cost documentation requirements, including specific personal service documentation, as applicable directly to the Contractor, sub-recipient or collaborative agency/organization. The Contractor must maintain specific documentation as support for project related personal service expenditures as this Contract is supported by federal funds. Depending upon the nature or extent of personal service provided under this Contract, the Contractor 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 all applicable laws, regulations and program guidance. Failure to do so may result in disallowance of costs.

L. Single Audit Requirements: For audits of fiscal years beginning on or after December 26, 2014, recipients that expend \$750,000 or more from all federal funding sources during their fiscal year are required to submit an organization-wide financial and compliance audit report. The audit must be performed in accordance with the requirements of GAO's Government Auditing Standards, located at <http://www.gao.gov/govaud/ybk01.htm>, and the requirements of Subpart F of 2 C.F.R. Part 200, located at <http://www.ecfr.gov/cgi-bin/text-idx?SID=63811dc3410c008e2f8e28c325cdc09e&mc=true&node=sp2.1.200.f&rgn=div6> .

For audits of fiscal years beginning prior to December 26, 2014, recipients that expend \$500,000 or more from all federal funding sources during their fiscal year are required to submit an organization-wide financial and compliance audit report. The audit must be performed in accordance with GAO's Government Auditing Standards, located at <http://www.gao.gov/govaud/ybk01.htm>, and OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, located at https://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133_revised_2007.pdf.

The final report for such audit must be completed within nine months of the end of the Contractor's fiscal year. The Contractor must provide one copy of such audit report to DHSES within nine (9) months of the end of its fiscal year, or communicate in writing to DHSES that Contractor is exempt from such requirement.

M. Program Income: Program income earned by the Contractor during the grant funding Period must be reported in writing to DHSES, in addition to any other statutory reporting requirements. Program income consists of income earned by the grant recipient that is directly generated by a supported activity or earned as a result of the grant program. Program income includes, but is not limited to, income from fees for services performed, the use of rental or real or personal property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights and interest on loans made with federal award funds. For example, if the purpose of a grant is to conduct conferences, any training fees that are generated would be considered program income. Interest earned on grant funds is not considered program income unless specified in Appendix D. The Contractor agrees to report the receipt and expenditures of grant program income to DHSES. Program income (not to include interest earned), generated by the use of these grant funds will be used to enhance the grant project.

N. Intellectual Property: Any creative or literary work developed or commissioned by the Contractor with grant support provided by DHSES shall become the property of DHSES, entitling DHSES to assert a copyright therein, unless the parties have expressly agreed otherwise in a written instrument signed by them.

1. If DHSES shares its right to copyright such work with the Contractor, DHSES 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, sub-grant, or contract under a grant or sub-grant; and (b) any rights of copyright to which a Contractor, sub-Contractor, or a contractor purchases ownership with grant support.

2. If the grant support provided by DHSES 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, sub-grant or contract under a grant or sub-grant; and (b) any rights of copyright to which a Contractor, sub-Contractor, or a contractor purchases ownership with such grant support.

3. The Contractor shall submit one copy of all reports and publications resulting from this Contract to DHSES within thirty (30) calendar days of completion. Any document generated pursuant to this grant must contain the following language:

'This project was supported by a grant administered by the New York State Division of Homeland Security and Emergency Services and the U.S. Department of Homeland Security. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the New York State Division of Homeland Security and Emergency Services or the U.S. Department of Homeland Security.'

O. Accounting for Grant Expenditures:

1. Grant funds may be expended only for purposes and activities set forth in this Contract. Accordingly, the most important single requirement of accounting for this grant is the complete and accurate documentation of grant expenditures. If the

Contractor 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.).

2. Contractor agrees that 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.

3. None of the goals, objectives or tasks, as set forth in Appendix D, shall be sub-awarded to another organization without specific prior written approval by DHSES. Where the intention to make sub-awards is clearly indicated in the application, DHSES approval is deemed given, if these activities are funded, as proposed.

4. If this Contract makes provisions for the Contractor to sub-grant funds to other recipients, the Contractor agrees that all sub-Contractors shall be held accountable by the Contractor for all terms and conditions set forth in this Contract in its entirety. The Contractor further agrees that it shall assume sole and complete responsibility for fulfilling all the obligations set forth in the Contract and the Contractor must guarantee the work of any sub-Contractor as if it were its own.

5. The Contractor agrees that all sub-Contractor 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 Contract;
- Appendix A-1, Appendix C, Certified Assurances for Federally Supported Projects, Certification Regarding Lobbying, Debarment and Suspension and any special conditions set forth in the Contract;
- Applicable federal and/or State cost principles to be used in determining allowable costs; and
- Property Records or Equipment Inventory Reports.

P. The Contractor will not be reimbursed for sub-granted funds unless all expenditures by a sub-Contractor are listed on detailed itemization forms or a form deemed acceptable to DHSES. Backup documentation for such expenditures must be made available to DHSES upon request. All expenditures must be programmatically consistent with the goals and objectives of this Contract and with the Budget set forth in Appendix B.

Q. Space rental provided by this Contract must be supported by a written lease, maintained on file and made available by the Contractor upon request.

R. Equipment and Property:

1. Any equipment, furniture or supplies or other property purchased pursuant to this Contract is deemed to be the property of the State, except as may otherwise be governed by federal or State laws, rules or regulations or stated in this Contract.

2. Equipment means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A Contractor may use its own definition of equipment provided that such definition would at least include all equipment defined above. A copy of the property record(s) or equipment inventory report(s) with relevant purchasing and supporting documentation must be made available to DHSES upon request. Property records or equipment inventory reports must be maintained, by award, that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property. The Contractor must document receipt of all applicable equipment purchased with grant funds. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two (2) years.

3. Upon completion of all contractual requirements by the Contractor, DHSES will consider a request for continued use and possession of the equipment purchased with grant funds provided the equipment continues to be used in connection with a public security program. When disposing of equipment purchased with homeland security grant funding, a State agency must dispose of equipment in accordance with State Laws and procedures. All other Contractors shall dispose of equipment as follows:

a. Items of equipment with a current per unit market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.

b. Items of equipment with a current per unit fair market value of \$5,000 or more may be retained or sold. If sold, the awarding agency shall have a right to an amount calculated by multiplying the proceeds from the sale by the awarding

agency's share of the equipment. If retained, the current market value is to be used in the calculation. To remit payments, award recipients should contact DHSES at 1-866-837-9133 for guidance.

4. Upon completion of all contractual requirements by the Contractor under this Contract, DHSES shall accept a request for continued use and possession of the equipment purchased with grant funds providing the equipment continues to be used in accordance with the contracted activities and guidelines in this Contract.

5. The Contractor must conduct a physical inventory of property records at least once every two years to verify the existence, current utilization and continued need for the property. In the event the property is no longer required by the Contractor, this fact should be reported to DHSES as soon as possible and appropriate guidelines followed, as specified in this Appendix.

6. If Contractor disposes of any equipment purchased under this Contract during the active lifespan of said equipment, Contractor must reinvest any proceeds from the disposal into additional equipment items to continue Contractor's organization's activities subject to the guidelines of this Contract. If the Contractor does not reinvest proceeds to continue activities subject to this Contract, the percentage of the proceeds equal to the proportion of the original purchase price paid by funds for the Contract must be repaid to the State of New York.

ENDNOTES:

¹ To the extent that Section V-Federally Funding Grant Requirements conflict with any other provisions of the Contract, the Federal requirements of Section V shall supersede all other provisions of the Contract.

² 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.

³ A milestone/performance payment schedule identifies mutually agreed-to payment amounts based on meeting contract events or milestones. Events or milestones must represent integral and meaningful aspects of contract performance and should signify true progress in completing the Contract effort.

⁴ Fee for Service is a rate established by the Contractor for a service or services rendered.

⁵ Rate based agreements are those agreements in which payment is premised upon a specific established rate per unit.

⁶ Scheduled Reimbursement agreements provide for payments that occur at defined and regular intervals that provide for a specified dollar amount to be paid to the Contractor at the beginning of each payment period (i.e. quarterly, monthly or bi-annually). While these payments are related to the particular services and outcomes defined in the Contract, they are not dependent upon particular services or expenses in any one payment period and provide the Contractor with a defined and regular payment over the life of the contract.

⁷ Fifth Quarter Payments occur 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.

⁸ Not applicable to not-for-profit entities

VER 07/15

Certified by - on

Award Contract

Project No.

PS18-1031-D00

Grantee Name

Oneida County

09/07/2018

Budget Summary by Participant

Oneida County

Oneida County Emergency Services - Version 1

#	Personnel	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	911 Dispatchers- Personnel for PSAP Operations (4 911 Dispatchers @ \$46,785.25 each)	1	\$187,141.00	\$187,141.00	\$187,141.00	\$0.00
Total				\$187,141.00	\$187,141.00	\$0.00

Total Project Costs	Total Cost	Grant Funds	Matching Funds
	\$187,141.00	\$187,141.00	\$0.00

Total Contract Costs	Total Cost	Grant Funds	Matching Funds
	\$187,141.00	\$187,141.00	\$0.00

Award Contract**Project No.**

PS18-1031-D00

Grantee Name

Oneida County

09/07/2018

APPENDIX C

PAYMENT AND REPORTING SCHEDULE

For All Contractors:

I. PAYMENT PROVISIONS

1. In full consideration of contract services to be performed, DHSES 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. Payment and Recoupment Language

1. Contractor shall provide complete and accurate vouchers to DHSES in order to receive payment. Vouchers submitted to DHSES must contain all information and supporting documentation required by the Agreement, DHSES and the State Comptroller. Payment for vouchers submitted by the Contractor shall only be rendered electronically, unless a paper check is expressly authorized by the Director of DHSES, at the Director's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with the 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, by email at epunit@osc.state.ny.us, or by telephone at (518) 474-4032. Contractor acknowledges that it will not receive payment on any vouchers submitted under this Agreement if it does not comply with the State Comptroller's electronic payment procedures, except where the Director has expressly authorized payment by paper check as set forth above.

2. The Contractor agrees that this is a reimbursement-based contract; an advance may be provided as specified in Appendix D. All requests for reimbursement must reflect actual costs that have been disbursed by the Contractor. Items or services not received are not eligible for reimbursement.

Reimbursement requests need to include the following documents:

- Signed Voucher and Fiscal Cost Report
- Detailed Itemization Forms or other forms deemed acceptable by DHSES of any budgeted category for which reimbursement is requested
- Written documentation of all required DHSES approvals, as appropriate

3. Vouchers shall be submitted in a format acceptable to DHSES and the Office of the State Comptroller. 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. 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 Contractor for this program.

B. Interim and/or Final Claims for Reimbursement

1. Contractors 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. Final vouchers, reimbursement requests and reports must be submitted within 30 days of the end of the grant contract period. Failure to voucher within this period may result in the loss of grant funds. The Contractor must also refund all unexpended advances and interest earned over \$500 on the advanced funds pursuant to 2 CFR Part 200, §200.305(b)(9). Property Records or Equipment Inventory Reports as defined in Appendix A-1, Section V, Paragraph R, must be available at the conclusion of the contract period and submitted to DHSES upon request.

2. If at the end of this contract there remain any monies (advanced or interest earned over \$500 on the advanced funds) associated with this contract in the possession of the Contractor, the Contractor shall submit a check or money order for that amount payable to the order of the New York State Division of Homeland Security and Emergency Services. Remit the check along with the final fiscal cost report within 30 days of termination of this grant contract to:

NYS Division of Homeland Security and Emergency Services
 Federal Fiscal Unit
 State Campus - Building 7A
 1220 Washington Avenue
 Albany, NY 12242

3. For purposes of prompt payment provisions, the Designated Payment Office for the processing of all vouchers is the Contract Unit of DHSES. 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 Contractor must notify the Federal Fiscal Unit 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, vouchers will not be eligible for prompt payment.

4. Timely and properly completed New York State vouchers, with supporting documentation when required, shall be submitted to:

NYS Division of Homeland Security and Emergency Services
 Attention: Contracts Unit
 State Office Building Campus – Bldg. 7A
 1220 Washington Avenue, Suite 610
 Albany, NY 12242

II. REPORTING PROVISIONS

A. Required Reports:

Narrative/Qualitative Report (Progress Report)

The Contractor will submit, on a quarterly basis, not later than 30 days from the end of the quarter, the report described in Section III(G)(2)(a)(i) of Appendix A-1 of the Contract.

Expenditure Report (Fiscal Cost Report)

The Contractor will submit, on a quarterly basis, not later than 30 days after the end date for which reimbursement is being claimed, the report described in Section III, Paragraph G(2)(a)(iii) of the Appendix A-1 of the Contract.

Final Report

The Contractor will submit the final report as described in Section III, Paragraph G(2)(a)(iv) of Appendix A-1 of the Contract, no later than 30 days after the end of the contract period.

1. Fiscal cost reports must be submitted showing grant expenditures. They must also show the amount of interest earned to date on any advanced funds.

All submitted vouchers will reflect the Contractor's actual expenditures and will be accompanied by supporting detailed itemization forms or a form deemed acceptable to DHSES for personal service, fringe benefit and non-personal service expenditures or other documentation as required, and by a fiscal cost report for the reporting period. In the event that any expenditure for which the Contractor has been reimbursed by grant funds is subsequently disallowed, DHSES, in its sole discretion, may reduce the voucher payment by the amount disallowed. If necessary, the Contractor may be required to submit a final budget reallocation.

DHSES reserves the right not to release subsequent grant awards pending Contractor compliance with this Agreement.

2. The Contractor will submit program progress reports and one final report to DHSES on a prescribed form provided by DHSES as well as any additional information or amended data as required.

Progress reports will be due within 30 days of the last day of each calendar quarter or on an alternate schedule as prescribed in Appendix D. Progress reports will be due within 30 days of the last day of the calendar quarter from the start date of the program and the final report will be due upon completion of the project or termination of this Agreement. Calendar quarters, for the purposes of making program progress reports, shall be as follows:

Calendar Quarter: January 1 - March 31 -- Report Due: April 30
 Calendar Quarter: April 1 - June 30 -- Report Due: July 30
 Calendar Quarter: July 1 - September 30 -- Report Due: October 30
 Calendar Quarter: October 1 - December 31 -- Report Due: January 30

The final report, or where applicable interim progress reports, will summarize the project's achievements as well as describe activities for that quarter.

Rev. 07/2015

Certified by - on

Award Contract**Project No.**

PS18-1031-D00

Grantee Name

Oneida County

09/07/2018

Work Plan**Goal**

Facilitate the operation of public safety communications to support statewide interoperable communications for first responders.

Objective #1

G & T Workplan Code - 14. Develop/enhance interoperable communications system.

Investment Justification - Not Applicable

NYS Critical Capability

Primary - Not Applicable

To facilitate PSAP consolidation, regional initiatives related to 911 operations, implementation of NG-911, improvements in operations of public safety communications; develop multi-jurisdictional PSAP compatibility throughout the state and support statewide interoperable communications for first responders, thus improving safety of the public.

Task #1 for Objective #1

Conduct allowable PSAP operations activities.

Performance Measure

- 1 PSAP operations activities conducted. Provide brief narrative reporting activities completed and describe how the project enhanced interoperable capabilities in the jurisdiction.

Objective #2

G & T Workplan Code - Not Applicable

Investment Justification - Not Applicable

NYS Critical Capability

Primary - Not Applicable

To implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (MWBE Regulations) by providing meaningful participation by NYS Certified MWBEs, as defined as subcontractors or suppliers.

Task #1 for Objective #2

Provide equal employment opportunities for minority group members and women (EEO).

Performance Measure

- 1 DHSES Local Assistance MWBE Equal Employment Opportunity Staffing Plan form submitted.

Task #2 for Objective #2

Provide contracting opportunities for NYS certified minorities and women-owned business enterprises (MWBEs). Submit Local Assistance MWBE Subcontractor/Supplier Utilization Form to DHSES.

Performance Measure

- 1 Local Assistance MWBE Subcontractor/Supplier Utilization Form submitted. Expend 15% of the identified contracted NPS discretionary amount as identified on the most recent approved MWBE Utilization Form with NYS Certified MBEs, as subcontractors/suppliers.

- 2 Local Assistance MWBE Subcontractor/Supplier Utilization Form submitted. Expend 15% of the identified contracted NPS discretionary amount as identified on the most recent approved MWBE Utilization Form with NYS Certified WBEs, as subcontractors/suppliers.

Task #3 for Objective #2

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 Document, retain, and provide upon request, the good faith efforts identified on the utilization plan to meet the established MWBE goals.

Award Contract**Project No.**

PS18-1031-D00

Grantee Name

Oneida County

09/07/2018

Special Conditions

The subrecipient shall use the funds provided pursuant to this Agreement to carry out the Work Plan described in this Appendix D. Any services in this contract awarded by the Division of Homeland Security and Emergency Services (DHSES) Office of Interoperable and Emergency Communications (OIEC) to the subrecipient based on the subrecipient's submission of an Application Proposal in response to a Request for Applications (RFA) shall be subject to the terms and conditions in both the Subrecipient's Application Proposal and the RFA, incorporated herein by reference, which shall apply as if fully stated herein.

This Program Work Plan shall not be modified without approval from the DHSES. If modification to this Program Work Plan is necessary, the subrecipient must submit a written request to DHSES OIEC and await DHSES OIEC approval before implementing such changes. If changes in the Work Plan are made without DHSES OIEC's prior approval, DHSES OIEC reserves the right, in its sole discretion, to disallow reimbursement for the modifications, reduce the amount payable to the subrecipient, terminate this Agreement, or take any other action deemed necessary.

A. Permissible Use of Funding

1. Public Safety Answering Points (PSAP) grant funds must be used in accordance with the guidelines set forth in the PSAP Request for Applications, which can be located at <http://www.dhSES.ny.gov/oiec/grants/>.
2. Any unused funds will be reprogrammed pursuant to a plan approved by the Division of Homeland Security and Emergency Services, Office of Interoperable and Emergency Communications.
3. The project must commence no later than 180 days after successful approval of the contract by the New York State Office of the Comptroller.

B. Record Requirements

1. Subrecipients shall keep an agenda and meeting minutes on file for all meetings conducted regarding PSAP funded activities.
2. Any documents produced as a result of these meetings such as plans, schedules, or procedures, will also be kept on file and be made available to DHSES, upon request.

C. Equipment Purchases

1. Equipment purchased with grant funds must fall within the allowable equipment categories as listed in the PSAP Request for Applications, which can be located at <http://www.dhSES.ny.gov/oiec/grants/>.
2. Subrecipients are responsible to request a determination of eligibility from the Office of Interoperable and Emergency Communications for any item in question. Unless otherwise stated in the program guidance, equipment must meet all mandatory regulatory and/or DHS adopted standards to be eligible for purchase using PSAP funds.
3. The New York State Communication Interoperability Plan (SCIP), as well as DHSES/OIEC Grant Guidance for grant funding, requires that all interoperable communications equipment employ the use of APCO P-25 compliant equipment; a recommended technology to achieve emergency interoperable communications.
4. Acceptance of State support for interoperable and emergency communications projects, including funding through the Public Safety Answering Points (PSAP) grant, requires that subrecipients must use open standard/vendor neutral technologies to allow for other public safety/public service agencies (including State agencies and authorities) and jurisdictions in your region to operate on your radio system(s) when required, regardless of the total percentage of system funding from the State. This access for other agencies must be permitted to support operational and interoperable goals, and without restriction as to specific manufacturers' subscriber equipment. All reasonably compatible subscriber equipment must be permitted to be operated on your system by outside agencies, thus allowing coordinated efforts between local and state public safety/public service agencies and maximizing resources and capabilities.

D. Training & Exercise Related Activities

1. Any training courses to be supported by this award must be on equipment contained in the approved application. Subrecipients are responsible to request a determination of eligibility from the Office of Interoperable and Emergency Communications for any training in question.
2. Subrecipients are required to be NIMS compliant. DHSES/OIEC requires that Subrecipients contact their county point of contact to determine how the particular county requires reporting. Subrecipients are expected to provide DHSES upon request any data required for annual NIMS certification.

E. Planning, Administration and Deployment Costs

1. Services relating to developing, designing and implementing interoperability plans and network system development must be consistent with awarded applications.
2. Permissible costs are limited to costs associated with the development and deployment of public safety communications systems, networks, technology or facilities whose purpose is to provide the sharing of voice, data and video transmissions; dispatch and incident management involving two or more organizations or jurisdictions and in accordance with approved interoperability plans operating standards.

F. Law Enforcement Requirements

1. Subrecipients agree that such funding shall leverage a regional approach to support multi jurisdictional (two or more counties) and multi discipline (e.g., law enforcement, fire service, emergency medical, emergency management, public health, public works and communication centers) public safety communications.
2. Particular attention must be paid to equipment and technology acquisitions, and, where similar technology already exists in the State's law enforcement communities, subrecipients will ensure that interoperability between and among existing law enforcement systems is accomplished.
3. Acceptance of the PSAP funding indicates your acknowledgement that State agencies/authorities and other jurisdictions are permitted on your radio system for the coordination and provision of State assistance. Failure to comply with this requirement may result in a disallowance of costs and jeopardize future funding opportunities.

G. SEQRA and EHP Requirements

1. Subrecipients shall ensure compliance with the State Environmental Quality Review Act of 1975, as amended, and all other local environmental and historic preservation requirements, in the planning and execution of all projects under this grant. Please contact the New York State Division of Environmental Conservation, or visit <http://www.dec.ny.gov/permits/357.html>, for additional information.
2. If federal dollars will be used to fund any part of the projects under this Contract, subrecipients are further required to comply with all applicable federal environmental and historic preservation (EHP) requirements and shall provide any information requested by FEMA to ensure compliance with applicable laws including: National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, and Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898).
3. Failure of subrecipients to meet federal, State, and local EHP requirements and obtain applicable permits may jeopardize funding. Subrecipients shall not undertake any project having the potential to impact EHP resources without the prior approval of FEMA, including but not limited to communications towers, physical security enhancements, new construction, and modifications to buildings that are 50 years old or greater. Subrecipients must comply with all conditions placed on the project as the result of the EHP review.
4. Any change to the approved project scope of work will require re-evaluation for compliance with these EHP requirements.
5. If ground disturbing activities occur during project implementation, subrecipients must ensure monitoring of ground disturbance and if any potential archeological resources are discovered, such subrecipient will immediately cease construction in that area and notify FEMA and the New York State Office of Parks, Recreation and Historic Preservation (OPRHP).

H. Equipment Maintenance Requirements

1. Subrecipients must track grant funds used for maintenance contracts, warranties, repair or replacement costs and upgrades, and report such expenditures in fiscal and program reports.

I. New York State Emergency Management Certification and Training Program

1. Participation in, and successful completion of, the New York State Emergency Management Certification and Training Program (EMC Training Program) is a mandatory requirement under this Contract and a condition of funding. The EMC Training Program will be made available to, and required for, DHSES specified county and city government officials in order to ensure a consistent emergency management preparedness and response strategy across the State. Attendee substitutions, except as expressly approved by DHSES, shall not be permitted or deemed to be in compliance with this requirement.
2. To fulfill the EMC Training Program requirement of the Contract and in order to be eligible for funding under this Contract, subrecipients must arrange for DHSES specified subrecipient employees to receive and acknowledge receipt of EMC Training no later than 180 days after execution of this Contract. Copies of the training certificates for each required participant must be submitted to DHSES upon execution of the Contract, or, in the event that training is scheduled, but not yet complete, the subrecipient will be required to submit a signed statement indicating the scheduled future dates of attendance, and no later than thirty (30) days after the training is complete, forward such training certificates to DHSES. Continued compliance with the EMC Training Program also requires an annual refresher training of one day per 365 day cycle from the date of initial training for previously trained individuals if such person remains employed by the subrecipient and fulfilling the same functions as he or she fulfilled during the initial training. Should a new employee be designated to serve in the DHSES specified positions, then he or she must come into compliance with the EMC Training Program requirements not later than 180 days after taking office.
3. Subrecipients must commit to active participation in a DHSES Annual Capabilities Assessment as a condition of funding. Active participation includes making reasonable staff, records, information, and time resources available to DHSES to perform the Annual Capabilities Assessment and meet the objectives and goals of the program. Subrecipients must be aware that the process of conducting a DHSES Annual Risk Assessment is an ongoing process and requires a continued commitment on the part of the subrecipient to ensure that it is effective.
4. All subrecipients funded through this program agree to provide DHSES, upon request at any time during the life of the grant contract, such cooperation and information deemed necessary by DHSES to ascertain: (1) the nature and extent of any threats or hazards that may pose a risk to the subrecipient; and (2) the status of any corresponding subrecipient plans, capabilities, or other resources for preventing, protecting against, mitigating, responding to, and recovering from such threats or hazards.
5. Additionally, pursuant to Article 26 of the NYS Executive law, DHSES is authorized to undertake periodic drills and simulations designed to assess and prepare responses to terrorist acts or threats and other natural and man made disasters. Funded subrecipients agree to attend and participate in any DHSES sponsored conferences, training, workshops or meetings (excluding those identified by DHSES as voluntary) that may be conducted, by and at the request of DHSES, during the life of the grant contract.
6. Failure to comply with any of the requirements, as listed above, may result in sanctions up to and including the immediate suspension and/or revocation of the grant award.

Griffiss International Airport



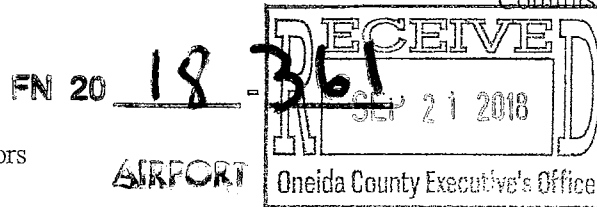
660 Hangar Road, Suite 223
Rome, NY 13441
Telephone: 315-736-4171 / Fax: 315-736-0568

ANTHONY J. PICENTE, JR.
County Executive

CHAD LAWRENCE
Commissioner of Aviation

August 14, 2018

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



Dear Honorable Members:

WAYS & MEANS

On March 14, 2017, a snow storm fell in Upstate New York, known as "Storm Stella". New York State issued a statewide State of Emergency, and hundreds of Local Governments issued local State of Emergency, including Oneida County.

Griffiss International Airport met with Federal Emergency Management Agency (FEMA) for snow assistance eligibility. FEMA determined Griffiss International Airport eligible for \$105,104.00. Those monies have been received and we wish to use them to fix, repair, and replace equipment to prepare for this winter.

I therefore request your Board approval for the following **2018** Supplemental Appropriation:


TO:

AA# A5620.211	Department of Aviation – Office Furnishings.....	\$10,000.00
AA# A5620.251	Department of Aviation – Automotive Equipment.....	\$30,000.00
AA# A5620.295	Department of Aviation - Other Equipment.....	\$55,104.00
AA# A5620.452	Department of Aviation - Automotive Repairs.....	\$10,000.00

This supplemental appropriation will be fully supported by:

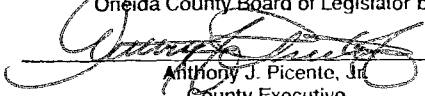
RA# A4303	Department of Aviation – FEMA.....	\$105,104.00
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Respectfully submitted,

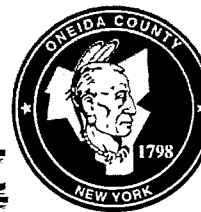

Chad Lawrence
Commissioner of Aviation

CC: County Attorney,
Comptroller
Budget
Commissioner of Aviation

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


Anthony J. Picente, Jr.
County Executive

Date 9-24-18



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

CHAD LAWRENCE
Commissioner

September 21, 2018

FN 20 18-362

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

AIRPORT

WAYS & MEANS

Re: NYSDOT Grant PIN2905.75
Nose Dock 782 Construction

Dear County Executive Picente,

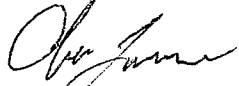
Please consider acceptance of a grant offer from NYSDOT in the amount of \$1,500,000. The grant will be used to convert the 28,000 square feet of hangar space located at Nose Dock 782 to classroom and training space for MVCC's Airframe & Power Plant (A&P) school. The total cost of the project is \$2,504,000. NY State share \$1,500,000 MVCC share \$500,000, and Oneida County share \$504,000.

The project generally includes the reconstruction of approximately 28,000 square feet of hangar space to classroom and training space.

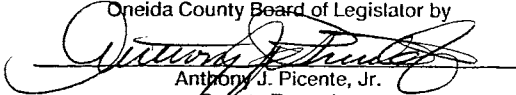
We have received a New York State Department of Transportation grant to complete this work. Capital Account # H-580.

If you concur, please sign and send back to the Department of Aviation for distribution.

Thank you for your assistance in this matter.


Chad Lawrence
Commissioner of Aviation

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


Anthony J. Picente, Jr.
County Executive

Date 10-2-18

dmn/cl

Oneida Co. Department: Aviation

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

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor:

NYS DOT Aviation Bureau
50 Wolf Road P.O.D. 5-4
Albany, NY 12232

Title of Activity or Service:

Grant Agreement for Nose Dock 782
Rehabilitation in the amount of
\$1,500,000

Proposed Dates of Operation:

Client Population/Number to be Served: N/A

Summary Statements

1) Narrative Description of Proposed Services:

This is a Grant Agreement from the NYS DOT for the purpose of converting 28,000 square feet of hangar space into classroom and training space for MVCC's A&P school at Griffiss International Airport. The Grant is in the amount of \$1,500,000.00.

2) Program/Service Objectives and Outcomes:

Accomplishment of the classroom and training space for MVCC's A&P school.

3) Program Design and Staffing: N/A

Total Funding Requested: \$2,504,000.00 Account #: H-580

Oneida County Dept. Funding Recommendation:

Proposed Funding Sources (State \$/MVCC \$ /County \$): State - \$1,500,000.00/MVCC - \$400,000.00/County - \$604,000.00

O.C. Department Staff Comments:

AVIATION PROJECT FUNDING AGREEMENT

This Agreement is by and between:

the New York State Department of Transportation ("NYSDOT"), having its principal office at 50 Wolf Road, Albany, NY 12232, on behalf of New York State ("State");

and

the County of Oneida (the "Municipality/Sponsor") with its office at Rome, NY

This Agreement covers eligible costs incurred after January 1, 2018

This agreement identifies the party responsible for administration, establishes the method and provision for funding and implementation of an aviation project pursuant to appropriation as such project is more fully described by Schedule A-1 annexed to this agreement or one or more duly-executed and approved Supplemental Schedules to this agreement. The project shall be identified for the purposes of this agreement as Convert Hangar Building to School (and Training) Space (as more specifically described in Schedule A-1, or supplemental Schedule A's, the "Project").

W I T N E S S E T H:

WHEREAS, Section 14-I of the Transportation Law authorizes the NYSDOT Commissioner to implement the Airport Improvement and Revitalization Program; and

WHEREAS, pursuant to authorizations and appropriations therefore, NYSDOT and the Sponsor are desirous of progressing the Project; and

WHEREAS, the Sponsor attests that the Project has a useful service life as stated on the Schedule A-1 included herein; and

WHEREAS, the Sponsor will administer the Project and submit to NYSDOT for funding of eligible Project costs pursuant to this Agreement; and

WHEREAS, the Legislative or governing Body of the Sponsor by Resolution No. _____ adopted at meeting held on _____ approved the Project and the terms and provisions of this Agreement and has further authorized the _____ of the Sponsor to execute this Agreement on behalf of this Sponsor (copy of such Resolution is attached to and made a part of this Agreement); and

WHEREAS, the Sponsor is not a sectarian institution,

NOW, THEREFORE, the parties agree as follows:

1. *Documents Forming this Agreement.* The agreement consists of the following:
 - Agreement: This document titled "Aviation Project Funding Agreement";
 - Schedule A-1: Description of Project and Funding;
 - Schedule B: Phases, Sub-phase/Tasks, and Allocation of Responsibility;
 - Appendix A: Standard Clauses for New York State Contracts;
 - Appendix A-1: Supplemental Title VI Provisions (Civil Rights Act);

- Appendix B: Participation By Minority And Women Owned Business Enterprises: Requirements and Procedures;
- Appendix C: Goals for Equal Employment Opportunity (EEO) Participation; and
- Resolution(s) – duly adopted municipal or, as applicable, corporate resolution(s) authorizing the appropriate official of the Sponsor to execute this Agreement on behalf of the Sponsor and appropriating the funding required therefore.

2. *General Description of Work.* The Sponsor shall procure and provide all services, materials and equipment necessary to complete the Project as more particularly described in Schedule A-1 and Scope of Work described in Schedule B.

3. *Maintenance.* Upon completion and acceptance of the Project Facilities by Sponsor, Sponsor shall certify in writing to the NYSDOT Commissioner that the Project Facilities have been completed. Upon its completion, Sponsor will operate and maintain the Project facilities as well as ancillary facilities useful or necessary to the function of said facilities, at its own expense in accordance with the requirements of the NYSDOT Commissioner for the period of time corresponding to the period of useful life for such project as determined by Section 61 of the State Finance Law. If the Sponsor intends to have the project facilities maintained by another party, any necessary maintenance contract shall be executed and submitted to NYSDOT before construction commences.

4. *Disposition of Project Facilities.* Sponsor agrees, that during the period of time during which Title to the Project Facilities paid for by the State is held by the State or in any event if funding of the State's share is from the proceeds of bonds or other obligations issued by the State or any of its public benefit corporations, such Project Facilities shall not be sold, rendered unusable, relinquished, discontinued or disposed of by Sponsor without the express written consent of the NYSDOT Commissioner having first been obtained. In the event of such approved disposition Sponsor shall either cause the purchaser or transferee to assume Sponsor's continuing obligations under this Agreement, or shall reimburse NYSDOT for the pro-rata share of the grant over the remaining useful life of the Project.

5. *Method of Performance of Work.* Sponsor agrees to undertake or cause to be undertaken and to proceed expeditiously with and complete the project as approved by the NYSDOT Commissioner and as described in the Scope of Work, and to complete or cause to be completed said work within the time limits specified in said Scope of Work. The work shall be performed by Sponsor's own forces or by contract or contracts entered into by the Sponsor in accordance with applicable law and the requirements of this Agreement. Sponsor agrees to obtain or cause to be obtained all approvals, permits and licenses necessary to progress the work, and also agrees to comply or cause to be complied with all applicable Federal, State and Local Laws which in any way impact work to be accomplished by the project.

6. *Funding of Project Costs.* State financial assistance hereunder shall be in the form of a grant as more specifically described in Schedule A-1. Sponsor shall provide its share of the cost of the Project, if any. Sponsor shall make reasonable efforts to secure federal assistance, if any, for the project.

In the event that federal assistance which was not included in the calculation of the state financial assistance becomes available to the Sponsor, the amount of the state financial assistance shall be recalculated by reducing the amount of the state financial assistance by the amount of such federal assistance, and the Sponsor shall pay to the state the amount by which the state payment actually made exceeds the state financial assistance determined by the recalculation, if any.

6.1 *Limits of Funding.* Subject to the terms of the appropriation, NYSDOT agrees to make available funds up to the amount identified as State Aid in Schedule A-1 for eligible Project costs incurred by the Sponsor in the performance of the Project, as the Project and the funding therefore is more fully described in Schedules A-1 and B. Project Costs in excess of State funds available for the work shall be the responsibility of Sponsor. Prior to start of construction, Sponsor shall certify the source and availability of funds for Project Costs which are in excess of State funds being made available under this Agreement. If the Sponsor loses funding eligibility, the State shall not be liable for any Project Costs whatsoever.

6.2 *Eligible Project Costs.* NYSDOT will fund eligible Project costs incurred by the Sponsor in connection with the work covered by this Agreement. Eligible costs shall include, but not be limited to, costs of acquisition, construction, repair, reconstruction, renovation and such other costs associated with the Project as are approved by NYSDOT as reasonable and necessary in the performance of the Project. Eligible costs shall also include salaries and wages to employees of the Sponsor who are engaged in carrying out the Project, fees to consultants and professionals retained by the Sponsor for planning and performing the Project.

6.3 In no event shall this Agreement create any obligation to the Sponsor for funding or reimbursement of any amount in excess of the lower of:

(a) the amount stated in Schedule A-1 for the State share of Project Costs; or

(b) the amount so stated in Schedule A-1 as it is made available pursuant to certificate of the Division of the Budget; and

(c) amounts described in the preceding paragraphs (a) or (b), less any duplicative funding of the same Project costs from other State sources.

6.4 *Debt Financing by Sponsor.* Grant monies shall not be used to pay for interest, issuance costs or reserves in connection with the issuance of debt by Sponsor to fund the Project, but may repay principal indebtedness incurred to fund eligible Project costs.

7. *Payments to Sponsor.* For work performed by or through the Sponsor, NYSDOT will fund or reimburse eligible Project costs either during the progress of construction or following completion of construction in accordance with NYSDOT policy and procedures.

7.1 *Progress Payments.* Sponsor may be reimbursed in progress payments, for eligible Project costs incurred by Sponsor in conformity with Schedule A-1, upon submission of a voucher by Sponsor in a form acceptable to NYSDOT.

7.2 *Final Payment.* Final payment to sponsor shall be made upon the application of Sponsor to NYSDOT, on a basis of work accomplished, upon submission of vouchers to the State, the submission of a Project Completion Report (hereinafter defined) together with such data as NYSDOT deems necessary to assure compliance with this Agreement evidencing that the work of the Project is completed.

Upon the completion of all said work by Sponsor pursuant to this Agreement, a final statement of costs shall be submitted to the State within one hundred eighty (180) days. Upon receipt of the final statement of costs by the NYSDOT Commissioner, the NYSDOT Commissioner will conduct an audit of the Sponsor project account records within one hundred eighty (180) days to determine the resources applied or used by Sponsor in fulfilling the terms of this Agreement.

7.3 *Payment Certification.* Each payment request will contain a certification by Sponsor that payment requests do not duplicate reimbursement of Project costs being funded from other sources.

In the event that any payments are made by the State to the Sponsor for costs incurred by Sponsor, which are subsequently determined to be ineligible for reimbursement under this Agreement, State may retain an amount equal to any such excess payments from any monies then or which may become due and owing to Sponsor under the Agreement, or Sponsor shall repay such amounts to State within forty-five (45) days from the date Sponsor receives notice of such determination of ineligibility.

All costs submitted by Sponsor shall be in conformity with accounting procedures acceptable to NYSDOT and shall be subject to approval by NYSDOT Commissioner, and to audit by the NYSDOT Commissioner and the State Comptroller. All requests for reimbursement shall be accompanied by appropriate supporting documentation including, but not limited, to the following: Inspector's Reports with associated invoices and receipts, Engineer's Diary, and the Engineer's recommendation(s) for payment to the Contractor.

All costs charged to the project shall be properly supported by executed payrolls or abstracts thereof, time, material and accounts payable distribution records, invoices, contracts, vouchers and/or canceled checks evidencing in proper detail the nature and propriety of the charges.

8. *Compliance.* The Sponsor understands that funding is contingent upon the Sponsor's compliance with the applicable requirements of the "Procedures for Locally Administered Federal Aid Projects" manual (available both in hard copy and through NYSDOT's web site at: <https://www.nysdot.gov/divisions/operating/opdm/local-programs-bureau/locally-administered-federal-aid-projects>), in particular the Appendices to Chapter 4 entitled Work Requirements, Record Keeping Guidelines and Consultant Selection Procedures, as such may be amended from time to time.

9. *Supplemental Agreement or Supplemental Schedule A-1.* Supplemental Agreements or Supplemental Schedules A-1 may be entered by the parties, and must be approved in the manner required for a State contract. In the event Project cost estimates increase over the amounts provided for in Schedule A-1 or one or more supplemental Schedules A-1 as may hereafter be developed by the parties hereto or Eligible Project Costs in the Comprehensive List are increased by the

legislature, no additional reimbursement shall be due to the Sponsor unless the parties enter into a Supplemental Agreement or Supplemental Schedule A-1 for reimbursement or additional Eligible Project Costs.

10. *Project Completion Report.* Sponsor shall 6 months from Project completion or final reimbursement by NYSDOT, whichever is earlier, submit a Project Completion Report to NYSDOT describing the sources and uses of all Project-related funds, including non-State funds, and the programmatic accomplishments of the Project.

11. *Records and Accounts.* Sponsor shall maintain accurate records and accounts of all financial transactions which show in detail all income and all expenditures, including but not limited to, payments for eligible Project costs. Said records shall include the amount of payment by the State, the amount of federal assistance if any received by the municipality for the project and all monies expended by the municipality for the project. Such records and accounts shall include, without limitation, property, personnel and financial records, cash receipts and disbursements journal and general subsidiary ledgers. All records and accounts shall be maintained in accordance with generally accepted accounting standards. All expenditures of the grant reimbursed monies shall be supported by invoices and/or other documentation sufficient to establish that such monies have been used in accordance with the terms of this Agreement. The NYSDOT Commissioner, Comptroller of the State of New York and any other authorized representatives of the State of New York shall have the right to examine all records and accounts relating to Sponsor's financial transactions, including the expenditure of the grant and all other funds secured and services rendered for the benefit of Sponsor in connection with the Project. Sponsor shall maintain records relating to this Agreement for not less than thirty-six (36) years after the date of completion.

12. *Ethics.* No member of Sponsor's governing body, or any member of the Board of Directors or staff, nor any member of their families shall benefit financially either directly or indirectly from the grant unless such action is necessary for the accomplishment of the Project. In such event, Sponsor shall disclose such relationship to NYSDOT and shall obtain prior written approval therefore from NYSDOT.

13. *NYSDOT Review.* NYSDOT may review the Sponsor's performance of this agreement in such manner and at such times as the Commissioner shall determine, and such review may include field visits by NYSDOT representatives to the Project and/or the offices of Sponsor. Sponsor shall at all times make available its employees, records and facilities to authorized NYSDOT representatives in connection with any such review. Such review shall be for the purpose, among other things, of ascertaining the quality and quantity of Sponsor's performance of the Project, its use and operation.

14. *Failure to Diligently Progress Project or Loss of State or Federal Participation.* If NYSDOT determines that the Sponsor has failed to diligently progress the project, or in the event the Sponsor withdraws its approval of the project, or the Sponsor suspends or delays work on the Project such that it cannot be reasonably completed, or takes other action that results in the loss of state participation and/or federal participation, including the loss of State administration of Federal aid to the Sponsor, for the costs incurred pursuant to this agreement, the Sponsor shall refund to the State all reimbursements received from or through the State. The State may offset any other State aid due to the Sponsor by such amount and apply such offset to such repayment obligation of the Sponsor.

15. *Inspection and Audit.* Sponsor shall permit the authorized representative of NYSDOT and/or the State Comptroller to inspect and audit all books, records and accounts of Sponsor pertaining to the Project under this Agreement. Sponsor shall notify NYSDOT of any audit by any governmental agency of any projects, operations or reports of Sponsor within five (5) days of receiving information relating thereto.

16. *Term of Agreement.* As to the Project and phase(s) described in Schedule(s) A-1 executed herewith, this agreement takes effect as of the date this agreement is approved by the State Comptroller. This agreement takes effect as to the Project and phase(s) established in any duly executed and approved supplemental Schedule(s) A-1 as of the date of the approval by the State Comptroller. This agreement shall remain in effect for the longer of (a) so long as State aid funding authorizations are in effect and funds are made available pursuant to the laws controlling such authorizations and availabilities; or, (b) the duration of any loan repayment obligation until such debt is retired.

However, for the purposes of calculating the period described in the preceding subdivision (a), if such funding authorizations or availabilities lapse and are not renewed, continued or reenacted, as to funds encumbered or available and to the extent of such encumbrances or availabilities, this agreement shall remain in effect for the duration of such encumbrances or availabilities. Although the liquidity of encumbrances or the availability of funds may be affected by budgetary hiatuses, a budgetary hiatus will not by itself be construed to lapse this agreement, provided any necessary appropriations or other funding authorizations therefore are eventually enacted.

17. *Contract Executory.* It is understood by and between the parties hereto that this Agreement shall be deemed executor only to the extent of the moneys available to the State and no liability on account thereof shall be incurred by the State beyond moneys available for the purpose hereof.

18. *Sponsor Liability; Indemnification.*

18.1 The Sponsor shall be responsible for all damage to person or property arising from any act or negligence performed by or on behalf of the Sponsor, its officers, agents, servants or employees, contractors, subcontractors or others in connection therewith. The Sponsor specifically agrees that its agents or employees shall possess the experience, knowledge and character necessary to qualify them individually for the particular duties they perform.

18.2 To the fullest extent permitted by law, the Sponsor shall indemnify and save harmless the State for all damages and costs arising out of any claims, suits, actions, or proceedings resulting from the negligent performance of work by or on behalf of the Sponsor its officers, agents, servants, employees contractors, subcontractors or others under this Agreement. Negligent performance of service within the meaning of this Article shall include, in addition to negligence founded upon tort, negligence based upon the Sponsor's failure to meet professional standards and resulting in obvious or patent errors in the progression of its work.

19. *Independent Contractor.* The officers and employees of the Sponsor, in accordance with the status of the Sponsor as an independent contractor, covenant and agree that they will conduct themselves consistent with such status, that they will neither hold themselves out as nor claim to be an officer or employee of the State by reason hereof, and that they will not by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the State, including, but not limited to, Workers Compensation coverage, Unemployment Insurance benefits, Social Security or Retirement membership or credit.

20. *Insurance.* Sponsor agrees to procure and maintain without direct cost to the State except as noted during the pendency of this Agreement, insurance of the kinds and in amounts hereinafter provided by insurance companies authorized to do business in the State of New York or, if Sponsor is a municipality that self-insures, an endorsement for such self-insurance covering all operations under this Agreement whether performed by it or sub-contractors. Before commencing the work, Sponsor shall furnish to NYSDOT a certificate or certificates, in a form satisfactory to NYSDOT, showing compliance with this Article, which certificate or certificates, shall provide that such insurance shall not be changed or canceled until thirty (30) days written notice has been given to NYSDOT Said insurance policies shall name the People of the State of New York, New York State, its officers, agents and employees as additional insureds thereunder. Upon written request by the State, the Sponsor shall furnish to the State a letter certifying that the State of New York, and other required insureds, have been named as additional insureds to such policy. The kinds and amounts of insurance required are as follows:

20.1 *Worker's Compensation and Disability Benefits.* Policy covering the obligations of Sponsor in accordance with the provisions of Chapter 41, Laws of 1914, as amended, known as the Worker's Compensation Law, and also by the provisions of Article 9 of the Worker's Compensation Law known as the Disability Benefits Law, and this Agreement shall be void and of no effect unless Sponsor procures such policy and maintains it until final acceptance of all work described herein;

20.2 *For construction and operating support projects,* Comprehensive General Liability Insurance insuring Sponsor and, as additional insureds, NYSDOT and its employees with respect to all operations under this Agreement by Sponsor, including such coverage any omissions and supervisory acts of the State and its employees. Policies of personal injury liability insurance of the types hereinafter specified, each with a combined single limit of \$1 million per occurrence/\$2 million aggregate for all damages arising out of personal injury, including death at any time resulting therefrom, sustained by one person in any one accident and, subject to that limit for each person, all damage arising out of bodily injury, including death at any time resulting therefrom, sustained by two or more persons in any one accident, damages arising out of injury to or destruction of property in any one accident and, subject to that limit per accident, for all damages arising out of injury to or destruction during the policy period.

20.3 *Automobile Liability and Property Damage Insurance.* Subject to the same required level of coverage set forth in §20.2 above, a policy covering the use in connection with the work covered by the Agreement of all owned, not owned and hired vehicles bearing or, under the circumstances under which they are being used required by New York State law to bear, license plates.

20.4 *Public Liability Insurance.* With respect to the operations performed, regular Contractor's Public Liability Insurance is provided for a limit of not less than \$2,000,000. Single Limit, Bodily Injury and/or Property Damage combined, for damages arising out of bodily injuries to or death of all persons in any one occurrence and for damage to or destruction of property, including the loss of use thereof, in any one occurrence.

20.5 *Protective Public Liability Insurance.* With respect to the operations performed, subcontractors provide regular Contractor's Protective Public Liability Insurance for a limit of not less than \$2,000,000 Single Limit, Bodily Injury and/or Property Damage combined, for damages arising out of bodily injuries to or death of all persons in any one occurrence and for damage to or destruction of property, including the loss of use thereof, in any one occurrence.

The insurance hereinbefore specified shall be carried until all work required to be performed under the terms of the Agreement is satisfactorily completed and formally accepted. Failure to carry or keep such insurance in force until all work is satisfactorily completed shall constitute a violation of the Agreement.

21. *Assignment or Other Disposition of Agreement.* The Sponsor agrees not to assign, transfer, convey, sublet or otherwise dispose of this Agreement or any part thereof, or of its right, title or interest therein, or its power to execute such Agreement to any person, company or corporation without previous consent in writing of the Commissioner.

22. *Procurement Standards.* Sponsor will award contracts funded pursuant to this Agreement in accordance with procurement laws applicable to Sponsor and otherwise in accordance with the requirements of this Agreement.

23. *NYSDOT Obligations.* NYSDOT's responsibilities and obligations are specified set forth in this contract, and neither NYSDOT nor any of its officers or employees shall be responsible or liable, nor shall the Sponsor assert, make, or join in any claim or demand against NYSDOT, its officers or employees, for any damages or other relief based on any alleged failure of NYSDOT, its officers or employees, to undertake or perform any act, or for undertaking or performing any act, which is not specifically required or prohibited by this contract.

24. *E-Mail Provision Notice.*

1. All notices permitted or required hereunder shall be in writing and shall be transmitted either:
 - (a) via 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.

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 Transportation

Name: Jackie Van Heusen
Title: Assistant Aviation Grants Coordinator
Address: NYSDOT Aviation Bureau
50 Wolf Road P.O.D. 5-4
Albany, NY 12232
Telephone Number: 518-485-7691
Facsimile Number: 518-457-9779
E-Mail Address: jackie.vanheusen@dot.ny.gov

[Contractor Name]

Name: Chad Lawrence
Title: Deputy Commissioner of Aviation
Address: Griffiss International Airport, 660 Hangar Road, Suite 223, Rome, NY 13441
Telephone Number: 315-736-4171
Facsimile Number: 315-736-0568
E-Mail Address: clawrence@ocgov.net

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

3. 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 receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

25. *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 <http://www.osc.state.ny.us/epay/index.htm>, by e-mail at epayments@osc.state.ny.us or by telephone at 518-474-4032. 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.

26. *Proposed Increase Clause.* Any change in this contract term, or change in scope of work not previously approved by OSC requires a contract amendment, and may require either a Contract Reporter Exemption, or a new procurement. The agency must submit a proposed amendment to OSC immediately for any such proposed change to this agreement. Scope changes requested of OSC after the fact may be denied.

27. *Compliance with Legal Requirements.* Municipality/Sponsor must comply with all applicable federal, state and local laws, rules and regulations, including but not limited to the following:

27.1 New York State Executive Law Article 15-A, Participation by Minority Group members and Women with Respect to State Contracts, including requirements relating to equal employment opportunity, and utilization goals and contracting opportunities for minority and women-owned business enterprises, without additional cost to NYSDOT.

27.1.1 *EEO Policy Statement.* Pursuant to 5 NYCRR § 142.8, a Municipality/Sponsor shall adopt an EEO policy if one is not previously adopted, as provided in Appendix B, and submit a signed copy of Appendix B to NYSDOT.

27.1.2 *M/WBE Goals.* Municipality/Sponsor must comply with all M/WBE requirements and goals stated within the provisions of Appendix B, titled "Minority and Women-Owned Business Enterprises – Equal Employment Opportunity Policy Statement."

27.1.3 *M/WBE Guidance.* Refer to the New York State Department of Transportation website and Appendix B for guidance related to M/WBE goals at:

<https://www.dot.ny.gov/main/business-center/civil-rights/>

Assigned M/WBE goals must be included in the Sponsor's proposed subcontract documents when submitted for NYSDOT approval prior to project advertisement. Any requests for a reduction or waiver of the goals must be submitted at that time so that the correct goals are included in the project advertisement. Sponsors should refer to NYSDOT's Standard Specifications Section 102-12, "D/M/WBE Utilization" for contract requirements. NYSDOT's Standard Specifications are available online at:

<https://www.dot.ny.gov/main/business-center/engineering/specifications/updated-standard-specifications-us>

27.1.4 *Good Faith Efforts.* If a Municipality/Sponsor fails to meet the M/WBE requirements set forth in Appendix B, they must demonstrate Good Faith Efforts pursuant to 5 NYCRR § 142.8. Such documentation shall include, but is not necessarily limited to: (1) Evidence of a Municipality/Sponsor's outreach to M/WBEs, and such M/WBEs' responses, (2) Copies of advertisements in appropriate general circulation, trade, and minority or women-oriented publications for participation by M/WBEs, (3) Dates of any meetings with M/WBEs, (4) Documentation of strategic, overt acts undertaken by the Municipality/Sponsor to reasonably structure the Contract scope to maximize opportunities for M/WBE participation.

27.1.5 *M/WBE Compliance Reports.* The Municipality/Sponsor shall submit electronic, monthly M/WBE compliance reports via NYSDOT's Standard Civil Rights Reporting Software (EBO), on or before the 10th day of the immediately preceding month. The Municipality/Sponsor must apply for access to EBO at the following website: <https://www.dot.ny.gov/dotapp/ebo>.

27.1.6 *Failure to Comply.* If the Municipality/Sponsor fails to monitor and administer contracts funded in whole or in part in accordance with State requirements, the Municipality/Sponsor will not be reimbursed for ineligible activities within the affected contracts. The Municipality/Sponsor must ensure that any contract it awards under this Agreement has a Minority and Women-owned Business Enterprise (M/WBE) Utilization Plan and complies with such plan. If, without prior written approval by NYSDOT, the Municipality/Sponsor's contractors and subcontractors fail to complete work for the project as proposed in the M/WBE Schedule of Utilization, NYSDOT at its discretion may (1) cancel, terminate or suspend this agreement or such portion of this agreement, or (2) assess liquidated

damages in an amount of up to 20% of the portion of the Municipality/Sponsor's contracts and subcontracts funded in whole or in part by this agreement, to which contract goals are established by NYSDOT.

28. *Equal Employment Opportunity (EEO) Requirements.* EEO goals and specifications must be included in the contract documents and project advertisement. Sponsors should refer to NYSDOT's Standard Specifications Section 102-11 Equal Opportunity Requirements for these contract requirements.

<https://www.dot.ny.gov/main/business-center/engineering/specifications/updated-standard-specifications-us>

29. *Monitoring and Reporting.* EEO participation shall be monitored by the Sponsor as the project progresses. EEO compliance shall be reported through NYSDOT's civil rights reporting software, EBO.

30. *Reporting Requirements.* The Municipality/Sponsor agrees to comply with and submit to NYSDOT in a timely manner all applicable reports required under the provisions of this Agreement and the Aviation Capital Grant Program Guidelines and in accordance with current Federal and State laws, rules, and regulations or as requested by NYSDOT. Reporting forms and schedules will be provided by NYSDOT as reporting requirements are identified.

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IN WITNESS WHEREOF, NYSDOT has caused this Agreement to be signed by its authorized representative and Sponsor has caused this instrument to be signed by its duly authorized officer, to be effective on the date first written above.

Sponsor

NYS DEPARTMENT OF TRANSPORTATION

BY: _____

TITLE: _____

DATE: _____

BY: _____
for the Commissioner of Transportation

DATE: _____
Agency Certification: In addition to the acceptance of this contract I also certify that original copies of this signature page will be attached to all other exact copies of this contract.

Sponsor ACKNOWLEDGEMENT

STATE OF NEW YORK)
COUNTY OF _____)

On this _____ day _____, 201__, before me personally came _____, to me known, who being by me duly sworn did depose and say that he/she resides at _____;

That he/she is the _____ of the **Sponsor** described in and which executed the above instrument; that he/she was authorized to execute the document on behalf of said **Sponsor** pursuant to a resolution which was duly adopted on _____ and to which a certified copy is attached and made a part hereof.

Notary Public

APPROVED:

BY: _____

For the NYS Comptroller pursuant to Section 112, State Finance Law

APPROVED AS TO FORM:

BY: _____
NYS Attorney General

APPROVED
ONEIDA COUNTY ATTORNEY
BY: *Manda M...*
ASST ONEIDA COUNTY ATTORNEY

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Aviation Project Funding Agreement - Schedule A-1

OSC Contract # K007350

Project Commencement Date 1/1/18

Project Completion Date 12/31/22

AGREEMENT PURPOSE **MAIN** Agreement **SUPPLEMENTAL** Agreement or Schedule

AGREEMENT COVERS (as shown in tables below):

Grant Agreement

PROJECT TYPE:

Capital Improvement

PROJECT IDENTIFICATION NUMBER: 2905.75

Convert the 28,000 sf of Hangar Building to Airframe and Power Plant (A&P) classroom and training space. This project will include all of the necessary space to expand the existing FAA approved A&P program. M/WBE goals for this project: 12% MBE & 18% WBE

The sponsor attests that the above Project has a useful service life of 20 years.

Estimated Expenditure Activities (Planning, Design, etc) as per original submitted application

Location: Griffiss International Airport

Owner/Operating and Maintenance Responsibility: County of Oneida

Type of Airport Organization:

- Municipality Public Authority Not-for-Profit Corporation Public Benefit Corporation
 Business Corporation Partnership Proprietorship _____

B. SUMMARY OF ELIGIBLE PROGRAM COSTS

AIR'99 FUNDING		OTHER NECESSARY FUNDING	TOTAL
GRANT	LOCAL SHARE		
\$1,500,000	\$1,000,000		\$2,500,000

Project is: (check which applies) part of an approved airport layout plan, OR
 consistent with an approved airport layout plan

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SCHEDULE B: Phases, Sub-phase/Tasks, and Allocation of Responsibility

Instructions: Identify the responsibility for each applicable Sub-phase task by entering X in either the *NYSDOT* column to allocate the task to State labor forces or a State Contract, or in the *Sponsor* column indicating non-State labor forces or a locally administered contract.

A1. Preliminary Engineering ("PE") Phase

<u>Phase/Sub-phase/Task</u>	Responsibility: <u>NYSDOT</u>	<u>Sponsor</u>
1. <u>Scoping</u> : Prepare and distribute all required project reports, including an Expanded Project Proposal (EPP) or Scoping Summary Memorandum (SSM), as appropriate.	<input type="checkbox"/>	<input type="checkbox"/>
2. Perform data collection and analysis for design, including traffic counts and forecasts, accident data, Smart Growth checklist, land use and development analysis and forecasts.	<input type="checkbox"/>	<input type="checkbox"/>
3. Smart Growth Attestation (NYSDOT ONLY).	<input type="checkbox"/>	<input type="checkbox"/>
4. <u>Preliminary Design</u> : Prepare and distribute Design Report/Design Approval Document (DAD), including environmental analysis/assessments, and other reports required to demonstrate the completion of specific design sub-phases or tasks and/or to secure the approval/authorization to proceed.	<input type="checkbox"/>	<input type="checkbox"/>
5. Review and Circulate all project reports, plans, and other project data to obtain the necessary review, approval, and/or other input and actions required of other NYSDOT units and external agencies.	<input type="checkbox"/>	<input type="checkbox"/>
6. Obtain aerial photography and photogrammetric mapping.	<input type="checkbox"/>	<input type="checkbox"/>
7. Perform all surveys for mapping and design.	<input type="checkbox"/>	<input type="checkbox"/>
8. <u>Detailed Design</u> : Perform all project design, including preparation of plan sheets, cross-sections, profiles, detail sheets, specialty items, shop drawings, and other items required in accordance with the Highway Design Manual, including all Highway Design, including pavement evaluations, including taking and analyzing cores; design of Pavement mixes and applications procedures; preparation of bridge site data package, if necessary, and all Structural Design, including hydraulic analyses, if necessary, foundation design, and all design of highway appurtenances and systems [e.g., Signals, Intelligent Transportation System (ITS) facilities], and maintenance protection of traffic plans. Federal Railroad Administration (FRA) criteria will apply to rail work.	<input type="checkbox"/>	<input type="checkbox"/>
9. Perform landscape design (including erosion control).	<input type="checkbox"/>	<input type="checkbox"/>
10. Design environmental mitigation, where appropriate, in connection with: Noise readings, projections, air quality monitoring, emissions projections, hazardous waste, asbestos, determination of need of cultural resources survey.	<input type="checkbox"/>	<input type="checkbox"/>

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
11. Prepare demolition contracts, utility relocation plans/contracts, and any other plans and/or contract documents required to advance, separate, any portions of the project which may be more appropriately progressed separately and independently.	<input type="checkbox"/>	<input type="checkbox"/>
12. Compile PS&E package, including all plans, proposals, specifications, estimates, notes, special contract requirements, and any other contract documents necessary to advance the project to construction.	<input type="checkbox"/>	<input type="checkbox"/>
13. Conduct any required soils and other geological investigations.	<input type="checkbox"/>	<input type="checkbox"/>
14. Obtain utility information, including identifying the locations and types of utilities within the project area, the ownership of these utilities, and prepare utility relocations plans and agreements, including completion of Form HC-140, titled Preliminary Utility Work Agreement.	<input type="checkbox"/>	<input type="checkbox"/>
15. Determine the need and apply for any required permits, including U.S. Coast Guard, U.S. Army Corps of Engineers, Wetlands (including identification and delineation of wetlands), SPDES, NYSDOT Highway Work Permits, and any permits or other approvals required to comply with local laws, such as zoning ordinances, historic districts, tax assessment and special districts.	<input type="checkbox"/>	<input type="checkbox"/>
16. Prepare and execute any required agreements, including: <ul style="list-style-type: none"> - Railroad force account - Maintenance agreements for sidewalks, lighting, signals, betterments - Betterment Agreements - Utility Work Agreements for any necessary Utility Relocations of Privately owned Utilities 	<input type="checkbox"/>	<input type="checkbox"/>
17. Provide overall supervision/oversight of design to assure conformity with Federal and State design standards or conditions, including final approval of PS&E (Contract Bid Documents) by NYSDOT.	<input type="checkbox"/>	<input type="checkbox"/>

A2. Right-of-Way (ROW) Incidentals

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
1. Prepare ARM or other mapping, showing preliminary taking lines.	<input type="checkbox"/>	<input type="checkbox"/>
2. ROW mapping and any necessary ROW relocation plans.	<input type="checkbox"/>	<input type="checkbox"/>
3. Obtain abstracts of title and certify those having an interest in ROW to be acquired.	<input type="checkbox"/>	<input type="checkbox"/>
4. Secure Appraisals.	<input type="checkbox"/>	<input type="checkbox"/>
5. Perform Appraisal Review and establish an amount representing just compensation.	<input type="checkbox"/>	<input type="checkbox"/>

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
6. Determination of exemption from public hearing that is otherwise required by the Eminent Domain Procedure Law, including <i>de minimis</i> determination, as may be applicable. If NYSDOT is responsible for acquiring the right-of-way, this determination may be performed by NYSDOT only if NYSDOT is responsible for the Preliminary Engineering Phase under Phase A1 of this Schedule B.	<input type="checkbox"/>	<input type="checkbox"/>
7. Conduct any public hearings and/or informational meetings as may be required by the Eminent Domain Procedures Law, including the provision of stenographic services, preparation and distribution of transcripts, and response to issues raised at such meetings.	<input type="checkbox"/>	<input type="checkbox"/>

B. Right-of-Way (ROW) Acquisition

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
1. Perform all Right-of-Way (ROW) Acquisition work, including negotiations with property owners, acquisition of properties and accompanying legal work, payments to and/or deposits on behalf of property owners; Prepare, publish, and pay for any required legal notices; and all other actions necessary to secure title to, possession of, and entry to required properties. If NYSDOT is to acquire property, including property described as an uneconomic remainder, on behalf of the Municipality/Sponsor, the Municipality/Sponsor agrees to accept and take title to any and all permanent property rights so acquired which form a part of the completed Project.	<input type="checkbox"/>	<input type="checkbox"/>
2. Provide required relocation assistance, including payment of moving expenses, replacement supplements, mortgage interest differentials, closing costs, mortgage prepayment fees.	<input type="checkbox"/>	<input type="checkbox"/>
3. Conduct eminent domain proceedings, court and any other legal actions required to acquire properties.	<input type="checkbox"/>	<input type="checkbox"/>
4. Monitor all ROW Acquisition work and activities, including review and processing of payments of property owners.	<input type="checkbox"/>	<input type="checkbox"/>
5. Provide official certification that all right-of-way required for the construction has been acquired in compliance with applicable Federal, State or Local requirements and is available for use and/or making projections of when such property(ies) will be available if such properties are not in hand at the time of contract award.	<input type="checkbox"/>	<input type="checkbox"/>
6. Conduct any property management activities, including establishment and collecting rents, building maintenance and repairs, and any other activities necessary to sustain properties and/or tenants until the sites are vacated, demolished, or otherwise used for the construction project.	<input type="checkbox"/>	<input type="checkbox"/>
7. Subsequent to completion of the Project, conduct ongoing property management activities in a manner consistent with applicable Federal, State and Local requirements including, as applicable, the development of any ancillary uses, establishment and collection of rent, property maintenance and any other related activities.	<input type="checkbox"/>	<input type="checkbox"/>

C. Construction, Construction Support (C/S) and Construction Inspection (C/I) Phase

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT</u>	<u>Sponsor</u>
1. Advertise contract lettings and distribute contract documents to prospective bidders.	<input type="checkbox"/>	<input type="checkbox"/>
2. Conduct all contract lettings, including receipt, opening, and analysis of bids, evaluation/certification of bidders, notification of rejected bids/bidders, and awarding of the construction contract(s).	<input type="checkbox"/>	<input type="checkbox"/>
3. Receive and process bid deposits and verify any bidder's insurance and bond coverage that may be required.	<input type="checkbox"/>	<input type="checkbox"/>
4. Compile and submit Contract Award Documentation Package.	<input type="checkbox"/>	<input type="checkbox"/>
5. Review/approve any proposed subcontractors, vendors, or suppliers.	<input type="checkbox"/>	<input type="checkbox"/>
6. Conduct and control all construction activities in accordance with the plans and proposal for the project. Maintain accurate, up-to-date project records and files, including all diaries and logs, to provide a detailed chronology of project construction activities. Procure or provide all materials, supplies and labor for the performance of the work on the project, and insure that the proper materials, equipment, human resources, methods and procedures are used.	<input type="checkbox"/>	<input type="checkbox"/>
7a. For non-NHS or non-State Highway System Projects: Test and accept materials, including review and approval for any requests for substitutions.	<input type="checkbox"/>	<input type="checkbox"/>
7b. For NHS or State Highway System Projects: Inspection and approval of materials such as bituminous concrete, Portland cement concrete, structural steel, concrete structural elements and/or their components to be used in a federal aid project will be performed by, and according to the requirements of NYSDOT. The Municipality/Sponsor shall make or require provision for such materials inspection in any contract or subcontract that includes materials that are subject to inspection and approval in accordance with the applicable NYSDOT design and construction standards associated with the federal aid project.	<input type="checkbox"/>	<input type="checkbox"/>
7c. For projects that fall under both 7a and 7b above, check boxes for each.		
8. Design and/or re-design the project or any portion of the project that may be required because of conditions encountered during construction.	<input type="checkbox"/>	<input type="checkbox"/>
9. Administer construction contract, including the review and approval of all contactor requests for payment, orders-on-contract, force account work, extensions of time, exceptions to the plans and specifications, substitutions or equivalents, and special specifications.	<input type="checkbox"/>	<input type="checkbox"/>
10. Review and approve all shop drawings, fabrication details, and other details of structural work.	<input type="checkbox"/>	<input type="checkbox"/>
11. Administer all construction contract claims, disputes or litigation.	<input type="checkbox"/>	<input type="checkbox"/>

Phase/Sub-phase/Task

Responsibility: NYSDOT Sponsor

- | | | |
|--|--------------------------|--------------------------|
| 12. Perform final inspection of the complete work to determine and verify final quantities, prices, and compliance with plans specifications, and such other construction engineering supervision and inspection work necessary to conform to Municipal, State and FHWA requirements, including the final acceptance of the project by NYSDOT. | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. Pursuant to Federal Regulation 49 CFR 18.42(e)(1) The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts. | <input type="checkbox"/> | <input type="checkbox"/> |

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APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

January 2014

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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 (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with 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 (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). 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 (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

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

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

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/reg/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.

APPENDIX A-1 SUPPLEMENTAL TITLE VI PROVISIONS (CIVIL RIGHTS ACT)
(To be included in all contracts)

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- (1) Compliance with Regulations: The contractor shall comply with the Regulation relative to nondiscrimination in Federally assisted programs of the Department of Transportation of the United States, Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, religion, age, color, sex or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.
- (4) Information and Reports: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by NYSDOT or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to NYSDOT's Office of Civil Rights or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, NYSDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - a) Withholding of payments to the contractor under the contract until the contractor complies; and/or
 - b) Cancellation, termination or suspension of the contract, in whole or in part.
- (6) Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontractor procurement as NYSDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request NYSDOT to enter into such litigation to protect the interests of NYSDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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APPENDIX B

MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

M/WBE AND EEO POLICY STATEMENT

I, _____, the (Municipality/Sponsor/Grantee) _____ agree to adopt the following policies with respect to the project being developed or services rendered at Griffiss International Airport

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. The 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, if legally permissible, bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

EEO

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

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

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.

(d) The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The 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

Agreed to this _____ day of _____, 2 _____

By _____

Print: _____ Title: _____

_____ is designated as the Minority Business Enterprise Liaison
(Name of Designated Liaison)

responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment Opportunity (M/WBE-EEO) program.

The Municipality/Sponsor/Grantee agrees that the M/WBE Contract Goals associated with NYSDOT Contract # K007350 are provided below. If the Municipality/Sponsor/Grantee is unable to fulfill the goals provided herein, the Municipality/Sponsor/Grantee must submit a waiver request for a new or modified goal as set forth in Chapter 21 of the NYSDOT Highway Design Manual, available at: <https://www.dot.ny.gov/main/business-center/civil-rights/>.

M/WBE Contract Goals

___30%___ percent Minority and Women’s Business Enterprise Participation

___12%___ percent Minority Business Enterprise Participation

___18%___ percent Women’s Business Enterprise Participation

(Authorized Representative)

Title: _____

Date: _____

APPENDIX C

GOALS FOR EQUAL EMPLOYMENT OPPORTUNITY (EEO) PARTICIPATION

The Contractor shall follow the requirements of §102-11 *Equal Employment Opportunity Requirements*. The goals for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, which is the county or counties in which the work is located, are as follows:

GOALS FOR PARTICIPATION OF MINORITIES					
COUNTY	%	COUNTY	%	COUNTY	%
Albany	3.2	Herkimer	2.1	Richmond	Table
Allegany	6.3	Jefferson	2.5	Rockland	22.6
Broome	1.1	Kings	Table	St. Lawrence	2.5
Bronx	Table	Lewis	2.5	Saratoga	3.2
Cattaraugus	6.3	Livingston	5.3	Schenectady	3.2
Cayuga	2.5	Madison	3.8	Schoharie	2.6
Chautauqua	6.3	Monroe	5.3	Schuyler	1.2
Chemung	2.2	Montgomery	3.2	Seneca	5.9
Chenango	1.2	Nassau	5.8	Steuben	1.2
Clinton	2.6	New York	Table	Suffolk	5.8
Columbia	2.6	Niagara	7.7	Sullivan	17.0
Cortland	2.5	Oneida	2.1	Tioga	1.1
Delaware	1.2	Onondaga	3.8	Tompkins	1.2
Dutchess	6.4	Ontario	5.3	Ulster	17.0
Erie	7.7	Orange	17.0	Warren	2.6
Essex	2.6	Orleans	5.3	Washington	2.6
Franklin	2.5	Oswego	3.8	Wayne	5.3
Fulton	2.6	Otsego	1.2	Westchester	22.6
Genesee	5.9	Putnam	22.6	Wyoming	6.3
Greene	2.6	Queens	Table	Yates	5.9
Hamilton	2.6	Rensselaer	3.2		

(45 FR 65976 – 10/3/1980)

GOALS FOR PARTICIPATION OF MINORITIES BRONX, KINGS, NEW YORK, QUEENS AND RICHMOND COUNTIES			
Electricians	9.0 to 10.2	Bricklayers	13.4 to 15.5
Carpenters	27.6 to 32.0	Asbestos workers	22.8 to 28.0
Steam fitters	12.2 to 13.5	Roofers	6.3 to 7.5
Metal lathers	24.6 to 25.6	Iron workers (ornamental)	22.4 to 23.0
Painters	26.0 to 28.6	Cement masons	23.0 to 27.0
Operating engineers	25.6 to 26.0	Glaziers	16.0 to 20.0
Plumbers	12.0 to 14.5	Plasterers	15.8 to 18.0
Iron workers (structural)	25.9 to 32.0	Teamsters	22.0 to 22.5
Elevator constructors	5.5 to 6.5	Boilermakers	13.0 to 15.5
		All others	16.4 to 17.5

GOAL FOR PARTICIPATION OF WOMEN

The goal for the participation of women is 6.9%.

(43 FR 14888 – 4/7/1978)

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted). If the Contractor performs construction work outside of New York State, it shall apply the goals established for the covered area where the work is actually performed.

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

CHAD LAWRENCE
Commissioner of Aviation

September 20, 2018

FN 20 ~~18-363~~

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

AIRPORT

WAYS & MEANS

Dear County Executive Picente:

Griffiss International Airport has received a grant offer for Nose Dock 782 Renovations to move MVCC's A&P School to that facility from the New York State Department of Aviation (NYSDOT).

To renovate Nose dock 782 it will be necessary to amend the current capital project. It is estimated the renovations will cost \$2,504,00.

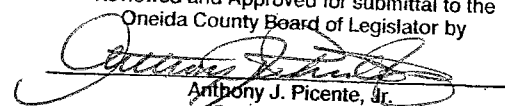
It is therefore request to amend **Capital Project H-580 – Nose Dock 782**– as follows:

	<u>Current</u>	<u>Change</u>	<u>Proposed</u>
NYSDOT	\$ 0	\$1,500,000	\$1,500,000
MVCC	\$ 0	\$ 500,000	\$ 500,000
Bonds	<u>\$ 204,000</u>	<u>\$ 300,000</u>	<u>\$ 504,000</u>
Total	\$ 204,000	\$ 2,300,000	\$ 2,504,000

Thank you for the Board's consideration to this request.

Sincerely,


Chad Lawrence
Commissioner

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

Anthony J. Picente, Jr.
County Executive

Date 10-2-18

ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5th Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



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

ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

August 30, 2018

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

FN 20

18-364

HEALTH & HUMAN SERVICES

Dear Mr. Picente:

WAYS & MEANS

Attached are two (2) copies of an Agreement between Oneida County through its Health Department's Public Health Emergency Preparedness Program and Health Research, Inc.

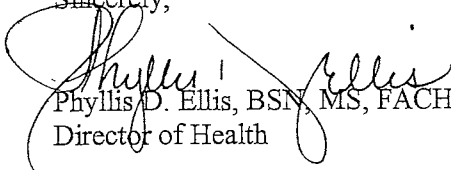
The goal of the Public Health Emergency Preparedness Program is to protect the health of the community from disease outbreaks and natural and man-made disasters. The Health Department engages in preparedness activities with County and community partners to identify resources, establish mutual agreements, develop coordinated response plans, conduct drills and exercises, identify and follow up on areas of improvement, train staff and coordinate public and media communications.

The term of this Agreement is effective beginning July 1, 2018 and remains in effect through June 30, 2019. Total reimbursement from Health Research, Inc. for these grant funded services will not exceed \$133,665.00 during the term of the Agreement.

This grant supports a program mandated by public health law. The reason this grant is being forwarded for signature after the commencement date is due to delays in receiving the Agreement from the vendor.

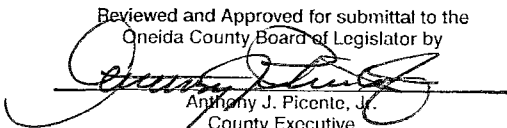
If this Agreement meets with your approval, please forward to the Board of Legislators for consideration at their next meeting.

Sincerely,


Phyllis D. Ellis, BSN, MS, FACHE
Director of Health

attachments
CM

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


Anthony J. Picente, Jr.
County Executive

Date 10-4-18

Oneida Co. Department: Public Health

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

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: Health Research, Inc.
Riverview Center
150 Broadway, Suite 516
Menands, NY 12204-2719

Title of Activity or Service: Public Health Emergency Preparedness

Proposed Dates of Operation: July 1, 2018 through June 30, 2019

Client Population/Number to be Served: All County residents

Summary Statements

- 1) **Narrative Description of Proposed Services:**
Public Health Emergency Preparedness is now a core, mandated public health program.
- 2) **Program/Service Objectives and Outcomes:** Coordinate plans, conduct drills and exercises, identify and follow up on areas for improvement, train staff and coordinate public and media communications, working alongside County and community partners.
- 3) **Program Design and Staffing:** Program funding supplements the County funded Public Health mandated activities and services.

Total Funding Requested: \$133,665.00

Expense Account: A4092

Revenue Account: A3481

Oneida County Dept. Funding Recommendation: \$133,665.00

Proposed Funding Sources (Federal \$/ State \$/County \$): 100% State Grant reimbursement.

Cost Per Client Served: N/A

Past Performance Data: N/A

O.C. Department Staff Comments: 100% State funded

AGREEMENT

This Agreement, made this 8th day of Aug, 2018 by and between HEALTH RESEARCH, INC., with offices located at Riverview Center, 150 Broadway, Ste. 560, Menands, NY 12204, hereinafter referred to as "HRI, a domestic not-for profit corporation, and

Oneida County through the Health Department
185 Genesee St.
Adirondack Bank Building
Utica, NY 13501 hereinafter referred to as the "Contractor"
(a(n) State/Local Government

WITNESSETH

WHEREAS, HRI has been awarded a grant from the Center Disease Control Prevent, hereinafter referred to as the "Project Sponsor" under grant/contract number 6NU90TP9219240109, hereinafter referred to as "Sponsor Reference"; and,

WHEREAS, part of the overall project involves the following:

Public Health Emergency Preparedness Program

WHEREAS, the Contractor has represented to HRI that it is knowledgeable, qualified, and experienced in the skill(s) required for this project, and that it is willing and capable of performing the services required hereunder

Now therefore, in consideration of the promises and mutual covenants herein, the parties hereto agree as follows:

Definitions: Throughout this Agreement, the following terms shall have the following definitions:

"Contract Start Date": 07/01/2018

"Contract End Date": 06/30/2019

"Total Contract Amount": \$333,665

"Maximum Reimbursable Amount": \$133,665

"HRI Project Director": Primeau, Mr. Michael

"Required Voucher Frequency": Monthly

"FAIN Number": NU90TP921924

"HRI Contract Number": 1577-12

"Catalog of Federal Domestic Assistance Number": 93.074 ("This contract is "Federally" funded.")

"Budget Flexibility Percentage": 25 % Percent of Total - Cumulative re-budget among categories is allowed by this percentage of the Total Contract Amount, or \$250,000, whichever is less

Attachments / Exhibits: The following are hereby incorporated and made a part of this Agreement:

Exhibit A – "Scope of Work"

Exhibit B – "Budget"

Exhibit C – "Reporting/Vouchering Instructions"

Exhibit D – "Prime Federal Award Information" (if checked) [X]

Attachment A – "General Conditions for HRI Contracts"

Attachment B – "Program Specific Clauses" (if checked) [X]

Attachment C – "Modifications to General Conditions and/or Program Specific Clauses" (if checked) []

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the date first above set forth.

Health Research, Inc.

Oneida County through the Health Department

Federal ID: 15-6000460-

DUNS#: 075814186

Cheryl A. Mattox

Name: Cheryl A. Mattox

Title: Executive Director

Name:

Title:

Exhibit A

**New York State Department of Health / Health Research Inc.
Public Health Emergency Preparedness (PHEP)**

**Deliverables
July 1, 2018 – June 30, 2019**

All deliverables will be communicated electronically and posted on the New York State Department of Health (NYSDOH) Health Commerce System. Recipients will be expected to perform activities in support of the annual deliverables posted.

Documents will be entitled as follows:

- Public Health Emergency Preparedness Program, Local Health Department (LHD) Deliverables
- Emergency Response: Public Health Crisis Response, Local Health Department (LHD) Deliverables

**New York State Department Of Health
Health Research, Inc. - Public Health Emergency Preparedness Program
EXHIBIT B - Budget**

Contractor : Oneida County Health Department
Contract Period : July 1, 2018 - June 30, 2019
Federal ID # : 15-6000460
Contract # : 1577-12
HRI Account # : 15-0686-07 b

See instructions for important information. Be sure to sign and date (see below) and submit this page as a pdf. In addition, submit the entire budget file in Excel.

SUMMARY BUDGET

Budget Categories	Original Budget	Modification	Revised Budget
SALARIES / PERSONNEL	\$ 50,267	\$ -	\$ 50,267
FRINGE BENEFITS	\$ 27,496	\$ -	\$ 27,496
SUPPLIES	\$ 11,521	\$ -	\$ 11,521
TRAVEL	\$ 10,000	\$ -	\$ 10,000
EQUIPMENT	\$ -	\$ -	\$ -
MISCELLANEOUS	\$ 12,361	\$ -	\$ 12,361
CONTRACTUAL / CONSULTANT	\$ 22,020	\$ -	\$ 22,020
ADMINISTRATIVE COSTS	\$ -	\$ -	\$ -
SUBTOTAL	\$ 133,665	\$ -	\$ 133,665
RESTRICTED (For NYSDOH use only)	\$ 200,000	\$ -	\$ 200,000
TOTAL :	\$ 333,665	\$ -	\$ 333,665

Reason for Proposed Changes (for budget modifications):

Contractor

Authorized Signature: see attached **Date:** _____

Position Descriptions

Contractor: Oneida County Health Department

Contract Period: July 1, 2018 - June 30, 2019

For each position listed on the summary budget page, provide a description of the duties supported by this contract.

Name: Lisa Worden

Title: Program Analyst

Contract Duties : The incumbent will assist in the coordination of emergency preparedness activities within the Department and with other local community agencies and providers in the development of emergency action plans to address various public health emergencies. The incumbent will assist in the implementation and reporting of grant deliverables and participate in drills and exercises to gauge success in the implementation of various plans, submission of After Action Reports with deficiencies and timeframes for their correction. The incumbent will participate in the preparation and management of grant budget and funds to meet grant deliverables

Name: Michelle Edic

Title: Data Processing Clerk

Contract Duties : Incumbent performs selected information verifying skills for quality assurance and accuracy. They also process data/information regarding ECLRS, CDESS, and syndromic surveillance. This individual works closely with the Director of Clinical Services and staff of the department's Communicable Disease Program.

Name: Robin Calandra

Title: Program Analyst

Contract Duties : The Program Analyst will primarily provide administrative and programmatic support for Program Analyst/PHERP Coordinator, Director of Health and Deputy Director of Health in implementation of grant deliverables and other PHEP activities including coordination of partnership planning meetings, tracking and coordinating PHERP trainings, plan and policy development, record keeping, maintenance of HCS Communications Directory and other Departmental key emergency contacts lists. Activities will also include assisting in the logistics for community engagement meetings, PODs, and other PHERP duties as needed. This person will also be responsible for coordination of emergency preparedness activities and preparing grant fiscal and deliverables report requirements.

Name:

Title:

Contract Duties :

Name:

Title:

Contract Duties :

Name:

Title:

Contract Duties :

Name:

Title:

Contract Duties :

Name:

Title:

Contract Duties :

Fringe Benefits

Contractor: Oneida County Health Department
Contract Period: July 1, 2018 - June 30, 2019

FRINGE BENEFITS	
1. Does your agency have a federally approved fringe benefit rate? <i>**Contractor must attach a copy of federally approved rate agreement.**</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Approved Rate (%) : _____ Amount Requested (\$) : _____
2. Total salary expense based on most recent audited financial statements:	Complete 2-7 below.
3. Total fringe benefits expense based on most recent audited financial statements:	\$ 75,588,177
4. Agency Fringe Benefit Rate: <i>(amount from #3 divided by amount from #2)</i>	\$35,680,003
5. Date of most recently audited financial statements: <i>Attach a copy of financial pages supporting amounts listed in #2 and #3.</i>	47.20%
	12/31/16
6. Requested rate and amount for fringe benefits:	Rate Requested (%) : 54.70%
	Amount Requested (\$) : \$ 27,496
7. If the rate requested on this contract exceeds the rate supported by latest audited financials, please justify below.	
<p>The Agency rate from latest audited financials includes part-time employees, therefore bringing down the Agency rate.</p>	

Supplies

Contractor: Oneida County Health Department
Contract Period: July 1, 2018 - June 30, 2019

SUPPLIES : *Provide a justification for all supplies, including a description of how it relates to specific program objectives. Please refer to the Equipment section for guidance on items with a unit cost of \$5,000 or more.*

<u>Item Description</u>	<u>Amount</u>
Office materials and supplies	\$ 6,521
Program supplies	\$ 5,000

Total Supplies Requested: \$ 11,521

Justification

Office supplies and equipment for (e.g., pens, pencils, three hole punchers, pads, post-its, fax/copier paper, notebooks, staples, scotch tape, flip-chart pads, magic markers, folders, binders, report covers, etc.). This includes supplies and electronic devices which will be purchased for partnership/coalition building and emergency planning meetings, presentations, PODS, drills and/or public health emergencies.

Program supplies such as medical supplies, PPE, POD vests, signs, reference books, educational materials and supplies, software, badging equipment, Public Health EOC supplies, POD, Employee Training and Community Engagement supplies as detailed in the justification below. Also to include resources to support collaborative planning and training with Onondaga County Medical Examiner's office for mass fatality support (e.g., body bags, tags, training supplies). COOP planning resources and kit items, vaccine storage coolers. Equipment and supply items that do not exceed \$1,000 for supplies such as: mobile printers, speakers, routers, computer hardware, scanners, carts, tables, chairs, cabinets, medical equipment, paper cutters, shredders, and other electronic devices and/or office equipment, cell phone and tablet equipment and accessories, badging equipment, etc.

Equipment and supply items will be used to support public health Continuity of Operations (COOP), POD operations and other emergency response operations such as disasters, extreme weather, mass fatality, biological, outbreaks, and other community preparedness and response educational and/or community engagement events.

Travel

Contractor: Oneida County Health Department
Contract Period: July 1, 2018 - June 30, 2019

Travel: *Include staff and conference travel, as well as travel to regional meetings and training sessions. Contractors without reimbursement policies should use New York State travel reimbursement policy.*

<u>Purpose/Destination</u>	<u>Amount</u>
Mileage and Travel costs to PODS, conferences, regional meetings, and PHERP-related meetings and events.	\$ 10,000

Total Travel Requested: \$ 10,000

Is mileage requested (personal auto or agency auto)

 x Yes
 No

Justification

Personal auto mileage and travel for staff participating in PODs, Clinics, mass vaccination and other community emergency preparedness efforts including in-person and/or web-based local, regional and national meetings, conferences and other PHERP-related trainings.

Miscellaneous

Contractor: Oneida County Health Department
Contract Period: July 1, 2018 - June 30, 2019

Funds may be used to support program-related miscellaneous costs. All services must be provided within the contract period (services provided prior to the beginning or after the end date of the contract are not allowable costs for reimbursement). All food / refreshment costs must comply with the NYSDOH Health Emergency Preparedness Program Meeting Expense Reimbursement Guidelines. When vouchering for refreshment expenses, please provide all of the details required in the Meeting Expense Reimbursement Guidelines.

<u>Item Description</u>	<u>Amount</u>
Cell Phones - \$50 per month X 6 phones @ 50%	\$ 1,800
Tablet PC's Data Package- \$40.01 per month X 8 tablets @ 50%	\$ 1,920
Air Cards/MiFis (6 devices @ \$40.01 per month @ 50%)	\$ 1,441
Printing	\$ 5,000
Adobe, Prezi or Program Software	\$ 2,200

Total Miscellaneous Requested : \$ 12,361

Justification

Cell Phones: For rental of five cell phones for key OCHD PHEP staff for 24/7 emergency access and internet connectivity. (6 phones @ \$50per month @ 50%). Staff include Director of Health, Deputy Director of Health, Fiscal Services Administrator, PHERP Coordinator, and Director of Clinical Services, Supervising Public Health Nurse. Devices will be assigned to these staff and used to ensure 24/7 and backup communications with these key preparedness staff.

Tablet PCs Data Package: Data package for Internet support 8 devices @ \$40.01 per month @50%. Service for already-acquired tablets to provide 24/7 and back up communications for key preparedness staff and to support deliverable activities including PODs, other exercises and drills, webinars and trainings, and EOC operations, provide remote access to county server, HCS access, expedient and 24/7 access to preparedness applications that support research and emergency planning and response to public health preparedness educational and community engagement activities. Staff include Director of Health, Deputy Director of Health , Fiscal Services Administrator, PHERP Coordinator ,Director of Clinical Services, Volunteer Coordinator, Health Educator, Public Information Officer . Devices will be assigned to other support staff (e.g., Health Educators, nurses, sanitarians, program staff) for PODs, emergency response, preparedness education, meetings, and conferences.

Air Cards: Recurring costs of air cards and/or MiFis for laptops to ensure remote and wireless access to Internet and HIN after hours and during PODs, Flu Clinics and other public health emergency activities (6 devices @ \$40.01 per month @50%)

Printing: In house and professional printing of signs, posters, and other PHEP educational materials for community distribution, handouts, and meeting materials at Clinics, PODs, local emergency planning meetings, HOOAD (Herikimer-Oneida Organizations Active in Disaster) meetings and community engagement activities.

Adobe, Presentation and Flow Chart Software for key staff involved in developing and/or processing communications forms, presentations, and Departmental flow chart call down lists.

Subcontracts/Consultants

Contractor: Oneida County Health Department
Contract Period: July 1, 2018 - June 30, 2019

SUBCONTRACTS / CONSULTANTS:

Provide a listing of all subcontracts, including consultant agreements. If the subcontractor / consultant has not been selected, please indicate "TBA" in Name. Contractors are required to use a structured selection process consistent with agency policy and maintain copies of all subcontracts and documentation of the selection process. Administrative / Indirect Costs for all contractual / consultant agreements are limited to 10% of total direct costs unless a federally approved rate agreement is provided. All subcontracts entered into must be executed as line item cost reimbursable unless All of the requirements listed in Attachment A "General Terms and Conditions" and Attachment B "Program Specific Clauses" must flow down to all subcontractor agreements.

Agency / Name	Description of Services Include number of hours and hourly rate for consultants. Include a detailed line-item budget for subcontractors.	Amount
Mohawk Valley Resource Center for Refugees and/or MAMI Interprets, and/or another qualified interpreting agency	<p>Period of Performance: July 1, 2018 - June 30, 2019</p> <p>Scope of Work: Consultant services to provide interpretation and translations services for our Limited English Population (LEP) in emergency preparedness education and response.</p> <p>Method of Accountability: Contractor will report to and collaborate with the OCHD PHERP Coordinator and to ensure deliverables are met.</p> <p>Detailed Budget and Justification: Interpretation and translation fees vary based on service</p>	\$ 6,000
Susan Blatt, MD Medical Consultant	<p>Period of Performance: July 1, 2018 - June 30, 2019</p> <p>Scope of Work: Medical consultation regarding emergency response and preparedness planning and implementation. This includes assisting in the development and/or review of PHEP documents, developing materials for the medical community, participating in presentations to health care providers, attending internal and external preparedness meetings.</p> <p>Method of Accountability: Contractor will document the particular PHERP – related activities to the Director of Health and upon approval will be compensated on a monthly basis.</p>	\$ 1,020
Professional Media Services	<p>Period of Performance: July 1, 2018 - June 30, 2019</p> <p>Scope of Work: PHEP marketing and advertising costs for emergency preparedness education and awareness campaign for marketing activities including but not limited to radio, television, newspaper, billboard, bus advertising, web, PSAs, videos, printing, production, air-time, web services, etc.</p> <p>Method of Accountability: Contractor will report to and collaborate with the OCHD PHERP Coordinator and/or designated staff to ensure deliverables are met.</p> <p>Detailed Budget and Justification: Services vary based on advertising medium and frequency. OCHD has contractual agreement for fee for services.</p>	\$ 15,000
	<p>Period of Performance:</p> <p>Scope of Work:</p> <p>Method of Accountability:</p> <p>Detailed Budget and Justification:</p>	
Total Subcontracts/Consultants Requested :		\$ 22,020

Restricted

Contractor: Oneida County Health Department

Contract Period: July 1, 2018 - June 30, 2019

FOR NYSDOH USE ONLY

Purpose/Destination

Amount

Please refer to the LHD funding table for the Emergency Placeholder Funding amount. This allows for increased funds to be awarded to the contract in the event of a public health emergency and additional funds become available. \$ 200,000

Total Restricted: \$ 200,000

Justification

NYSDOH Note: Items in the Restricted budget category are not reimbursable. To remove items from the Restricted budget category, submit a budget modification request to NYSPHEP@health.ny.gov or NYSHPP@health.ny.gov for approval. The budget modification request must include a break-out of expenses and a justification that shows how the expenses support the contract deliverables.

Exhibit C
Reporting and Vouchering Requirements

The **Reporting Frequency** for this Contract shall be:

Monthly

Voucher /Reports submission:

The Contractor shall submit all vouchers and reports required hereunder to the address noted:

**Grants Administration
New York State Department of Health
Riverview Center
150 Broadway, Suite 516
Menands, NY 12204-2719**

or

Email: NYSPEP@health.ny.gov

NOTICE OF AWARD (Continuation Sheet)

PAGE 2 of 2	DATE ISSUED 07/05/2018
GRANT NO. 6 NU90TP921924-01-09	

FY-ACCOUNT NO.	DOCUMENT NO.	CFDA	ADMINISTRATIVE CODE	AMT ACTION FIN ASST	APPROPRIATION
24.a. 8-939ZVNM	b. 17NU90TP921924HPP	c. 93.074	d. TP	e. \$9,530,974.00	f. 75-18-0140

Direct Assistance

BUDGET CATEGORIES	PREVIOUS AMOUNT (A)	AMOUNT THIS ACTION (B)	TOTAL (A + B)
Personnel	\$0.00	\$0.00	\$0.00
Fringe Benefits	\$0.00	\$0.00	\$0.00
Travel	\$0.00	\$0.00	\$0.00
Equipment	\$0.00	\$0.00	\$0.00
Supplies	\$0.00	\$0.00	\$0.00
Contractual	\$0.00	\$0.00	\$0.00
Construction	\$0.00	\$0.00	\$0.00
Other	\$0.00	\$10,552.00	\$10,552.00
Total	\$0.00	\$10,552.00	\$10,552.00

AWARD ATTACHMENTS

Health Research, Inc.

6 NU90TP921924-01-09

-
1. Revised Terms and Conditions
 2. Technical Review

Notice of Funding Opportunity (NOFO) Number: CDC-RFA-TP17-17010201SUPP18
 Award Number: 6 **NU90TP921924**
 Award Type: Cooperative Agreement
 Applicable Regulations: 45 Code of Federal Regulations (CFR) Part 75, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards
 Grant Recipient: **Health Research, Inc (New York)**

45 CFR Part 75 supersedes regulations at 45 CFR Part 74 and Part 92

The Public Health Preparedness Program Cooperative agreement is authorized by section 319C-1, and the Hospital Preparedness Program Cooperative agreement are authorized by section 319C-2 of the Public Health Service (PHS) Act as amended. Although aligned under the dual agency established CFDA number 93.074 the two programs remain distinct and separate programs and are funded through two different appropriations.

Dual agency established CFDA number
 93.074

All audits, etc should list these two CFDA number 93.074
 93.889 – National Bioterrorism Hospital Preparedness Program
 93.069 -- Public Health Emergency Preparedness

AWARD INFORMATION

Incorporation: In addition to the federal laws, regulations, policies, and CDC General Terms and Conditions for Non-research awards at <https://www.cdc.gov/grants/federalregulationspolicies/index.html>, the Centers for Disease Control and Prevention (CDC) hereby incorporates Notice of Funding Opportunity (NOFO) number CDC-RFA-TP17-17010201SUPP18, entitled Hospital Preparedness Program – Public Health Emergency Preparedness Cooperative Agreement Department of Health and Human Services, and application dated May 8, 2018, as may be amended, which are hereby made a part of this Non-research award, hereinafter referred to as the Notice of Award (NoA).

Approved Funding: Funding in the amount of **\$30,250,907** is approved for the Year 01 budget period, which is July 1, 2018 through June 30, 2019.

NOTE: This award provides funding for the realignment and orderly transition of the HPP/PHEP programs.

The federal award amount is subject to adjustment based on total allowable costs incurred and/or the value of any third party in-kind contribution when applicable.

Note: Refer to the Payment Information section for Payment Management System (PMS) subaccount information.

TYPE OF FUNDS	HPP	PHEP	Total Funding
FY 2018	\$9,530,974	\$20,719,933	\$30,250,907

APPROVED FUNDING HPP: Funds in the amount of **\$9,530,974** are approved for the Year 01 budget period which is July 1, 2018 through June 30, 2019.

APPROVED FUNDING PHEP: Funds in the amount of **\$20,719,933** are approved for the Year 01 budget period which is July 1, 2018 through June 30, 2019 for the following program components:

Base **\$25,587,402** Cities Readiness Initiative (CRI) **\$1,791,571**

1: Cities Readiness Initiative (CRI): This award includes **\$1,791,571** to support Medical Countermeasure Dispensing and the Medical Material Management and Distribution (MCMDD) capabilities. These funds are provided for medical countermeasure distribution and dispensing (MCMDD) for all-hazards events, which includes the ability of jurisdictions to develop capabilities for U.S. cities to respond to a large-scale biologic attack, with anthrax as the primary threat consideration. For State awardees, 75% of their allocated CRI funds must be provided to CRI jurisdictions in support of all-hazards MCMDD planning and preparedness. CRI jurisdictions are defined to include independent planning jurisdictions (as defined by the state and locality) that include those counties and municipalities within the defined metropolitan statistical area (MSA) or the New England County Metropolitan Areas (NECMAs).

Level One Chemical Laboratory: This award includes **\$2,871,934**, which must only be used for the purposes of maintaining and continuing development of Level One Chemical Laboratory capacity.

Financial Assistance Mechanism: Cooperative Agreement

Substantial Involvement by CDC: This is a cooperative agreement and CDC will have substantial programmatic involvement after the award is made. Substantial involvement is in addition to all post-award monitoring, technical assistance, and performance reviews undertaken in the normal course of stewardship of federal funds.

CDC program staff will assist, coordinate, or participate in carrying out effort under the award, and recipients agree to the responsibilities therein, as detailed in the NOFO.

All recipients and CRI local planning jurisdictions will be required to:

- Maintain fully developed plans to respond to both EID and Category A agents and
- Demonstrate readiness for a core set of response activities for both scenarios through some combination of drills, tabletop exercises, and functional exercises.
- The 18 identified CRI MSAs will be required to test their operational readiness to respond by conducting a full-scale exercise or responding to a real incident at least once every five years using an anthrax scenario.
- The remaining CRI MSAs will be required to test their operational readiness for an EID response by conducting a full scale exercise or responding to a real incident at least once every five years using an EID scenario.

CDC will implement additional monitoring and accountability measures to track recipient progress in achieving desired programmatic outcomes and financial performance levels. Monitoring and reporting activities also help to identify jurisdictions that may need additional guidance and assistance.

Using the PERFORMS program management system and the DCIPHER operational readiness review (ORR) data collection system, CDC will continue to review performance

systematically. In addition, CDC will monitor recipient performance through site visits, ongoing consultation calls, and technical evaluation of various recipient reports. CDC may modify future PHEP base funding to reflect recipient performance in the following areas:

Fiscal Performance

CDC routinely monitors historical use of funding as demonstrated through fiscal management reports. Beginning in July 2019, CDC will review recipient spending rates over a three-year rolling basis and will provide targeted technical assistance to improve fiscal performance and consider adjusting base funding as needed for those at risk of lapsing funds.

Administrative Performance

CDC will continue to monitor compliance with PHEP reporting requirements and other grants management deliverables to ensure timely submission of critical program data. CDC will restrict funds for non-compliance and may modify base funding for continued noncompliance.

Programmatic Performance

CDC will continue to assess recipient progress made across the six domains and their related strategies, activities, and outcomes as described in the CDC-RFA- TP17-1701 NOFO. CDC measures PHEP programmatic performance using a variety of methods, including collection of process measures, performance measures, and an operational readiness review (ORR) process. Recipients who do not meet specific programmatic outcomes may be subject to modified base funding.

In addition, CDC sets annual PHEP programmatic benchmarks and collects data accordingly. Recipients who fail to "substantially meet" the benchmarks are subject to withholding of a statutorily mandated percentage of the award the following fiscal year.

CDC will provide specific guidance on how these accountability standards will be enforced in a separate document that will be released by the beginning of the budget period.

Direct Assistance (DA): DA is awarded in the amount of **\$10,552** for Personnel and SAS-Other in this budget period.

Technical Review Statement Response Requirement: The review comments on the strengths and weaknesses of the proposal are provided as part of this award. A response to the weaknesses in these statements must be submitted to and approved, in writing, by the Grants Management Specialist/Grants Management Officer (GMS/GMO) noted in the CDC Staff Contacts section of this NoA, no later than 30 days from the budget period start date. Failure to submit the required information by the due date, August 1, 2018, will cause delay in programmatic progress and will adversely affect the future funding of this project.

Key Personnel: In addition to the Principal Investigator/Project Director identified in this Notice of Award, the application and work plan included individuals considered key personnel. In accordance 45 CFR Part 75.308, the recipient must request prior approval from CDC to change the following individual/position:

Michael J. Primeau – Director

Budget Revision Requirements: By August 2, 2018, the recipient must submit a revised budget with a narrative justification. Include responses to the following:

HPP Base:

SALARIES/WAGES: Funding for the Deputy Director of Program Management (\$13,907), Program Assistant (\$7,575) and the associated Fringe Benefits (\$8,012) will be redirected to the OTHER budget category until the positions are filled.

TRAVEL: Provide the specific locations for in-state.

CONTRACTUAL: Provide itemized budgets for each of the listed contracts.

PHEP Base:

SALARIES/WAGES: Funding for the vacant Senior Project Coordinator (\$77,767), Public Health Rep (MARO) (\$76,775), Database Programmer Analyst (\$54,579), Research Scientist (\$56,595), Deputy Director (\$55,627), Program Assistant (\$34,087), Senior Project Coordinator (\$29,007) and the associated Fringe Benefits (\$145,289) will be redirected to the OTHER budget category until the positions are filled.

TRAVEL: Provide the specific locations for In-State and Regional travel.

SUPPLIES: Provide a copy of the organization's computer replacement policy.

EQUIPMENT: Provide a copy of the quotes for the replacement copier/scanner.

CONTRACTUAL: Provide an itemized budget for each of the county , NYSACHO, LRN, and SUNY New Paltz Contracts.

OTHER: Fellowships are typically not allowed under non-research agreements. The request for the Emerging Infectious Disease (EID) Fellow (\$52,233) will be restricted. Additional information must be submitted to the grants management specialist for review.

PHEP CRI

TRAVEL: Provide the specific locations for the metro and western regional travel.

CONTRACTUAL: Provide an itemized budget for the county contracts.

PHEP Level 1 Lab

SALARIES/WAGES: Funding for the Research Scientist (\$90,361 and the associated Fringe Benefits (\$33,705) will be redirected to the OTHER budget category until the position is filled.

TRAVEL: Provide the location for the TBD LRN Meetings.

EQUIPMENT: Provide quotes for the UPLC MC/MS Instrument Systems and the autosampler for ICP/MS.

SUPPLIES: Provide an itemized list of the Consumable CT Supplies.

CONTRACTUAL: Provide an itemized budget for the NYSDOH contracts.

Failure to submit the required information in a timely manner may adversely affect the future funding of this project. If the information cannot be provided by the due date, you are required to contact the GMS/GMO identified in the CDC Staff Contacts section of this notice before the due date.

In accordance with 45CFR 75.308(d), awardees are given expanded authority to carry forward unobligated balances to the successive budget period without receiving prior approval from CDC's Office of Grants Services.

EXPANDED AUTHORITY: In accordance with 45 CFR Part 75.308 (d), the grantee is given expanded authority to carryover unobligated balances to the successive budget period without receiving prior approval from the Office of Grants Services. The following restrictions apply with this authority:

1. The expanded authority can only be used to carryover unobligated balances from one budget period to the next successive budget period. Any unobligated funds not expended in the successive budget period must be deobligated and returned to Treasury as required.
2. The recipient must report the amount carried over on the Federal Financial Report for the period in which the funds remained unobligated.
3. This authority does not diminish or relinquish CDC and ASPR administrative oversight of the HPP/PHEP program. The CDC and ASPR program offices will continue to provide oversight and guidance to the award recipients to ensure they are in compliance with statutes, regulations, and internal guidelines.
4. The roles and responsibilities of the CDC and ASPR Program/Project Officers will remain the same as indicated in the Terms and Conditions of the Award.
5. The roles and responsibilities of the CDC, Office of Grants Services, Grants Management Specialist, will remain the same as indicated in the Terms and Conditions of the Award.
6. All other terms and conditions remain in effect throughout the budget period unless otherwise changed in writing, by the Grants Management Officer.

Note: Awardees are responsible for ensuring that all costs allocated and obligated are allowable, reasonable, and allocable and in line with the goals and objectives outlined in CDC-RFA-TP17-17010201SUPP18 and approved work plans.

Program Income: Any program income generated under this grant or cooperative agreement will be used in accordance with the cost sharing or matching alternative.

Cost sharing or matching alternative: Under this alternative, program income is used to finance some or the entire non-federal share of the project/program.

Note: The disposition of program income must have written prior approval from the GMO.

FUNDING RESTRICTIONS AND LIMITATIONS

Notice of Funding Opportunity (NOFO) Restrictions:

Restrictions, which must be taken into account while writing the budget, are as follows:

In accordance with the United States Protecting Life in Global Health Assistance policy, all non-governmental organization (NGO) applicants acknowledge that foreign NGOs that receive funds provided through this award, either as a prime recipient or subrecipient, are strictly prohibited, regardless of the source of funds, from performing abortions as a method of family planning or engaging in any activity that promotes abortion as a method of family planning, or to provide financial support to any other foreign non-governmental organization that conducts such activities. See Additional Requirement (AR) 35 for applicability (<https://www.cdc.gov/grants/additionalrequirements/ar-35.html>).

- Recipients may not use funds for research.
- Recipients may not use funds for clinical care.
- Recipients may only expend funds for reasonable program purposes, including personnel, travel, supplies, and services, such as contractual.
- Recipients may not generally use HHS/CDC/ATSDR funding for the purchase of furniture or equipment. Any such proposed spending must be identified in the budget.
- The direct and primary recipient in a cooperative agreement program must perform a substantial role in carrying out project objectives and not merely serve as a conduit for an award to another party or provider who is ineligible.

Other than for normal and recognized executive-legislative relationships, no funds may be used for: publicity or propaganda purposes, for the preparation, distribution, or use of any material designed to support or defeat the enactment of legislation before any legislative body the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before any legislative body.

See Additional Requirement (AR) 12 for detailed guidance on this prohibition and additional guidance on lobbying for CDC recipients.

- The direct and primary recipient in a cooperative agreement program must perform a substantial role in carrying out project outcomes and not merely serve as a conduit for an award to another party or provider who is ineligible.
- Recipients may not use funds for construction or major renovations.
- Recipients may supplement but not supplant existing state or federal funds for activities described in the budget.
- Payment or reimbursement of backfilling costs for staff is not allowed.
- None of the funds awarded to these programs may be used to pay the salary of an individual at a rate in excess of Executive Level II or \$187,000 per year.
- Recipients may use funds only for reasonable program purposes, including travel, supplies, and services.
- Recipients may purchase basic (non-motorized) trailers with prior approval from the CDC OGS.

- HPP and PHEP funds may not be used to purchase clothing such as jeans, cargo pants, polo shirts, jumpsuits, sweatshirts, or T-shirts. Purchase of items that can be reissued, such as vests, may be allowable.
- HPP and PHEP funds may not be used to purchase or support (feed) animals for labs, including mice. Any requests for such must receive prior approval of protocols from the Animal Control Office within CDC and subsequent approval from the CDC OGS as to allowability of costs.
- Recipients may not use funds to purchase a house or other living quarters for those under quarantine.
- HPP and PHEP recipients may (with prior approval) use funds for overtime for individuals directly associated (listed in personnel costs) with the award.
- PHEP recipients cannot use funds to purchase vehicles to be used as means of transportation for carrying people or goods, such as passenger cars or trucks and electrical or gas-driven motorized carts.
- PHEP recipients can (with prior approval) use funds to lease vehicles to be used as means of transportation for carrying people or goods, e.g., passenger cars or trucks and electrical or gas-driven motorized carts.
- PHEP recipients can (with prior approval) use funds to purchase material-handling equipment (MHE) such as industrial or warehouse-use trucks to be used to move materials, such as forklifts, lift trucks, turret trucks, etc. Vehicles must be of a type not licensed to travel on public roads.
- PHEP recipients can use funds to purchase caches of medical or non-medical countermeasures for use by public health first responders and their families to ensure the health and safety of the public health workforce.
- PHEP recipients can use funds to support appropriate accreditation activities that meet the Public Health Accreditation Board's preparedness-related standards.

Administrative Restriction(s):

HPP Base: Vacant position(s) totaling \$21,482 and associated fringe benefits totaling \$8,012 have been redirected to the Other cost category.

PHEP Base: Vacant positions totaling \$384,437 and fringe benefit costs totaling \$145,289 have been redirected to the Other budget category. Additionally, fellowships are typically not allowed under non-research agreements. Thus, the request to fund the Emerging Infectious Disease (EID) Fellow (\$52,233) will be restricted. Additional information must be submitted to the grants management specialist for review.

PHEP Level 1 Lab: Vacant position totaling \$90,361 and fringe benefit costs totaling \$33,705 have been redirected to the Other budget category.

Programmatic Restriction(s): See attached Technical Review for a detailed analysis of required responses.

Indirect Costs:

Indirect costs are approved based on the negotiated indirect cost rate agreement dated May 12, 2017, which calculates indirect costs as follows, a Provisional is approved at a rate of 19.80% of the base, which includes, direct salaries and wages including all fringe benefits. The effective dates of this indirect cost rate are from April 1, 2018 to March 31, 2020.

Matching Funds Requirement: The required level of non-federal participation for HPP: **\$953,097** and PHEP: **\$2,073,049**.

Matching is generally calculated on the basis of the federal award amount and is comprised of recipient contributions proposed to support anticipated costs of the project during a specific budget period (confirmation of the existence of funding is supplied by the recipient via their Federal Financial Report). The recipient must be able to account separately for stewardship of the federal funding and for any required matching; it is subject to monitoring, oversight, and audit. The recipient may not use matching expenditures to count toward any Maintaining State Funding requirement.

ASPR and CDC may not award a cooperative agreement to a state or consortium of states under these programs unless the awardee agrees that, with respect to the amount of the cooperative agreements awarded by ASPR and CDC, the state will make available nonfederal contributions in the amount of 10% (\$1 for each \$10 of federal funds provided in the cooperative agreement) of the award.

Match may be provided directly or through donations from public or private entities and may be in cash or in kind, fairly evaluated, including plant, equipment or services. Amounts provided by the federal government or services assisted or subsidized to any significant extent by the federal government may not be included in determining the amount of such nonfederal contributions. Please refer to 45 CFR 75.306 for match requirements, including descriptions of acceptable match resources. Documentation of match, including methods and sources, must be included in the Budget Period 1 application for funds, follow procedures for generally accepted accounting practices, and meet audit requirements.

Exceptions to Matching Funds Requirement

- The match requirement does not apply to the political sub divisions of Chicago, Los Angeles County, or New York City.
- Pursuant to department grants policy implementing 48 U.S.C. 1469a(d), any required matching (including in-kind contributions) of less than \$200,000 is waived with respect to cooperative agreements to the governments of American Samoa, Guam, the U.S. Virgin Islands, the Northern Mariana Islands (other than those consolidated under other provisions of 48 U.S.C. 1469), the Freely Associated States including the Republic of Palau, the Federated States of Micronesia and the Republic of Marshall Islands. For instance, if 10% (the match requirement) of the award is less than \$200,000, then the entire match requirement is waived. If 10% of the award is greater than \$200,000, then the first \$200,000 is waived, and the rest must be paid as match.”
- Matching does not apply to future contingent emergency response awards that may be authorized under 311, 317(a), and 317 (d) of the Public Health Service Act unless such a requirement were imposed by statute or administrative process at the time.

When a recipient requests a carryover of unobligated funds from prior year(s), matching funds equal to the new requirement must be on record in the CDC grant file, or the recipient must provide evidence with the carryover request.

Maintenance of Effort (MOE) Requirement: MOE represents an applicant/recipient historical level of contributions related to federal programmatic activities which have been made prior to

the receipt of federal funds “expenditures (money spent).” MOE is used as an indicator of non-federal support for public health before the infusion of federal funds. These expenditures are calculated by the recipient without reference to any federal funding that also may have contributed to such programmatic activities in the past. Recipients must stipulate the total dollar amount in their grant applications. Recipients must be able to account for MOE separately from accounting for federal funds and separately from accounting for any matching funds requirement; this accounting is subject to ongoing monitoring, oversight, and audit. MOE may not include any matching funds requirement.

Maintenance of Effort: (language from the NOFO): Statutory Basis Maintenance of Funding (HPP 319C-2) and Maintain State Funding (PHEP) 319C-1 is a responsiveness criterion. Recipients must stipulate the total dollar amount in their cooperative agreement funding applications. Recipients must be able to account for MOF/MSF separate from accounting for federal funds and separate from accounting for any matching funds requirements; this accounting is subject to ongoing monitoring, oversight, and audit. MOF/MSF may not include any subrecipient matching funds requirement where applicable.

Maintenance of Funding/Maintaining State funding

(A) In general, an entity that receives an award under this section shall maintain expenditures for public health security at a level that is not less than the average level of such expenditures maintained by the entity for the preceding 2 year period.

- Rule of construction

Nothing in this section shall be construed to prohibit the use of awards under this section to pay salary and related expenses of public health and other professionals employed by State, local, or tribal public health agencies who are carrying out activities supported by such awards (regardless of whether the primary assignment of such personnel is to carry out such activities).

This represents a recipient’s historical level of contributions or expenditures (money spent) related to federal programmatic activities that have been made prior to the receipt of federal funds. The maintenance of effort (MOE) is used as an indicator of nonfederal support for public health security and health care preparedness before the infusion of federal funds. These expenditures are calculated by the recipient without reference to any federal funding that also may have contributed to such programmatic activities in the past.

The definition of eligible state expenditures for public health security and health care preparedness includes:

- Appropriations specifically designed to support health care or public health emergency preparedness as expended by the entity receiving the award; and
- Funds not specifically appropriated for health care or public health emergency preparedness activities but which support health care or public health emergency preparedness activities, such as personnel assigned to health care or public health emergency preparedness responsibilities or supplies or equipment purchased for health care or public health emergency preparedness from general funds or other lines within the operating budget of the entity receiving the award.

MOF/MSF does not apply to future contingent emergency response awards that may be 317(a), and 317(d) of the Public Health Service Act unless such a requirement were imposed by statute or administrative process at the time.

REPORTING REQUIREMENTS

Annual Federal Financial Report (FFR, SF-425): The Annual Federal Financial Report (FFR) SF-425 is required and must be submitted to your GMS/GMO no later than 90 days after the end of the budget period. To submit the FFR, login to www.grantsolutions.gov select "Reports" from the menu bar and then click on Federal Financial Reports. The FFR for this budget period is due by September 28, 2019. Reporting timeframe is July 1, 2018 through June 30, 2019.

The FFR should only include those funds authorized and disbursed during the timeframe covered by the report.

Failure to submit the required information in a timely manner may adversely affect the future funding of this project. If the information cannot be provided by the due date, the recipient is required to contact the Grants Management Officer listed in the contacts section of this notice before the due date.

Annual Performance Progress and Monitoring: Performance information collection initiated under this grant/cooperative agreement has been approved by the Office of Management and Budget under OMB Number 0920-1132 "Performance Progress and Monitoring Report", Expiration Date 8/31/2019. The components of the PPMR are available for download at: <https://www.cdc.gov/grants/alreadyhavegrant/Reporting.html> .

Required Disclosures for Federal Awardee Performance and Integrity Information System (FAPIIS): Consistent with 45 CFR 75.113, applicants and recipients must disclose in a timely manner, in writing to the CDC, with a copy to the HHS Office of Inspector General (OIG), all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Subrecipients must disclose, in a timely manner in writing to the prime recipient (pass through entity) and the HHS OIG, all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Disclosures must be sent in writing to the CDC and to the HHS OIG at the following addresses:

CDC, Office of Grants Services
Nicole Comick, Grants Management Specialist
Centers for Disease Control and Prevention
OD/ Environmental, Occupational Health & Injury Prevention Services Branch
2960 Brandywine Road, MS: E-01
Email: ktv6@cdc.gov (Include "Mandatory Grant Disclosures" in subject line)

AND

U.S. Department of Health and Human Services
Office of the Inspector General
ATTN: Mandatory Grant Disclosures, Intake Coordinator
330 Independence Avenue, SW
Cohen Building, Room 5527

Washington, DC 20201

Fax: (202) 205-0604 (Include "Mandatory Grant Disclosures" in subject line) or

Email: MandatoryGranteeDisclosures@oig.hhs.gov

Recipients must include this mandatory disclosure requirement in all subawards and contracts under this award.

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371. Remedies for noncompliance, including suspension or debarment (See 2 CFR parts 180 and 376, and 31 U.S.C. 3321).

CDC is required to report any termination of a federal award prior to the end of the period of performance due to material failure to comply with the terms and conditions of this award in the OMB-designated integrity and performance system accessible through SAM (currently FAPIIS). (45 CFR 75.372(b)) CDC must also notify the recipient if the federal award is terminated for failure to comply with the federal statutes, regulations, or terms and conditions of the federal award. (45 CFR 75.373(b))

PAYMENT INFORMATION

Payment Management System Subaccount: Funds awarded in support of approved activities have been obligated in a newly established subaccount in the PMS, herein identified as the "P Account". Funds must be used in support of approved activities in the NOFO and the approved application. All award funds must be tracked and reported separately.

The grant document number identified on the bottom of Page 1 of the Notice of Award must be known in order to draw down funds.

Component: PHEP
Document Number: 17NU90TP921924PHEP
Component: HPP
Document Number: 17NU90TP921924HPP

Acceptance of the Terms of an Award: By drawing or otherwise obtaining funds from the grant Payment Management System, the recipient acknowledges acceptance of the terms and conditions of the award and is obligated to perform in accordance with the requirements of the award. If the recipient cannot accept the terms, the recipient should notify the Grants Management Officer within thirty (30) days of receipt of this award notice.

Certification Statement: By drawing down funds, the recipient certifies that proper financial management controls and accounting systems, to include personnel policies and procedures, have been established to adequately administer Federal awards and funds drawn down. Recipients must comply with all terms and conditions outlined in their NoA, including grant policy terms and conditions contained in applicable HHS Grant Policy Statements, and requirements imposed by program statutes and regulations and HHS grants administration regulations, as applicable; as well as any regulations or limitations in any applicable appropriations acts.

PROGRAM OR FUNDING SPECIFIC CLOSEOUT REQUIREMENTS

The final programmatic report format required is the following.

Final Performance Progress and Monitoring Report (PPMR): This report should include the information specified in the NOFO and is submitted 90 days following the end of the period of performance via www.grantsolutions.gov. At a minimum, the report will include the following:

- Statement of progress made toward the achievement of originally stated aims.
- Description of results (positive or negative) considered significant.
- List of publications resulting from the project, with plans, if any, for further publication.

Additional guidance may be provided by the GMS and found at:
<https://www.cdc.gov/grants/alreadyhavegrant/Reporting.html>

Information collection initiated under this grant/cooperative agreement has been approved by the Office of Management and Budget under OMB Number 0920-1132 "Performance Progress and Monitoring Report", Expiration Date 8/31/2019.

CDC Staff Contacts

Grants Management Specialist: The GMS is the federal staff member responsible for the day-to-day management of grants and cooperative agreements. The GMS is the primary contact of recipients for business and administrative matters pertinent to grant awards.

GMS Contact:

Nicole Comick, Grants Management Specialist
Centers for Disease Control and Prevention
OD/ Environmental, Occupational Health & Injury Prevention Services Branch
2960 Brandywine Road, MS: E-01
Atlanta, Georgia 30341
Telephone: 404-718-5907
Email: ktv6@cdc.gov

Program/Project Officer: The PO is the federal official responsible for monitoring the programmatic, scientific, and/or technical aspects of grants and cooperative agreements, as well as contributing to the effort of the award under cooperative agreements.

HPP Programmatic Contact:

Sharon Cox, Project Officer
Centers for Disease Control and Prevention
ASPR/OS/OEM/NHPP
United States Department of Health
200 C. Street, SW
Washington, D.C. 20201
Telephone: 202-245-0728
Email: Sharon.cox@hhs.gov

Grants Management Officer: The GMO is the federal official responsible for the business and

other non-programmatic aspects of grant awards. The GMO is the only official authorized to obligate federal funds and is responsible for signing the NoA, including revisions to the NoA that change the terms and conditions. The GMO serves as the counterpart to the business officer of the recipient organization.

GMO Contact:

Shicann M. Phillips, Grants Management Officer
Centers for Disease Control and Prevention
OD/Environmental, Occupational Health & Injury Prevention Services Branch
2960 Brandywine Road, MS: E-01
Atlanta, Georgia 30341
Telephone: 770-488-2809
Email: IBQ7@cdc.gov

Technical Review for CDC-RFA-TP17-1701 Supplement
Hospital Preparedness Program - Public Health Emergency Preparedness Cooperative Agreement Department
of Health and Human Services
CDC-RFA-TP17-17010201SUPP18

DATE: April 22, 2018

APPLICANT NAME: Health Research Inc. (New York)

GRANT #: NU90TP2018001910

AMOUNT REQUESTED: \$20,467,419

RECOMMENDATION: In accordance with Public Health Emergency Preparedness (PHEP): section 319C-1 of the PHS Act (47 USC § 247d-3a) [or Hospital Preparedness Program (HPP): section 319C-2 of the Public Health Service (PHS) Act (42 USC § 247d-3b)], as amended, continuation funding is recommended. Please see Summary below for technical review details.

REVIEWER: Tracy Lewis

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SUMMARY

I. Summary of Project:

The New York State Department of Health's (NYSDOH) application is a continuation of activities and outputs from BP1. Their concentration still lies in providing LHDs with a Public Health Emergency Preparedness plan as well as the Hazard Vulnerability Analysis (HVA). The activities and outputs align with the guidance put forth in the Public Health Emergency Preparedness (PHEP) notice of funding opportunity. The NYSDOH is working with its Health Emergency Preparedness Coalitions (HEPC) and the Executive Advisory Committee to ensure engagement with populations with access and functional needs. The applicant plans to conduct one public health and emergency medical emergency preparedness exercise where the objective focuses on persons with disabilities and other at-risk populations. During the project period NYSDOH is looking to develop a stronger relationship with Federally Recognized Tribes, establish a mental health training group concentrating on identifying behavioral health training needs, and continue to build their ability to notify and activate volunteers

using SerNY. Recipient is requesting resources from CDC/ATSDR to prepare for chemical incidents/disasters. The budget items appear reasonable and appropriate in relation to the scope of the cooperative agreement.

II. Major Strengths:

- NYSDOH/HRI has put forth a work plan that has the local health departments thoroughly engaged in all of the capabilities. During this project period emergency plans will be updated and ensure there are adequate resources for preparedness training for staff.
- The NYSDOH is looking to engage their Federally Recognized Tribes more aggressively during this new budget period. Through strong connectivity and sustainable relationships between the state, the nations, counties, and other local partners, NYSDOH will have the capability to seek input from recognized tribes.
- The budget plans for the Level 1 chemical laboratory program are well developed. In addition to plans to support personnel, travel, training and laboratory consumables, the awardee also plans to purchase up to \$1.1 million in LRN-C equipment for the detection of exposures to high threat chemical compounds. The Recipient provided a workplan with achievable goals and activities. Most of the activities are a continuation from the previous budget period as they are planning to sustain most of the capabilities.

III. Major Weaknesses:

- The proposed outputs and activities in Domain Incident Management are a duplication from BP 1707-01. Some of those activities include but are not limited to: updating and revising the Health Emergency Preparedness and Response Plan (HEPRP), conduct overview training, developing functional exercise. Additional funding has been added to several of these activities, however, the outputs and outcomes have not changed in light of the budget line augmentation.
- The BP1- Supplemental work plan is a carbon copy of BP1 work plan. For example Strengthen Information Management increased from \$2,602,941 to \$3,044,499, however the activities and work plans do not demonstrate transformed activities or outputs. According to the progress report the activities under this Domain are ongoing and schedule to be completed by the end of the budget period. It is unclear what activities and outputs the awardee will be completing during BP1-Supp for the Domain: Strength Information Management. The preparedness activities completed in BP1 should guide BP1 SUPP strategy development by addressing specific barriers LHDs face.
- Minimal work plan details were provided regarding LRN-C activities. As a LRN-C Level 1 laboratory located in a high threat area, it is important that the awardee has well developed emergency response coordination plans with other agencies such as CSTs and FBI.

- The sub-recipient contracts work plan should demonstrate distinguishable activities as they relate to the domains and capabilities addressed. The descriptions provided are not specific as to what the local health departments will be accomplishing per the tasks/activities outlined within the capabilities.

IV. Recommendations:

- Provide a justification and clarification how the activities in Domain Incident Management are different and will not be a duplication of efforts from BP1.
- Project Officer will ask awardee to redefine the activities and outputs utilizing the SMART criteria.
- Recommend that the awardee include more work plan outputs related to LRN-C Level 1/Level 3 activities such as hospital outreach and coordination with other local preparedness partners such as the NY Division of Homeland Security and Emergency Services. Also recommend more activities in support of LRN-C secure data messaging integrated with local LIMS capabilities.
- Awardees will need to provide additional domain/capability specific activities for the local health department sub-recipient contracts workplan.

V. Budgetary Recommendations for the Office of Grants Services:

Vacancies: The recipients has 7 personnel vacancies totaling \$614,062. It is unclear how these vacancies impact the recipient's ability to execute the proposed work plan. The recipient needs to provide more information on when they plan to fill these positions and how they plan to complete activities if the vacancies are not filled.

Applicants must respond in PERFORMS and/or Grant Solutions to address programmatic Conditions of Award (COAs) as applicable. Contact your PHEP Specialist for further detail regarding programmatic COAs. Contact your Grants Management Specialist regarding terms and conditions of the Notice of Award.

Attachment A
General Terms and Conditions - Health Research Incorporated Contracts

1. **Term** - This Agreement shall be effective and allowable costs may be incurred by the Contractor from the Contract Start Date through the Contract End Date, (hereinafter, the "Term") unless terminated sooner as hereinafter provided or extended by mutual agreement of the parties.
2. **Allowable Costs/Contract Amount –**
 - a) In consideration of the Contractor's performance under this Agreement, HRI shall reimburse the Contractor for allowable costs incurred in performing the Scope of Work, which is attached hereto as Exhibit A, in accordance with the terms and subject to the limits of this Agreement.
 - b) It is expressly understood and agreed that the aggregate of all allowable costs under the Agreement shall in no event exceed the Total Contract Amount, except upon formal amendment of this Agreement as provided herein below.
 - c) The allowable cost of performing the work under this Agreement shall be the costs approved in the Budget attached hereto as Exhibit B and actually incurred by the Contractor, either directly incident or properly allocable, to the Agreement, in the performance of the Scope of Work in accordance with cost principles of the Department of Health and Human Services Grants Policy Statement (HHS GPS). To be allowable, a cost must be necessary, cost-effective and consistent (as reasonably determined by HRI) with policies and procedures that apply uniformly to both the activities funded under this Agreement and other activities of the Contractor. Contractor shall supply documentation of such policies and procedures to HRI when requested.
 - d) Irrespective of whether the "Audit Requirements" specified in paragraph 3(a) are applicable to this Agreement, all accounts and records of cost relating to this Agreement shall be subject to audit by HRI or its duly authorized representative(s) and/or the Project Sponsor during the Term and for three years after the final voucher is submitted for payment. This provision includes the right for HRI to request copies of source documentation in support of any costs claimed. If an audit is started before the expiration of the 3-year period, the records must be retained until all findings involving the records have been resolved and final action taken. Any reimbursement made by HRI under this Agreement shall be subject to retroactive correction and adjustment upon such audits. The Contractor agrees to repay HRI promptly any amount(s) determined on audit to have been incorrectly paid. HRI retains the right, to the extent not prohibited by law or its agreements with the applicable Project Sponsor(s) to recoup any amounts required to be repaid by the Contractor to HRI by offsetting those amounts against amounts due to the Contractor from HRI pursuant to this or other agreements. The Contractor shall maintain appropriate and complete accounts, records, documents, and other evidence showing the support for all costs incurred under this Agreement.
3. **Administrative, Financial and Audit Regulations –**
 - a) This Agreement shall be audited, administered, and allowable costs shall be determined in accordance with the terms of this Agreement and the requirements and principles applicable to the Contractor as noted below, including, but not limited to, the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (referred to herein as the "Uniform Guidance") as codified in Title 2 of the Code of Federal Regulations. The federal regulations specified below apply to the Contractor (excepting the "Audit Requirements," which apply to federally- funded projects only), regardless of the source of the funding specified (federal/non-federal) on the face page of this Agreement. For non-federally funded projects any right granted by the regulation to the federal sponsor shall be deemed granted to the Project Sponsor. It is understood that a Project Sponsor may impose restrictions/requirements beyond those noted below in which case such restrictions/requirements will be noted in Attachment B Program Specific Clauses.

Contractor Type	Administrative Requirements	Cost Principles	Audit Requirements Federally Funded Only
College or University	Uniform Guidance	Uniform Guidance	Uniform Guidance
Not-for-Profit	Uniform Guidance	Uniform Guidance	Uniform Guidance
State, Local Gov. or Indian Tribe	Uniform Guidance	Uniform Guidance	Uniform Guidance
For-Profit	45 CFR Part 74	48 CFR Part 31.2	Uniform Guidance
Hospitals	2 CFR Part 215	45 CFR Part 74	Uniform Guidance

- b) If this Agreement is federally funded, the Contractor will provide copies of audit reports required under any of the above audit requirements to HRI within 30 days after completion of the audit.

4. Payments -

- a) No payments will be made by HRI until such time as HRI is in receipt of the following items:
- Insurance Certificates pursuant to Article 9;
 - A copy of the Contractor's latest audited financial statements (including management letter if requested);
 - A copy of the Contractor's most recent 990 or Corporate Tax Return;
 - A copy of the Contractor's approved federal indirect cost rate(s) and fringe benefit rate (the "federal rates"); or documentation (which is acceptable to HRI) which shows the Contractor's methodology for allocating these costs to this Agreement. If, at any time during the Term the federal rates are lower than those approved for this Agreement, the rates applicable to this Agreement will be reduced to the federal rates;
 - A copy of the Contractor's time and effort reporting system procedures (which are compliant with the Uniform Guidance) if salaries and wages are approved in the Budget.
 - A copy of equipment policy if equipment is in the approved budget.
 - Further documentation as requested by HRI to establish the Contractor's fiscal and programmatic capability to perform under this Agreement.

Unless and until the above items are submitted to and accepted by HRI, the Contractor will incur otherwise allowable costs at its own risk and without agreement that such costs will be reimbursed by HRI pursuant to the terms of this Agreement. No payments, which would otherwise be due under this Agreement, will be due by HRI until such time, if ever, as the above items are submitted to and accepted by HRI.

- b) The Contractor shall submit voucher claims and reports of expenditures at the Required Voucher Frequency noted on the face page of this Agreement, in such form and manner, as HRI shall require. HRI will reimburse Contractor upon receipt of expense vouchers pursuant to the Budget in Exhibit B, so long as Contractor has adhered to all the terms of this Agreement and provided the reimbursement is not disallowed or disallowable under the terms of this Agreement. All information required on the voucher must be provided or HRI may pay or disallow the costs at its discretion. HRI reserves the right to request additional back up documentation on any voucher submitted. Further, all vouchers must be received within thirty (30) days of the end of each period defined as the Required Voucher Frequency (i.e. each month, each quarter). Contractor shall submit a final voucher designated by the Contractor as the "Completion Voucher" no later than sixty (60) days from termination of the Agreement. Vouchers received after the 60 day period may be paid or disallowed at the discretion of HRI.
- c) The Contractor agrees that if it shall receive or accrue any refunds, rebates, credits or other amounts (including any interest thereon) that relate to costs for which the Contractor has been reimbursed by HRI under this Agreement it shall notify HRI of that fact and shall pay or, where appropriate, credit HRI those amounts.
- d) The Contractor represents, warrants and certifies that reimbursement claimed by the Contractor under this Agreement shall not duplicate reimbursement received from other sources, including, but not limited to client fees, private insurance, public donations, grants, legislative funding from units of government, or any other source. The terms of this paragraph shall be deemed continuing representations upon which HRI has relied in entering into and which are the essences of its agreements herein.

5. **Termination** - Either party may terminate this Agreement with or without cause at any time by giving thirty (30) days written notice to the other party. HRI may terminate this Agreement immediately upon written notice to the Contractor in the event of a material breach of this Agreement by the Contractor. It is understood and agreed, however, that in the event that Contractor is in default upon any of its obligations hereunder at the time of any termination, such right of termination shall be in addition to any other rights or remedies which HRI may have against Contractor by reason of such default. Upon termination of the Agreement by either party for any reason, Contractor shall immediately turn over to HRI any works in progress, materials, and deliverables (whether completed or not) related to the services performed up to the date of termination.

6. Representations and Warranties – Contractor represents and warrants that:

- a) it has the full right and authority to enter into and perform under this Agreement;
- b) it will perform the services set forth in Exhibit A in a workmanlike manner consistent with applicable industry practices;
- c) the services, work products, and deliverables provided by Contractor will conform to the specifications in Exhibit A;
- d) there is no pending or threatened claim or litigation that would have a material adverse impact on its ability to perform as required by this Agreement.

7. Indemnity - To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend HRI, its agents, employees, officers, board members, the New York State Department of Health, and the People of the State of New York against all claims, damages, losses or expenses including but not limited to attorneys' fees arising out of or resulting from the performance of the agreement, provided any such claim, damage, loss or expense arises out of, or in connection with, any act or omission by Contractor, or anyone directly or indirectly employed or contracted by Contractor, in the performance of services under this Agreement, and such acts or omissions (i) constitute negligence, willful misconduct, or fraud; (ii) are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including loss of use resulting there from; (iii) cause the breach of any confidentiality obligations set forth herein; (iv) relate to any claim for compensation and payment by any employee or agent of Contractor; (v) result in intellectual property infringement or misappropriation by Contractor, its employees, agents, or subcontractors; or (vi) are violations of regulatory or statutory provisions of the New York State Labor Law, OSHA or other governing rule or applicable law. The obligation of the Contractor to indemnify any party under this paragraph shall not be limited in any manner by any limitation of the amount of insurance coverage or benefits including workers' compensation or other employee benefit acts provided by the Contractor. In all subcontracts entered into by the Contractor related to performance under this Agreement, the Contractor will include a provision requiring the subcontractor to provide the same indemnity and hold harmless to the indemnified parties specified in this paragraph.

8. Amendments/Budget Changes –

- a) This Agreement may be changed, amended, modified or extended only by mutual consent of the parties provided that such consent shall be in writing and executed by the parties hereto prior to the time such change shall take effect, with the exception of changes and amendments that are made mandatory by the Project Sponsor under the sponsoring grant/contract, which will take effect in accordance with the Project Sponsor's requirements and schedule.
- b) In no event shall there be expenses charged to a restricted budget category without prior written consent of HRI.
- c) The Budget Flexibility Percentage indicates the percent change allowable in each category of the Budget, with the exception of a restricted budget category. As with any desired change to this Agreement, budget category deviations exceeding the Budget Flexibility Percentage in any category of the Budget are not permitted unless approved in writing by HRI. In no way shall the Budget Flexibility Percentage be construed to allow the Contractor to exceed the Total Contract Amount less the restricted budget line, nor shall it be construed to permit charging of any unallowable expense to any budget category. An otherwise allowable charge is disallowed if the charge amount plus any Budget Flexibility Percentage exceeds the amount of the budget category for that cost.

9. Insurance –

- a) The Contractor shall maintain or cause to be maintained, throughout the Term, insurance or self-insurance equivalents of the types and in the amounts specified in section b) below. Certificates of Insurance shall evidence all such insurance. It is expressly understood that the coverage's and limits referred to herein shall not in any way limit the liability of the Contractor. The Contractor shall include a provision in all subcontracts requiring the subcontractor to maintain the same types and amounts of insurance specified in b) below.
- b) The Contractor shall purchase and maintain at a minimum the following types of insurance coverage and limits of liability:
 - 1) Commercial General Liability (CGL) with limits of insurance of not less than \$1,000,000 each Occurrence and \$2,000,000 Annual Aggregate. If the CGL coverage contains a General Aggregate Limit, such General Aggregate shall apply separately to each project. HRI and the People of the State of New York shall be included as Additional Insureds on the Contractor's CGL, using ISO Additional Insured Endorsement CG 20 10 11 85 or an endorsement providing equivalent coverage to the Additional Insureds. The CGL insurance for the Additional Insureds shall be as broad as the coverage provided for the Named Insured Contractor. It shall apply as primary and non-contributing insurance before any insurance maintained by the Additional Insureds.
 - 2) Business Automobile Liability (AL) with limits of insurance of not less than \$1,000,000 each accident. AL coverage must include coverage for liability arising out of all owned, leased, hired and non-owned automobiles.
 - 3) Workers Compensation (WC) & Employers Liability (EL) with limits of insurance of not less than \$100,000 each accident for bodily injury by accident and \$100,000 each employee for injury by disease.
 - 4) If specified by HRI, Professional Liability Insurance with limits of liability of \$1,000,000 each occurrence and \$3,000,000 aggregate.

- c) Provide that such policy may not be canceled or modified until at least 30 days after receipt by HRI of written notice thereof; and
- d) Be reasonably satisfactory to HRI in all other respects.

10. Publications and Conferences –

- a) All written materials, publications, journal articles, audio-visuals that are either presentations of, or products of the Scope of Work which are authorized for publication or public dissemination, subject to the confidentiality restrictions herein, will acknowledge HRI, the New York State Department of Health (DOH) and the Project Sponsor and will specifically reference the Sponsor Reference Number as the contract/grant funding the work with a disclaimer, as appropriate, such as: "The content of this publication (journal article, etc.) is solely the responsibility of the authors and does not necessarily represent the official views of HRI or the Project Sponsor. This requirement shall be in addition to any publication requirements or provisions specified in Attachment B – Program Specific Clauses.
- b) Conference Disclaimer: Where a conference is funded by a grant, cooperative agreement, sub-grant and/or a contract the recipient must include the following statement on conference materials, including promotional materials, agenda, and Internet sites, "Funding for this conference was made possible (in part) by the <insert Project Sponsor name>. The views expressed in written conference materials or publications and by speakers and moderators do not necessarily reflect the official policies of HRI, NYS Department of Health or the Project Sponsor, nor does mention of trade names, commercial practices, or organizations imply endorsement by the U.S. Government."

Use of Logos: In order to avoid confusion as to the conference source or a false appearance of Government, HRI or DOH endorsement, the Project Sponsor, HRI and/or DOH's logos may not be used on conference materials without the advance, express written consent of the Project Sponsor, HRI and/or DOH.

11. Title -

- a) Unless noted otherwise in an attachment to this Agreement, title to all equipment purchased by the Contractor with funds from this Agreement will remain with Contractor. Notwithstanding the foregoing, at any point during the Term or within 180 days after the expiration of the Term, HRI may require, upon written notice to the Contractor, that the Contractor transfer title to some or all of such equipment to HRI. The Contractor agrees to expeditiously take all required actions to effect such transfer of title to HRI when so requested. In addition to any requirements or limitations imposed upon the Contractor pursuant to paragraph 3 hereof, during the Term and for the 180 day period after expiration of the Term, the Contractor shall not transfer, convey, sublet, hire, lien, grant a security interest in, encumber or dispose of any such equipment. The provisions of this paragraph shall survive the termination of this Agreement.
- b) Contractor acknowledges and agrees that all work products, deliverables, designs, writings, inventions, discoveries, and related materials (collectively, "Works") made, produced or delivered by Contractor in the performance of its obligations hereunder will be owned exclusively by HRI. All copyrightable Works are "works made for hire", which are owned by HRI. Contractor will assign, and hereby assigns and transfers to HRI, all intellectual property rights in and to Works, including without limitation, copyrights, patent rights, trademark rights, and trade secret rights. The Contractor shall take all steps necessary to effect the transfer of the rights granted in this paragraph to HRI. As set forth in paragraph 18(d) herein, Standard Patent Rights Clauses under the Bayh-Dole Act (37 C.F.R. 401) are hereby incorporated by reference and shall supersede any terms in this Agreement that may conflict therewith. The provisions of this paragraph shall survive the termination of this Agreement.

12. Confidentiality - Information relating to individuals who may receive services pursuant to this Agreement shall be maintained and used only for the purposes intended under the Agreement and in conformity with applicable provisions of laws and regulations or specified in Attachment B, Program Specific Clauses. Contractor acknowledges and agrees that, during the course of performing services under this Agreement, it may receive information of a confidential nature, whether marked or unmarked, ("Confidential Information"). Contractor agrees to protect such Confidential Information with the same degree of care it uses to protect its own confidential information of a similar nature and importance, but with no less than reasonable care. Contractor will not use Confidential Information for any purpose other than to facilitate the provision of services under this Agreement, and Contractor will not disclose Confidential Information in an unauthorized manner to any third party without HRI's advance written consent.

13. Equal Opportunity and Non-Discrimination - Contractor acknowledges and agrees, whether or not required by Article 15 of the New York State Executive Law (also known as the Human Rights Law) or any other State or Federal statutory or constitutional non-discrimination provisions, that Contractor will not discriminate against any employee or

applicant for employment because of race, color, creed, religion, sex, sexual orientation, gender identity, national origin, age, disability, pregnancy-related condition, military or veteran status, genetic predisposition or carrier status, marital or familial status, domestic violence victim status, individual's relationship or association with a member of a protected category or any other basis protected by applicable state and federal law. Furthermore, Contractor agrees that neither it nor its authorized subcontractors, if any, shall, by reason of race, color, creed, religion, sex, sexual orientation, gender identity, national origin, age, disability, pregnancy-related condition, military or veteran status, genetic predisposition or carrier status, marital or familial status, domestic violence victim status, individual's relationship or association with a member of a protected category or any other basis protected by applicable state and federal law: (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 Agreement. Contractor is subject to fines of \$50.00 per person per day for any violation of this provision, or of Section 220-e or Section 239 of the New York State Labor Law, as well as possible termination of this Agreement and forfeiture of all moneys due hereunder for a second or subsequent violation.

14. Use of Names - Unless otherwise specifically provided for in Attachment B, Program Specific Clauses, and excepting the acknowledgment of sponsorship of this work as required in paragraph 10 hereof (Publications), the Contractor will not use the names of Health Research, Inc. the New York State Department of Health, the State of New York or any employees or officials of these entities without the express written approval of HRI.

15. Site Visits and Reporting Requirements -

- a) Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance of the services under this Agreement (collectively, "Records"). The Records must be kept for three years after the final voucher is paid.
- b) HRI and the Project Sponsor or their designee(s) shall have the right to conduct site visits where services are performed and observe the services being performed by the Contractor and any subcontractor and inspect Records. The Contractor shall render all assistance and cooperation to HRI and the Project Sponsor in connection with such visits. The surveyors shall have the authority, to the extent designated by HRI, for determining contract compliance as well as the quality of services being provided.
- c) The Contractor agrees to provide the HRI Project Director, or his or her designee complete reports, including but not limited to, narrative and statistical reports relating to the project's activities and progress at the Reporting Frequency specified in Exhibit C. The format of such reports will be determined by the HRI Project Director and conveyed in writing to the Contractor.

16. Miscellaneous -

- a) Contractor and any subcontractors are independent contractors, not partners, joint venturers, or agents of HRI, the New York State Department of Health or the Project Sponsor; nor are the Contractor's or subcontractor's employees considered employees of HRI, the New York State Department of Health or the Project Sponsor for any reason. Contractor shall pay employee compensation, fringe benefits, disability benefits, workers compensation and/or withholding and other applicable taxes (collectively the "Employers Obligations") when due. The contractor shall include in all subcontracts a provisions requiring the subcontractor to pay its Employer Obligations when due. Contractor is fully responsible for the performance of any independent contractors or subcontractors.
- b) This Agreement may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet, subjected to any security interest or encumbrance of any type, or disposed of without the previous consent, in writing, of HRI.
- c) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.
- d) Contractor shall have no interest, financial or otherwise, direct or indirect, or engage in any business, transaction, or professional activity, that may create a conflict, or the appearance of a conflict, with the proper discharge of Contractor's duties under this Agreement or the conflict of interest policy of any agency providing federal funding under this Agreement. In the event any actual or potential conflict arises, Contractor agrees to notify HRI in writing within ten (10) days to allow HRI to evaluate any potential or actual conflict. Contractor certifies that it has implemented and is in compliance with a financial conflict of interest policy that complies with 42 CFR Part 50 Subpart F, as may be amended from time to time. Contractor acknowledges that it cannot engage in any work or receive funding from HRI until they have disclosed all financial conflicts of interest and identified an acceptable management strategy to HRI. At HRI's request, Contractor will provide information about how it identified, managed, reduced or eliminated conflicts of interest. Failure to disclose such conflicts or to provide information to

HRI may be cause for termination as specified in the Terms & Conditions of this Agreement. HRI shall provide Contractor with a copy of notifications sent to the funding agency under this Agreement.

- e) Regardless of the place of physical execution or performance, this Agreement shall be construed according to the laws of the State of New York and shall be deemed to have been executed in the State of New York. Any action to enforce, arising out of or relating in any way to any of the provisions of this Agreement may only be brought and prosecuted in such court or courts located in the State of New York as provided by law; and the parties' consent to the jurisdiction of said court or courts located in the State of New York and to venue in and for the County of Albany to the exclusion of all other court(s) and to service of process by certified or registered mail, postage prepaid, return receipt requested, or by any other manner provided by law. The provisions of this paragraph shall survive the termination of this Agreement.
- f) All official notices to any party relating to material terms hereunder shall be in writing, signed by the party giving it, and shall be sufficiently given or served only if sent by registered mail, return receipt requested, addressed to the parties at their addresses indicated on the face page of this Agreement.
- g) If any provision of this Agreement or any provision of any document, attachment or Exhibit attached hereto or incorporated herein by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement but this Agreement shall be reformed and construed as if such invalid provision had never been contained herein and such provision reformed so that it would be valid, operative and enforceable to the maximum extent permitted.
- h) The failure of HRI to assert a right hereunder or to insist upon compliance with any term or condition of this Agreement shall not constitute a waiver of that right by HRI or excuse a similar subsequent failure to perform any such term or condition by Contractor.
- i) It is understood that the functions to be performed by the Contractor pursuant to this Agreement are non-sectarian in nature. The Contractor agrees that the functions shall be performed in a manner that does not discriminate on the basis of religious belief and that neither promotes nor discourages adherence to particular religious beliefs or to religion in general.
- j) In the performance of the work authorized pursuant to this Agreement, Contractor agrees to comply with all applicable project sponsor, federal, state and municipal laws, rules, ordinances, regulations, guidelines, and requirements governing or affecting the performance under this Agreement in addition to those specifically included in the Agreement and its incorporated Exhibits and Attachments.
- k) This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Delivery of an executed signature page to the Agreement by facsimile transmission or PDF shall be as effective as delivery of a manually signed counterpart.

17. Federal Regulations/Requirements Applicable to All HRI Agreements -

The following are federal regulations, which apply to all Agreements; regardless of the source of the funding (federal/non-federal) specified on the face page of this Agreement. Accordingly, regardless of the funding source, the Contractor agrees to abide by the following:

- a) Human Subjects, Derived Materials or Data - If human subjects are used in the conduct of the work supported by this Agreement, the Contractor agrees to comply with the applicable federal laws, regulations, and policy statements issued by DHHS in effect at the time the work is conducted, including by not limited to Section 474(a) of the HHS Act, implemented by 45 CFR Part 46 as amended or updated. The Contractor further agrees to complete an OMB No. 0990-0263 form on an annual basis.
- b) Laboratory Animals - If vertebrate animals are used in the conduct of the work supported by this Agreement, the Contractor shall comply with the Laboratory Animal Welfare Act of 1966, as amended (7 USC 2131 et. seq.) and the regulations promulgated thereunder by the Secretary of Agriculture pertaining to the care, handling and treatment of vertebrate animals held or used in research supported by Federal funds. The Contractor will comply with the *HHS Policy on Humane Care and Use of Laboratory Animals by Awardee Institutions* and the *U.S. Government Principles for the Utilization and Care of Vertebrate Animals Used in Testing, Research and Training*.
- c) Research Involving Recombinant DNA Molecules - The Contractor and its respective principle investigators or research administrators must comply with the most recent *Public Health Service Guidelines for Research Involving Recombinant DNA Molecules* published at Federal Register 46266 or such later revision of those guidelines as may be published in the Federal Register as well as current *NIH Guidelines for Research Involving Recombinant DNA Molecules*.

- d) Contractor is required to register with SAM.gov and maintain active status as stated in 2 CFR Subtitle A, Chapter 1, and Part 25. Contractor must maintain the accuracy/currency of the information in SAM at all times during which the Contractor has an active agreement with HRI. Additionally, the Contractor is required to review and update the information at least annually after the initial registration, and more frequently if required by changes in information.
- e) Equal Employment Opportunity – for all agreements

This contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a) which is hereby incorporated herein.

This contractor and subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

- f) National Labor Relations Act (Executive Order 13496)

Contractors that are not exempt from the National Labor Relations Act and have contracts, subcontracts or purchase orders subject to EO 13496 must satisfy the requirements of that Executive Order and its implementing regulations at 29 CFR Part 471 to be in compliance with the law.

18. Federal Regulations/Requirements Applicable to Federally Funded Agreements through HRI -

The following clauses are applicable only for Agreements that are specified as federally funded on the Agreement face page:

- a) If the Project Sponsor is an agency of the Department of Health and Human Services: The Contractor must be in compliance with the following Department of Health and Human Services and Public Health Service regulations implementing the statutes referenced below and assures that, where applicable, it has a valid assurance (HHS-690) concerning the following on file with the Office of Civil Rights, Office of the Secretary, HHS.
 - 1) Title VI of the Civil Rights Act of 1964 as implemented in 45 CFR Part 80.
 - 2) Section 504 of the Rehabilitation Act of 1973, as amended, as implemented by 45 CFR Part 84.
 - 3) The Age Discrimination Act of 1975 (P.L. 94-135) as amended, as implemented by 45 CFR 1.
 - 4) Title IX of the Education Amendments of 1972, in particular section 901 as implemented at 45 CFR Part 86 (elimination of sex discrimination).
 - 5) Sections 522 and 526 of the HHS Act as amended, implemented at 45 CFR Part 84 (non-discrimination for drug/alcohol abusers in admission or treatment).
 - 6) Section 543 of the HHS Act as amended as implemented at 42 CFR Part 2 (confidentiality of records of substance abuse patients).
 - 7) Trafficking in Persons – subject to the requirement of Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104).
 - 8) HHS regulatory requirements on Responsibility of Applicants for Promoting Objectivity in Research and financial conflicts of interest set forth in 42 C.F.R Parts 50 and 94.
 - 9) Contractor agrees to comply with other requirements of the Project Sponsor, if applicable, set forth in the HHS Grants Policy Statement.
- b) Notice as Required Under Public Law 103-333: If the Project Sponsor is an agency of the Department of Health and Human Services, the Contractor is hereby notified of the following statement made by the Congress at Section 507(a) of Public Law 103-333 (The DHHS Appropriations Act, 1995, hereinafter the "Act"): It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.
- c) Contractor agrees that if the Project Sponsor is other than an agency of the DHHS, items 1, 2, 3 and 4 in subsection a) above shall be complied with as implemented by the Project Sponsor.

- d) Contractor agrees that the Standard Patent Rights Clauses under the Bayh-Dole Act (37 C.F.R 401) are hereby incorporated by reference and shall supersede any terms in this Agreement that may conflict therewith.
- e) Criminal Penalties for Acts Involving Federal Health Care Programs_- Recipients and sub-recipients of Federal funds are subject to the strictures of 42 U.S.C. 1320A-7B(b)) and should be cognizant of the risk of criminal and administrative liability under this statute, including for making false statements and representations and illegal remunerations.
- f) Equipment and Products - To the greatest extent practicable, all equipment and products purchased with federal funds should be American-made.
- g) Acknowledgment of Federal Support – When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part by federal money, all awardees receiving Federal funds, including and not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.
- h) Recipients and sub-recipients of Federal funds are subject to the strictures of the Medicare and Medicaid anti-kickback statute (42. U.S.C. 1320a-7b (b) and should be cognizant of the risk of criminal and administrative liability under this statute, specifically under 42 U.S.C. 1320 7b(b) illegal remunerations which states, in part, that whoever knowingly and willfully: (A) Solicits or receives (or offers or pays) any remuneration (including kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind, in return for referring (or to induce such person to refer) and individual to a person for the furnishing or arranging for the furnishing of any item or service, OR (B) in return for purchasing, leasing, ordering, or recommending purchasing, leasing, or ordering, or to purchase, lease, or order, any goods, facility, services, or item for which payment may be made in whole or in part under subchapter XIII of this chapter or a State health care program, shall be guilty of a felony and upon conviction thereof, shall be fined not more than \$25,000 or imprisoned for not more than five years or both.
- i) Clean Air Act and the Federal Water Pollution Control Act Compliance - If this contract is in excess of \$150,000, Contractor agrees to comply and to require that all subcontractors have complied, where applicable, with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q.) and the Federal Water Pollution Control Act as amended (33 U.S.C. §1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- j) Americans With Disabilities Act - This agreement is subject to the provisions of Subtitle A of Title II of the Americans with Disabilities Act of 1990, 42. U.S.C. 12132 ("ADA") and regulations promulgated pursuant thereto, see 28 CFR Part 35. The Contractor shall not discriminate against an individual with a disability, as defined in the ADA, in providing services, programs or activities pursuant to this Agreement.
- k) Whistleblower Policy: Congress has enacted whistleblower protection statute 41 U.S.C. 4712, which applies to all employees working for contractors, grantees, subcontractors, and subgrantees on federal grants and contracts. This program requires all grantees, subgrantees and subcontractors to: inform their employees working on any federally funded award they are subject to the whistleblower rights and remedies of the program; inform their employee in writing of employee whistleblower protections under 41 U.S.C. 4712 in the predominant native language of the workforce; and Contractors and grantees will include such requirements in any agreement made with a subcontractor or subgrantee.

The statute (41 U.S.C. 4712) states that an "employee of a contractor, subcontractor, grantee [or subgrantee] may not be discharged, demoted, or otherwise discriminated against as a reprisal for "whistleblowing". In addition, whistleblower protections cannot be waived by any agreement, policy, form, or condition of employment.

Whistleblowing is defined as making a disclosure "that the employee reasonably believes is evidence of any of the following: gross mismanagement of a federal contract or grant; a gross waste of federal funds; an abuse of authority relating to a federal contract or grant; a substantial and specific danger to public health or safety; or a violation of law, rule, or regulation related to a federal contract or grant (including the competition for, or negotiation of, a contract or grant). To qualify under the statute, the employee's disclosure must be made to: a Member of Congress or a representative of a Congressional committee; or an Inspector General; or the Government Accountability Office; or a Federal employee responsible for contract or grant oversight or management at the relevant agency; or an authorized official of the Department of Justice or other law

enforcement agency; or a court or grand jury; a management official or other employee of the contractor, subcontractor, grantee or subgrantee who has the responsibility to investigate, discover or address misconduct.

19. Required Federal Certifications –

Acceptance of this Agreement by Contractor constitutes certification by the Contractor of all of the following:

- a) The Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.
- b) The Contractor is not delinquent on any Federal debt.
- c) Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352) – Contracts for \$100,000 or more must file the required certifications. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- d) The Contractor shall comply with the requirements of the Pro-Children Act of 1994 and shall not allow smoking within any portion of any indoor facility used for the provision of health, day care, early childhood development, education or library services to children under the age of eighteen (18) if the services are funded by a federal program, as this Agreement is, or if the services are provided in indoor facilities that are constructed, operated or maintained with such federal funds.
- e) The Contractor has established administrative policies regarding Scientific Misconduct as required by the Final Rule 42 CFR Part 93, Subpart A as published at the 54 Federal Register 32446, August 8, 1989.
- f) The Contractor maintains a drug free workplace in compliance with the Drug Free Workplace Act of 1988 as implemented in 45 CFR Part 76.
- g) If the Project Sponsor is either an agency of the Public Health Service or the National Science Foundation, the Contractor is in compliance with the rules governing Objectivity in Research as published in 60 Federal Register July 11, 1995.
- h) Compliance with EO13513, Federal Leadership on Reducing Text Messaging while Driving, October 1, 2009. Recipients and sub recipients of CDC grant funds are prohibited both from texting while driving a Government owned vehicle and/or using Government furnished electronic equipment while driving any vehicle. Grant recipients and sub recipients are responsible for ensuring their employees are aware of this prohibition and adhere to this prohibition.
- i) EO 13166, August 11, 2000, requires recipients receiving Federal financial assistance to take steps to ensure that people with limited English proficiency can meaningfully access health and social services. A program of language assistance should provide for effective communication between the service provider and the person with limited English proficiency to facilitate participation in, and meaningful access to, services. The obligations of recipients are explained on the OCR website at <http://www.hhs.gov/sites/default/files/ocr/civilrights/resources/specialtopics/lep/lepguidance.pdf>.
- j) Equal Employment Opportunity, requires compliance with E.O. 13672 "Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, "Equal Employment Opportunity", and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

The Contractor shall require that the language of all of the above certifications will be included in the award documents for all subawards under this Agreement (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. The Contractor agrees to notify HRI immediately if there is a change in its status relating to any of the above certifications.

Attachment "B" Program Specific Clauses

1. The following replaces the last sentence in Attachment A, Paragraph 4 b). Payments. "Contractor shall submit a final voucher designated by the Contractor as the "Completion Voucher" no later than Thirty (30) days from termination of the Agreement."
2. Guarantees and Damages: The work shall be commenced at the time stated in the Contract, and shall be completed no later than the time of completion specified in the Contract.
 - a. It is hereby understood and mutually agreed, by and between the Contractor and HRI, that the time for completion of the Work on the Deliverables, as specified in Exhibit A, is an essential condition of the Contract.
 - b. The Contractor agrees that the Work shall be carried out regularly, diligently, and uninterruptedly at such rate of progress to insure full completion within the time specified. It is expressly understood and agreed, by and between the Contractor and HRI that the time for completion of the Work described herein is a reasonable time.
 - c. The Contractor hereby guarantees HRI that Deliverable Work will be completed within the contract period. If the Contractor does not complete the Work within the contract period, or any proper extension thereof granted by HRI, the Contractor agrees to pay to HRI liquidated damages, according the following schedule:
 - 1st Offense- 1% of total contract
 - 2nd Offense- 5% of total contract
 - 3rd Offense- 10% of total contract
 - d. HRI reserves the right to waive liquidated damages.
 - e. It is further agreed that time is of the essence for each and every portion of the Work. In any instance in which additional time is allowed for the completion of any Work, the new time of completion established by said extension shall be of the essence. The Contractor shall not be charged with liquidated damages or any excess cost if HRI determines that the Contractor is without fault and that the delay in completion of the Work is due to:
 - i. any preference, priority or allocation order duly issued by the government of the United States or the State of New York; and
 - ii. an unforeseeable cause beyond the control and without the fault of, or negligence of the Contractor, and approved by HRI, including, but not limited to, acts of God or of public enemy, fires, epidemics, quarantine, restrictions, strikes, freight embargoes and unusually severe weather.
 - iii. The Contractor shall, within ten (10) days from the beginning of any such delay, notify HRI, in writing, of the causes of the delay.
 - f. Payment of the guarantees will be assessed as an "offset" to the following year's contract award.
3. Maximum Reimbursable Amount: In the event that a Maximum Reimbursable Amount has been specified on the face page of this Agreement, it is understood and accepted by the Contractor that while the Budget attached hereto as Exhibit B is equal to the Total Contract Amount specified on the face page of this Agreement, the aggregate of all allowable costs reimbursed under this reimbursement contract will not exceed the Maximum Reimbursable Amount. The Contractor may incur allowable costs in all categories as noted in the Budget Exhibit B; however, the aggregate amount reimbursed by HRI under this Agreement shall not exceed the Maximum Reimbursable Amount. In the event the Maximum Reimbursable Amount is increased by HRI, the Contractor will be notified in writing by HRI.
4. Budget Flexibility Percentage – Re-budgets/transfers among total cost categories are allowed up to 25% of the total contract budget, or \$250,000 whichever is less, without prior approval. Budget increases or changes to contract personnel, new equipment and new or increased costs of contractual/consultant agreements require prior approval.



HEALTH RESEARCH INCORPORATED

To All HRI Subcontractors:

Attached are the Health Research, Inc. (HRI) voucher and report of expenditures forms. Your organization must use these forms for all vouchering under HRI subcontracts. **NOTE: If your organization inputs the HRI voucher forms into a computer program, please be sure copy matches the attached.** Contact HRI Subcontract Unit if you would like the voucher form in an excel file.

HRI would like to clarify items noted as being areas of misunderstanding in voucher preparation in an effort to expedite the vouchering and reimbursement process:

Cover (First) Page: The individual signing for the subcontractor organization, by signing the voucher is certifying to the following:

- 1) Expenditures represent the costs actually incurred by the subcontractor organization either directly in performance of or properly allocable to the subcontract.
- 2) That the subcontractor has on file documentation to support allocation of such costs to the agreement in accordance with applicable regulations and approved budget.
- 3) That costs claimed were incurred within the dates specified on the voucher.
- 4) That the claim is just, true, and correct.
- 5) That no part of the claim has been paid by HRI or any third party and that the balance is actually due and owing.
- 6) Overlapping voucher periods are **NOT** allowed except for the final voucher, which can be used to bill for expenses missed on previous vouchers for the entire subcontract period.

Report of Expenditures – Salary Expense – List the name and job title of all personnel and include pay period covered and number of pay periods. Make sure percentage of effort, annual salary, and requested budget amounts are listed for all staff. The percentage of effort should reflect the actual effort worked for the claim period. **Make sure the percent of effort claimed calculates correctly.**

Report of Expenditures - Equipment Expense –

- All equipment should be ordered and delivered within the period of the contract.
- All pieces of equipment purchased must be listed separately on the expense page.
- For every item of equipment purchased, a corresponding invoice must be submitted. A serial # (where applicable), check #, check date and amount of check is required for payment.
- If the invoice is dated outside of the contract period, a typed purchase order must be submitted showing the order date and delivery date. Please note, the purchase order # must be referenced on the invoice.
- Please denote whom the equipment is for, and assure that the proper % of allocation to the contract coincides with the % of effort for staff utilizing equipment. (Note: if a piece of equipment is 100% applicable to the program, please denote that on the expense page)

Report of Expenditures - Miscellaneous - HRI requires a breakdown for the following **Miscellaneous** expenses: *(Please note that this is a list of most common Misc.-Other expenses. If there is something that does not appear on this list, or if unsure of what support may be needed, please contact HRI Subcontract Unit)*

- **Space** - If the contractor is vouchering for Miscellaneous - Space, all rental location addresses **MUST** be listed on the voucher. A complete street address, with city, state and zip code is required.

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www.healthresearch.org

- **Stipends** - For all types of stipends, list type of stipend and cost per each, or actual receipts/invoices.
- **Nutritional / Patient Incentives** - # of incentives, cost per incentive and description of incentive, or actual receipts/invoices.
- **Food / Refreshment / Meeting Costs** (in excess of \$100) - This can be provided in two different ways. (1) # of persons attending meeting and cost per person; **or** (2) copies of receipts showing what was purchased. Receipts may not include bottle deposits or tax amounts.
- **Staff training / development** - how many staff and at what cost per staff person, date of training.
- **M&R expense (maintenance and repairs expense)** - provide breakdown of what was repaired and cost for each repair.
- **Speakers** - rate per hour and # of hours and date of engagement.
- **Honoraria** - cost per honorarium.
- **Recruitment costs** – breakdown of costs
- **Participant Costs** - # of participants/cost per person, date of activity, type of activity, or actual receipts/invoices.
- **Conference Costs / Luncheons**- # of participants / cost per person, date of event, or actual receipts/invoices.
- **Tax** is not allowable.
- **Bottle Deposits** are not reimbursable.

(Please keep in mind HRI reserves the right to request additional backup documentation for items that may be listed on any voucher submitted or to institute specific documentation requirements in the contract itself).

Report of Expenditures - Subcontract/Consultant – The name, hours worked and rate of pay must be included in the “Notes” section of this form. HRI will accept an invoice as support for the consultant expense.

Indirect Costs (IDC)/Administrative – If contractor has a federally approved IDC rate, it must be noted on the top right hand corner of the Report of Expenditures. The expense must work out to the percentage of the federally approved rate or lower. Federal regulation allow for 10% Modified Total Direct Cost (MTDC) de minimus (see definition) – Expense claimed based on this must exclude the below items if included on the voucher.

Definition MTDC: MTDC means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant costs and the portion of each subaward in excess of \$25,000.

In general, Subcontractors are reminded of the following:

Timing of Expenditures: Only those expenses incurred or properly obligated during the period of your HRI subcontract can be charged against your HRI subcontract. For example, if a pay period crosses the start or end date of your agreement, only charge for those days that fall within the subcontract dates. If purchasing goods and services, those goods and services must be ordered and delivered within the period of the agreement. Place a **firm order with the vendor** during the subcontract dates from which the expense for the goods and services will be paid (i.e. Must be a purchase commitment issued to the vendor. "Internal" purchase orders are not acceptable as it does not constitute a commitment to the vendor). In all cases, the expenditures for goods and services must benefit the work funded under the agreement in order to be allowable. If such benefit cannot be established, HRI will not

permit reimbursement of the expense, regardless of when it was incurred. Expenses for goods and services ordered after the termination date of the agreement will not be honored.

Considerations for Cost Reimbursable Subcontracts: Only those costs incurred to conduct the HRI subcontract activity may be charged to the HRI subcontract. If the approved budget includes costs that will be allocated (costs that benefit both the HRI subcontract activity and some other activity at the organization) these costs must be allocated in the proportion to which those costs support each of those activities. This allocation should be used consistently throughout the organization (if applicable). Additionally, *costs must be incurred before billed for. Charging for anticipated expenses or before actually disbursing funds for those expenses is not permitted and is contrary to the certification made on the face page of the voucher.*

Budget flexibility - May be a percentage per budget line or a percentage of the total budget amount depending on the contract agreement.

- If the contract states 25% line item budget flexibility, the contractor may voucher for up to 25% over each specific line as long as there is savings on another line to compensate for the overage.
- If the contract states 25% total budget flexibility, the contractor may voucher on a specific line for a total of up to 25% of the total budget as long as there is savings on another line to compensate for the overage.
- Under no circumstances can the contractor voucher for more than the total budget.
- Re-budget is required if contractor is billing against a budget line that was not in the original budget or over budget flexibility.

Re-budgeting: If a re-budget is necessary in order to meet the goals of the agreement, such re-budgets should be submitted before incurring expenses. *Any expenses incurred by the subcontractor before receipt of approved budget modification are at the subcontractor's own risk.*

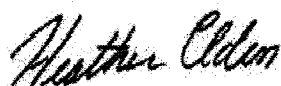
Timely vouchering: Timely vouchering is extremely important. Vouchers should be submitted within 30 days of the end of the claim period. Voucher frequency, monthly or quarterly, is indicated on the agreement cover page. Final vouchers must be submitted within 60 days of the termination date of your contract (unless otherwise noted in your agreement) and should be marked as "**FINAL VOUCHER**".

Final Voucher: After the final voucher is received, reviewed and processed by the HRI Subcontract Unit it goes to the HRI Audit Unit where a review of all the vouchers paid against the contract is performed to ensure that all categories reimbursed have been properly claimed. At this time, the contractor may be asked for additional information with regards to any and all vouchers previously paid by HRI. If any adjustments are necessary, the final voucher will be reduced by that amount prior to being approved/paid.

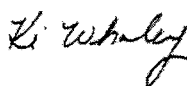
Vouchers can be submitted electronically to your Contract Manager listed in Exhibit "C" of the contract.

If you have any questions regarding the attached forms, please contact your Contract Manager or the HRI Subcontract Unit at (518) 431-1200 or at subcon@healthresearch.org.

Sincerely,



Heather Elden
Contract Administrator



Ki Whaley
Contract Administrator



Benjamin Norfleet
Asst. Contract Administrator



Contractor:

Oneida County through the Health Department
 185 Genesee St.
 Adirondack Bank Building
 Utica, NY 13501

HRI Account Number(s):
 15-0686-06

Contract Date:
 07/01/2018 - 06/30/2019

HRI Contract Number:
 1577-12

Payee's Reference #:

Contractor Project Director

Report for Period: _____ to _____

Budget Items	Budget Amount	Cumulative Expenditures Prior Periods	Expenditures Current Period	Expenditures to Date	Balances
* Salary	\$50,267				
Fringe	\$27,496				
Supplies	\$11,521				
Travel	\$10,000				
* Equipment	\$0				
* Miscellaneous	\$12,361				
* Contractual	\$22,020				
* Admin/Indirect	\$0				
Restricted	\$200,000				
Total Costs:	\$333,665				

Reimbursement Requested: \$

Expenditures under this contract may NOT exceed the maximum reimbursable amount of \$133,665.

* **NOTE:** Please attach REPORT OF EXPENDITURES to provide detail.

By signing this report, I hereby certify to the best of my knowledge and belief that the report is true, complete, and accurate and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Agreement. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)

Approvals:

HRI PI/Contract Manager: _____

Administration: _____

HRI: _____

Contractor

Signature: _____

Name: _____

(Please Print)

Title: _____

Email: _____

Phone #: _____

Date: _____



HEALTH RESEARCH
I N C O R P O R A T E D

Date _____

On September 26, 2006, S. 2560, the Federal Funding Accountability and Transparency Act (FFATA) of 2006, was enacted. FFATA is intended to deter “wasteful and unnecessary” spending. Therefore, FFATA requires full disclosure to the public all entities or organizations **receiving federal funds**. HRI must track Federal funding to subrecipients in the amount of \$25,000 or more, by Congressional District.

Because your organization is a sub-recipient of Federal funds subcontracted to by Health Research, Inc., HRI is requesting certification from your organization of the below information:

Subcontract number:	Subcontract Dates: 7/1/2018 to 6/30/2019	
Subcontractor Name:		Amount of Award: \$333,665
CFDA #: 93.074	Funding Agency: Centers for Disease Control	
Sponsor #: NU90TP921924	HRI Grant #: 15-0686-06	
HRI PI: Michael Primeau	(For HRI Use Only) Executed Date:	
Award Title: Hospital Preparedness Program		

DUNS Number: _____

Subcontractor location including address: (zip code must include +4):

Subcontract primary performance location including address: **(zip code must include +4)**:

Please provide a brief description of the project your organization is being contracted for:

Executive compensation data: Subcontractors are required to report the names and total compensation of the five most highly compensated officers if in the preceding fiscal year received 80 percent or more of its annual gross revenues in Federal awards and \$25,000,000 or more in annual gross revenues from Federal awards; and if the public does not have access to this information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

Check 'Yes' and complete below table if in the preceding fiscal year, your organization received 80%+ and \$25M+ in annual gross revenue from Federal awards and the public does not have access to Sr. Executive compensation otherwise check 'No'.

Yes No

	Name	Compensation
Officer 1		
Officer 2		
Officer 3		
Officer 4		
Officer 5		

I certify that the above information accurately represents the organization for which I am an authorized representative.

Signature

Name - please print

Title

Email

Phone #

Date

Please return completed form electronically to HRIFATA@healthresearch.org

ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5th Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



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

ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

September 30, 2018

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

FN 20 18 365

Dear Mr. Picente:

HEALTH & HUMAN SERVICES WAYS & MEANS

Attached are two (2) copies of an Agreement between Oneida County, through its Health Department, and the New York State Department of Health for the provision of services through the County's Children with Special Healthcare Needs Program.

The term of the master grant contract is from October 1, 2017 through September 30, 2020 for a total grant award of \$95,769.00. This Agreement shall be for the fiscal year commencing October 1, 2018 through September 30, 2019 with a grant amount of \$31,923.00.

Sincerely,

Phyllis D. Ellis, BSN, MS, FACHE
Director of Health

Attachments
CM

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

Anthony J. Picente, Jr.
County Executive

Date 10-4-18

Oneida Co. Department: Public Health

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

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: NYS Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

Title of Activity or Service: Children with Special Health Care Needs Program

Proposed Dates of Operation: Fiscal term: October 1, 2018 through September 30, 2019
Master Grant Contract October 1, 2017 through September 30, 2020

Client Population/Number to be Served: Children and Youth with Special Health Care Needs

Summary Statements

- 1) **Narrative Description of Proposed Services:** This program seeks to improve the system of care for children and youth from birth to 21 years of age. Oneida County's program acts as a resource and referral mechanism to empower families to advocate for the best health care to meet their children's needs.
- 2) **Program/Service Objectives and Outcomes:** Provide families with information regarding health insurance, increase awareness and knowledge of tools and resources, and provide information about transitioning to adult health care.
- 3) **Program Design and Staffing:** Oneida County Health department professional and support staff will implement activities to reach goals and objectives.

Total Funding Requested: \$0

Account # A4011 Rev 3401.02

Oneida County Dept. Funding Recommendation: N/A

Proposed Funding Sources (Federal \$/ State \$/County \$): State: \$31,923.00

Cost per Client Served: This amount varies based on the number of referrals made to this program.

Past Performance Data: N/A

O.C. Department Staff Comments: This grant is a renewal of funding for this program.

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

<p>STATE AGENCY (Name & Address):</p> <p>Department of Health</p> <p>Department of Health Corning Tower Empire State Plaza Albany, NY 12237</p>	<p>BUSINESS UNIT/DEPT. ID: DOH01</p> <p>CONTRACT NUMBER: DOH01-C32674GG-3450000</p> <p>CONTRACT TYPE:</p> <p><input checked="" type="checkbox"/> Multi-Year Agreement</p> <p><input type="checkbox"/> Simplified Renewal Agreement</p> <p><input type="checkbox"/> Fixed Term Agreement</p>
<p>CONTRACTOR SFS PAYEE NAME:</p> <p>ONEIDA COUNTY OF</p>	<p>TRANSACTION TYPE:</p> <p><input type="checkbox"/> New</p> <p><input checked="" type="checkbox"/> Renewal</p> <p><input type="checkbox"/> Amendment</p>
<p>CONTRACTOR DOS INCORPORATED NAME:</p> <p>Oneida County Public Health Department</p>	<p>PROJECT NAME:</p> <p>Children with Special Health Care Needs Program</p>
<p>CONTRACTOR IDENTIFICATION NUMBERS:</p> <p>NYS Vendor ID Number: 1000002595</p> <p>Federal Tax ID Number: 156000460</p> <p>DUNS Number (if applicable): 075814186</p>	<p>AGENCY IDENTIFIER:</p> <p>CFDA NUMBER (Federally Funded Grants Only): 93.994</p>
<p>CONTRACTOR PRIMARY MAILING ADDRESS:</p> <p>185 GENESEE ST 4TH FL UTICA, NY 13501</p> <p>CONTRACTOR PAYMENT ADDRESS:</p> <p><input checked="" type="checkbox"/> Check if same as primary mailing address</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</p> <p><input checked="" type="checkbox"/> Municipality, Code: 300100000000</p> <p><input type="checkbox"/> Tribal Nation</p> <p><input type="checkbox"/> Individual</p> <p><input type="checkbox"/> Not-for-Profit</p> <p>Charities Registration Number:</p> <p>Exemption State/Code:</p> <p><input type="checkbox"/> Sectarian Entity</p>

Contract Number: # DOH01-C32674GG-3450000

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

<p>CURRENT CONTRACT TERM:</p> <p>From: 10/01/2017 To: 09/30/2020</p> <p>CURRENT CONTRACT PERIOD:</p> <p>From: 10/01/2017 To: 09/30/2020</p> <p>AMENDED TERM:</p> <p>From: To:</p> <p>AMENDED PERIOD:</p> <p>From: To:</p>	<p>CONTRACT FUNDING AMOUNT</p> <p>(Multi-year - enter total projected amount of the contract; Fixed Term/Simplified Renewal - enter current period amount):</p> <p>CURRENT: \$95,769.00</p> <p>AMENDED:</p> <p>FUNDING SOURCE(S)</p> <p align="center"> <input type="checkbox"/> State <input checked="" type="checkbox"/> Federal <input type="checkbox"/> Other </p>
---	---

FOR MULTI-YEAR AGREEMENTS ONLY - CONTRACT AND FUNDING AMOUNT:
(Out years represents projected funding amounts)

#	CURRENT PERIOD	CURRENT AMOUNT	AMENDED PERIOD	AMENDED AMOUNT
1	10/01/2017-09/30/2018	\$31,923.00		
2	10/01/2018-09/30/2019	\$31,923.00		
3	10/01/2019-09/30/2020	\$31,923.00		
4				
5				

Contract Number: # DOH01-C32674GG-3450000

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

ATTACHMENTS PART OF THIS AGREEMENT:

- Attachment A: A-1 Program Specific Terms and Conditions
 A-2 Federally Funded Grants
- Attachment B: B-1 Expenditure Based Budget
 B-2 Performance Based Budget
 B-3 Capital Budget
 B-4 Net Deficit Budget
 B-1 (A) Expenditure Based Budget (Amendment)
 B-2 (A) Performance Based Budget (Amendment)
 B-3 (A) Capital Budget (Amendment)
 B-4 (A) Net Deficit Budget (Amendment)

Attachment C: Work Plan

Attachment D: Payment and Reporting Schedule

Other: Attachment M

Contract Number: # DOH01-C32674GG-3450000

IN WITNESS THEREOF, the parties hereto have electronically executed or approved this Master Contract on the dates below their signature.

In addition, I, acting in the capacity as Contractor, certify that I am the signing authority, or have been delegated or designated formally as the signing authority by the appropriate authority or officials, and as such I do agree, and I have the authority to agree, to all of the terms and conditions set forth in the Master Contract, including all appendices and attachments. I understand that (i) payment of a claim on this Master Contract is conditioned upon the Contractor's compliance with all applicable conditions of participation in this program and (if I am acting in the capacity as a not-for profit Contractor) the accuracy and completeness of information submitted to the State of New York through the Gateway vendor prequalification process and (ii) by electronically indicating my acceptance of the terms and conditions of the Master Contract, I certify that (a) to the extent that the Contractor is required to register and/or file reports with the Office of Attorney General's Charities Bureau ("Charities Bureau"), the Contractor's registration is current, all applicable reports have been filed, and the Contractor has no outstanding requests from the Charities Bureau relating to its filings and (b) all data and responses in the application submitted by the Contractor are true, complete and accurate. I also understand that use of my assigned User ID and Password on the State's contract management system is equivalent to having placed my signature on the Master Contract and that I am responsible for any activity attributable to the use of my User ID and Password. Additionally, any information entered will be considered to have been entered and provided at my direction. I further certify and agree that the Contractor agrees to waive any claim that this electronic record or signature is inadmissible in court, notwithstanding the choice of law provisions.

In addition, the party below certifies that it has verified the electronic signature of the Contractor to this Master Contract.

STATE AGENCY:

Department of Health

By: _____

Printed Name

Title: _____

Date: _____

CONTRACTOR:

ONEIDA COUNTY OF

By: _____

Printed Name

Title: _____

Date: _____

ATTORNEY GENERAL'S SIGNATURE
APPROVED AS TO FORM

By: _____

Printed Name

Title: _____

Date: _____

STATE COMPROLLER'S SIGNATURE

By: _____

Printed Name

Title: _____

Date: _____

Contract Number: # DOH01-C32674GG-3450000

**STATE OF NEW YORK
MASTER CONTRACT FOR GRANTS**

This State of New York Master Contract for Grants (Master Contract) is hereby made by and between the State of New York acting by and through the applicable State Agency (State) and the public or private entity (Contractor) identified on the face page hereof (Face Page).

WITNESSETH:

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

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

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

STANDARD TERMS AND CONDITIONS

I. GENERAL PROVISIONS

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

B. Required Approvals: In accordance with Section 112 of the State Finance Law (or, if the Master Contract is with the State University of New York (SUNY) or City University of New York (CUNY), Section 355 or Section 6218 of the Education Law), if the Master Contract exceeds \$50,000 (or \$85,000 for contracts let by the Office of General Services, or the minimum thresholds agreed to by the Office of the State Comptroller (OSC) for certain SUNY and CUNY contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount including, but not limited to, changes in amount, consideration, scope or contract term identified on the Face Page (Contract Term), it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the New York Attorney General Contract Approval Unit (AG) and OSC. If, by the Master Contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the AG and OSC.

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

five million dollars; and, in addition, such amendment may be subject to prior approval by the applicable State Agency as detailed in Attachment D (Payment and Reporting Schedule).

C. Order of Precedence:

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

1. Standard Terms and Conditions
2. Modifications to the Face Page
3. Modifications to Attachment A-2¹, Attachment B, Attachment C and Attachment D
4. The Face Page
5. Attachment A-2², Attachment B, Attachment C and Attachment D
6. Modification to Attachment A-1
7. Attachment A-1
8. Other attachments, including, but not limited to, the request for proposal or program application

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

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

F. Modifications: To modify the Attachments or Face Page, the parties mutually agree to record, in writing, the terms of such modification and to revise or complete the Face Page and all the appropriate attachments in conjunction therewith. In addition, to the extent that such modification meets the criteria set forth in Section I.B herein, it shall be subject to the approval of the AG and

¹ To the extent that the modifications to Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the modifications to Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).

² To the extent that the terms of Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the Federal requirements of Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).
Contract Number: # DOH01-C32674GG-3450000

OSC before it shall become valid, effective and binding upon the State. Modifications that are not subject to the AG and OSC approval shall be processed in accordance with the guidelines stated in the Master Contract.

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

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

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

J. Notice:

1. All notices, except for notices of termination, shall be in writing and shall be transmitted either:
 - a) by certified or registered United States mail, return receipt requested;
 - b) by facsimile transmission;
 - c) by personal delivery;
 - d) by expedited delivery service; or
 - e) by e-mail.
2. Notices to the State shall be addressed to the Program Office designated in Attachment A-1 (Program Specific Terms and Conditions).
3. Notices to the Contractor shall be addressed to the Contractor's designee as designated in Attachment A-1 (Program Specific Terms and Conditions).
4. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or e-mail, upon receipt.
5. The parties may, from time to time, specify any new or different e-mail address, facsimile number or address in the United States as their address for purpose of receiving notice under the

Master Contract by giving fifteen (15) calendar days prior written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under the Master Contract. Additional individuals may be designated in writing by the parties for purposes of implementation, administration, billing and resolving issues and/or disputes.

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

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

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

N. Non-Assignment Clause: In accordance with Section 138 of the State Finance Law, the Master Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet, or otherwise disposed of without the State's previous written consent, and attempts to do so shall be considered to be null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract, let pursuant to Article XI of the State Finance Law, may be waived at the discretion of the State Agency and with the concurrence of OSC, where the original contract was subject to OSC's approval, where the assignment is due to a reorganization, merger, or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that the merged contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless the Master Contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

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

any of the State of New York, the State Agency, or any county, or other local government entity. The term “regulatory action” shall include commencing or threatening to commence a regulatory proceeding, or requesting any regulatory relief from any of the State of New York, the State Agency, or any county, or other local government entity.

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

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

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

S. Reciprocity and Sanctions Provisions: The Contractor is hereby notified that if its principal place of business is located in a country, nation, province, state, or political subdivision that penalizes New York State vendors, and if the goods or services it offers shall be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that it be denied contracts which it would otherwise obtain.³

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

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

V. Federally Funded Grants and Requirements Mandated by Federal Laws: All of the Specific Federal requirements that are applicable to the Master Contract are identified in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto. To the extent that the Master Contract is funded in whole or part with Federal funds or mandated by Federal laws, (i) the provisions of the Master Contract that conflict with Federal rules, Federal regulations, or Federal program specific requirements shall not apply and (ii) the Contractor agrees to comply with all applicable Federal rules, regulations and program specific requirements including, but not limited to, those provisions that are set forth in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto.

³As of October 9, 2012, the list of discriminatory jurisdictions subject to this provision includes the states of Alaska, Hawaii, Louisiana, South Carolina, West Virginia and Wyoming. Contact NYS Department of Economic Development for the most current list of jurisdictions subject to this provision.

II. TERM, TERMINATION AND SUSPENSION

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

B. Renewal:

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

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

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

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

C. Termination:

1. Grounds:

- a) Mutual Consent: The Master Contract may be terminated at any time upon mutual written consent of the State and the Contractor.
- b) Cause: The State may terminate the Master Contract immediately, upon written notice of termination to the Contractor, if the Contractor fails to comply with any of the terms and conditions of the Master Contract and/or with any laws, rules, regulations, policies, or procedures that are applicable to the Master Contract.
- c) Non-Responsibility: In accordance with the provisions of Sections IV(N)(6) and (7) herein, the State may make a final determination that the Contractor is non-responsible (Determination of Non-Responsibility). In such event, the State may terminate the Master Contract at the Contractor's expense, complete the contractual requirements in any manner the State deems advisable and pursue available legal or equitable remedies for breach.
- d) Convenience: The State may terminate the Master Contract in its sole discretion upon thirty (30) calendar days prior written notice.
- e) Lack of Funds: If for any reason the State or the Federal government terminates or reduces its appropriation to the applicable State Agency entering into the Master Contract or fails to pay the full amount of the allocation for the operation of one or more programs funded under this Master Contract, the Master Contract may be terminated or reduced at the State Agency's discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to the State Agency for payment of such costs. Upon termination or reduction of the Master Contract, all remaining funds paid to the Contractor that are not subject to allowable costs already incurred by the Contractor shall be returned to the State Agency. In any event, no liability shall be incurred by the State (including the State Agency) beyond monies available for the purposes of the Master Contract. The Contractor acknowledges that any funds due to the State Agency or the State of New York because of disallowed expenditures after audit shall be the Contractor's responsibility.
- f) Force Majeure: The State may terminate or suspend its performance under the Master Contract immediately upon the occurrence of a "force majeure." For purposes of the Master Contract, "Force majeure" shall include, but not be limited to, natural disasters, war, rebellion, insurrection, riot, strikes, lockout and any unforeseen circumstances and acts beyond the control of the State which render the performance of its obligations impossible.

2. Notice of Termination:

- a) Service of notice: Written notice of termination shall be sent by:
 - (i) personal messenger service; or
 - (ii) certified mail, return receipt requested and first class mail.

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

(i) if the notice is delivered by hand, the date of receipt shall be established by the receipt given to the Contractor or by affidavit of the individual making such hand delivery attesting to the date of delivery; or

(ii) if the notice is delivered by registered or certified mail, by the receipt returned from the United States Postal Service, or if no receipt is returned, five (5) business days from the date of mailing of the first class letter, postage prepaid, in a depository under the care and control of the United States Postal Service.

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

a) Upon receipt of notice of termination, the Contractor agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the State.

b) The State shall be responsible for payment on claims for services or work provided and costs incurred pursuant to the terms of the Master Contract. In no event shall the State be liable for expenses and obligations arising from the requirements of the Master Contract after its termination date.

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

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

a) the repayment to the State of any monies previously paid to the Contractor; or

b) the return of any real property or equipment purchased under the terms of the Master Contract; or

c) an appropriate combination of clauses (a) and (b) of Section II(C)(4) herein.

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

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

III. PAYMENT AND REPORTING

A. Terms and Conditions:

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

B. Advance Payment and Recoupment:

1. Advance payments, which the State in its sole discretion may make to not-for-profit grant recipients, shall be made and recouped in accordance with State Finance Law Section 179(u), this Section and the provisions of Attachment D (Payment and Reporting Schedule).
2. Initial advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the first day of the Contract Term or, if renewed, in the period identified on the Face Page. Subsequent advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the dates specified in Attachment D (Payment and Reporting Schedule).
3. For subsequent contract years in multi-year contracts, Contractor will be notified of the scheduled advance payments for the upcoming contract year no later than 90 days prior to the commencement of the contract year. For simplified renewals, the payment schedule (Attachment D) will be modified as part of the renewal process.
4. Recoupment of any advance payment(s) shall be recovered by crediting the percentage of subsequent claims listed in Attachment D (Payment and Reporting Schedule) and Section III(C) herein and such claims shall be reduced until the advance is fully recovered within the Contract Term. Any unexpended advance balance at the end of the Contract Term shall be refunded by the Contractor to the State.
5. If for any reason the amount of any claim is not sufficient to cover the proportionate advance amount to be recovered, then subsequent claims may be reduced until the advance is fully recovered.

C. Claims for Reimbursement:

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

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

2. Consistent with the selected reimbursement claiming schedule in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the appropriate following provisions:
 - a) Quarterly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

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

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

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

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

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

d) Milestone/Performance Reimbursement:⁴ Requests for payment based upon an event or milestone may be either severable or cumulative. A severable event/milestone is independent of accomplishment of any other event. If the event is cumulative, the successful completion of an event or milestone is dependent on the previous completion of another event.

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

e) Fee for Service Reimbursement:⁵ Payment shall be limited to only those fees specifically agreed upon in the Master Contract and shall be payable no more frequently than monthly upon submission of a voucher by the contractor.

f) Rate Based Reimbursement:⁶ Payment shall be limited to rate(s) established in the Master Contract. Payment may be requested no more frequently than monthly.

g) Scheduled Reimbursement:⁷ The State Agency shall generate vouchers at the frequencies and amounts as set forth in Attachment D (Payment and Reporting Schedule), and service reports shall be used to determine funding levels appropriate to the next annual contract period.

⁴ A milestone/ performance payment schedule identifies mutually agreed-to payment amounts based on meeting contract events or milestones. Events or milestones must represent integral and meaningful aspects of contract performance and should signify true progress in completing the Master Contract effort.

⁵ Fee for Service is a rate established by the Contractor for a service or services rendered.

⁶ Rate based agreements are those agreements in which payment is premised upon a specific established rate per unit.

⁷ Scheduled Reimbursement agreements provide for payments that occur at defined and regular intervals that provide for a specified dollar amount to be paid to the Contractor at the beginning of each payment period (i.e. quarterly, monthly or bi-annually). While these payments are related to the particular services and outcomes defined in the Master Contract, they are not dependent upon particular services or expenses in any one payment period and provide the Contractor with a defined and regular payment over the life of the contract.

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

i) Fifth Quarter Payments:⁸ Fifth quarter payment shall be paid to the Contractor at the conclusion of the final scheduled payment period of the preceding contract period. The State Agency shall use a written directive for fifth quarter financing. The State Agency shall generate a voucher in the fourth quarter of the current contract year to pay the scheduled payment for the next contract year.

3. The Contractor shall also submit supporting fiscal documentation for the expenses claimed.
4. The State reserves the right to withhold up to fifteen percent (15%) of the total amount of the Master Contract as security for the faithful completion of services or work, as applicable, under the Master Contract. This amount may be withheld in whole or in part from any single payment or combination of payments otherwise due under the Master Contract. In the event that such withheld funds are insufficient to satisfy Contractor's obligations to the State, the State may pursue all available remedies, including the right of setoff and recoupment.
5. The State shall not be liable for payments on the Master Contract if it is made pursuant to a Community Projects Fund appropriation if insufficient monies are available pursuant to Section 99-d of the State Finance Law.
6. All vouchers submitted by the Contractor pursuant to the Master Contract shall be submitted to the State Agency no later than thirty (30) calendar days after the end date of the period for which reimbursement is claimed. In no event shall the amount received by the Contractor exceed the budget amount approved by the State Agency, and, if actual expenditures by the Contractor are less than such sum, the amount payable by the State Agency to the Contractor shall not exceed the amount of actual expenditures.
7. All obligations must be incurred prior to the end date of the contract. Notwithstanding the provisions of Section III(C)(6) above, with respect to the final period for which reimbursement is claimed, so long as the obligations were incurred prior to the end date of the contract, the Contractor shall have up to ninety (90) calendar days after the contract end date to make expenditures; provided, however, that if the Master Contract is funded, in whole or in part, with Federal funds, the Contractor shall have up to sixty (60) calendar days after the contract end date to make expenditures.

D. Identifying Information and Privacy Notification:

1. Every voucher or New York State Claim for Payment submitted to a State Agency by the Contractor, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property, must include the Contractor's Vendor Identification Number assigned by the Statewide Financial System, and any or all of the following identification numbers: (i) the Contractor's Federal employer identification number,

⁸ Fifth Quarter Payments occurs where there are scheduled payments and where there is an expectation that services will be continued through renewals or subsequent contracts. Fifth Quarter Payments allow for the continuation of scheduled payments to a Contractor for the first payment period quarter of an anticipated renewal or new contract.

(ii) the Contractor's Federal social security number, and/or (iii) DUNS number. Failure to include such identification number or numbers may delay payment by the State to the Contractor. Where the Contractor does not have such number or numbers, the Contractor, on its voucher or Claim for Payment, must provide the reason or reasons for why the Contractor does not have such number or numbers.

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

E. Refunds:

1. In the event that the Contractor must make a refund to the State for Master Contract-related activities, including repayment of an advance or an audit disallowance, payment must be made payable as set forth in Attachment A-1 (Program Specific Terms and Conditions). The Contractor must reference the contract number with its payment and include a brief explanation of why the refund is being made. Refund payments must be submitted to the Designated Refund Office at the address specified in Attachment A-1 (Program Specific Terms and Conditions).

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

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

G. Program and Fiscal Reporting Requirements:

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

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

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

- (i) *Narrative/Qualitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a report, in narrative form, summarizing the services rendered during the quarter. This report shall detail how the Contractor has progressed toward attaining the qualitative goals enumerated in Attachment C (Work Plan). This report should address all goals and objectives of the project and include a discussion of problems encountered and steps taken to solve them.
- (ii) *Statistical/Quantitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed report analyzing the quantitative aspects of the program plan, as appropriate (e.g., number of meals served, clients transported, patient/client encounters, procedures performed, training sessions conducted, etc.)
- (iii) *Expenditure Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed expenditure report, by object of expense. This report shall accompany the voucher submitted for such period.
- (iv) *Final Report*: The Contractor shall submit a final report as required by the Master Contract, not later than the time period listed in Attachment D (Payment and Reporting Schedule) which reports on all aspects of the program and detailing how the use of funds were utilized in achieving the goals set forth in Attachment C (Work Plan).
- (v) *Consolidated Fiscal Report (CFR)*: The Contractor shall submit a CFR, which includes a year-end cost report and final claim not later than the time period listed in Attachment D (Payment and Reporting Schedule).

b) If the Performance-Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

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

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

3. In addition to the periodic reports stated above, the Contractor may be required (a) to submit such other reports as are required in Table 1 of Attachment D (Payment and Reporting Schedule), and (b) prior to receipt of final payment under the Master Contract, to submit one or more final reports in accordance with the form, content, and schedule stated in Table 1 of Attachment D (Payment and Reporting Schedule).

H. Notification of Significant Occurrences:

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

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

IV. ADDITIONAL CONTRACTOR OBLIGATIONS, REPRESENTATIONS AND WARRANTIES

A. Contractor as an Independent Contractor/Employees:

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

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

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

B. Subcontractors:

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

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

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

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

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

6. The Contractor shall require any and all subcontractors to submit to the Contractor all financial claims for Services or work to the State agency, as applicable, rendered and required supporting documentation and reports as necessary to permit Contractor to meet claim deadlines and documentation requirements as established in Attachment D (Payment and Reporting

Schedule) and Section III. Subcontractors shall be paid by the Contractor on a timely basis after submitting the required reports and vouchers for reimbursement of services or work, as applicable. Subcontractors shall be informed by the Contractor of the possibility of non-payment or rejection by the Contractor of claims that do not contain the required information, and/or are not received by the Contractor by said due date.

C. Use Of Material, Equipment, Or Personnel:

1. The Contractor shall not use materials, equipment, or personnel paid for under the Master Contract for any activity other than those provided for under the Master Contract, except with the State's prior written permission.
2. Any interest accrued on funds paid to the Contractor by the State shall be deemed to be the property of the State and shall either be credited to the State at the close-out of the Master Contract or, upon the written permission of the State, shall be expended on additional services or work, as applicable, provided for under the Master Contract.

D. Property:

1. Property is real property, equipment, or tangible personal property having a useful life of more than one year and an acquisition cost of \$1,000 or more per unit.
 - a) If an item of Property required by the Contractor is available as surplus to the State, the State at its sole discretion, may arrange to provide such Property to the Contractor in lieu of the purchase of such Property.
 - b) If the State consents in writing, the Contractor may retain possession of Property owned by the State, as provided herein, after the termination of the Master Contract to use for similar purposes. Otherwise, the Contractor shall return such Property to the State at the Contractor's cost and expense upon the expiration of the Master Contract.
 - c) In addition, the Contractor agrees to permit the State to inspect the Property and to monitor its use at reasonable intervals during the Contractor's regular business hours.
 - d) The Contractor shall be responsible for maintaining and repairing Property purchased or procured under the Master Contract at its own cost and expense. The Contractor shall procure and maintain insurance at its own cost and expense in an amount satisfactory to the State Agency, naming the State Agency as an additional insured, covering the loss, theft or destruction of such equipment.
 - e) A rental charge to the Master Contract for a piece of Property owned by the Contractor shall not be allowed.
 - f) The State has the right to review and approve in writing any new contract for the purchase of or lease for rental of Property (Purchase/Lease Contract) operated in connection with the provision of the services or work, as applicable, as specified in the Master Contract, if applicable, and any modifications, amendments, or extensions of an existing lease or purchase prior to its execution. If, in its discretion, the State disapproves of any

Purchase/Lease Contract, then the State shall not be obligated to make any payments for such Property.

g) No member, officer, director or employee of the Contractor shall retain or acquire any interest, direct or indirect, in any Property, paid for with funds under the Master Contract, nor retain any interest, direct or indirect, in such, without full and complete prior disclosure of such interest and the date of acquisition thereof, in writing to the Contractor and the State.

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

a) For cost-reimbursable contracts, all right, title and interest in such Property shall belong to the State.

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

3. For Federally funded contracts, title to Property whose requisition cost is borne in whole or in part by monies provided under the Master Contract shall be governed by the terms and conditions of Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws).

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

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

E. Records and Audits:

1. General:

a) The Contractor shall establish and maintain, in paper or electronic format, complete and accurate books, records, documents, receipts, accounts, and other evidence directly pertinent to its performance under the Master Contract (collectively, Records).

b) The Contractor agrees to produce and retain for the balance of the term of the Master Contract, and for a period of six years from the later of the date of (i) the Master Contract and (ii) the most recent renewal of the Master Contract, any and all Records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under the Master Contract. Such Records may include, but not be limited to, original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:

(i) personal service expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, cash and check disbursement records including copies of money orders and the like, vouchers and invoices, records of contract labor, any and all records listing payroll and the money value of non-cash advantages provided to employees, time cards, work schedules and logs, employee personal history folders,

detailed and general ledgers, sales records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

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

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

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

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

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

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

2. Cost Allocation:

a) For non-performance based contracts, the proper allocation of the Contractor's costs must be made according to a cost allocation plan that meets the requirements of OMB Circulars A-87, A-122, and/or A-21. Methods used to determine and assign costs shall conform to generally accepted accounting practices and shall be consistent with the method(s) used by the Contractor to determine costs for other operations or programs. Such accounting standards and practices shall be subject to approval of the State.

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

3. Federal Funds: For records and audit provisions governing Federal funds, please see Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws).

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

G. Publicity:

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

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

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

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

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

H. Web-Based Applications-Accessibility: Any web-based intranet and Internet information and applications development, or programming delivered pursuant to the Master Contract or procurement shall comply with New York State Enterprise IT Policy NYS-P08-005, Accessibility

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

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

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

1. The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status;

2. The Contractor shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts;
3. The Contractor shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;
4. At the request of the State, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative shall not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative shall affirmatively cooperate in the implementation of the Contractor's obligations herein; and
5. The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants shall be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

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

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

1. If the total dollar amount of the Master Contract is greater than \$1 million, the Omnibus Procurement Act of 1992 requires that by signing the Master Contract, the Contractor certifies the following:
 - a) The Contractor has made reasonable efforts to encourage the participation of State business enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

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

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

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

L. Workers' Compensation Benefits:

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

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

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

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

1. any records of unemployment insurance (UI) contributions, interest, and/or penalty payment arrears or reporting delinquency;
2. any debts owed for UI contributions, interest, and/or penalties;
3. the history and results of any audit or investigation; and
4. copies of wage reporting information.

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

N. Vendor Responsibility:

1. If a Contractor is required to complete a Questionnaire, the Contractor covenants and represents that it has, to the best of its knowledge, truthfully, accurately and thoroughly completed such Questionnaire. Although electronic filing is preferred, the Contractor may

obtain a paper form from the OSC prior to execution of the Master Contract. The Contractor further covenants and represents that as of the date of execution of the Master Contract, there are no material events, omissions, changes or corrections to such document requiring an amendment to the Questionnaire.

2. The Contractor shall provide to the State updates to the Questionnaire if any material event(s) occurs requiring an amendment or as new information material to such Questionnaire becomes available.

3. The Contractor shall, in addition, promptly report to the State the initiation of any investigation or audit by a governmental entity with enforcement authority with respect to any alleged violation of Federal or state law by the Contractor, its employees, its officers and/or directors in connection with matters involving, relating to or arising out of the Contractor's business. Such report shall be made within five (5) business days following the Contractor becoming aware of such event, investigation, or audit. Such report may be considered by the State in making a Determination of Vendor Non-Responsibility pursuant to this section.

4. The State reserves the right, in its sole discretion, at any time during the term of the Master Contract:

a) to require updates or clarifications to the Questionnaire upon written request;

b) to inquire about information included in or required information omitted from the Questionnaire;

c) to require the Contractor to provide such information to the State within a reasonable timeframe; and

d) to require as a condition precedent to entering into the Master Contract that the Contractor agree to such additional conditions as shall be necessary to satisfy the State that the Contractor is, and shall remain, a responsible vendor; and

e) to require the Contractor to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity. By signing the Master Contract, the Contractor agrees to comply with any such additional conditions that have been made a part of the Master Contract.

5. The State, in its sole discretion, reserves the right to suspend any or all activities under the Master Contract, at any time, when it discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor shall be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the State issues a written notice authorizing a resumption of performance under the Master Contract.

6. The State, in its sole discretion, reserves the right to make a final Determination of Non-Responsibility at any time during the term of the Master Contract based on:

- a) any information provided in the Questionnaire and/or in any updates, clarifications or amendments thereof; or
- b) the State's discovery of any material information which pertains to the Contractor's responsibility.

7. Prior to making a final Determination of Non-Responsibility, the State shall provide written notice to the Contractor that it has made a preliminary determination of non-responsibility. The State shall detail the reason(s) for the preliminary determination, and shall provide the Contractor with an opportunity to be heard.

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

P. Consultant Disclosure Law:⁹ If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services, then in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

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

⁹ Not applicable to not-for-profit entities.

**ATTACHMENT A-1
AGENCY AND PROGRAM SPECIFIC CLAUSES**

Part A. Agency Specific Clauses

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

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development

633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
<http://esd.ny.gov/MWBE/directorySearch.html>

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

F. Certification of Registration to Collect Sales and Compensating Use Tax by Certain State Contractors, Affiliates, and Subcontractors: To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the

Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

G. The CONTRACTOR certifies that all revenue earned during the budget period as a result of services and related activities performed pursuant to this contract shall be used either to expand those program services funded by this AGREEMENT or to offset expenditures submitted to the STATE for reimbursement.

H. Administrative Rules and Audits:

1. If this contract is funded in whole or in part from federal funds, the CONTRACTOR shall comply with the federal grant requirements regarding administration and allowable costs:

a) For local and Indian tribal governments, non-profit organizations; and educational institutions, use the administrative requirements and cost principles (Subparts A through E) in Office of Management and Budget (OMB), Title 2 Code of Federal Regulations (CFR), Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards.

b) Exceptions: Pursuant to 2 CFR Part 200 Appendix IX, for a hospital, use the cost principles in Department of Health and Human Services, 45 CFR Part 74, Appendix E, "Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals". For hospital administrative requirements, use OMB, 2 CFR, Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

For fixed amount awards, cost principles (Subpart E) do not apply.

2. If this contract is funded entirely from STATE funds, and if there are no specific administration and allowable costs requirements applicable, CONTRACTOR shall adhere to the applicable principles in "1" above.

3. The CONTRACTOR shall comply with the following grant requirements regarding audits.

a) If the contract is funded from federal awards, and the CONTRACTOR expends \$750,000 or more (or the amount per the current federal regulations 2 CFR Part 200 as revised, which is scheduled to be updated every 5 years) in federal awards during their fiscal year, an audit report must be submitted in accordance with Subpart F of OMB, 2 CFR, Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

b) If this contract is funded from other than federal awards or if the contract is funded from a combination of STATE and federal awards but federal awards are less than \$750,000 (or the amount per the current federal regulations 2 CFR Part 200 as revised,

which is scheduled to be updated every 5 years), and if the CONTRACTOR expends \$750,000 or more in total annual payments from the STATE, the CONTRACTOR shall submit to the STATE after the end of the CONTRACTOR's fiscal year an audit report. The audit report shall be submitted to the STATE within thirty days after its completion but no later than nine months after the end of the audit period. The audit report shall summarize the business and financial transactions of the CONTRACTOR. The report shall be prepared and certified by an independent accounting firm or other accounting entity, which is demonstrably independent of the administration of the program being audited. Audits performed of the CONTRACTOR's records shall be conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States covering financial audits. This audit requirement may be met through entity-wide audits, coincident with the CONTRACTOR's fiscal year, as described in OMB, 2 CFR, Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Reports, disclosures, comments and opinions required under these publications should be so noted in the audit report.

4. For audit reports that are not received by the dates due, the following steps shall be taken:
 - a) If the audit report is one or more days late, voucher payments shall be held until a compliant audit report is received.
 - b) If the audit report is 180 days or more late, the STATE shall terminate all active contracts, prohibit renewal of those contracts and prohibit the execution of future contracts until all outstanding compliant audit reports have been submitted.

I. The CONTRACTOR shall accept responsibility for compensating the STATE for any exceptions which are revealed on an audit and sustained after completion of the normal audit procedure.

J. The STATE, its employees, representatives and designees, shall have the right at any time during normal business hours to inspect the sites where services are performed and observe the services being performed by the CONTRACTOR. The CONTRACTOR shall render all assistance and cooperation to the STATE in making such inspections. The surveyors shall have the responsibility for determining contract compliance as well as the quality of service being rendered.

K. The CONTRACTOR has an affirmative duty to take prompt, effective, investigative and remedial action where it has actual or constructive notice of discrimination in the terms, conditions or privileges of employment against (including harassment of) any of its employees by any of its other employees, including managerial personnel, based on race, creed, color, sex, national origin, age, disability, sexual orientation or marital status.

L. The CONTRACTOR shall not discriminate on the basis of race, creed, color, sex, national

origin, age, disability, sexual orientation or marital status against any person seeking services for which the CONTRACTOR may receive reimbursement or payment under this AGREEMENT

M. The CONTRACTOR shall comply with all applicable federal, State and local civil rights and human rights laws with reference to equal employment opportunities and the provision of services.

N. Unless the CONTRACTOR is a political sub-division of New York State, the CONTRACTOR shall provide proof, completed by the CONTRACTOR's insurance carrier and/or the Workers' Compensation Board, of coverage for:

1. Workers' Compensation, for which one of the following is incorporated into the Econtract under the Contract Package Tool in the Grants Gateway or as Attachment E-1 in the paper based contract:

- a) **CE-200** -- Certificate of Attestation For New York Entities With No Employees And Certain Out Of State Entities, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
- b) **C-105.2** -- Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the **U-26.3**; OR
- c) **SI-12** -- Certificate of Workers' Compensation Self-Insurance, OR **GSI-105.2** -- Certificate of Participation in Workers' Compensation Group Self-Insurance

2. Disability Benefits coverage, for which one of the following is incorporated into the Econtract under the Contract Package Tool in the Grants Gateway or as Attachment E-2 in the paper based contract:

- a) **CE-200**, Certificate of Attestation For New York Entities With No Employees And Certain Out Of State Entities, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
- b) **DB-120.1** -- Certificate of Disability Benefits Insurance OR
- c) **DB-155** -- Certificate of Disability Benefits Self-Insurance

O. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208). Contractor shall be liable for the costs associated with any breach if caused by Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of Contractor's agents, officers, employees or subcontractors.

P. All products supplied pursuant to this agreement shall meet local, state and federal regulations, guidelines and action levels for lead as they exist at the time of the State's acceptance of this contract.

Q. All bidders/contractors agree that all state funds dispersed under this bid/contract will be bound by the terms, conditions, obligations and regulations promulgated or to be promulgated by the Department in accordance with E.O. 38, signed in 2012, governing restrictions on executive compensation.

R. The CONTRACTOR shall submit to the STATE 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:

Submit electronically to: dfh.boa@health.ny.gov

S. If the CONTRACTOR is eligible for an annual cost of living adjustment (COLA), enacted in New York State Law, that is associated with this grant AGREEMENT, payment of such COLA shall be made separate from payments under this AGREEMENT and shall not be applied toward or amend amounts payable under Attachment B of this Agreement.

Before payment of a COLA can be made, the STATE shall notify the CONTRACTOR, in writing, of eligibility for any COLA. The CONTRACTOR shall be required to submit a written certification attesting that all COLA funding will be used to promote the recruitment and retention of staff or respond to other critical non-personal service costs during the State fiscal year for which the cost of living adjustment was allocated, or provide any other such certification as may be required in the enacted legislation authorizing the COLA.

T. Certification Regarding Environmental Tobacco Smoke: Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through State or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a monetary penalty of up to \$1000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing this AGREEMENT, the CONTRACTOR certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The CONTRACTOR agrees that it will require that the language of this certification be included in any subawards which contain provisions for children's services and that all subrecipients shall certify accordingly.

U. Pursuant to the Master Contract's Standard Terms and Conditions, I. (General Provisions); J. (Notices), such notices shall be addressed as follows or to such different addresses as the parties may from time to time designate:

State of New York Department of Health

Name: Randall Sicko

Title: HPA 1

Address: ESP, Corning Tower, Rm 859, Albany, NY 12237

Telephone Number: 518-473-4441

Facsimile Number: 518-473-3391

E-Mail Address: Randall.Sicko@health.ny.gov

Vendor/Grantee

Vendor/Grantee notices shall be addressed to the Executive Director at the address listed within "Contractor Primary Mailing Address" on Page 1 of 2, Master Grant Contract, Face Page.

Part B. Program Specific Clauses

Additional Department of Health program specific clauses follow in Attachment A-1 Part B.

ATTACHMENT A-1
AGENCY AND PROGRAM SPECIFIC CLAUSES
Part B. Program Specific Clauses

New York State Department of Health

Department of Health Program Name: Center for Community Health

Initiative Name: Children With Special Health Care Needs

A. SUBCONTRACTS

1. In addition to those terms set forth in the Master Contract concerning subcontractors, the following terms shall also apply:
 - a. Unless otherwise authorized or directed by the Department, all proposed subcontracts for the performance of the obligations contained herein require the review and approval of the Department prior to the execution of an agreement between the Contractor and subcontractors. All such agreements between the Contractor and subcontractors shall be by bona fide written contract, which may only be changed by expressed written consent of both parties and upon prior approval of the Department.
 - b. The Department shall have the right to contact any subcontractor directly concerning the Performance of the obligations contained herein and to require the attendance of the Subcontractor at any or all meetings between the Contractor and Department, at which the performance of the Contractor pursuant to this Master Contract will be discussed.
 - c. Any interest accrued on funds provided to the contractor by the Department pursuant to the contractors request for an advance payment, shall either be used to reduce reimbursement owed to the Contractor by the Department pursuant to this Master Contract , or at the direction of the Department, used to provide additional services provided for under this Master Contract.

- B.** The Contractor agrees to identify the position(s) and the incumbent(s) responsible for directing the work to be done under this Master Contract. The Department may, at its discretion, require the Contractor to request prior approval from the Department to change or substitute such responsible person(s), to the degree that such change is within the reasonable control of the Contractor.

C. PUBLICATIONS AND COPYRIGHTS

1. The Contractor agrees that any and all materials, publications, videos or curricula conceived, produced and/or reduced to practice pursuant to this Master Contract, or with monies supplied pursuant to this Master Contract, shall become property of the Department.

ATTACHMENT A-1
AGENCY AND PROGRAM SPECIFIC CLAUSES
Part B. Program Specific Clauses

New York State Department of Health

2. Pursuant to Section IV(G)(2)(a) of the Master Contract, the Contractor shall acknowledge the support of the State and Department of Health with the following language: "Produced with funding from The New York State Department of Health, Division of Family Health."
3. Except as otherwise provided in Section IV(G)(3) of the Master Contract, the Department and the State of New York expressly reserve the right to reproduce, publish distribute, copyright or otherwise use, in perpetuity, any and all materials, publications, videos or curricula conceived and produced pursuant to this Master Contract and all the activities supported thereunder.
4. The Contractor agrees that unless otherwise provided by the terms of this Master Contract, the Contractor is expressly prohibited from copyrighting the materials developed in the course of this Master Contract, or permitting others to do so without the prior written consent of the Department.
5. If any materials paid for under this contract are used in a revenue generating activity, the Contractor shall report such intentions to the Department for prior written approval and shall be subject to the direction of the Department as to the disposition of such revenue.

D. PURCHASING

1. All procurement transactions, including but not limited to equipment purchases and leases, supplies, conference, training, or seminar related expenditures, and other services whose cost is borne in whole or in part by this contract shall be conducted in a manner to provide , to the maximum extent practicable, open and free competition.
2. In addition to the requirements of Section IV (D) of the Master Contract, procurement records and files for purchases in excess of \$5,000 shall include the following:
 - a. basis for selection;
 - b. listing of bidders solicited or vendors contacted, including but not limited to the response from each bidder or vendor to the solicitation;
 - c. justification for lack of competition when competitive bids or offers are not obtained;
 - d. basis for award cost or price.

- E.** Reimbursement for any travel related expenses, including but not limited to transportation, lodging, and meal expenses shall be based upon the actual, necessary and reasonable expenses essential to the ordinary comforts of the traveler in the performance of the duties under this Master Contract and shall be reimbursed pursuant to the terms of Section III (5) of the Master Contract.

ATTACHMENT A-1
AGENCY AND PROGRAM SPECIFIC CLAUSES
Part B. Program Specific Clauses

New York State Department of Health

F. EQUIPMENT/INVENTORY REPORT

1. In addition to the requirements contained in Section IV (c) (1) and Section IV (D) (2) of the Master Contract, A complete inventory of all property as defined in Section IV (D) (1) shall be maintained by the Contractor who shall report to the appropriate Program Director of the State Department of Health acquisitions of equipment. All such equipment shall be identified in a suitable manner. An annual inventory of such equipment shall be submitted to such Program Director by the Contractor and is to be inclusive of all such equipment received during the contract year, within 45 days after the completion of the services to be performed under this Master Contract. Disposition of the inventoried property will be made in accordance with the Master Contract and applicable provisions of law.

G. HEALTHY MEETING GUIDELINES

For Agreements under Which Contractors Receive Reimbursement from the State for all or a portion of meeting costs: By signing this AGREEMENT, the CONTRACTOR certifies that it will comply with the Departments' requirements for healthy meetings when the State is reimbursing for all or a portion of the meeting costs. The Department reserves the right to review the site, menu and agenda so that the State can ensure the nutrition, physical activity, sustainability and tobacco-free guidelines are met. The Healthy Meeting Guidelines and frequently asked questions can be accessed at: 3TU http://www.health.ny.gov/funding/cch_hmr_faq.pdf.

ATTACHMENT A-1
AGENCY AND PROGRAM SPECIFIC CLAUSES
Part B. Program Specific Clauses

New York State Department of Health

H. REFUSAL OF FUNDS FROM TOBACCO-RELATED ENTITIES

By signing this AGREEMENT, the CONTRACTOR certifies that it has a written policy prohibiting any affiliation¹ with a tobacco company or tobacco product manufacturer² including receipt of gifts, grants, contracts, financial support and in-kind support, and other relationships. CONTRACTOR certifies that no not-for-profit subcontractors receiving funding through this AGREEMENT for work instrumental to achieving the goals and objectives of the grant has any affiliation with a tobacco company or tobacco product manufacturer. More information regarding tobacco-free requirements, including frequently asked questions, can be found at: http://www.health.ny.gov/funding/cch_rfte_faq.pdf.

¹ Affiliation:

- being employed by or contracted to any tobacco company, association or any other agents known by you to be acting
- for tobacco companies or associations;
- receiving honoraria, travel, conference or other financial support from any tobacco company, association or any other
- agents known by you to be acting for or in service of tobacco companies or associations;
- receiving direct or indirect financial support for research, education or other services from a tobacco company,
- association or any agent acting for or in service of such companies or associations, and;
- owning a patent or proprietary interest in a technology or process for the consumption of tobacco or other tobacco use
- related products or initiatives.

² Tobacco company or tobacco product manufacturer: any person, corporation or entity, including any repacker or relabeler, who:

- manufactures, fabricates, assembles, processes, or labels a tobacco product; or
- imports a finished tobacco product for sale or distribution in New York State.

**ATTACHMENT A-2
FEDERALLY FUNDED GRANTS**

Part A. AGENCY SPECIFIC CLAUSES

A. Federal Certifications: This section shall be applicable to this AGREEMENT only if any of the funds made available to the CONTRACTOR under this AGREEMENT are federal funds.

1. Lobbying Certification (except as otherwise provided in Part B of this Attachment A-2)

a) If the CONTRACTOR is a tax-exempt organization under Section 501 (c)(4) of the Internal Revenue Code, the CONTRACTOR certifies that it will not engage in lobbying activities of any kind regardless of how funded.

b) The CONTRACTOR acknowledges that as a recipient of federal appropriated funds, it is subject to the limitations on the use of such funds to influence certain Federal contracting and financial transactions, as specified in Public Law 101-121, section 319, and codified in section 1352 of Title 31 of the United States Code. In accordance with P.L. 101-121, section 319, 31 U.S.C. 1352 and implementing regulations, the CONTRACTOR affirmatively acknowledges and represents that it is prohibited and shall refrain from using Federal funds received under this AGREEMENT for the purposes of lobbying; provided, however, that such prohibition does not apply in the case of a payment of reasonable compensation made to an officer or employee of the CONTRACTOR to the extent that the payment is for agency and legislative liaison activities not directly related to the awarding of any Federal contract, the making of any Federal grant or loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement. Nor does such prohibition prohibit any reasonable payment to a person in connection with, or any payment of reasonable compensation to an officer or employee of the CONTRACTOR if the payment is for professional or technical services rendered directly in the preparation, submission or negotiation of any bid, proposal, or application for a Federal contract, grant, loan, or cooperative agreement, or an extension, continuation, renewal, amendment, or modification thereof, or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract, grant, loan or cooperative agreement.

c) This section shall be applicable to this AGREEMENT only if federal funds allotted exceed \$100,000.

(i) The CONTRACTOR certifies, to the best of his or her knowledge and belief, that:

- No federal appropriated funds have been paid or will be paid, by or on behalf of the CONTRACTOR, to any person for influencing or attempting to influence an

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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;

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- (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

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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.

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- (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.

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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

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audited. Audits performed of the CONTRACTOR's records shall be conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States covering financial audits. This audit requirement may be met through entity-wide audits, coincident with the CONTRACTOR's fiscal year, as described in OMB, 2 CFR, Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Reports, disclosures, comments and opinions required under these publications should be so noted in the audit report.

4. For audit reports that are not received by the dates due, the following steps shall be taken:
 - a) If the audit report is one or more days late, voucher payments shall be held until a compliant audit report is received.
 - b) If the audit report is 180 days or more late, the STATE shall terminate all active contracts, prohibit renewal of those contracts and prohibit the execution of future contracts until all outstanding compliant audit reports have been submitted.

Part B. Program Specific Federal Clauses

Attachment A-2 Part B intentionally omitted.

ATTACHMENT B-1 EXPENDITURE BASED BUDGET

SUMMARY

PROJECT NAME: Children with Special Health Care Needs Program

CONTRACTOR SFS PAYEE NAME: ONEIDA COUNTY OF

CONTRACT PERIOD: From: 10/01/2018

To: 09/30/2019

CATEGORY OF EXPENSE	GRANT FUNDS	MATCH FUNDS	MATCH %
1. Personal Services			
a) Salary	\$20,500.03	\$0.00	0 %
b) Fringe	\$9,382.00	\$0.00	0 %
Subtotal	\$29,882.03	\$0.00	0 %
2. Non Personal Services			
a) Contractual Services	\$0.00	\$0.00	0 %
b) Travel	\$140.97	\$0.00	0 %
c) Equipment	\$0.00	\$0.00	0 %
d) Space/Property & Utilities	\$300.00	\$0.00	0 %
e) Operating Expenses	\$1,100.00	\$0.00	0 %
f) Other	\$500.00	\$0.00	0 %
Subtotal	\$2,040.97	\$0.00	0 %
TOTAL	\$31,923.00	\$0.00	0 %

Contract Number: # DOH01-C32674GG-3450000

ATTACHMENT B-1 EXPENDITURE BASED BUDGET

PERSONAL SERVICES DETAIL

SALARY				
POSITION TITLE	ANNUALIZED SALARY PER POSITION	STANDARD WORK WEEK (HOURS)	PERCENT OF EFFORT FUNDED	NUMBER MONTHS
Public Health Nurse- Michelle Jones	\$66,002.00	37	21.5	
Director Special Children Services- Barbara Pellegrino	\$85,159.00	37	3	
Office Specialist II	\$11,378.00	17.5	33	
TOTAL FRINGE				
PERSONAL SERV				

Contract Number: # DOH01-C32674GG-3450000

Page 2 of 10, Attachment B-1 - Expenditure Based Budget

ATTACHMENT B-1 - EXPENDITURE BASED BUDGET
NON-PERSONAL SERVICES DETAIL

CONTRACTUAL SERVICES - TYPE/DESCRIPTION

ATTACHMENT B-1 - EXPENDITURE BASED BUDGET
NON-PERSONAL SERVICES DETAIL

TRAVEL - TYPE/DESCRIPTION

Travel to meeting, trainings and community events

Contract Number: # DOH01-C32674GG-3450000

Page 4 of 10, Attachment B-1 - Expenditure Based Budget

EQUIPMENT - TYPE/DESCRIPTION

Contract Number: # DOH01-C32674GG-3450000
Page 5 of 10, Attachment B-1 - Expenditure Based Budget

SPACE/PROPERTY EXPENSES: RENT - TYPE/DESCRIPTION

Contract Number: # DOH01-C32674GG-3450000

Page 6 of 10, Attachment B-1 - Expenditure Based Budget

SPACE/PROPERTY EXPENSES: OWN - TYPE/DESCRIPTION

Contract Number: # DOH01-C32674GG-3450000

Page 7 of 10, Attachment B-1 - Expenditure Based Budget

TYPE/DESCRIPTION OF UTILITY EXPENSES

Telephone

Contract Number: # DOH01-C32674GG-3450000

Page 8 of 10, Attachment B-1 - Expenditure Based Budget

OPERATING EXPENSES - TYPE/DESCRIPTION
Print and Copy
Postage
Supplies

Contract Number: # DOH01-C32674GG-3450000

Page 9 of 10, Attachment B-1 - Expenditure Based Budget

OTHER - TYPE/DESCRIPTION

Staff Development Training

Contract Number: # DOH01-C32674GG-3450000

Page 10 of 10, Attachment B-1 - Expenditure Based Budget

ATTACHMENT C - WORK PLAN

SUMMARY

PROJECT NAME: Children with Special Health Care Needs Program

CONTRACTOR SFS PAYEE NAME: ONEIDA COUNTY OF

CONTRACT PERIOD: From: 10/01/2018

To: 09/30/2019

Project Summary: A high-level overview of the project, including the overall goal and desired outcomes.

CSHCN Program activities are responsive to the needs of families and youth. CSHCN will increase the families' and youth's satisfaction with C activities by eliciting family and youth satisfaction with services provided by the CSHCN Program (using a standardized survey tool provided to including feedback from those individuals of diverse cultures.

Contract Number: # DOH01-C32674GG-3450000

Page 1 of 1 , Attachment C - Work Plan Summary

ATTACHMENT C - WORK PLAN

DETAIL

Objective

1 Program Administration

Tasks

1.1 Develop and maintain an updated organizational chart of all personnel, including any vacant positions. Within the chart, include all per CSHCN activities and the location of the CSHCN Program (submit with 1st quarterly report)

Performance Measures

1.1.1 Organizational Chart - LHD/LGU will submit an organizational chart with the first quarter report by February 1st annually

Objective

2 Policies and Procedures

Tasks

2.1 Develop and update as needed CSHCN Program (including Physically Handicapped Children's Program (PHCP) when applicable) pol daily use, orientation of new staff and in-service education.

Performance Measures

2.1.1 Policies and Procedures are kept current - Relevant CSHCN and PHCP policies and procedures are written, reviewed and l

Tasks

2.2 Manuals are centrally located and available for use by LHD staff and for review by NYSDOH staff during the site visit review process or upon request.

Performance Measures

2.2.1 Policies and Procedures located where accessible by staff - LHD staff report where the policies and procedures are located

Goal: 100% of LHD/LGU will have up-to-date policies and procedures in place.

DETAIL

Objective

3 Program Services

Tasks

3.1 Determine if each CSHCN served by the program has insurance.

Performance Measures

3.1.1 Insurance Status - Each CSHCN record has a response for either type of insurance or has no insurance.

Goal: 100% of CSHCN served by the program will have documentation of insurance in their records.

Tasks

3.2 Determine if each CSHCN served by the program has a primary care provider.

Performance Measures

3.2.1 Primary Care Provider Status - Each CSHCN record has a response for whether they have or do not have a primary care provider.

Goal: 95% of CSHCN served by the program will have documentation of primary care provider in their records.

Tasks

3.3 Provide families with information, guidance and referrals about insurance and gap-filling programs, including but not limited to the Ne (The Official Health Plan Marketplace) and Navigators, . . .

Performance Measures

3.3.1 Insurance Referral - Each CSHCN without insurance will have a record of a referral for insurance.

Goal: 95% of CSHCN referred to insurance or gap filling programs will have documentation of outcome for referrals in th Follow up to determine outcomes of referrals related to insurance and health services and document outcomes

Tasks

3.4 . . . PHCP (if Treatment Program offered) and SSI.

Performance Measures

3.4.1 Insurance Status - Each CSHCN record has a response for either type of insurance or has no insurance.

Goal: 100% of CSHCN served by the program will have documentation of insurance in their records.

ATTACHMENT C - WORK PLAN

DETAIL

Tasks

3.5 Follow up to determine outcomes of referrals related to insurance and health services and document outcomes.

Performance Measures

3.5.1 Insurance Referral Outcome - Each CSHCN with a referral related to insurance and gap filling programs will have an outcome documented.

Goal: 95% of CSHCN referred to insurance or gap filling programs will have documentation of outcome for referrals in their records.

Objective

4 Community Resources

Tasks

4.1 Provide families with information, guidance, referrals and links about available community resources; refer to resources and follow up and document outcomes.

Performance Measures

4.1.1 Community Resource Outcome - Each CSHCN with a referral to community resources will have an outcome documented.

Goal: 100% of CSHCN referred for community resources will have documented outcome(s) in their records.

ATTACHMENT C - WORK PLAN

DETAIL

Objective

5 Outreach and Education

Tasks

5.1 LHD shall provide information via print or electronic form about the services of the CSHCN Program, gap-filling programs, insurance programs to health care providers and health care facilities.

Performance Measures

5.1.1 Outreach and Education Activity - LHD will describe a minimum of one outreach and education activity performed during report. Description includes the method, target audience (i.e. # of attendees) and dates.

Goal: 100% of CSHCN Programs will complete a minimum of four outreach activities completely described (method, aud dates) and type of materials, quantities and to whom in quarterly reports.

Tasks

5.2 LHD shall provide information via print/electronic form about the services of the CSHCN Program, gap-filling programs, insurance, st community resources to families of CSHCN, YAYASHCN, & family serving organizations.

Performance Measures

5.2.1 Outreach and Education Activity - LHD will describe a minimum of one outreach and education activity performed during report. Description includes the method, target audience (i.e. # of attendees) and dates.

Goal: 100% of CSHCN Programs will complete a minimum of four outreach activities completely described (method, aud dates) and type of materials, quantities and to whom in quarterly reports.

Tasks

5.3 LHD shall inform and/or provide opportunities for families about support meetings and training workshops on CSHCN related topics i education advocacy, and transition.

Performance Measures

5.3.1 Outreach and Education Activity - LHD will describe a minimum of one outreach and education activity performed during report. Description includes the method, target audience (i.e. # of attendees) and dates.

Goal: 100% of CSHCN Programs will complete a minimum of four outreach activities completely described (method, aud dates) and type of materials, quantities and to whom in quarterly reports.

ATTACHMENT C - WORK PLAN

DETAIL

Objective

6 Quality Improvement

Tasks

6.1 LHD shall identify barriers and unmet needs and report them to local/state CSHCN Program staff.

Performance Measures

6.1.1 Gaps and Barriers - CSHCN quarterly narrative report describes gaps and barriers identified in their county and suggest st
unmet needs.

Goal: 100% of the CSHCN Program will report unmet needs, gaps and barriers to local/state program staff in quarterly rep

Tasks

6.2 LHD shall suggest strategy(ies) for addressing barriers and unmet needs.

Performance Measures

6.2.1 Gaps and Barriers - CSHCN quarterly narrative report describes gaps and barriers identified in their county and suggest st
unmet needs.

Goal: 100% of the CSHCN Program will report unmet needs, gaps and barriers to local/state program staff in quarterly rep

Tasks

6.3 LHD shall initiate proposed strategy(ies), report on progress in overcoming the barriers and effective strategies(ies).

Performance Measures

6.3.1 Gaps and Barriers - CSHCN quarterly narrative report describes gaps and barriers identified in their county and suggest st
unmet needs.

Goal: 100% of the CSHCN Program will report unmet needs, gaps and barriers to local/state program staff in quarterly rep

ATTACHMENT C - WORK PLAN

DETAIL

Objective

7 CSHCN Program activities are responsive to the needs of families and youth.

Tasks

7.1 Elicit family and youth satisfaction with services provided by the CSHCN Program (using a standardized survey tool provided by the I feedback from those individuals of diverse cultures.

Performance Measures

7.1.1 Number Served - Number of CSHCN served monthly and number of Family Satisfaction Survey sent monthly.

Goal: 100% of families who children were served were given a survey.

Task(s): Review consumer feedback and continue/modify program activities based upon their input.

Tasks

7.2 Review consumer feedback and continue/modify program activities based upon their input.

Performance Measures

7.2.1 Program Modifications - Narrative report will describe any program modifications.

Tasks

7.3 Optional Activities – Complete and upload Attachment 2 in Pre-Submission Uploads

Performance Measures

7.3.1 Optional Activities - Narrative report will describe any optional activities performed.

ATTACHMENT C - WORK PLAN

DETAIL

Objective

8 Transition

Tasks

8.1 Provide youth age fourteen years and older and their families with information about transition on <http://healthytransitionsny.org/> web Navigating Multiple Systems (NMS) on www.msnavigator.org/ website.

Performance Measures

8.1.1 Transition Information - Quarterly narrative reports reflect that transition information were given to the number of youth a the database during that quarter.

Goal: 100% of the youth and young adults with special health care needs, ages 14 to 21 years, will receive information about health care.

II. REPORTING PROVISIONS

A. Expenditure-Based Reports (select the applicable report type):

Narrative/Qualitative Report

The Contractor will submit, on a quarterly basis, not later than 30 days from the end of the quarter, the report described in Section III(G)(2)(a)(i) of the Master Contract

Statistical/Quantitative Report

The Contractor will submit, on a quarterly basis, not later than ___ days from the end of the quarter, the report described in Section III(G)(2)(a)(ii) of the Master Contract.

Expenditure Report

The Contractor will submit, on a quarterly basis, not later than 30 days after the end date for which reimbursement is being claimed, the report described in Section III(G)(2)(a)(iii) of the Master Contract.

Final Report

The Contractor will submit the final report as described in Section III(G)(2)(a)(iv) of the Master Contract, no later than 45 days after the end of the contract period.

Consolidated Fiscal Report (CFR) ¹

The Contractor will submit the CFR on an annual basis, in accordance with the time frames designated in the CFR manual. For New York City contractors, the due date shall be May 1 of each year; for Upstate and Long Island contractors, the due date shall be November 1 of each year.

1

The Consolidated Fiscal Reporting System is a standardized electronic reporting method accepted by Office of Alcoholism & Substance Services, Office of Mental Health, Office of Persons with Developmental Disabilities and the State Education Department, consisting of schedules which, in different combinations, capture financial information for budgets, quarterly and/or mid-year claims, an annual cost report, and a final claim. The CFR, which must be submitted annually, is both a year-end cost report and a year-end claiming document.

Contract Number: # DOH01-C32674GG-3450000

B. Progress-Based Reports

1. Progress Reports

The Contractor shall provide the report described in Section III(G)(2)(b)(i) of the Master Contract in accordance with the forms and in the format provided by the State Agency, summarizing the work performed during the contract period (See Table 1 below for the annual schedule).

2. Final Progress Report

Final scheduled payment will not be due until ___ days after completion of agency's audit of the final expenditures report/documentation showing total grant expenses submitted by vendor with its final invoice. Deadline for submission of the final report is ____. The agency shall complete its audit and notify vendor of the results no later than ____. The Contractor shall submit the report not later than ___ days from the end of the contract.

C. Other Reports

The Contractor shall provide reports in accordance with the form, content and schedule as set forth in Table 1.

TABLE 1 - REPORTING SCHEDULE

PROGRESS REPORT #	PERIOD COVERED	Due Date
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		

III. SPECIAL PAYMENT AND REPORTING PROVISIONS

This modifies Attachment M, Section II.A for this contract and changes the total combined MWBE goal from 30% to 0% of eligible expenditures. (0%MBE and 0% WBE)

Attachment M

PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS: REQUIREMENTS AND PROCEDURES

I. General Provisions

- A. The New York State Department of Health is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 (“MWBE Regulations”) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The Contractor to the subject contract (the “Contractor” and the “Contract,” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State New York State Department of Health (the “New York State Department of Health”), to fully comply and cooperate with the New York State Department of Health in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for certified minority and women-owned business enterprises (“MWBEs”). Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, state or local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Attachment or enforcement proceedings as allowed by the Contract.

II. Contract Goals

- A. For purposes of this contract, the New York State Department of Health hereby establishes a goal of 30% for Minority and Women-Owned Business Enterprises (“MWBE”) participation on any eligible expenses including subcontracted labor or services, equipment, materials, or any combined purchase of the foregoing under this contract. The goal on the eligible portion of this contract will be 15% for Minority-Owned Business Enterprises (“MBE”) participation and 15% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs).
- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section II-A hereof, Contractor should reference the directory of New York State Certified MBWEs found at the following internet address:
<https://ny.newnycontracts.com/>

Additionally, Contractor is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

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

III. Equal Employment Opportunity (EEO)

- A. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the “Division”). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- B. Contractor shall comply with the following provisions of Article 15-A:
1. Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
 2. The Contractor shall submit an EEO policy statement to the New York State Department of Health within seventy two (72) hours after the date of the notice by New York State Department of Health to award the Contract to the Contractor.
 3. If Contractor or Subcontractor does not have an existing EEO policy statement, the New York State Department of Health may provide the Contractor or Subcontractor a model statement (see Form #5 - Minority and Women-Owned Business Enterprises Equal Employment Opportunity Policy Statement).
 4. The Contractor’s EEO policy statement shall include the following language:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
 - c. The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union,

or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

- d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "D" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

C. Form #4 - Staffing Plan

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

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

IV. MWBE Utilization Plan

- A. The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan (Form #1) either prior to, or at the time of, the execution of the contract.
- B. Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this Attachment.
- C. Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, New York State Department of Health shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

V. Waivers

- A. Contractors without eligible expenses as defined in Section II.A. or who are not able to meet the goal as stated in Section II.A. of this Attachment, must submit a Waiver request (Form #2) to the Department.
- B. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the New York State Department of Health shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

- C. If the New York State Department of Health, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the New York State Department of Health may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

VI. Quarterly MWBE Contractor Compliance Report

- A. Contractor is required to submit a Quarterly MWBE Contractor Compliance Report to the New York State Department of Health by the 10th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract. Data should be submitted via the online compliance system at <https://ny.newnycontracts.com>.

VII. Liquidated Damages - MWBE Participation

- A. Where New York State Department of Health determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the New York State Department of Health liquidated damages.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
 - 1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
 - 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the New York State Department of Health, Contractor shall pay such liquidated damages to the New York State Department of Health within sixty (60) days after they are assessed by the New York State Department of Health unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the New York State Department of Health.

ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5th Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



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

ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

May 31, 2018

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

FN 20 18-366
HEALTH & HUMAN SERVICES
WAYS & MEANS

Dear Mr. Picente:

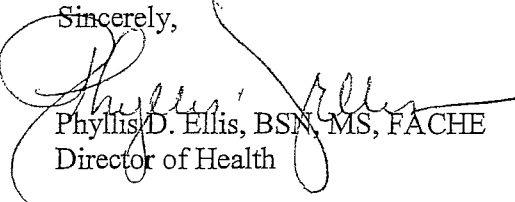
Attached are two (2) copies of an Agreement between Oneida County through its Health Department and Onondaga County. Through this Agreement, the Onondaga County Medical Examiner's Office will continue to serve as Oneida County's Medical Examiner. In this capacity, they will continue to perform all the services of a county medical examiner as required by New York State County Law, the Oneida County Charter, and the Oneida County Administrative Code.

This Agreement will have a five year term, beginning January 1, 2019 and ending on December 31, 2023. The total payments for the first year, 2019, will be \$677,500.00 and will be paid in quarterly installments of \$169,375.00, with a year-end reconciliation. The five-year total for this Agreement is \$3,387,500.00, subject to adjustment. The services provided by the Onondaga County Medical Examiner's Office will also include related work performed for the New York State correctional facilities located in Oneida County, and for which Oneida County will receive reimbursement from New York State.

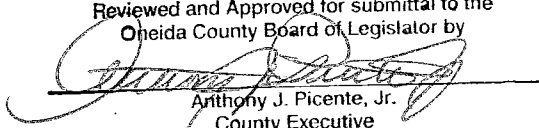
If you approve of this Agreement, I respectfully request that you forward it to the Board of Legislators for their consideration. Upon the Board's approval, please sign and have notarized the enclosed copies where indicated.

If you have any questions, or wish to discuss this in more detail, please feel free to contact me directly.

Sincerely,


Phyllis D. Ellis, BSN, MS, FACHE
Director of Health

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


Anthony J. Picente, Jr.
County Executive

Date 9/26/18

CM

Oneida Co. Department: Health

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

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor:

Onondaga County
421 Montgomery Street
Syracuse, New York 13202

Title of Activity or Service:

Medical Examiner Shared Services

Proposed Dates of Operation:

January 1, 2019 to December 31, 2023

Client Population/Number to be Served:

NA

Summary Statements

- 1) **Narrative Description of Proposed Services:** The Onondaga County Medical Examiner's Office will serve as Oneida County's Medical Examiner and shall provide all services of a county medical examiner as required by New York County Law and the Oneida County Charter and Administrative Code.
- 2) **Program/Service Objectives and Outcomes:** N/A
- 3) **Program Design and Staffing:** N/A

Total Funding Requested: \$3,387,500 **Account # A1186.197**
(\$677,500 annually)

Oneida County Dept. Funding Recommendation: \$3,387,500

Proposed Funding Sources (Federal \$/ State \$/County\$): \$80,000 State (Est.) per year
\$597,500 County per year

Cost Per Client Served: NA

Past Performance Data:

2016 \$610,000.00
2017 \$650,784.00

O.C. Department Staff Comments: NA

Agreement

The County of Onondaga (Onondaga) and the County of Oneida (Oneida) understand and agree that:

TERM

The term of this Agreement shall be January 1, 2019 through December 31, 2023.

This Agreement may be terminated for cause, by either party, by giving ninety (90) days written notice of termination to the other party. In the event of early termination, compensation to Onondaga shall be pro-rated based on days of service.

Except as is otherwise stated in this Agreement, neither Onondaga nor Oneida shall have or make any claim for damages against the other for the other's terminating this Agreement.

SCOPE OF SERVICES

The Onondaga County Medical Examiner's Office will serve as Oneida County's Medical Examiner and shall provide all services of a county medical examiner as required by New York County Law and the Oneida County Charter, and the Oneida County Administrative Code, including but not limited to the services as outlined below:

1. **Medicolegal Death Investigation:** Scene investigation services will be established by the ONONDAGA County Medical Examiner's Office (OCMEO) through a full-time forensic investigator (FI) position and subcontracts with assistant forensic investigators (AFIs) based in Oneida County. A/FIs located in Oneida County will be managed as per the following:
 - 1.1 On-call Schedule – 24 hours a day, 7 days a week to be coordinated by the full-time forensic investigator in Oneida County and the Senior Forensic Investigator in ONONDAGA.
 - 1.2 Death Notification – All reportable deaths, as defined in New York County Law Article 17A – Coroners, Coroner's Physicians and Medical Examiner, will be reported to a central Oneida County A/FI phone line.
 - 1.3 Jurisdiction – A/FIs will establish medical examiner jurisdiction.
 - 1.4 Scene Response/Body Inspection – A/FIs will conduct scene response and/or an on-scene body inspection as deemed necessary by OCMEO.
 - 1.5 Follow-up – AFI follow-up will be infrequent. The full-time FI in Oneida County and Forensic Investigators on staff at the OCMEO will complete follow-up with next of kin, law enforcement and other agencies as deemed necessary by OCMEO.

2. Forensic Pathology Services:

2.1 Forensic pathology services include the performance of autopsy examinations, integration of investigative information, and interpretation of autopsy findings and supplemental testing (including forensic toxicology) to establish and certify cause and manner of death.

2.2 The OCMEO will request testing or other specialized services (for example neuropathology), as it deems necessary for the determination of cause and manner of death and decedent identity.

2.3 The Medical Examiner will complete and sign the certification section of the death certificate and complete an examination report.

3. Case review/Consultation and Testimony:

3.1 OCMEO staff may provide consultation via telephone at no charge. Said telephone consultations shall include, but not be limited to, participation in the annual review of the Oneida County Health Department's Mass Fatality Plan and quarterly Child Fatality Review Team meetings.

3.2 OCMEO professional staff will also provide on-site/off-site case review/consultation and court testimony and these services will be invoiced directly to the district attorney and/or County attorney, and/or Oneida County Health Department official requesting services as stated in the Contract Fee Schedule, Exhibit A.

3.3 Testimony and/or testimony preparation services, includes courtroom, deposition, affidavit, and interrogatories will be invoiced directly to the district attorney and/or attorney requesting services as stated in the Contract Fee Schedule, Exhibit A.

TRANSPORTATION

Oneida shall inform OCMEO of its selected vendor or vendors for transportation. OCMEO shall provide Oneida with its established chain of custody protocol and Oneida shall ensure that said vendor or vendors follow OCMEO's protocol. All transportation of decedents to the OCMEO shall be performed by Oneida's selected vendor at no cost to the OCMEO. Transportation of decedents from the OCMEO shall be either by Oneida's selected vendor or by the funeral homes providing burial services to the decedents, at no cost to the OCMEO. Oneida agrees that either all transportation of decedents from the OCMEO shall be provided by Oneida's selected vendor, or all transportation of decedents from the OCMEO shall be provided by the funeral homes providing burial services to the decedents.

REPORTS

All Medical Examiner reports will be released as per Exhibit B. Upon request, a copy of the official examination report of the cause and manner of death including forensic toxicology shall be provided to the Oneida County Health Department for each case at no charge.

OCMEO shall assist the Oneida County Health Department with the preparation of an annual report at the close of the contract year, said report to be submitted to the Oneida County Board of Legislators, the Oneida County Executive, the Oneida County Health Department, and the Oneida County District Attorney not later than March of each year. OCMEO will provide data including but not limited to the following: total cases by manner of death, manner of death by autopsy status, gender, age, race/ethnicity and by manner of death summarized by age, sex, race/ethnicity, method, and other categories unique to the manner of death (ex: by firearm used, drug/toxin, infection, cardiovascular, etc.).

TESTIMONY - NON-OCMEO PROFESSIONALS

Testimony provided by non-OCMEO professionals on contract for services with the OCMEO in the fields of forensic odontology, eye pathology, forensic anthropology, and neuropathology will work directly with the requesting district attorney and/or attorney to determine an agreed upon fee for testimony separate from the CFS Fee Schedule. Non-OCMEO professionals will invoice the requesting district attorney and/or County attorney directly for payment. The OCMEO will not pay for such services.

PROPERTY RIGHTS

The original documentation for forensic examination, scene response, consultations and autopsies done by the OCMEO shall remain the property of ONONDAGA County. The original x-rays, tissue blocks and microscopic slides, tissues retained, blood and body fluids, and photographs shall remain the property of the OCMEO. Access to this information shall be provided to the Oneida County Health Department as needed. Microscopic slide recuts and/or reproductions shall be provided at cost to the requesting district attorney and/or County attorney.

COMPENSATION

Oneida shall pay Onondaga, in consideration of all goods and services furnished by Onondaga, an amount not to exceed six hundred seventy-seven thousand five hundred twenty-nine dollars and no cents (\$677,500.00) for Year 2019. Quarterly payments will be made at the end of each quarter with the exception of the fourth quarter payment that will be made by January 30th after annual reconciliation is completed. The amount of quarterly payments for 2019 will be as follows: \$169,375.

For Years 2020-2023, the amount of annual compensation shall be calculated as follows: The base compensation shall be the total amount paid for the previous calendar year after the annual reconciliation. The base amount shall then be adjusted by the rate of increase or decrease in the Consumer Price Index for urban wage earners and clerical workers (CPI-W) for the preceding calendar year. The rate of increase shall at no time exceed three percent (3%).

For years 2020-2023, quarterly payments will be made at the end of each quarter with the exception of fourth quarter payments that will be made by January 30th after each year's annual reconciliation is completed.

Reconciliation of personnel and non-personnel expenses will be completed annually, in January of the next contract year, and determined in accordance with actual costs, in an amount agreed upon by both parties.

Payment by responsible party will be made pursuant to this reconciliation by January 30th of the next contract year.

All payments shall be made in accordance with procedures established by Oneida's comptroller and upon submission of approved claim forms which can only be obtained from the Oneida County Health Department, hereby designated to act on behalf of Oneida in directing and reviewing Onondaga's services. Onondaga shall report directly to Oneida's Director of Public Health or other designee.

MASS-FATALITY EVENT:

In the event of a mass fatality, the parties shall agree upon a cost of investigation and response.

NEW YORK STATE DEPARTMENT OF CORRECTIONS:

The OCMEO will provide a monthly list of inmates autopsied, sorted by New York State correctional facility name (with the exception of inmates from Mohawk Correctional where payments are made annually). The Oneida County Health Department will submit invoices to the appropriate New York State Correctional facility for reimbursement at the current inmate/prisoner autopsy rate in the Fee Schedule, Exhibit A; said reimbursement to be retained by Oneida County.

PAYMENTS

For year 2019, quarterly payments of one hundred sixty-nine thousand three hundred eighty-two dollars and twenty-five cents (\$169,375) must be received at the end of each quarter with the exception of fourth quarter payment that will be made by January 30th after each year's annual reconciliation is completed.

For years 2020-2023, quarterly payments, as defined in the compensation section above, must be received at the end of each quarter with the exception of fourth quarter payments that will be made by January 30th after each year's annual reconciliation is completed.

All checks should be made payable to the Onondaga County Health Department. Said check, and any correspondence related to this Agreement, shall be addressed to the Onondaga County Health Department, 421 Montgomery Street, 14th Floor, Syracuse, NY 13202.

HOLD HARMLESS, DEFENSE, AND INDEMNIFICATION

Onondaga covenants and agrees to indemnify, defend and hold harmless, to the fullest extent permitted by law, Oneida, its officers, agents and employees and representatives in connection with this Agreement, from and against any and all loss or expense that may arise by

reason of liability for damage, injury or death, or for invasion of personal or property rights, of every name and nature including but not limited to: (i) claims of property damage; (ii) claims of personal injury to Onondaga's employees, agents, or subcontractors; (iii) claims of personal injury to third parties; and (iv) reasonable attorneys' fees, whether incurred as the result of a third party claim or to enforce this contract: arising out of or resulting directly or indirectly from the performance, of the work or the enforcement of this Agreement, irrespective of whether there is a breach of a statutory obligation or rule of apportioned liability; and whether casual or continuing trespass or nuisance, and any other claim for damages arising at law and equity alleged to have been caused or sustained in whole or in part by or because of misfeasance, omission of duty, negligence or wrongful act on the part of Onondaga, its employees or agents.

Oneida covenants and agrees to indemnify, defend and hold harmless, to the fullest extent permitted by law, Onondaga, its officers, agents and employees and representatives in connection with this Agreement, from and against any and all loss or expense that may arise by reason of liability for damage, injury or death, or for invasion of personal or property rights, of every name and nature including but not limited to: (i) claims of property damage; (ii) claims of personal injury to Oneida's employees, agents, or subcontractors; (iii) claims of personal injury to third parties; and (iv) reasonable attorneys' fees, whether incurred as the result of a third party claim or to enforce this Agreement: arising out of or resulting directly or indirectly from misfeasance, omission of duty, negligence or wrongful act on the part of the Oneida, its employees or agents irrespective of whether there is a breach of a statutory obligation or rule of apportioned liability; and whether casual or continuing trespass or nuisance, and any other claim for damages arising at law and equity alleged to have been caused or sustained in whole or in part by or because of misfeasance, omission of duty, negligence or wrongful act on the part of Oneida, its employees or agents.

Each party further agrees to comply with the requirements of the New York State Workers' Compensation Board regarding proof of compliance with the New York State Workers' Compensation Law. The New York State Workers' Compensation Board requires each party to obtain proof of Workers' Compensation insurance coverage, self-insurance or exemption from the, requirement of obtaining Workers' Compensation insurance coverage. Proof must be submitted to the other party on forms specified by the Workers' Compensation Board and that are stamped as received by the Workers' Compensation Board.

INSURANCE

Onondaga certifies that it is self-insured for all purposes herein, and will provide documentation of self-insurance to Oneida.

WORKERS' COMPENSATION AND DISABILITY BENEFITS

This Agreement shall be void and of no effect unless each party and other person or entity making or performing this agreement shall secure compensation for the benefit of, and keep insured during the life of this agreement, the employees engaged thereon, in compliance with the provisions of the New York State workers' compensation law.

Each party shall show, before this Agreement may be made or performed, and at all times during the life of this Agreement, that it, and other person or entity performing this Agreement, is in compliance with the provisions of the New York State workers' compensation law, by delivering the New York State Workers' Compensation Board (Board) form or State Insurance Fund (Fund) form described in one of the following subparagraphs numbered 1, 2, 3, or 4, and that Board form described in one of the following subparagraphs numbered 5,6, or7:

1. Board form C-105.2 (Fund form U-26.3, if the insurer is the State Insurance Fund), subscribed by the insurer, showing that Contractor, and other person or entity making or performing this agreement, has secured compensation, as workers' compensation insurance, for the benefit of all employees, in compliance with the provisions of the New York State workers' compensation law.

2. Board form SI-12, completed by Board's self-insurance office and approved by Board's secretary, showing that Contractor, and other person or entity making or performing this agreement, has secured compensation, as Board approved workers' compensation self-insurance, for the benefit of all employees, in compliance with the provisions of the New York State workers' compensation law.

3. Board form GSI-105.2, completed by the group self-insurance administrator, showing that Contractor, and other person or entity making or performing this agreement, has secured compensation, by being a participant in a workers' compensation group self-insurance plan, for the benefit of all employees, in compliance with the provisions of the New York State workers' compensation law.

4. Board form CE-200, bearing an exemption certificate number issued by Board, showing that Contractor, and other person or entity making or performing this agreement or the Work is not required to secure compensation for the benefit of all employees, in compliance with the provisions of the New York State workers' compensation law.

5. Board form DB-120.1, subscribed by the insurer, showing that Contractor, and other person or entity making or performing this Agreement has secured the payment of disability benefits, as disability benefits insurance, for the benefit of all employees, in compliance with the provisions of the New York State workers' compensation law.

6. Board form DB-155, completed by Board's self-insurance office and approved by Board, showing that Contractor, and other person or entity making or performing this agreement, has secured disability benefits, as Board approved disability benefits self-insurance, for the benefit of all employees, in compliance with the provisions of the New York State workers' compensation law.

7. Board form CE-200, bearing an exemption certificate number issued by Board, showing that Contractor, and other person or entity making or performing this Agreement is

not required to secure disability benefits for the benefit of all employees, in compliance with the provisions of the New York State workers' compensation law.

ASSIGNMENT

Each party is prohibited from assigning, transferring, conveying, subletting, or otherwise disposing of this agreement, or its right, title, or interest in this Agreement, or its power to execute this agreement, to any other person or entity without the previous consent in writing of the other party.

INDEPENDENT CONTRACTOR

Neither party, nor the parties' officers, employees, agents, or servants, shall hold themselves out as, or claim to be, officers, employees, agents, or servants of the other party.

LICENSES AND PERMITS

Each party shall obtain at its own expense all licenses or permits required for its services or work under this Agreement, prior to the commencement of services or work.

APPROPRIATIONS

This Agreement is executory only to the extent of the monies appropriated and available for the purpose of this agreement and no liability on account thereof shall be incurred by either party beyond monies appropriated and available for the purpose thereof.

AGREEMENT MODIFICATIONS

This Agreement represents the entire and integrated agreement between Onondaga and Oneida and supersedes all prior negotiations, representations or agreements either written or oral. This Agreement may be amended only by a writing signed by Onondaga and Oneida.

SEVERABILITY

If any term or provision of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and every other term and provision of this agreement shall be valid and enforced to the fullest extent permitted by law.

CLAUSES REQUIRED BY LAW

Each and every provision of law and clause required by law to be part of this Agreement shall be deemed to be part of this Agreement and to have been inserted in this Agreement, and shall have the full force and effect of law.

ENTIRE AGREEMENT

The terms of this Agreement, including any attachments, amendments, addendums or appendixes attached hereto, including the Addendum – Standard Oneida County Conditions, 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 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.

IN WITNESS WHEREOF, Onondaga and Oneida have executed the writing of this Agreement on the dates hereafter written.

COUNTY OF ONONDAGA

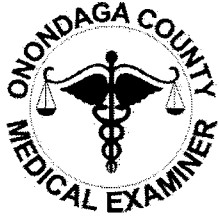
By: Joanne M. Mahoney 9-5-18
Joanne M. Mahoney, EPP Date
County Executive

COUNTY OF ONEIDA

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

Approved:

Maryangela Scalzo
Assistant Oneida County Attorney



**ONONDAGA COUNTY
MEDICAL EXAMINER'S OFFICE
2018 FEE SCHEDULE**

<u>Description</u>	<u>Fee</u>
Examinations (includes toxicology and other non-specialized laboratory testing as indicated)	
Autopsy Examination	
-contract rate.....	\$1,800/case
-non-contract rate.....	\$2,700/case
External Examination	
-contract rate.....	\$1,050/case
-non-contract rate.....	\$1,600/case
Special Cases (listed below)	
-contract rate.....	\$2,400/case
-non-contract rate.....	\$3,700/case
Bariatric (BMI greater than or equal to 40)	
Infectious (Biohazard)	
Exhumations	
Repeat autopsies	
Suspected Hazardous material	
Skeletal Examinations	
Human remains	
-contract rate.....	\$2,000/case
-non-contract rate.....	\$2,800/case
Non-human remains.....	\$ 250/case
Prisoner/Inmate Autopsy Examination	\$4,500/case
Private Autopsy Examination.....	\$5,000/case
Specialized Testing and Consultations.....	At Cost
Eye Pathology, DNA Testing, Molecular / Genetic Testing, Mass Fatality Incident	
Non-Medical Examiner/Case Review	
-contract rate.....	\$ 250/case
-non-contract rate.....	\$ 325/case
On-Call Service**	
-contract rate.....	\$ 350/date scheduled
-non-contract rate	\$ 700/date scheduled

***On-call service may be requested when an outside county coroner/medical examiner is unable to cover death notifications. The OCMEO will receive all death notifications directly from law enforcement and other agencies to establish jurisdiction on behalf of the county requesting the service. Each date scheduled, regardless of the number of hours covered, will be charged at the flat rate above.*

Case Review / Consultation

For all instances listed below in which there is an hourly fee, the amount of time spent on a particular service shall be billed in half-hour increments.

Initial Forensic Pathologist Case Review/Consultation*	\$ 900/case
Forensic Pathologist Case Review/Consultation, additional hours.....	\$ 450/hr
Forensic Investigator Case Review/Consultation.....	\$ 300/hr
Forensic Chemist Case Review/Consultation.....	\$ 350/hr
Toxicologist Case Review/Consultation.....	\$ 400/hr

**Initial case review requires written authorization from the legal next of kin and a \$900, non-refundable payment at the time of consultation payable to the Onondaga County Health Department. Initial payment includes up to two (2) hours case review / consultation. Additional time is billed at the current hourly rate.*

Testimony

For all instances listed below in which there is an hourly fee, the amount of time spent on a particular service shall be billed in half-hour increments.

Contract Counties

Forensic Pathologist Testimony/Deposition.....	\$ 300/hr
Forensic Investigator or Forensic Autopsy Technician Testimony/Deposition	\$ 150/hr
Toxicologist Testimony/Deposition	\$ 250/hr
Forensic Chemist Testimony/Deposition	\$ 200/hr
Non-CFS Consultants	Invoice Directly

Consultation/Non-contract counties

Forensic Pathologist Testimony/Deposition.....	\$ 450/hr
Forensic Investigator or Forensic Autopsy Technician Testimony/Deposition	\$ 300/hr
Toxicologist Testimony/Deposition	\$ 400/hr
Forensic Chemist Testimony/Deposition	\$ 350/hr
Non-CFS Consultants	Invoice Directly

Scene Investigation

Forensic Investigator Scene Response.....	\$ 250/hr
Pathologist and Forensic Investigator Scene Response.....	\$ 450/hr

Travel Expenses

Travel Time (portal to portal).....	\$ 150/hr
Mileage (current IRS rate), parking, tolls, meals, lodging.....	At cost

Reports/ Other Records: Subject to legal restrictions

Autopsy/Examination Report (includes toxicology).....	\$ 50/report
Archived Report (older than 5 years)	\$ 100/report

Additional rush charges incurred will be billed at actual cost. At the discretion of the Medical Examiner, payment may be required before service is provided.

Imaging/ Histology/ X-rays

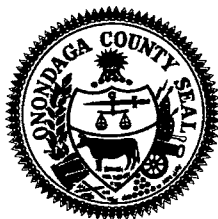
Autopsy and Scene Investigation Images CD.....	\$ 20/CD
Microscopic Slide Recuts	\$ 30/slide
Microscopic Slide Special Stains	At cost
Microscopic Digital Images	\$ 5/image
X-ray Film Copies	\$ 30/film
X-ray Digital Images	\$ 20/CD
Prints – 35 mm slide	\$ 15/slide

Toxicology*

Driving Under Influence – Alcohol/Drugs.....	\$ 350/case
Driving Under Influence – Alcohol.....	\$ 100/case
Driving Under Influence – Drugs	\$ 300/case
Comprehensive Drug-Facilitated Sexual Assault	\$ 350/case
Post-mortem Toxicology (no pathology examination).....	\$ 350/case
Post-mortem Toxicology (with pathology examination).....	Included in exam fee

*Analyses performed by reference laboratories will be billed at actual cost.

MEDICAL EXAMINER'S OFFICE
100 ELIZABETH BLACKWELL ST.
SYRACUSE, NEW YORK 13210



POLICY/PROCEDURE MANUAL

Subject: Release of Information/ Materials
Supersedes 10/28/15

Date: January 31, 2017

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Robert Stoppacher, MD, Chief Medical Examiner

Policy approved by County Law Department

POLICY:

It is the policy of this office to release copies of autopsy reports, other information and/or materials to those individuals and/or agencies that have the authority to receive such information. This office will comply with subpoenas and Court Orders provided for records.

RATIONALE:

Information contained in the autopsy report and in the Medical Examiner's Office (MEO) records are of value and interest to a number individuals and/or agencies, however, autopsy and other MEO documents **are not public record**. Such individuals and/or agencies may include the next of kin, personal representatives, the legal counsel of the next of kin, district attorneys, treating physicians/health care facilities, and investigative law enforcement and child protective agencies with case responsibility. Additional agencies that are entitled to records according to NYS County Law Section 677 are Chairman of the Correction Medical Review Board, Commissioner of Correctional Services, Commissioner of Mental Health, Commissioner of the Office for Persons with Developmental Disabilities, Director of Mental Health information service, Chairman of the Commission on Quality of Care for the Mentally Disabled, Director of a Mental Hygiene facility, and the State Commissioner of Health.

I. DEFINITIONS:

A. **AUTOPSY REPORT**

For the purposes of this policy, **the autopsy report** consists of the signed final report of the autopsy or external examination and the toxicology report. The toxicology report will not be released prior to completion of the autopsy report.

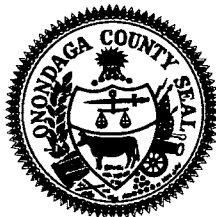
B. **PRELIMINARY FORENSIC AUTOPSY SUMMARY**

Consists of basic case demographic information and medical examiner comments regarding preliminary findings at autopsy and cause and manner of death.

C. **POSTMORTEM TEST RESULTS**

Test results and/or reports produced in the context of the death investigation to aid in the determination of the circumstances of death and assigning cause and manner of death and may be available if requested. These may include, but are not limited to, clinical and specialized laboratory results, neuropathology and other consultant reports, and DNA laboratory reports for identification of the decedent.

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D. OTHER MEDICAL EXAMINER RECORDS

Medical examiner records (paper/electronic) including, but not limited to: Death investigation report(s), phone and meeting documentation (BEAST "Story"/Supplemental Contacts), chain of custody, BEAST forms, release of information documents and any other documents (paper/electronic) created or obtained in the usual course of business.

Third party records including (paper/electronic), but not limited to: antemortem medical records, hospital records, emergency medical services records, police reports, child protective services records, public health records (public health nursing, WIC) or criminalistics laboratory reports.

E. PHYSICAL MATERIALS

Physical materials including, but not limited to, copies of suicide notes, images/ photographs, fingerprint(s), x-rays, microscopic slides and blood spot cards may be retained and/or prepared in the course of the MEO investigation. Requests for ANY of these physical materials must be evaluated by the Chief Medical Examiner or designee.

F. LEGAL NEXT OF KIN

The legal next of kin (NOK)* in descending order of authority:

1. Legal spouse/domestic partner of the decedent, whether estranged or separated, but *not* divorced.
2. Decedent's children (excluding step-children)
3. Parents of Decedent
4. Sibling of Decedent (including half-siblings)
5. Sibling of Decedent's Parents
6. Grandparents of Decedent
7. Issue of Grandparents of Decedent
8. Great-Grandparents of Decedent
9. Issue of Great-Grandparents of Decedent

*In certain situations the legal NOK may request that a spokesperson serve as the contact. This spokesperson will have the same authority as the legal NOK.

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G. **PERSONAL REPRESENTATIVES:**

Personal representatives include executors, estate administrators, and legal guardians. Written documentation of their status as a personal representative must be provided, at which point they are of equal status to the legal NOK. The county attorney's office can be contacted for advice if it is unclear whether someone is a personal representative.

H. **WRITTEN REQUESTS:**

Acceptable written request formats include email, electronic, letters and faxes with confirmation (letterhead, professional email, BEAST legal next of kin documentation, etc.) of the requestor's affiliation.

I. **RECORDS MANAGER:**

ONLY THE RECORDS MANAGER (RM) WILL BE ALLOWED TO RELEASE RECORDS AND OTHER CASE MATERIALS. The RM and/or assigned clerical designee will verify the appropriateness of the request in compliance with this policy and track all requests in the BEAST database. Only copies or certified copies will be sent out, the original records are in the BEAST database with exception of all cases prior to January 1, 2010. If there is any question as to whether records and/or materials should be released to the requestor, the RM will notify the Chief Medical Examiner or his designee and/or will seek legal counsel from the County Attorney's Office. The RM will not release the toxicology report until the autopsy report is completed and special requests from district attorney offices to do so will also be reviewed by the Chief Medical Examiner.

II. **CATEGORIES OF REQUESTORS AND CORRESPONDING REQUIREMENTS:**

NOTE: This section refers to civil matters. In homicide cases, the District Attorney must provide written authorization for the MEO to release records.

A. **NEXT OF KIN / PERSONAL REPRESENTATIVES :**

- Autopsy report: The NOK must sign an Authorization to Release Autopsy Records form.
- Preliminary Forensic Autopsy Summary: not releasable.
- Postmortem Test Results: releasable if requested in writing.
- Other Medical Examiner Records: releasable with a signed judicial subpoena.
- Physical Materials: releasable with Chief Medical Examiner approval. Blood spot cards not releasable directly to NOK but may be released to other entities (e.g. laboratories for paternity testing) upon written request.

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Fees: No fee for the autopsy report or postmortem test results. Charges for materials apply and should be billed by the laboratory directly to the NOK with the exception of requests for histology or film x-rays which must be paid prior to release of the materials.

B. ATTORNEYS AND INSURANCE COMPANIES:

- Autopsy report: releasable with written authorization from the NOK.
- Preliminary Forensic Autopsy Summary: releasable with a signed judicial subpoena.
- Postmortem Test Results: releasable if requested with written authorization from the NOK.
- Other Medical Examiner Records: releasable with a signed judicial subpoena.
- Physical Materials: releasable if requested with written authorization from the NOK.

Fees: Charges apply for all of the above as listed in the current CFS Fee Schedule. The CFS Fee Schedule must be provided to the requestor and payment received before release. The case number and items requested should be noted on the check stub along with a copy and submitted to the Account Clerk II for processing.

C. PHYSICIANS/ HEALTH CARE FACILITIES/ TISSUE RECOVERY AGENCIES:

Please note healthcare agencies include hospitals, physician groups, and nursing homes. All of the agencies in this section must be affiliated with the decedent.

- Autopsy report: releasable if requested in writing.
- Preliminary Forensic Autopsy Summary: releasable if requested in writing.
- Postmortem Test Results: releasable if requested in writing.
- Other Medical Examiner Records: not releasable.
- Physical Materials: not releasable.

Fees: No fee for the autopsy report or preliminary forensic autopsy summary. Copying fees apply for postmortem test results. The Tissue Recovery agency on contract is invoiced quarterly by the Account Clerk II and reports can be released prior to payment upon meeting the conditions above.

D. LAW ENFORCEMENT/OFFICIAL INVESTIGATING AGENCIES:

Please note this does not include Child Protective Services (see E. below)

- Autopsy report: automatically sent to the law enforcement/official (LEA) upon completion if assigned an account in the BEAST webprelog website. LEA's are automatically notified by email from the BEAST database when the report is completed and can access reports online using the BEAST webprelog website

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Otherwise, releasable if requested in writing.

- Preliminary Forensic Autopsy Summary: Automatically forwarded by front desk staff to the investigating law enforcement agency upon completion.
- Postmortem Test Results: releasable if requested in writing.
- Other Medical Examiner Records: releasable with a signed judicial subpoena.
- Physical Materials: releasable if requested in writing.

Fees: No charges apply.

E. CHILD PROTECTIVE SERVICES:

- Autopsy report: releasable if requested in writing.
- Preliminary Forensic Autopsy Summary: releasable if requested in writing.
- Postmortem Test Results: releasable with a written request.
- Other Medical Examiner Records: releasable with a written request with the exception of third party records that are releasable with a signed judicial subpoena.
- Physical Materials: releasable with a signed judicial subpoena.

Fees: No charges apply.

F. DISTRICT ATTORNEY OFFICES:

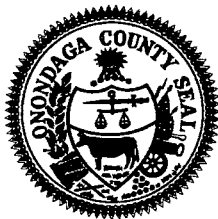
- Autopsy report: releasable if requested in writing. Certified copies available upon request.
- Preliminary Forensic Autopsy Summary: releasable if requested in writing.
- Postmortem Test Results: releasable if requested in writing.
- Other Medical Examiner Records: releasable with a signed judicial subpoena.
- Physical Materials: releasable if requested in writing.

Fees: No charges apply with the exception of physical materials for an outside county district attorney's office.

G. CORONER AND MEDICAL EXAMINER OFFICES:

- Autopsy report: automatically sent to the coroner/medical examiner upon completion. Cayuga, Madison and Oswego counties are automatically notified by email from the BEAST database when the report is completed and can access reports online using the BEAST web prelog website. Otherwise, releasable if requested in writing.
- Preliminary Forensic Autopsy Summary: Automatically sent by front desk staff upon completion.

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- Postmortem Test Results: releasable if requested in writing.
- Other Medical Examiner Records: releasable with a signed judicial subpoena.
- Physical Materials: releasable if requested in writing.

Fees: No charges with the exception of physical materials.

H. NEW YORK STATE FACILITIES/ INSTITUTIONS:

Note: New York State facilities include correctional facilities and any facility operated, licensed or certified by any agency within the department of mental hygiene, the office of children and family services, the department of health or the state education department.

- Autopsy report: automatically sent upon completion.
- Preliminary Forensic Autopsy Summary: releasable if requested in writing.
- Postmortem Test Results: releasable if requested in writing.
- Other Medical Examiner Records: releasable with a written request with the exception of third party records that are releasable with a signed judicial subpoena.
- Physical Materials: releasable if requested in writing.

Fees: No charges.

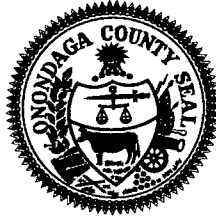
III. SUBPOENAS:

A. JUDICIAL SUBPOENAS (COURT ORDERS): The County Attorney's Office should be consulted on all judicial subpoena requests. A certified copy of the autopsy report, preliminary forensic autopsy summary and/or specific physical materials will be provided to the court upon receipt as described in the subpoena. If the judicial subpoena requests all records in any form in possession of the MEO then release records as defined in I. Definitions A – D. Note this does not include physical materials such as photographs (see Definition of E. Physical Materials).

Fees: Charges apply to civil cases.

B. NON-JUDICIAL SUBPOENAS: Subpoenas for autopsy reports or MEO case file material signed only by attorneys will not be honored without a signed authorization by the next of kin. Subpoenas may be issued by defense, plaintiff, and District Attorneys requesting the appearance of MEO staff personnel for court trial or deposition. If the MEO staff person is considered a material witness, then the usual county established witness fee will be paid to the Onondaga County Health Department. If the MEO staff person is considered an expert witness, then the current CFS Fee Schedule will be used to bill the party that subpoenas the staff person's appearance in the case of civil

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court and depositions, or out of county criminal court and grand jury. The Onondaga County District Attorney's Office may subpoena MEO staff as material or expert witnesses and will not be billed for services as they are another county agency.

IV. SPECIAL CONSIDERATIONS:

A. HOMICIDES: In **ALL** homicide cases, the District Attorney's Office (with legal jurisdiction for the potential prosecution) will be contacted to authorize release of the autopsy report or any aforementioned materials to which the person is entitled (under II. Categories of Requestors and Corresponding Requirements). If the District Attorney's Office agrees with the release, this will be documented in writing by the District Attorney's Office prior to any such release.

If the District Attorney's Office (with legal jurisdiction) disagrees with the release, this will also be documented in writing. The MEO will then contact the County Attorney's Office to seek legal opinion concerning the release in each specific case. The County requires MEO compliance with Section 677 of NYS County Law.

Law enforcement agencies having jurisdiction or investigative responsibility in the case of the decedent and Coroners/Medical Examiners with jurisdiction shall be provided the autopsy report and/or copies of photographs without the approval of the District Attorney's Office.

The District Attorney's Office is responsible for discovery of records to the defense in criminal matters. If defense counsel provides a Court Order, the MEO will consult with the Onondaga County Attorney's Office.

B. UNDETERMINED CASES: Requests for information on all cases with an undetermined **manner** of death will be reviewed by the case medical examiner to decide if the case should be handled as a homicide.

C. PENDING CASES: Some cases are not concluded on the day of autopsy but require further testing and/or investigation to come to an accurate determination of the cause and manner of death. These are listed as pending further studies/pending investigation on the original death certificate. These autopsy reports are considered incomplete and will not be sent out to any requesting authority until the death certificate has been amended and the reports reviewed and signed by the medical examiner.

D. UNFINISHED REPORTS: No reports will be released on **any** unsigned/ unreviewed autopsy reports to any requesting authority. **Only final signed autopsy reports can be released.** If in the course of a criminal or civil investigation, a draft copy of the

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autopsy report is needed for the purpose of testimony by the medical examiner, this will be clearly marked as such, and used only as a brief reference tool for recollection of the details of the case prior to testimony and not brought or turned over to the court.

V. VERBAL RELEASE OF INFORMATION:

- A. *NON-HOMICIDES:*** Any person (with the exception of attorneys and insurance companies) entitled to the autopsy report may be told verbally the cause and manner of death and details of the examination. The NOK may designate a family representative to act as spokesperson due to the emotions of the immediate tragedy. This must be clearly relayed to the MEO and documented in the Forensic Investigator's report or in the database phone log. Attorneys and insurance companies may not receive verbal information unless they provide a written release for the records signed by the next of kin.
- B. *HOMICIDES:*** The release of verbal information on homicides will be limited usually to the cause and manner of death and must have the approval of the District Attorney having jurisdiction involving the criminal act **and** the investigating law enforcement agency.
- This approval may be documented in the database. The Medical Examiner with case responsibility must also provide approval.
- C. *PENDING CASES:*** If homicide is being considered as a potential choice of manner of death, the policy on HOMICIDES as stated above will be followed.
- D. *PRESS/MEDIA:*** See Media and Public Relations policy #111.

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

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

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
 - i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with

obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

- C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and
 - D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;
- ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
- i. The Contractor will or will continue to provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - B. Establishing an ongoing drug-free awareness program to inform employees about:
 - 1) The dangers of drug abuse in the workplace;
 - 2) The Contractor's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, and employee assistance program; and

- 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
- C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;
 - D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:
 - 1) Abide by the terms of the statement; and
 - 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
 - E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
 - F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;
 - 1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

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

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

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

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

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

i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

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

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

When applicable to the services provided pursuant to the Contract:

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

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

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

5. NON-ASSIGNMENT CLAUSE.

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

6. WORKERS' COMPENSATION BENEFITS.

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

7. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or

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

8. WAGE AND HOURS PROVISIONS.

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

9. NON-COLLUSIVE BIDDING CERTIFICATION.

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

(1) the prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; and (2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) no attempt has been made

or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

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

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.

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

12. CONFLICTING TERMS.

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

13. GOVERNING LAW.

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

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

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

16. GRATUITIES AND KICKBACKS.

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

17. AUDIT

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

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

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

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

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

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

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

such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

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

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

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

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

ANTHONY J. PICENTE JR.
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

September 6, 2018

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

FN 20 18-347
PUBLIC WORKS

WAYS & MEANS

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

Anthony J. Picente, Jr.
County Executive

Date 10-4-18

Dear County Executive Picente,

The following bridge maintenance, rehabilitation, and reconstruction project has been added to the State Transportation Improvement Plan.

PIN	BIN	Road/Feature	Municipality	Funding	
				Federal	
2754.45	2263310	Oneida Street over Sauquoit Creek	Town of Paris	Federal	\$633,600.00
				Town	\$158,400.00
				Total	\$792,000.00

This bridge is owned and maintained by the Town of Paris. Oneida County has offered assistance to the Town of Paris regarding PIN 2754.45. NYSDOT would designate Oneida County as Project Sponsor. Oneida County could then coordinate design, construction inspection, and construction. Oneida County would execute State/Federal aid agreements and finance project expenses. Capital Project H-569 was created for this purpose. Oneida County would be reimbursed 100% of all project expenses via federal aid, State aid if received, and 100% reimbursement from the Town of Paris for all remaining expenditures. An inter-municipal agreement formalizing these conditions will be forwarded for consideration.

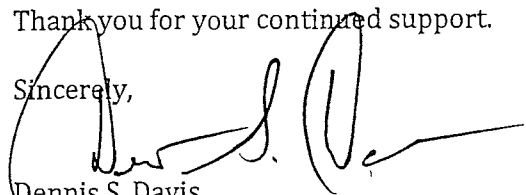
In accordance with the NYSDOT Procedures for Locally Administered Federal Aid Projects, Oneida County solicited an Expression of Interest (EOI) from each firm on the NYSDOT Region 2 LDSA County list. Each EOI was reviewed and scored on a qualifications basis. State and Federal procedures prohibit the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

On March 16, 2018 the Oneida County Board of Acquisition and Contract accepted a proposal from Lochner Engineering, P.C. with a Lump Sum fee of \$170,000.00 to prepare a plans and specifications for rehabilitation of the Oneida Street Bridge over Sauquoit Creek in the Town of Paris.

If acceptable, please forward the enclosed agreement for the aforementioned services to the Oneida County Board of Legislators for consideration. This agreement would not be fully executed until the aforementioned inter-municipal agreement is approved and fully executed.

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 X

ONEIDA COUNTY BOARD OF LEGISLATORS

Name & Address of Vendor:

Lochner Engineering, .P.C.
181 Genesee Street, Suite 300
Utica, NY 13501

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:

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This agreement would not be fully executed until the aforementioned inter-municipal agreement is approved and fully executed.

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

3) Program Design and Staffing: N/A

4) Funding

Account #: H-569

Total Funding Requested: \$170,000.00

Oneida County Dept. Funding Recommendation: \$170,000.00

Proposed Funding Sources

Federal: \$136,000.00

New York State: \$0.00

Town of Paris: \$24,000.00

Oneida County: \$0.00

Past Performance Data: N/A

O.C. Department Staff Comments: None

ENGINEERING SERVICES AGREEMENT

THIS AGREEMENT, made this ___ day of _____ 2018, by and between the COUNTY OF ONEIDA (hereinafter called "County"), a municipal corporation organized and existing under the laws of the State of New York, with its principal office located at 800 Park Avenue, Utica, NY 13501, the TOWN OF PARIS (hereinafter called "Town"), a municipal corporation organized and existing under the laws of the State of New York, with its principal office located at 2580 Sulphur Springs Road, Sauquoit, New York, NY 13456, and Lochner Engineering, P.C., a domestic professional corporation, organized and existing under the laws of the State of New York with its place of business located at 181 Genesee Street, Suite 300, Utica, NY 13501 (each a "Party" and collectively the "Parties").

WITNESSETH:

WHEREAS, County and Town require consulting services to assist in preparing detailed plans and specifications for rehabilitation of the Oneida Street over Sauquoit Creek Bridge (BIN 2263310). Project scope includes bridge replacement with minor approach work; and

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

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

NOW, THEREFORE, it is mutually agreed that for the consideration hereinafter set forth, Consultant shall provide certain services identified in **Attachment A** (hereinafter "the Services").

1. TERM

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

2. NOTICE TO PROCEED

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

3. COMPENSATION

3.1. Consultant will be paid via cost plus fixed fee as provided in **Attachment C** with a maximum amount payable of **One Hundred Seventy Thousand dollars and Zero cents (\$170,000.00)**, for all services identified in **Attachment A**. Payment shall be made on a basis of Services completed.

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

5.2. Consultant agrees to provide Services in accordance with the project description and scope of services, defined in **Attachment A**.

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

6. PERFORMANCE OF SERVICES

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

6.2. Consultant's Services shall be completed and submitted in accordance with reasonable skill and care ordinarily employed by similarly-situated professionals performing the same or similar services for similar projects in the vicinity of this project, and such applicable industry standards.

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

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

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

6.6. Consultant shall be solely responsible for determining the method, details and means of performing the Services, except where Federal, State or Local Laws and Regulations impose specific requirements on performance of the same.

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

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

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

11. NOTICES

11.1. Any notice to County and Town may be delivered personally or sent by United States mail, postage prepaid to the Deputy Commissioner, Division of Engineering, 5999 Judd Road, Oriskany, NY 13424, or at such other address last furnished in writing.

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

12. INDEPENDENT CONTRACTOR STATUS

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

12.2. Payments to Consultant shall be reported on IRS Form 1099, and County shall not make any withholding for taxes or any other obligations. Consultant shall be solely

premises, operations, independent contracts, products, completed operations, personal and advertising injury. County and Town shall be included as additional insureds, on a primary and non-contributing basis before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by or provided to the additional insureds. Consultant shall maintain said CGL coverage for itself and the additional insureds for the duration of this Agreement, and maintain completed operations coverage for itself and the additional insureds for at least three (3) years after completion.

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

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

14.5. Excess/Commercial Umbrella coverage with limits of at least Five Million Dollars (\$5,000,000) per occurrence. County and Town shall be included as additional insureds. Excess/Commercial Umbrella coverage for such additional insureds shall apply as primary and non-contributing before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by or provided to the additional insureds.

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

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

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

meeting Agreement conditions, it will be formally notified. If the condition is not corrected, then this will be cause for Agreement termination.

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

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

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

17. TERMINATION

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

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

17.3. This Agreement may be terminated by Consultant upon ten (10) days written notice to County only in the event of substantial failure by County or Town to fulfill obligations under

22.1.4. Attachment B

22.1.5. Attachment C

23. SUCCESSORS AND ASSIGNS

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

24. SEVERABILITY

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

25. ENTIRE AGREEMENT

25.1. This Agreement is the final, binding agreement of the Parties and supersedes all previous negotiations and representations, written or oral, on the subject matter.

26. COUNTERPARTS

26.1. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall be deemed one and the same instrument.

27. INCORPORATION BY REFERENCE

27.1. The following attachments, attached hereto, are deemed incorporated into this Agreement, whether or not actually attached:

27.1.1. Attachment A – Scope of Services

27.1.2. Attachment B – Federal LAFAP Requirements

27.1.3. Attachment C – Fee Summary

27.1.4. Attachment D – Standard Oneida County Conditions

28. AUTHORITY TO ACT/SIGN

28.1. Consultant's signatory hereby represents and certifies that he has the power and authority to execute and deliver this Agreement and to carry out the obligations hereunder. The execution and delivery by Consultant's signatory of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by Consultant; no other action on the part of Consultant or any other person or entity, or by law or otherwise, are necessary to authorize this Agreement or to enter into this

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Attachment A

SCOPE OF SERVICES

Section 1 - General

1.01 Project Description and Location

The project includes the replacement of the Oneida Street Bridge over Sauquoit Creek in the Town of Paris. The project also includes minor approach work including approach slabs and guide rail.

Project Name: Replacement of Oneida Street Bridge over Sauquoit Creek

PIN: 2754.45

Project Description: Replacement of Oneida Street Bridge over Sauquoit Creek, in the Town of Paris.

Project Limits: The project includes the replacement of the Oneida Street Bridge over Sauquoit Creek and repairs to the structure's approach slabs and guide rail.

Sponsor: Oneida County

City, Town: Town of Paris

County(ies): Oneida

The anticipated start date of preliminary design: April 2018

The letting date: TBD

The construction completed date: TBD

The anticipated design costs: TBD

The anticipated construction costs: TBD

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: Mark Laramie, 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 NEPA Class II Automatic Categorical Exclusion action under USDOT Regulations, 23 CFR 771¹. **Classification under the New York State Environmental**

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

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Quality Review Act (SEQRA) Part 617, Title 6 of the Official Compilation of Codes, Rules, and Regulations of New York State (6 NYCRR Part 617) is assumed to be Type II.

1.04 Categorization of Work

Project work is generally divided into the following sections:

Section 1	General
Section 2	Data Collection & Analysis
Section 3	Preliminary Design
Section 4	Environmental
Section 7	Advertising, Bid Opening and Award
Section 8	Construction Support
Section 9	Construction Inspection
Section 10	Estimating & Technical Assumptions

When specifically authorized in writing to begin work the **Consultant** will render all services and furnish all materials and equipment necessary to provide the **Sponsor** with reports, plans, estimates, and other data specifically described in Sections 1, 2, 3, 4, 7, 8, 9 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, including Sauquoit Creek hydrological studies.
- 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.

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- 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*.² 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*³ 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*.

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

³ <https://www.dot.ny.gov/plafap>

⁹ https://www.dot.ny.gov/portal/pls/portal/MEXIS_APP.EI_EB_DOC_DETAILS.show?p_arg_names=doc_id&p_arg_values=10618

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Section 2 - Data Collection and Analysis

2.01 Design Survey

A. Ground Survey

The **Consultant** will provide terrain data required for design by means of a topographic field survey. Survey Limits 100' north and south of the existing bridge; 100' bandwidth at the bridge and for a length of 150' along each approach, 75' bandwidth for remaining limit.

B. Photogrammetric Survey: N/A

C. Stream Survey

The **Consultant** will perform field surveys necessary to provide stream cross-sections for the hydraulic analysis of the Sauquoit Creek. The location and width of the sections will be sufficient to satisfactorily perform a hydraulic analysis of the named stream(s).

D. Survey of Wetland Boundaries

The **Consultant** will perform the field survey necessary to accurately locate delineated wetland boundaries. This survey should be performed as soon after delineation as possible.

E. Supplemental Survey

The **Consultant** will provide supplemental surveys when needed for design purposes and to keep the survey and mapping current.

F. Standards

Survey will be done in accordance with the standards set forth in the "Locally Administered Federal Aid Procedures Manual" and in accordance with local standards described in Section 10 of this Task List.

2.02 Design Mapping

The **Consultant** will provide the following design mapping:

- 1"=20' scale mapping with 2 foot contour intervals.

The **Consultant** will provide supplemental mapping when needed for design purposes and keep the mapping current for the duration of the 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.

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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 *NYS DOT Traffic Monitoring Standards for Contractual Agreements Manual*⁴.

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.

2.06 Capacity Analysis: N/A

2.07 Future Plans for Roadway and Coordination with Other Projects

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

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

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

2.08 Soil Investigations

The **Consultant** will determine the boring locations, diameters, and sampling intervals; designate soil boring numbers; stake out the locations; take the soil borings; document the resulting subsurface information; and survey and map the actual boring locations.

2.09 Hydraulic Analysis

The **Consultant** will perform a hydraulic analysis in accordance with the principles outlined in the Section 3.4 of the *NYS DOT Bridge Manual*⁵

2.10 Bridges to be Rehabilitated: N/A

2.11 Pavement Evaluation: N/A

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*⁶

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

⁵ https://www.dot.ny.gov/divisions/engineering/structures/repository/manuals/bрман_4th_edition

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

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

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

3.02 Development of Alternatives

A. Selection of Design Alternative(s)

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

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

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

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

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

B. Detailed Evaluations of Alternative(s)

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

- Design geometry, including the identification and comparison of alignment constraints and (where applicable) justification for retaining nonstandard design features, per the *NYSDOT Highway Design Manual*.⁷
- Environmental constraints and potential environmental impact mitigation measures (identified under Section 4 tasks).

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

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- Traffic flow and safety considerations, including signs, signals, and level of service analysis for intersections.
- Pavement.
- Structures, including bridges, retaining walls, major culverts, and building alterations (limited to establishing basic concepts, accommodating clearances and stream flow, and estimating costs). Bridge investigative work (inspection, deck coring, etc.) is covered under Section 2.
- Drainage.
- Maintenance responsibility.
- Maintenance and protection of traffic during construction.
- Soil and foundation considerations.
- Utilities.
- Railroads.
- Right-of-way acquisition requirements.
- Conceptual landscaping (performed by a Registered Landscape Architect).
- Accessibility for pedestrians, bicyclists and the disabled.
- Lighting.
- Construction cost factors.

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

- 1"=20' plans showing (as a minimum) 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"=20' horizontal and 1"=4' (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.

3.04 Preparation of Draft Design Approval Document

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

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)*.⁸

⁸ <https://www.dot.ny.gov/divisions/engineering/design/dqab/pdm>

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The **Consultant** will submit 2 copies 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.

3.05 Advisory Agency Review

The **Consultant** will provide the **Sponsor** with 5 copies 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)

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

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

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 2 copies 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 5 copies 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.

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Section 4 – Environmental

4.01 NEPA Classification

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

If the project is assumed to be a Class II action, then the **Consultant** will complete the NEPA Checklist, and forward the completed checklist to the **Sponsor** for forwarding to 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. (New York State's Smart Growth policy was adopted by amendment to the State Highway Law and is intended to minimize the "unnecessary cost of sprawl development." It requires public infrastructure projects to undergo a consistency evaluation and attestation using established Smart Growth Infrastructure Criteria. The consistency evaluation is measured with the Smart Growth checklist which can be found in the Chapter 7 Appendices on the PLAFAP Manual website.)

4.04 Screenings and Preliminary Investigations

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

- General Ecology and Endangered Species
- Ground Water
- Surface Water
- State Wetlands
- Federal Jurisdictional Wetlands
- Floodplains
- Coastal Zone Management
- Navigable Waterways

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- Historic Resources
- Parks
- Hazardous Waste
- Asbestos
- Noise
- Air Quality
- Energy
- Farmlands
- Invasive Species
- Visual Impacts
- Critical Environmental Areas
- Smart Growth
- Environmental Justice

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

4.05 Detailed Studies and Analyses: N/A

4.06 Permits and Approvals

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

- Article 24 Freshwater Wetlands Permit
- FHWA Executive Order 11990 Wetlands Finding
- U.S. Army Corps of Engineers Section 10 Permit (Individual or Nationwide)
- U.S. Army Corps of Engineers Section 404 Permit (Individual or Nationwide)
- NYSDEC Section 401 Water Quality Certification
- NYSDEC State Pollution Discharge Elimination System (SPDES) Permit
- NYSDEC Article 15 Protection of Waters Permit

4.07 Public Hearing: N/A

Section 5 - Right-of-Way

5.01 Abstract Request Map and/or Title Search

The **Consultant** will prepare an Abstract Request Map. Title search to be performed by NYSDOT.

5.02 Right-of-Way Survey

The **Consultant** will perform survey needed to accurately determine existing right-of-way limits and establish side property lines.

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5.03 Right-of-Way Mapping

The **Consultant** will meet with the **Sponsor** to discuss the types of right-of-way acquisitions required and the limits of acquisition lines.

The **Consultant** will prepare acquisition maps in accordance with the format provided by the **Sponsor**.

All right-of-way mapping will dimensions in U.S. Customary units of measurement.

The **Consultant** will prepare all map revisions or additions which are determined necessary during the construction of the project.

5.04 Right-of-Way Plan

The **Consultant** will prepare the Right-of-Way Plan(s) in accordance with the PLAFAP Manual.

5.05 Right-of-Way Cost Estimates – To be performed by NYSDOT

5.06 Public Hearings/Meetings

The **Consultant** will conduct any public hearings and/or informational meetings as may be required by the Eminent Domain Procedure Law. Public hearings will be included under Section 3.06.

5.07 Property Appraisals– To be performed by NYSDOT

5.08 Appraisal Review– To be performed by NYSDOT

5.09 Negotiations and Acquisition of Property– To be performed by NYSDOT

5.10 Relocation Assistance: N/A

5.11 Property Management: N/A

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Section 6 - Detailed Design

6.01 Preliminary Bridge Plans

A. New and Replacement Bridges

The **Consultant** will prepare and submit to the **Sponsor** a Preliminary Bridge Plan in accordance with the *NYSDOT Bridge Manual*⁹. For each bridge, the **Consultant** will prepare and submit to the **Sponsor** a Structure Justification Report. The format and content of the Structure Justification Report will be as outlined in the NYSDOT Bridge Manual.

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

B. Selected Structural Treatment

The **Consultant** will modify the Structure Justification Report, Preliminary Bridge Plan and/or Preliminary Bridge Rehabilitation Plan to incorporate **Sponsor** review comments.

The **Sponsor** will approve the selected structural treatment and will obtain 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 be 90% complete.

As part of this task the **Consultant** will prepare templated cross section at 50 ft intervals.

Advance Detail Plans will be in accordance with Chapter 21 of the *NYSDOT Highway Design Manual*¹⁰

The **Consultant** will prepare and submit 2 copies 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
- 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

⁹ [https://www.dot.ny.gov/divisions/engineering/structures/repository/manuals/brman-usc/2011_nysdot Br Man repl_pgs.pdf](https://www.dot.ny.gov/divisions/engineering/structures/repository/manuals/brman-usc/2011_nysdot_Br_Man_repl_pgs.pdf)

¹⁰ https://www.dot.ny.gov/divisions/engineering/design/dgab/hdm/hdm-repository//Chapt_21.pdf

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

6.04 Cost Estimate

The **Consultant** will develop, provide, and maintain the construction cost estimate for the project. The **Consultant** will update the estimate periodically and as necessary to incorporate significant design changes, and will develop and provide the final Engineer's Estimate, include 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: N/A

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.
- Level 2 Load Rating Data Input forms, per NYSDOT User Manual for Structural Rating Program for Bridges and current NYSDOT guidance on the "Procedure for Inventorying, Inspecting, and Level 2 Load Rating, New, Replacement and Reconstructed or Rehabilitated Bridges".

6.08 Information Transmittal

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

Section 7 - Advertisement, Bid Opening and Award

7.01 Advertisement

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

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

7.02 Bid Opening (Letting)

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

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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: By Supplemental Agreement

Section 9 - Construction Inspection: By Supplemental Agreement

Section 10 - Estimating and Technical Assumptions

10.01 Estimating Assumptions

The following assumptions have been made for estimating purposes:

Section 1 Estimate 3 meetings during the life of this agreement.
 Estimate 3 cost and progress reporting periods will occur during the life of this agreement.

Section 2 Assume that GPS methods and equipment will be used to establish local control points.

 Assume 13 stream sections will be required for the hydraulic analysis.

 Survey Limits 100' north and south of the existing bridge; 100' bandwidth at the bridge and for a length of 150' along each approach, 75' bandwidth for remaining limit.

 Assume one (1) day for supplemental mapping survey.

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Approximate limits of right of way developed from tax maps and any highway plans or records in the possession of the county will be represented in the base mapping.

Estimate less than 10 accidents will require analysis.

A wetland delineation is not required.

Assume existing traffic count data is available and that additional traffic data collection will not be required.

Estimate 0 capacity analyses will be required.

Estimate 2 soil borings will be taken.

Section 3 Estimate 1 concept will be evaluated.

Estimate 1 design alternative(s) will be analyzed in addition to the null alternative.

Estimate 1 cost estimate(s) plus 1 updates will be required.

Estimate 1 bridge will be replaced.

Section 4 Estimate permits will be required.

Assume project will be classified as a Categorical Exclusion (CE) under NEPA and a Type II under SEQRA.

Assume that asbestos, lead paint and hazardous waste sampling will be performed during final design, if required under a supplemental agreement.

Section 5 Assume three (3) right-of-way maps will be prepared.

Assume that NYSDOT will provide property acquisition services including appraisals and negotiations.

Section 6 Detailed Design or Final Design

Final Design will include but not be limited to:

- Development of highway and bridge plans
- Structural rehabilitation design
- Highway design
- Preparation of right-of-way plans and acquisition maps
- Development and design for public utilities
- Maintenance and protection of traffic during construction
- Preparation and submission of final Plans, Specifications, and Estimate (PS&E) for the project

Estimate 1 cost estimate plus 1 update will be required.

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Estimate 1 bridge will be replaced.

Estimate four utility companies will be affected.

Section 7 Estimate advertisements will be replaced in 2 publications in addition to the NYS Contract Reporter.

Section 8 N/A

Section 9 N/A

10.02 Technical Assumptions -- N/A

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Attachment B

Federal LAFAP Requirements for Contracts

Federal-Aid Requirements for Architectural/ Engineering Consultant Supplement

ARTICLE A. DOCUMENTS FORMING THIS AGREEMENT

The contract must include the documents forming the contract between the Sponsor and the Consultant. The following will be included in the contract:

- Agreement Form - "Municipal Consultant Contract";
- Project Description and Funding;
- Scope of Services;
- As applicable, Staffing Rates, Hours, Reimbursables and Fee;
- Federal-Aid Requirements for Architectural/Engineering Consultant Supplement.

ARTICLE B. COMPENSATION METHODS, RATES AND PAYMENT

As full compensation for Consultant's work, services and expenses hereunder the Sponsor shall pay to the CONSULTANT, and the CONSULTANT agrees to accept compensation based the methods designated and described in this contract. Compensation methods must be clearly documented in the contract. Compensation methods available are Cost Plus Fixed Fee Method, Specific Hourly Rate Method, and Lump Sum Cost Plus Reimbursables Method.

ARTICLE C. INSPECTION

The duly authorized representatives of the Sponsor, and on Federally aided projects, representatives of the NEW YORK STATE DEPARTMENT OF TRANSPORTATION and the FEDERAL HIGHWAY ADMINISTRATION, shall have the right at all times to inspect the work of the CONSULTANT.

ARTICLE D. EXTRA WORK

If the CONSULTANT is of the opinion that any work the CONSULTANT has been directed to perform is beyond the scope of the PROJECT CONTRACT and constitutes extra work, the CONSULTANT shall promptly notify the Sponsor, in writing, of this fact prior to beginning any of the work. The Sponsor shall be the sole judge as to whether or not such work is in fact beyond the scope of this Contract and constitutes extra work. In the event that the Sponsor determines that such work does constitute extra work, the Sponsor shall provide extra compensation to the CONSULTANT in a fair and equitable manner. If necessary, an amendment to the PROJECT CONTRACT, providing the compensation and describing the work authorized, shall be prepared and issued by the Sponsor. In this event, a Supplemental Agreement providing the compensation and describing the work authorized shall be issued by the Sponsor to the CONSULTANT for execution after approvals have been obtained from necessary Sponsor officials, and, if required from the Federal Highway Administration.

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ARTICLE E. WORKER'S COMPENSATION AND LIABILITY INSURANCE

This contract shall be void and of no effect unless the CONSULTANT shall secure Workman's Compensation Insurance for the benefit of, and keep insured during the life of this contract, such employees as are necessary to be insured in compliance with the provisions of the Workman's Compensation Law of the State of New York.

The CONSULTANT shall secure policies of general and automobile liability insurance, and maintain said policies in force during the life of this contract. Said policies of insurance shall protect against liability arising from errors and omissions, general liability and automobile liability in the performance of this contract in the sum of at least \$1,000,000.00 (One Million dollars) each.

The CONSULTANT shall furnish a certified copy of said policies to the Sponsor at the time of execution of this contract.

ARTICLE F. RECORDS RETENTION

The CONSULTANT shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (collectively called the "Records"). The Records must be kept for a minimum of six (6) years or three (3) years after final payment is received, whichever is later. The Sponsor, State, Federal Highway Administration, or any authorized representatives of the Federal Government, shall have access to the Records during normal business hours at an office of THE CONSULTANT within the State of New York or, a mutually agreeable reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.

ARTICLE G. COVENANT AGAINST CONTINGENT FEES

The CONSULTANT warrants that he has not employed or retained any company or person, other than a bona fide employee working for the CONSULTANT, to solicit or secure this Contract, and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the Sponsor shall have the right to annul this Contract without liability, or, in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

ARTICLE H. PROPRIETARY RIGHTS

The CONSULTANT agrees that if patentable discoveries or inventions should result from work described herein, all rights accruing from such discoveries or inventions shall be the sole property of the CONSULTANT. However, the CONSULTANT agrees to and does hereby grant to the United States Government and the State of New York and the Sponsor a nonexclusive, nontransferable, paid-up license to make, use, and sell each subject invention throughout the world by and on behalf of the Government of the United States and states and domestic municipal governments, all in accordance with the provisions of 48 CFR 1-27.

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ARTICLE I. CERTIFICATION REQUIRED BY 49 CFR, PART 29

The signator to this Contract, being duly sworn, certifies that, EXCEPT AS NOTED BELOW, its company and any person associated therewith in the capacity of owner, partner, director, officer, or major stockholder (five percent or more ownership)

- A. is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- B. has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;
- C. does not have a proposed debarment pending; and
- D. has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

ARTICLE J. CERTIFICATION FOR FEDERAL-AID CONTRACTS

The prospective participant certifies, by signing this Contract to the best of his or her knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative contract, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative contract.
- B. 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 Federal 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 contract, the undersigned shall complete and submit the standard "Disclosure Form to Report Lobbying," in accordance with its instructions.

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.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be, included in all lower tier

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subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

ARTICLE K. NON-DISCRIMINATION REQUIREMENTS

The CONSULTANT agrees to comply with all applicable Federal, State and Sponsor Civil Rights and Human Rights laws with reference to equal employment opportunities and the provision of services. In accordance with Article 15 of the Executive Law (also known as the Human Rights Law) and Title VI of the Civil Rights Act of 1964, as amended, and any other State and Federal Statutory and constitutional non-discrimination provision, the CONSULTANT will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, disability or marital status. Furthermore, in accordance with Section 220-a of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work 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, CONSULTANT agrees that neither it nor its SUBCONSULTANTS 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. CONSULTANT 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.

ARTICLE L. CERTIFICATION REQUIRED BY 40 CFR 111506.5(c)

If the work of the PROJECT includes the preparation of an Environmental Impact Statement (EIS), the signator to this Contract, being duly sworn, certifies that its company and any person associated therewith in the capacity of owner, partner, director, officer, or major stockholder (five percent or more ownership) does not have any financial or other interest in the outcome of the project including:

- a. an existing contract for the PROJECT's ROW incidental work or construction engineering; or
- b. ownership of land, options to buy land, or some business enterprise which would be financially enhanced or diminished by any of the PROJECT alternatives.

This does not preclude the CONSULTANT from being awarded a future contract covering the work describe in this Article or being awarded Phases V & VI Final Design after the EIS has been approved.

ARTICLE M. 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 Consultant'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.

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Furthermore, Consultant and its subconsultants 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.

ARTICLE N. 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 Consultant agrees, as a material condition of the contract, that neither the Consultant 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 Consultant, or any of the aforesaid affiliates of Consultant, 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 Sponsor and the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (See, 2 NYCRR 105.4).

ARTICLE O. PROMPT PAYMENT. While federal regulation (49 CFR 26.29) requires payment to subcontractors within 30 days, New York State law is more stringent. NYS General Municipal Law §106-b and NYS Finance Law Article 9, §139-f require prime contractors and prime consultants to pay their vendors within seven (7) calendar days of receipt of payment from the public owner/sponsor, and provides for interest on late payments for all public works contracts. Contract provisions incorporating any other payment schedule will not be allowed. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented. When the Sponsor has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

Attachment C

Design Task Breakdown
Lochner Engineering, P.C.
 Oneida Street Bridge over Saugquoit Creek
 Oneida County
 February 19, 2018

SCOPE ITEM	Professional										Technical					Total Manhours	Total Payroll
	SE II	SE I	PE	ENG	ENG	ENG	ENG	ENG	Tech 4	Tech 3	Tech 2	Tech 1	TT				
Section 1																	
Design Phase																	
General																	
1.05		2														2	145.47
1.06	Project Familiarization Meetings	8														10	633.62
1.07	Cost and Progress Reporting	12														24	1,183.24
1.10	Subconsultant Coordination	4														6	342.68
1.11	Subcontractor Mgmt.	4														6	342.68
	General Totals	30	0	0	0	0	0	0	0	0	0	0	0	0	0	48	2,647,695.6
Section 2																	
Data Collection & Analysis																	
2.01.A	Ground Survey															0	-
2.01.C	Stream Survey															0	-
2.01.D	Wetland Boundaries Survey															0	-
2.01.E	Supplemental Survey															0	-
2.02	Design Mapping															2	65.30
2.03	Determination of Existing Conditions								4							2	122.73
2.04	Accidents Data & Analysis		1													3	138.04
2.05	Traffic Counts		1													1	72.74
2.07	Future Plans for Roadway & Coordination															0	-
2.08	Soil Investigation		2													2	145.47
2.09	Hydraulic Analysis				66											66	3,574.02
	Data Collection & Analysis Totals	0	4	66	0	0	0	4	4	0	0	0	0	0	0	78	4,118,290.8
Section 3																	
Preliminary Design																	
3.01	Design Criteria				1											1	46.89
3.02.A.1	Design Alt. Plans Profiles		2		12				4							18	838.75
3.02.A.2	Typical Sections				4				4							8	318.16
3.02.A.3	Design Constraints				2				4							6	224.38
3.02.A.4	Detailed Evaluations of Alternatives				2				2							2	93.78
3.02.B	Cost Estimates				8				8							2	375.12
3.03	Preparation of Draft DAD				4				16							20	883.77
3.04	Advisory Agency Review		2		24				8							42	1,738.96
3.05	Public Information Meetings / EDPL Hearings		8		4				16							6	239.29
3.06	Preparation of Final DAD		2		16				4							44	1,957.99
3.07	Preliminary Design Totals	0	14	0	85	0	0	4	16	40	0	0	0	0	18	7,471,734.6	
Section 4																	
Environmental																	
4.01	NEPA Classification				1											1	46.89
4.02	SEORA Classification				1											1	46.89
4.03	Smart Growth				1											1	46.89
4.04	Screening & Prel. Investigations				2				2							2	93.78
4.06	Permits & Approvals		2		8				4							14	651.19
	Environmental Totals	0	2	0	13	0	0	0	0	4	0	0	0	0	0	19	885,635.4
Section 5																	
Right of Way Survey & Mapping																	

SCOPE ITEM	Professional										Technical					Total Manhours	Total Payroll
	SE II	SE I	PE	ENG	ENG	ENG	ENG	IV	III	II	I	N/A	Tot				
5.01	Abstract Request MAP	VII	VI	V	IV	III	II/I	IV	III	II	I	N/A	0	8	318.16		
5.02	ROW Survey				4			4						0			
5.03	ROW Mapping				8									8	375.12		
5.04	ROW Plan				2									2	93.78		
5.05	ROW Cost Estimating													0			
5.06	EDPL Hearing													0			
5.07	Property Appraisals													0			
5.08	Appraisal Review													0			
5.09	Neg. & Acy. of Property													0			
5.10	Relocation Assistance - NA													0			
5.11	Property Management													0			
	ROW Survey & Mapping Totals	0	0	0	14	0	0	0	4	0	0	0	0	18	787,052.4		
Section 6		Detailed Design															
6.01	Preliminary Bridge Plan				4				4					16	796.66		
6.01.01	Preliminary Structure Plan				4				4					10	530.24		
6.01.02	Structure Justification Report				4				8					13	521.50		
6.01.10	General Plan, Elev. & Bridge Section				1				4					8	327.81		
6.01.11	General Notes				2				4					8	609.18		
6.01.12	Estimate of Quantities				2			14	8					12	500.45		
6.01.13	Excavation & Backfill				2				4					14	651.19		
6.01.14	Abutment Plan & Elevation				8				8					8	375.12		
6.01.15	Abutment Plan & Details				8				8					16	579.36		
6.01.16	Superstructure Plans				4			12	4					8	375.12		
6.01.17	Bearing Details				8				4					4	130.60		
6.01.18	Transverse Section				2				4					6	224.38		
6.01.19	Transverse Section Details				2				4					6	224.38		
6.01.20	Approach Slab Details				2				4					6	224.38		
6.01.21	Girder Details				8				8					8	375.12		
6.01.22	Misc. Details (Bridge)				4				8					12	448.76		
6.01.23	Bridge Rail (Four Rail)				4				8					12	448.76		
6.01.24	Bar List - NA				4				8					0			
6.01.25	Superstructure Calculations				36									48	2,560.85		
6.01.26	Level I Load Rating				4				4					4	187.56		
6.01.27	Superstructure Calculations				8				8					4	187.56		
6.02	Advanced Detail Plans				30									38	1,988.57		
6.02.01	Title sheet, Index and Legend				2				2					2	65.30		
6.02.02	Typical Sections				2				2					4	159.08		
6.02.03	Plan & Profile overview				2				4					6	224.38		
6.02.04	Maintenance & Protection of Traffic		4		2				4					8	421.55		
6.02.05	Maintenance Jurisdiction Table				2				2					2	65.30		
6.02.06	Survey Baseline Ties				2				2					4	159.08		
6.02.07	Miscellaneous Tables				4				2					4	318.16		
6.02.08	Miscellaneous Details				4				4					4	187.56		
6.02.09	Erosion/Sediment Control				4				4					8	375.12		
6.02.10	Cross Sections				8				8					16	636.32		
6.02.11	General Plans (1"=20' Scales)				2				2					4	159.08		
6.02.12	General Profile (1"=20' H, 1"=4' V Scales)				2				2					0			
6.02.13	Landscape & Grading (1:250 Scale) - NA													0			
6.02.14	Signs and Sign Structures - NA													0			
6.02.15	Traffic Signal Plans - NA													0			

SCOPE ITEM	Professional						Technical						Total Manhours	Total Payroll	
	SE II	SE I	PE	ENG	ENG	ENG	Tech 4	Tech 3	Tech 2	Tech 1	TI				
6.02.16	Lighting Plans - NA													0	-
6.02.17	Pavement Marketing Plans - NA													0	-
6.02.18	Utility & Drainage Plans (1"=20' Scales)				8			2						10	440.42
6.02.19	Large Culvert Plans - NA													0	-
6.02.20	Retaining Walls		4		16			8						28	1,302.38
6.02.30	ADP Submissions		2		2			4						8	369.85
6.02.31	Resolve Comments		2		4			4						10	463.63
6.03.01	Bid Documents		12											16	976.30
6.03.02	Special Notes		4											6	342.68
6.03.03	Specifications		8											10	633.62
6.03.04	Modify ADP's		2		4			8						16	645.97
6.03.05	PS & E Submission		2		2			4						10	421.59
6.03.06	Last Minute Revisions		2		4			4						12	515.37
6.04	Cost Estimating		2		16									60	2,687.97
6.05	Utility Coordination				4									4	187.56
6.07	Bridge Inventory & Load Rating Forms		2		4									6	333.03
6.08	Electronic Information Transmittal				2									6	267.83
	Detailed Design Totals	0	81	0	234	0	0	0	0	0	20			525	24214.6878
	Total Design Phase	0	131	66	346	0	4	74	184	0	0	56		861	40125.0966
	Construction Phase														
7.01	Advertisement/Pre-Construction Meet		6											2	488.15
7.02	Bid Opening (Letting)		3											3	218.21
7.03	Review Bids & Award		8					4						14	764.22
	Subtotal	0	17	0	0	0	0	0	4	0	0	4		25	1470.585
8.01	Construction Office Support - Supplemental Agreement													0	-
	Subtotal	0	0	0	0	0	0	0	0	0	0	0		0	-
9.01	Construction Inspection - Supplemental Agreement													0	-
	Subtotal	0	0	0	0	0	0	0	0	0	0	0		0	-
	Total Construction Phase	0	17	0	0	0	0	0	4	0	0	4		25	1471
	TOTAL	0	148	66	346	0	4	74	188	0	0	60		886	41596

Estimate of Direct Non- Salary Cost
Lochner Engineering, P.C.
Oneida Street Bridge over Sauquoit Creek
Oneida County
February 19, 2018

1. Travel, Lodging and Subsistence

<u>Trips to :</u>							
County	4	trips with	12.00	miles per trip @	\$0.545	per mile =	\$26.16
Site	4	trips with	25	miles per trip @	\$0.545	per mile =	\$54.50
							\$80.66
Tolls	0	trips @	\$ -	per trip =			\$0.00

TOTAL TRAVEL, LODGING, & SUBSISTENCE \$80.66

2. Reproduction, Drawings & Report

8-1/2 x 11 B/W Copies (Specifications)	2	sets	40	sheets/set	\$0.10	each sheet	\$8.00
11 x 17 B/W Copies (Contract Drawings)	4	sets	60	sheets/set	\$0.15	each sheet	\$36.00
8-1/2 x 11 B/W Copies (Design Report)	10	sets	50	sheets/set	\$0.10	each sheet	\$50.00
11 x 17 B/W Copies (Design Report)	10	sets	4	sheets/set	\$0.10	each sheet	\$4.00

TOTAL REPRODUCTION, DRAWING & REPORT \$98.00

3. Miscellaneous Costs

Postages	0	Packages @	\$10.00	per package =	\$ -
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TOTAL MISCELLANEOUS COSTS \$0.00

TOTAL DIRECT NON - SALARY COST \$178.66

5. Subcontractor Cost

Soil Boring Contractor (Estimated)	\$7,777.00
Stenographer	\$750.00

TOTAL SUBCONTRACTOR COSTS \$8,527.00

Summary
Lochner Engineering, P.C.
Oneida Street Bridge over Sauquoit Creek
Oneida County
February 19, 2018

Item IA, Direct Technical Salaries (estimated) subject to audit	\$41,596 ✓
Item IB, Direct Technical Salaries Premium Portion of overtime (estimated) of overtime subject to audit	\$0
Item II, Direct Non-Salary Cost (estimated) Expenses	\$179 ✓
Item II, Direct Non-Salary Cost (estimated) Sub-Consultant Cost (EDR)	\$9,748 ✓
Item II, Direct Non-Salary Cost (estimated) Sub-Consultant Cost (PE)	\$22,454 ✓
Item II, Direct Non-Salary Cost (estimated) Sub-Contractor Cost (ATL)	\$7,777 ✓
Item II, Direct Non-Salary Cost (estimated) Sub-Contractor Cost (Stenographer)	\$750 ✓
Item III, Overhead (estimated) subject to audit @ 175%	\$72,792
Item II Fixed Fee - 10%	\$11,439
<hr/>	
Total Estimated Cost	\$166,734
Contingency	\$3,266
TOTAL FEE	\$170,000
<hr/>	

Staffing Table

Replacement of Oneida Street Brg over Sauquoit Ck, Town of Paris, Oneida Co PIN 2754.45

JOB TITLE	ASCE (A) OR NICET (N) GRADE	Section 1	Section 2	Section 5	TOTAL HOURS	AVER. HOURLY RATE	DIRECT TECHNICAL LABOR
PRINCIPAL	IX (A)	0	0	0	0	\$ 73.50	0.00
PROJECT MANAGER	IV (A)	0	0	0	0	\$ 50.08	0.00
PROJECT ENGINEER	IV (A)	0	0	0	0	\$ 66.95	0.00
ENGINEER	III (A)	0	0	0	0	\$ 37.85	0.00
LAND SURVEYOR	III (N)	0	17	26	43	\$ 39.71	1,707.38
PARTY CHIEF	III (N)	0	59	0	59	\$ 25.57	1,508.92
INSTRUMENT PERSON	II (N)	0	59	0	59	\$ 21.12	1,245.79
CAD Operator	II (N)	0	38	34	72	\$ 27.30	1,965.24
CAD Operator	I (N)	0	12	7	19	\$ 19.06	362.05
					252		\$ 6,789.37

Estimate of Direct Non-Salary Cost
Replacement of Oneida Street Brg over Sauquoit Ck, Town of Paris, Oneida Co PIN 2754.45

1. Travel

Site Visits:
6 trip to site @ 110 miles each @ \$0.540 per mile = \$356.40

2. Records & tolls

\$100.00

3. Survey Personnel Costs

Wage Differential

		Hours	@	Rate		
Party Chief	III (N)	59		17.37	1,024.79	
Instrument Person	II (N)	59		18.68	<u>1,101.90</u>	
SUBTOTAL Wage Differential						\$2,126.69

Supplemental Benefits

Party Chief	III (N)	59		24.69	1,456.62	
Instrument Person	II (N)	59		24.69	<u>1,456.62</u>	
SUBTOTAL Supplemental Benefits						\$2,913.24

	Total	=		<u>\$5,496.33</u>
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Replacement of Oneida Street Brg over Sauquoit Ck, Town of Paris, Oneida Co PIN 2754.45

TASKS	PR	PM	SP	DE	LS	PC	IP	CO II	CO I	TOT	REMARKS
Section 2 - DATA COLLECTION	0	0	0	0	17	59	59	38	12	123	SUBTOTAL
2.01A - Design Survey Site Control & BMs					1	6	6			13	Control and topo per scope 3 BMs
2.01A - Ground Survey					2	18	18			38	Make field sketches. Locate planimetric features and any ROW evidence fnd. Use NYSDOT feature codes for area as shown on Fig. 01 - include all utility planimetrics
2.01C - Stream Sections					4	22	22	8	6		Obtain stream sections Per Standard HEC RAS locaions and at Engineers direction - include the hydraulic opening of the structure shall be documented
2.01F - Supplemental survey and mapping						9	9	4		22	Assume 1 day plus mobilization, data processing and CAD updates.
Design Mapping					10			26	6	42	Label baseline, with tie diagrams. Scale drawing at 1" = 20' MicroStation V8i. Use NYSDOT settings. Depict utilities from plans and location data. Control Report per scope
Mobilization						4.0	4.0			8	one half actual time due to prevail. wage (2 hr total mob/demob time)
Section 5 - RIGHT-OF-WAY	0	0	0	0	26	0	0	34	7	67	SUBTOTAL
5.01 - ARM					6			12		18	Prepare, ARM showing ±4 possible appropriations and ownership data - QC check & submit draft with tax map & deed copies, address comments and submit final
5.02 - Right-of-Way Survey					12	0	0	6	3	21	Determine ROW and sidelines - Conduct field survey for ROW and property monumentation under Sec 2.01 - records to be provided
5.03 - Right-of-Way Mapping					8			16	4	28	Prepare 3 right of way acquisition maps. Compute parcels, draft maps, write legal descriptions in DOT format, QC maps, submit draft, address comments, plot on mylar, get signature from County, submit final mylar plots to DOT; Assume 3 parcels.

PRUDENT ENGINEERING LLP

SALARY SCHEDULE

Replacement of Oneida Street Brg over Sauquoit Ck, Town of Paris, Oneida Co PIN 2754.45

JOB TITLE	ASCE (A) OR NICET (N) GRADE	AVERAGE RATE			MAXIMUM			OT CATE- GORY
		2018	2019	2020	2018	2019	2020	
PRINCIPAL	IX (A)	\$ 73.50	\$ 73.50	\$ 73.50	\$ 75.00	\$ 75.00	\$ 75.00	A
PROJECT MANAGER	IV (A)	\$ 50.08	\$ 51.58	\$ 53.13	\$ 52.53	\$ 54.11	\$ 55.73	B
PROJECT ENGINEER	IV (A)	\$ 66.95	\$ 68.96	\$ 71.03	\$ 69.01	\$ 71.08	\$ 73.21	B
ENGINEER	III (A)	\$ 37.85	\$ 38.99	\$ 40.16	\$ 39.14	\$ 40.31	\$ 41.52	B
LAND SURVEYOR	III (N)	\$ 39.71	\$ 40.90	\$ 42.12	\$ 42.23	\$ 43.50	\$ 44.80	C
PARTY CHIEF	III (N)	\$ 25.57	\$ 26.34	\$ 27.13	\$ 27.30	\$ 28.11	\$ 28.96	C
INSTRUMENT PERSON	II (N)	\$ 21.12	\$ 21.75	\$ 22.40	\$ 22.66	\$ 23.34	\$ 24.04	C
CADD Operator	II (N)	\$ 27.30	\$ 28.11	\$ 28.96	\$ 27.30	\$ 28.11	\$ 28.96	C
CADD Operator	I (N)	\$ 19.06	\$ 19.63	\$ 20.22	\$ 20.60	\$ 21.22	\$ 21.65	C

NOTE:

It shall be the ENGINEER'S responsibility to pay prevailing wage rates and supplements as required by the Labor Department, for services requiring such rates and supplements.

OVERTIME POLICY

Category A - No overtime compensation.

Category B - overtime compensated at straight time rate.

Category C - overtime compensated at straight time rate x 1.50

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

*Prevailing Wage Rates - The difference between the required prevailing wage rate and the normal hourly rate is considered a direct cost:

		Prevailing Rate	Projected Rate	Normal Rate	Difference	Payroll Additive	Total
Party Chief	III (N)	\$40.01	\$41.51	\$25.57	\$15.94	\$1.43	\$17.37
Instrument Person	II (N)	\$36.74	\$38.24	\$21.12	\$17.13	\$1.54	\$18.68

Supplemental Benefits are also considered direct costs. The net benefit is the difference between required amounts and deductions made through existing plans (overhead):

		Prevailing Benefit	Projected Benefit	Benefit Adjustment	Net Difference	Payroll Additive	Total
Party Chief	III (N)	\$24.20	\$24.95	\$2.30	\$22.65	\$2.04	\$24.69
Instrument Person	II (N)	\$24.20	\$24.95	\$2.30	\$22.65	\$2.04	\$24.69

PRUDENT ENGINEERING LLP

Summary

Replacement of Oneida Street Brg over Sauquoit Ck, Town of Paris, Oneida Co PIN 2754.45

Item IA, Direct Technical Salaries (estimated) subject to audit	\$ 6,789.37
Item IB, Direct Technical Salaries, Premium Portion of Overtime (estimated) subject to audit	
Item II, Direct Non-Salary Cost (estimated) subject to audit	\$5,496.33
Item II Direct Non-Salary Cost (estimated) subject to audit (Sub-Contractor Cost)	
Item III, Overhead @ 121% (estimated) subject to audit	\$ 8,215.14
Item IV, Fixed Fee (@ 11%) (non-negotiable)	\$ 1,952.79
Item II Direct Non-(Sub-Consultant Cost)	
Total Estimated Cost	<hr/> \$ 22,453.63

Oneida Street Bridge over Sauquoit Creek
Town of Paris, Oenida County
PIN 2754.45

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 01/2018	Projected 07/2018	Present 2018	Projected 2019	Projected 2020	
Principal-in-Charge (Environmental)	N/A	\$54.08	\$54.08	\$54.08	\$55.70	\$57.37	A
Senior Project Manager	N/A	\$43.33	\$43.33	\$43.33	\$44.63	\$45.97	A
Project Manager	N/A	\$34.20	\$34.20	\$36.42	\$37.51	\$38.64	A
Project Environmental Specialist	N/A	\$29.48	\$29.48	\$29.48	\$30.36	\$31.28	A
Environmental Specialist	N/A	\$25.00	\$25.00	\$25.00	\$25.75	\$26.52	A
Senior Cultural Resources Specialist	N/A	\$27.81	\$27.81	\$27.81	\$28.64	\$29.50	A
Staff Cultural Resources Specialist	N/A	\$23.98	\$23.98	\$23.98	\$24.70	\$25.44	A
GIS Specialist	N/A	\$24.00	\$24.00	\$24.00	\$24.72	\$25.46	A
Technical Typist	N/A	\$27.30	\$27.30	\$27.30	\$28.12	\$28.96	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.

Oneida Street Bridge over Saugquoit Creek

Town of Paris, Oneida County

PIN 2754.45

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 PSR/FDR	4.01/4.02 NEPA/SEQRA Classification	4.03 Smart Growth Checklist	4.04 Screenings & Preliminary Investigations; Section 106 PSP; Section 7 ESA Screening				
Principal-in-Charge (Environmental)	N/A	2				2	4	\$54.08	\$216.32	
Senior Project Manager	N/A	8	2	2	2	6	18	\$43.33	\$779.94	
Project Manager	N/A		2			8	14	\$34.20	\$478.80	
Project Environmental Specialist	N/A			8		8	8	\$29.48	\$235.84	
Environmental Specialist	N/A				10	20	46	\$25.00	\$1,150.00	
Senior Cultural Resources Specialist	N/A					6	6	\$27.81	\$166.86	
Staff Cultural Resources Specialist	N/A	2				20	20	\$23.98	\$479.60	
GIS Specialist	N/A					8	10	\$24.00	\$240.00	
Technical Typist	N/A	8					8	\$27.30	\$218.40	
Totals		20	12	12	12	78	134		\$3,965.76	

Oneida Street Bridge over Sauquoit Creek
Town of Paris, Oneida County
PIN 2754.45

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	1	Lunches @	\$56	Per Day for	3	Persons		\$168
Mileage								
	Task 4.05 Visit Site	2	Trips @	110 Miles per trip	220		0.545	\$120
			Trips @	5 Miles per trip	0		0.545	\$0
			Trips @	5 Miles per trip	0		0.545	\$0
			Trips @	5 Miles per trip	0		0.545	\$0
			Trips @	5 Miles per trip	0		0.545	\$0
			Trips @	5 Miles per trip	0		0.545	\$0
					220	Miles	0.545	= \$120
							Subtotal	\$288

2. Misc

Environmental Data Resource - haz mat database report/sanborns/aerials	Each	\$260		\$260
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Subtotal \$260

Total Direct Non Salary Costs: \$547.90

Oneida Street Bridge over Sauquoit Creek
Town of Paris, Oneida County
PIN 2754.45

Summary

Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C.

Item IA, Direct Technical Salaries (estimated) subject to audit	\$3,966
Item IB, Direct Technical Salaries Premium Portion of overtime subject to audit (estimate)	\$0
Item II Direct Non-Salary Cost (estimated) subject to audit	\$548
Item III, Overhead (estimated) subject to audit (109%)	\$4,323
Item IV, Fixed Fee 11.0%	\$912
Item II Direct Non-Salary Cost (estimated) subject to audit (Sub-Consultant Cost)	\$0
Total Estimated Cost	<hr/> \$9,748 <hr/>
Maximum Amount Payable (MAP)	\$10,000

Attachment D

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

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

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
- i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
- i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation

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

- 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:
- 1) Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
- F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;
- 1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - 2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;
- G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.
- ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.
- A. Place of Performance (street, address, city, county, state, zip code).
- d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
- i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:
 - iii. Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.
4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA). When applicable to the services provided pursuant to the Contract:
- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
 - b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

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

- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
 - i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.
 - e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.
5. NON-ASSIGNMENT CLAUSE.
- a. In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.
6. WORKER'S COMPENSATION BENEFITS.
- a. In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
7. NON-DISCRIMINATION REQUIREMENTS.
- a. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the

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

8. WAGE AND HOURS PROVISIONS.

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

9. NON-COLLUSIVE BIDDING CERTIFICATION.

- a. In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its knowledge and belief: (1) the prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; and (2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) no attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

- a. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely

inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

12. CONFLICTING TERMS.

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

13. GOVERNING LAW.

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval,

recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application; request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

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

17. AUDIT.

- a. The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.
- b. If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single

Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

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

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

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

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

September 14, 2018

FN 20 18-368

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

PUBLIC WORKS

WAYS & MEANS

Dear County Executive Picente,

The enclosed grant agreement funds the preliminary engineering and design services for the rehabilitation of three (3) County owned bridges. Bridge details are as follows.

Carmichael Hill Road Bridge over Big Brook (BIN 3311040) in the Town of Steuben
Glenmore Road Bridge over Furnace Creek (BIN 3301390) in the Town of Annsville
Harris Road Bridge over Canada Creek (BIN 3301750) in the Town of Lee.

Rehabilitation of these bridges has been added to the State Transportation Improvement Plan. Eligible project expenditures qualify for 80% Federal aid and 15% State aid. The 5% remaining is paid by County funds.

The enclosed Federal aid Local Project Agreement will allow Oneida County to be reimbursed up to \$270,750.00 in Federal and State Marcheselli funds for preliminary engineering and design services as eligible expenditures are made per Schedule A of the agreement. The County would be responsible for the local matching share, currently estimated to be \$14,250.00.

If acceptable, please forward the enclosed Federal aid Local Project 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, P.E., Deputy Commissioner

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

Anthony J. Picente, Jr.
County Executive

Date 10-3-18

Competing Proposal Sole Source RFP Only Respondent Other

ONEIDA COUNTY BOARD OF LEGISLATORS

Name & Address of Vendor: New York State Department of Transportation
50 Wolf Road
Albany, NY 12232

Title of Activity or Service: Grant

Proposed Dates of Operation: Start on Execution – 09/30/2022

Client Population/Number to be Served: N/A

Summary Statements

1) Narrative Description of Proposed Services:

The enclosed grant agreement funds the preliminary engineering and design services for the rehabilitation of three (3) County owned bridges. Bridge details are as follows.

Carmichael Hill Road Bridge over Big Brook (BIN 3311040) in the Town of Steuben
Glenmore Road Bridge over Furnace Creek (BIN 3301390) in the Town of Annsville
Harris Road Bridge over Canada Creek (BIN 3301750) in the Town of Lee.

Rehabilitation of these bridges has been added to the State Transportation Improvement Plan. Eligible project expenditures qualify for 80% Federal aid and 15% State aid. The 5% remaining is paid by County funds. The enclosed Federal aid Local Project Agreement will allow Oneida County to be reimbursed up to \$270,750.00 in Federal and State Marcheselli funds for preliminary engineering and design services as eligible expenditures are made per Schedule A of the agreement. The County would be responsible for the local matching share, currently estimated to be \$14,250.00.

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

3) Program Design and Staffing: N/A

4) Funding

Account #:	H569
Total Funding Requested:	\$285,000.00
Oneida County Dept. Funding Recommendation:	\$285,000.00

Proposed Funding Sources	Federal:	\$228,000.00
	New York State:	\$42,750.00
	County:	\$14,250.00
	Other:	\$0.00

Past Performance Data: N/A

O.C. Department Staff Comments: None

MUNICIPALITY/SPONSOR: **Oneida County**

PROJECT ID NUMBER: **2754.44** BIN: **3311040, 3310390, 3310750**

CFDA NUMBER: **20.205**

PHASE: PER SCHEDULES A

Federal aid Local Project Agreement

COMPTROLLER'S CONTRACT NO **D035952**

This Agreement is by and between:

the New York State Department of Transportation ("NYSDOT"), having its principal office at 50 Wolf Road, Albany, NY 12232, on behalf of New York State ("State");

and

the **County of Oneida** (the "Municipality/Sponsor") acting by and through **Chairman, Board of Supervisors** with its office at **800 Park Avenue, Utica 13501**.

This Agreement covers eligible costs incurred on or after **6/18/2018**.

This Agreement identifies the party responsible for administration and establishes the method or provision for funding of applicable phases of a Federal aid project for the improvement of a street or highway, not on the State highway system, as such project and phases are more fully described by Schedule A annexed to this Agreement or one or more Supplemental Schedule(s) A to this Agreement as duly executed and approved by the parties hereto. The phases that are potentially the subject of this Agreement, as further enumerated below, are: Preliminary Engineering ("PE") and Right-of-Way Incidental ("ROW Incidentals") work; Right-of-Way Acquisition; Construction; and/or Construction Supervision and Inspection. The Federal aid project shall be identified for the purposes of this Agreement as **PM/Rehab of bridges in the Town of Steuben (BIN 3311040), Town of Annsville (BIN 3310390), and Town of Lee (BIN 3310750), Oneida County.** (as more specifically described in such Schedule A, the "Project").

WITNESSETH:

WHEREAS, the United States has provided for the apportionment of Federal aid funds to the State for the purpose of carrying out Federal aid highway projects pursuant to the appropriate sections of Title 23 U.S. Code as administered by the Federal Highway Administration ("FHWA"); and

WHEREAS, the New York State Highway Law authorizes the Commissioner of Transportation (hereinafter referred to as "Commissioner") to use Federal aid available under the Federal aid highway acts and provides for the consent to and approval by the Municipality/Sponsor of any project under the Federal aid highway program which is not on the State highway system before such Project is commenced; and

WHEREAS, pursuant to Highway Law §10(34-a) and section 15 of Chapter 329 of the Laws of 1991 as amended by section 9 of Chapter 330 of the Laws of 1991, as further amended by Chapter 57 of the Laws of New York of 2014, the State has established the "Marchiselli" Program, which provides certain State-aid for Federal aid highway projects not on the State highway system; and

WHEREAS, funding of the "State share" of projects under the Marchiselli Program is administered through the New York State Office of the Comptroller ("State Comptroller"); and

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WHEREAS, Highway Law §80-b authorizes the funding of eligible costs of Federal aid Municipal/Sponsor streets and highway projects using State-aid and Federal aid; and

WHEREAS, project eligibility for Marchiselli Program funds is determined by NYSDOT; and

WHEREAS, pursuant to authorizations therefore, NYSDOT and the Municipality/Sponsor are desirous of progressing the Project under the Federal aid and, if applicable, Marchiselli-aid Programs; and

WHEREAS, The Legislative Body of the Municipality/Sponsor by Resolution No. _____ adopted at meeting held on _____ approved the Project, the Municipality/Sponsor's entry into this Agreement, has appropriated necessary funds in connection with any applicable Municipal/Sponsor Deposit identified in applicable Schedules A and has further authorized the **County Executive** of the Municipality/Sponsor to execute this Agreement and the applicable Schedule A on behalf of the Municipality/Sponsor and a copy of such Resolution is attached to and made a part of this Agreement (where New York City is the Municipality/Sponsor, such resolution is not required).

NOW, THEREFORE, the parties agree as follows:

1. *Documents Forming this Agreement.* The Agreement consists of the following:

- Agreement Form - this document titled "Federal aid Local Project Agreement";
- Schedule "A" - Description of Project Phase, Funding and Deposit Requirements;
- Schedule "B" - Phases, Subphase/Tasks, and Allocation of Responsibility
- Appendix "A" - New York State Required Contract Provisions
- Appendix "A-1"- Supplemental Title VI Provisions (Civil Rights Act)
- Appendix "B" - U.S. Government Required Clauses (Only required for agreements with federal funding)
- Municipal/Sponsor Resolution(s) - duly adopted Municipal/Sponsor resolution authorizing the appropriate Municipal/Sponsor official to execute this Agreement on behalf of the Municipality/Sponsor and appropriating the funding required therefore. (Where New York City is the Municipality/Sponsor, such resolution is not required).

***Note – Resolutions for Bridge NY projects must also include an express commitment by the Municipality/Sponsor that construction shall commence no later than twenty-four (24) months after award, and the project must be completed within thirty (30) months of commencing construction.**

2. *General Description of Work and Responsibility for Administration and Performance.* Subject to the allocations of responsibility for administration and performance thereof as shown in Schedule B (attached), the work of the Project may consist generally of the categories of work marked and described in Schedule B for the scope and phase in effect according to Schedule A or one or more Supplemental Schedule(s) A as may hereafter be executed and approved by the parties hereto as required for a State contract, and any additions or deletions made thereto by NYSDOT subsequent to the development of such Schedule(s) A for the purposes of conforming to New York State or to Federal Highway Administration requirements.

The Municipality/Sponsor understands that funding is contingent upon the Municipality/Sponsor's compliance with the applicable requirements of the "Procedures for Locally Administered Federal Aid Projects" (available through NYSDOT's web site at <https://www.dot.ny.gov/plafap>, and as such may be

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amended from time to time.

3. *Municipal/Sponsor Deposit.* Where the work is performed by consultant or construction contract entered into with NYSDOT, or by NYSDOT forces, and unless the total non-Federal share of the Project phase is under \$5,000, the Municipality/Sponsor shall deposit with the State Comptroller, prior to the award of NYSDOT's contract or NYSDOT's performance of work by its own forces, the full amount of the non-Federal share of the Project costs due in accordance with Schedule A.

4. *Payment or Reimbursement of Costs.* For work performed by NYSDOT, NYSDOT will directly apply Federal aid and the required Municipality/Sponsor Deposit for the non-Federally aided portion, and, if applicable, shall request State Comptroller funding of Marchiselli aid to the Municipality/Sponsor as described below. For work performed by or through the Municipality/Sponsor, NYSDOT will reimburse the Municipality/Sponsor with Federal aid and, if applicable, Marchiselli aid as described below. NYSDOT will periodically make reimbursements upon request and certification by the Sponsor. The frequency of reimbursement requests must be in conformance with that stipulated in the NYSDOT Standard Specifications; Construction and Materials (section 109-06, Contract Payments). NYSDOT recommends that reimbursement requests not be submitted more frequently than monthly for a typical project. In all cases, reimbursement requests must be submitted at least once every six months.

4.1 *Federal aid.* NYSDOT will administer Federal funds for the benefit of the Municipality/Sponsor for the Federal share and will fund the applicable percentage designated in Schedule A of Federal aid participating costs incurred in connection with the work covered by this Agreement, subject to the limitations set forth on Schedule A. For work performed by or through the Municipality/Sponsor, NYSDOT will reimburse Federal aid-eligible expenditures in accordance with NYSDOT policy and procedures.

4.1.1 *Participating Items.* NYSDOT shall apply Federal funds only for that work and those items that are eligible for Federal participation under Title 23 of U.S. Code, as amended, that requires Federal aid eligible projects to be located on the Federal Aid Highway System ("FAHS"), except for bridge and safety projects which can be located off the FAHS. Included among the Federal participating items are the actual cost of employee personal services, and leave and fringe benefit additives. Other participating costs include materials and supplies, equipment use charges or other Federal Participating costs directly identifiable with the eligible project.

4.2 *Marchiselli Aid (if applicable).* NYSDOT will request State Comptroller reimbursement to the Municipality of the upset amount and designated percentage in Schedule A of the non-overmatched non-Federal share of Federal participating cost, (the "State share"), incurred in connection with the work covered by this Agreement, subject to the limitations set forth on Schedule A. Not all Federal aid-eligible participating costs are eligible for Marchiselli aid. Only "Eligible Project Costs" (as defined in Marchiselli Program instructions issued by NYSDOT) incurred after April 1, 1991 are reimbursable.

4.2.1 *Marchiselli Eligible Project Costs.* To be eligible for Marchiselli Aid, Project costs must: (a) be eligible for Federal participation as described under 4.1 above; (b) be for work which, when completed, has a certifiable service life of at least 10 years; (c) be for work that relates directly and exclusively to a municipally-owned highway, bridge or highway-railroad crossing located off the State Highway System; and (d) be submitted for reimbursement in accordance with 4.2.2.

4.2.2 *Marchiselli Reimbursement Requests.* A Sponsor's reimbursement requests are

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restricted to eligible project costs. To be classified as an "eligible project cost", in addition to other requirements of this agreement, the original expenditure must have been paid within the past 15 months in order to comply with Federal Tax Law (26 CFR 1.150-2 (d)(2)(i)) which governs fund disbursements from the issuance of tax-exempt bonds. Hence, expenditures paid greater than 15 months prior to the reimbursement request are ineligible for reimbursement.

4.2.3 Marchiselli Extended Records Retention Requirements.

4.2.3.1 To ensure that NYSDOT meets certain requirements under the Code of Federal Regulations, Part 26, and to ensure that NYSDOT may authorize the use of funds for this project, notwithstanding any other provision of this Contract to the contrary, the Sponsor must retain the following documents in connection with the Projects:

- a) Documents evidencing the specific assets financed with such proceeds, including but not limited to project costs, and documents evidencing the use and ownership of the property financed with proceeds of the bonds; and
- b) Documents, if any, evidencing the sale or other disposition of the financed property.

4.2.3.2 The Sponsor covenants to retain those records described above, which are used by the Sponsor in connection with the administration of this Program, for thirty-six (36) years after the date of NYSDOT's final payment of the eligible project cost(s).

4.2.3.3 Failure to maintain such records in a manner that ensures complete access thereto, for the period described above, shall constitute a material breach of the contract and may, at the discretion of NYSDOT, result in loss of funds allocated, or the Sponsor's repayment of funds distributed, to the Sponsor under this agreement.

4.3 In no event shall this Agreement create any obligation to the Municipality/Sponsor for funding or reimbursement of any amount in excess of:

- (a) the amount stated in Schedule A for the Federal Share; or
- (b) the amount stated in Schedule A as the State (Marchiselli) share.

4.4 All items included by the Municipality/Sponsor in the record of costs shall be in conformity with accounting procedures acceptable to NYSDOT and the FHWA. Such items shall be subject to audit by the State, the federal government or their representatives.

4.5 If Project-related work is performed by NYSDOT, NYSDOT will be paid for the full costs thereof. To effect such payment, the reimbursement to the Municipality/Sponsor provided for in sections 4.1 and 4.2 above may be reduced by NYSDOT by the amounts thereof in excess of the Municipality/Sponsor Deposit available for such payment to NYSDOT.

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5. *Supplemental Agreements and Supplemental Schedule(s)* A. Supplemental Agreements or Supplemental Schedule(s) A may be entered into by the parties, and must be executed and approved in the manner required for a State contract. A Supplemental Schedule A is defined as a Supplemental Agreement which revises only the Schedule A of a prior Agreement or Supplemental Agreement. In the event Project cost estimates increase over the amounts provided for in Schedule A, no additional reimbursement shall be due to the Municipality/Sponsor unless the parties enter into a Supplemental Agreement or Supplemental Schedule A for reimbursement of additional Eligible Project Costs.

6. *State Recovery of Ineligible Reimbursements.* NYSDOT shall be entitled to recover from the Municipality/Sponsor any monies paid to the Municipality/Sponsor pursuant to this Agreement which are subsequently determined to be ineligible for Federal aid or Marchiselli Aid hereunder.

7. *Loss of Federal Participation.* In the event the Municipality/Sponsor withdraws its approval of the project, suspends or delays work on the Project or takes other action that results in the loss of Federal participation for the costs incurred pursuant to this Agreement, the Municipality/Sponsor shall refund to the State all reimbursements received from the State, and shall reimburse the State for 100% of all preliminary engineering and right-of-way incidental costs incurred by NYSDOT. The State may offset any other State or Federal aid due to the Municipality/Sponsor by such amount and apply such offset to satisfy such refund.

8. *Municipal/Sponsor Liability.*

8.1 If the Municipality/Sponsor performs work under this Agreement with its own forces, it shall be responsible for all damage to person or property arising from any act or negligence performed by or on behalf of the Municipality/Sponsor, its officers, agents, servants or employees, contractors, subcontractors or others in connection therewith. The Municipality/Sponsor specifically agrees that its agents or employees shall possess the experience, knowledge and character necessary to qualify them individually for the particular duties they perform.

8.2 The Municipality/Sponsor shall indemnify and save harmless the State for all damages and costs arising out of any claims, suits, actions, or proceedings resulting from the negligent performance of work by or on behalf of the Municipality/Sponsor its officers, agents, servants, employees, contractors, subcontractors or others under this Agreement. Negligent performance of service, within the meaning of this section, shall include, in addition to negligence founded upon tort, negligence based upon the Municipality/Sponsor's failure to meet professional standards and resulting in obvious or patent errors in the progression of its work. Additionally, the Municipality/Sponsor shall defend the State in any action arising out of any claims, suits, actions, or proceedings resulting from the negligent performance of work by or on behalf of the Municipality/Sponsor, its officers, agents, servants, employees, contractors, subcontractors or others under this Agreement.

8.3 The Municipality/Sponsor shall at all times during the Contract term remain responsible. The Municipality/Sponsor agrees, if requested by the Commissioner of Transportation 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.

8.4 The Commissioner of Transportation 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 Municipality/Sponsor. In the

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event of such suspension, the Municipality/Sponsor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Municipality/Sponsor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of Transportation or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

8.5 Upon written notice to the Municipality/Sponsor, and a reasonable opportunity to be heard with appropriate Department of Transportation officials or staff, the Contract may be terminated by the Commissioner of Transportation or his or her designee at the Municipality's/Sponsor's expense where the Municipality/Sponsor is determined by the Commissioner of Transportation or his or her designee to be non-responsible. In such event, the Commissioner of Transportation 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.

9. *Maintenance.* The Municipality/Sponsor shall be responsible for the maintenance of the project at the sole cost and expense of the Municipality/Sponsor. If the Municipality/Sponsor intends to have the project maintained by another, any necessary maintenance agreement will be executed and submitted to NYSDOT before construction of the Project is begun. Upon its completion, the Municipality/Sponsor will operate and maintain the Project at no expense to NYSDOT; and during the useful life of the Project, the Municipality/Sponsor shall not discontinue operation and maintenance of the Project, nor dispose of the Project, unless it receives prior written approval to do so from NYSDOT.

9.1 The Municipality/Sponsor may request such approved disposition from NYSDOT where the Municipality/Sponsor either causes the purchaser or transferee to assume the Municipality/Sponsor's continuing obligations under this Agreement, or agrees immediately to reimburse NYSDOT for the pro-rata share of the funds received for the project, plus any direct costs incurred by NYSDOT, over the remaining useful life of the Project.

9.2 If a Municipality/Sponsor fails to obtain prior written approval from NYSDOT before discontinuing operation and maintenance of the Project or before disposing of the project, in addition to the costs provided, above in 9.1, Municipality/Sponsor shall be liable for liquidated damages for indirect costs incurred by NYSDOT in the amount of 5% of the total Federal and non-Federal funding provided through NYSDOT.

9.3 For NYSDOT-administered projects, NYSDOT is responsible for maintenance only during the NYSDOT administered construction phase. Upon completion of the construction phase, the Municipality/Sponsor's maintenance obligations start or resume.

10. *Independent Contractor.* The officers and employees of the Municipality/Sponsor, in accordance with the status of the Municipality/Sponsor as an independent contractor, covenant and agree that they will conduct themselves consistent with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the State by reason hereof, and that they will not by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the State, including, but not limited to, Workers Compensation coverage, Unemployment Insurance benefits, Social Security or Retirement membership or credit.

11. *Contract Executory; Required Federal Authorization.* It is understood by and between the parties hereto that this Agreement shall be deemed executory only to the extent of the monies available to the State and no liability on account thereof shall be incurred by the State beyond monies available for the

MUNICIPALITY/SPONSOR: **Oneida County**

PROJECT ID NUMBER: **2754.44** BIN: **3311040, 3310390, 3310750**

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purposes hereof. No phase of work for the project shall be commenced unless and until NYSDOT receives authorization from the Federal government.

12. *Assignment or Other Disposition of Agreement.* The Municipality/Sponsor agrees not to assign, transfer, convey, sublet or otherwise dispose of this Agreement or any part thereof, or of its right, title or interest therein, or its power to execute such Agreement to any person, company or corporation without previous consent in writing of the Commissioner.

13. *Term of Agreement.* As to the Project and phase(s) described in the Schedule A executed herewith, the term of this Agreement shall begin on the date of this Agreement as first above written. This Agreement shall remain in effect so long as Federal aid and Marchiselli-aid funding authorizations are in effect and funds are made available pursuant to the laws controlling such authorizations and availabilities. However, if such authorizations or availabilities lapse and are not renewed, continued or reenacted, as to funds encumbered or available and to the extent of such encumbrances or availabilities, this Agreement shall remain in effect for the duration of such encumbrances or availabilities. Although the liquidity of encumbrances or the availability of funds may be affected by budgetary hiatuses, a Federal or State budgetary hiatus will not by itself be construed to cause a lapse in this Agreement provided any necessary Federal or State appropriations or other funding authorizations therefore are eventually enacted.

13.1 *Time is of the essence (Bridge NY Projects).* The Municipality/Sponsor understands and agrees that construction of Bridge NY Projects shall commence no later than twenty-four (24) months after award, and the project must be completed within thirty (30) months of commencing construction.

14. *NYSDOT Obligations.* NYSDOT's responsibilities and obligations are as specifically set forth in this contract, and neither NYSDOT nor any of its officers or employees shall be responsible or liable, nor shall the Municipality/Sponsor assert, make or join in any claim or demand against NYSDOT, its officers or employees, for any damages or other relief based on any alleged failure of NYSDOT, its officers or employees, to undertake or perform any act, or for undertaking or performing any act, which is not specifically required or prohibited by this Agreement.

15. *Offset Rights.* In addition to any and all set-off rights provided to the State in the attached and incorporated Appendix A, Standard Clauses for New York Contracts, NYSDOT shall be entitled to recover and offset from the Municipality/Sponsor any ineligible reimbursements and any direct or indirect costs to the State as to paragraph 6 above, as well as any direct or indirect costs incurred by the State for any breach of the term of this agreement, including, but not limited to, the useful life requirements in paragraph 9 above. At its sole discretion NYSDOT shall have the option to permanently withhold and offset such direct and indirect cost against any monies due to the Municipality/Sponsor from the State of New York for any other reason, from any other source, including but not limited to, any other Federal or State Local Project Funding, and/or any Consolidated Highway and Local Street Improvement Program (CHIPS) funds

16. *Reporting Requirements.* The Municipality/Sponsor agrees to comply with and submit to NYSDOT in a timely manner all applicable reports required under the provisions of this Agreement and the Procedures for Locally Administered Federal aid Projects manual and in accordance with current Federal and State laws, rules, and regulations.

17. *Notice Requirements.*

17.1 All notices permitted or required hereunder shall be in writing and shall be transmitted:

MUNICIPALITY/SPONSOR: **Oneida County**

PROJECT ID NUMBER: **2754.44** BIN: **3311040, 3310390, 3310750**

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- (a) Via 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.

Such notices shall be address as follows or to such different addresses as the parties may from time-to-time designate:

New York State Department of Transportation (NYSDOT)

Name: **Jim McLaughlin**

Title: **Project Manager**

Address: **Planning and Program Management Group, 13th Floor, Utica State Office Building, 207 Genesee Street, Utica, NY 13501**

Telephone Number: **315-793-2450**

Facsimile Number: **315-793-2719**

E-Mail Address: **Jim.McLaughlin@dot.ny.gov**

[Municipality/Sponsor] Oneida County

Name: **Mr. Mark Laramie**

Title: **Deputy Commissioner of Engineering**

Address: **6000 Airport Road, Oriskany, NY 13424**

Telephone Number: **315-793-6228**

Facsimile Number: **315-768-6299**

E-Mail Address: **mlaramie@ocgov.net**

17.2 Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States Mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt. 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 receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

18. *Electronic Contract Payments.* Municipality/Sponsor shall provide complete and accurate supporting documentation of eligible local expenditures as required by this Agreement, NYSDOT and the State Comptroller. Following NYSDOT approval of such supporting documentation, payment for invoices submitted by the Municipality/Sponsor 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 contracting local Municipality/Sponsor shall comply with the State Comptroller's procedures for all Federal and applicable State Aid to authorize electronic payments. Authorization forms are available on the State Comptroller's website at www.osc.state.ny.us/epay/index.htm or by email at epunit@osc.state.ny.us. When applicable to State

MUNICIPALITY/SPONSOR: **Oneida County**PROJECT ID NUMBER: **2754.44** BIN: **3311040, 3310390, 3310750**CFDA NUMBER: **20.205**

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Marchiselli and other State reimbursement by the State Comptroller, registration forms and instructions can be found at the NYSDOT [Electronic Payment Guidelines](#) website.

The Municipality/Sponsor herein acknowledges that it will not receive payment on any invoices submitted under this agreement if it does not comply with the applicable State Comptroller and/or NYS State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

19. *Compliance with Legal Requirements.* Municipality/Sponsor must comply with all applicable federal, state and local laws, rules and regulations, including but not limited to the following:

19.1 Title 49 of the Code of Federal Regulations Part 26 (49 CFR 26), Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs; Title 23 Code of Federal Regulations Part 230 (23 CFR 230), External Programs; and, Title 41 of the Code of Federal Regulations Part 60 Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, including the requirements thereunder related to utilization goals for contracting opportunities for disadvantaged business enterprises (DBEs) and equal employment opportunity.

19.1.1 If the Municipality/Sponsor fails to monitor and administer contracts funded in whole or in part in accordance with Federal requirements, the Municipality/Sponsor will not be reimbursed for ineligible activities within the affected contracts. The Municipality/Sponsor must ensure that the prime contractor has a Disadvantaged Business Enterprise (DBE) Utilization Plan and complies with such plan. If, without prior written approval by NYSDOT, the Municipality/Sponsor's contractors and subcontractors fail to complete work for the project as proposed in the DBE Schedule of Utilization, NYSDOT at its discretion may (1) cancel, terminate or suspend this agreement or such portion of this agreement or (2) assess liquidated damages in an amount of up to 20% of the pro rata share of the Municipality/Sponsor's contracts and subcontracts funded in whole or in part by this agreement for which contract goals have been established.

19.2 New York State Environmental Law, Article 6, the State Smart Growth Public Infrastructure Policy Act, including providing true, timely and accurate information relating to the project to ensure compliance with the Act.

19.3 28 CFR 35.105, which requires a Municipality/Sponsor employing 50 or more persons to prepare a Transition Plan addressing compliance with the Americans with Disabilities Act (ADA).

20. *Compliance with Procedural Requirements.* The Municipality/Sponsor understands that funding is contingent upon the Municipality/Sponsor's compliance with the applicable requirements of the Procedures for Locally Administered Federal Aid Projects (PLAFAP) manual, which, as such, may be amended from time to time. Locally administered Federal aid transportation projects must be constructed in accordance with the current version of NYSDOT Standard Specifications; Construction and Materials, including any and all modifications to the Standard Specifications issued by the Engineering Information Issuance System, and NYSDOT-approved Special Specifications for general use. (Cities with a population of 3 million or more may pursue approval of their own construction specifications and procedures on a project by project basis).

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officials as of the date first above written.

MUNICIPALITY/SPONSOR:

MUNICIPALITY/SPONSOR ATTORNEY:

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

STATE OF NEW YORK)
)ss.:
COUNTY OF)

On this _____ day of _____, 20__ before me personally came _____ to me known, who, being by me duly sworn did depose and say that he/she resides at _____; that he/she is the _____ of the Municipal/Sponsor Corporation described in and which executed the above instrument; (except New York City) that it was executed by order of the _____ of said Municipal/Sponsor Corporation pursuant to a resolution which was duly adopted on _____ and which a certified copy is attached and made a part hereof; and that he/she signed his name thereto by like order.

Notary Public

APPROVED FOR NYSDOT:

**APPROVED AS TO FORM:
STATE OF NEW YORK ATTORNEY GENERAL**

By: _____
For Commissioner of Transportation

By: _____
Assistant Attorney General

Agency Certification: In addition to the acceptance of this contract I also certify that original copies of this signature page will be attached to all other exact copies of this contract.

COMPTROLLER'S APPROVAL:

Date: _____

By: _____
For the New York State Comptroller
Pursuant to State Finance Law §112

**SCHEDULE A – Description of Project Phase, Funding and Deposit Requirements
 NYSDOT/ State-Local Agreement - Schedule A for PIN 2754.44**

OSC Municipal Contract #: <u>D035952</u>	Contract Start Date: <u>6/18/2018</u> (mm/dd/yyyy)	Contract End Date: <u>9/30/2022</u> (mm/dd/yyyy) <input type="checkbox"/> Check, if date changed from the last Schedule A
--	---	---

Purpose: Original Standard Agreement Supplemental Schedule A No.

Agreement Type: Locally Administered Municipality/Sponsor (Contract Payee): County of Oneida
 Other Municipality/Sponsor (if applicable):

State Administered *List participating Municipality(ies) and the % of cost share for each and indicate by checkbox which Municipality this Schedule A applies.*

<input type="checkbox"/> Municipality:	% of Cost share
<input type="checkbox"/> Municipality:	% of Cost share
<input type="checkbox"/> Municipality:	% of Cost share

Authorized Project Phase(s) to which this Schedule applies: PE/Design ROW Incidentals
 ROW Acquisition Construction/CI/CS

Work Type: BR REHAB **County** (If different from Municipality):

Marchiselli Eligible Yes No *(Check, if Project Description has changed from last Schedule A):*
Project Description: REHAB OF BRIDGES IN TOWN OF STEUBEN (BIN 3311040, TOWN OF ANNSVILLE (BIN 3310390, TOWN OF LEE (BIN 3310750), ONEIDA COUNTY

Marchiselli Allocations Approved FOR ALL PHASES *All totals will calculate automatically.*

Check box to indicate change from last Schedule A	State Fiscal Year(s)	Project Phase			TOTAL
		PE/Design	ROW (RI & RA)	Construction/CI/CS	
<input type="checkbox"/>	Cumulative total for all prior SFYs	\$0.00	\$0.00	\$0.00	\$ 0.00
<input type="checkbox"/>	Current SFY 18/19	\$45,000.00	\$0.00	\$0.00	\$45,000.00
Authorized Allocations to Date		\$45,000.00	\$ 0.00	\$ 0.00	\$45,000.00

A. Summary of allocated MARCHISELLI Program Costs FOR ALL PHASES *For each PIN Fiscal Share below, show current costs on the rows indicated as "Current.". Show the old costs from the previous Schedule A on the row indicated as "Old." All totals will calculate automatically.*

PIN Fiscal Share	"Current" or "Old" entry indicator	Federal Funding	Total Costs	FEDERAL Participating Share	STATE MARCHISELLI Match	LOCAL Matching Share	LOCAL DEPOSIT AMOUNT (Required only if State Administered)
2754.44.121	Current	STP (80%)	\$285,000.00	\$228,000.00	\$42,750.00	\$14,250.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$	\$0.00	\$0.00	\$0.00
TOTAL CURRENT COSTS:			\$285,000.00	\$228,000.00	\$42,750.00	\$14,250.00	\$ 0.00

NYSDOT/State-Local Agreement – Schedule A

B. Summary of Other (including Non-allocated MARCHISELLI) Participating Costs FOR ALL PHASES For each PIN Fiscal Share, show current costs on the rows indicated as "Current." Show the old costs from the previous Schedule A on the row indicated as "Old." All totals will calculate automatically.

Other PIN Fiscal Shares	'Current' or 'Old' entry indicator	Funding Source	TOTAL	Other FEDERAL	Other STATE	Other LOCAL
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
TOTAL CURRENT COSTS:			\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

C. Local Deposit(s) from Section A:

	\$ 0.00
Additional Local Deposit(s)	\$
Total Local Deposit(s)	\$ 0.00

D. Total Project Costs All totals will calculate automatically.

Total FEDERAL Cost	Total STATE MARCHISELLI Cost	Total OTHER STATE Cost	Total LOCAL Cost	Total ALL SOURCES Cost
\$228,000.00	\$42,750.00	\$ 0.00	\$14,250.00	\$285,000.00

E. Point of Contact for Questions Regarding this Schedule A (Must be completed)

Name: Jim McLaughlin
Phone No: 315-793-2450

SCHEDULE B: Phases, Sub-phase/Tasks, and Allocation of Responsibility

Instructions: Identify the responsibility for each applicable Sub-phase task by entering *X* in either the *NYSDOT* column to allocate the task to State labor forces or a State Contract, or in the *Sponsor* column indicating non-State labor forces or a locally administered contract.

A1. Preliminary Engineering ("PE") Phase

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
1. <u>Scoping</u> : Prepare and distribute all required project reports, including an Expanded Project Proposal (EPP) or Scoping Summary Memorandum (SSM), as appropriate.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Perform data collection and analysis for design, including traffic counts and forecasts, accident data, Smart Growth checklist, land use and development analysis and forecasts.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Smart Growth Attestation (NYSDOT ONLY).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. <u>Preliminary Design</u> : Prepare and distribute Design Report/Design Approval Document (DAD), including environmental analysis/assessments, and other reports required to demonstrate the completion of specific design sub-phases or tasks and/or to secure the approval/authorization to proceed.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. Review and Circulate all project reports, plans, and other project data to obtain the necessary review, approval, and/or other input and actions required of other NYSDOT units and external agencies.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Obtain aerial photography and photogrammetric mapping.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7. Perform all surveys for mapping and design.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8. <u>Detailed Design</u> : Perform all project design, including preparation of plan sheets, cross-sections, profiles, detail sheets, specialty items, shop drawings, and other items required in accordance with the Highway Design Manual, including all Highway Design, including pavement evaluations, including taking and analyzing cores; design of Pavement mixes and applications procedures; preparation of bridge site data package, if necessary, and all Structural Design, including hydraulic analyses, if necessary, foundation design, and all design of highway appurtenances and systems [e.g., Signals, Intelligent Transportation System (ITS) facilities], and maintenance protection of traffic plans. Federal Railroad Administration (FRA) criteria will apply to rail work.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
9. Perform landscape design (including erosion control).	<input type="checkbox"/>	<input checked="" type="checkbox"/>
10. Design environmental mitigation, where appropriate, in connection with: Noise readings, projections, air quality monitoring, emissions projections, hazardous waste, asbestos, determination of need of cultural resources survey.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
11. Prepare demolition contracts, utility relocation plans/contracts, and any other plans and/or contract documents required to advance, separate, any portions of the project which may be more appropriately progressed separately and independently.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12. Compile PS&E package, including all plans, proposals, specifications, estimates, notes, special contract requirements, and any other contract documents necessary to advance the project to construction.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
13. Conduct any required soils and other geological investigations.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
14. Obtain utility information, including identifying the locations and types of utilities within the project area, the ownership of these utilities, and prepare utility relocations plans and agreements, including completion of Form HC-140, titled Preliminary Utility Work Agreement.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
15. Determine the need and apply for any required permits, including U.S. Coast Guard, U.S. Army Corps of Engineers, Wetlands (including identification and delineation of wetlands), SPDES, NYSDOT Highway Work Permits, and any permits or other approvals required to comply with local laws, such as zoning ordinances, historic districts, tax assessment and special districts.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
16. Prepare and execute any required agreements, including: <ul style="list-style-type: none"> - Railroad force account - Maintenance agreements for sidewalks, lighting, signals, betterments - Betterment Agreements - Utility Work Agreements for any necessary Utility Relocations of Privately owned Utilities 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
17. Provide overall supervision/oversight of design to assure conformity with Federal and State design standards or conditions, including final approval of PS&E (Contract Bid Documents) by NYSDOT.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

A2. Right-of-Way (ROW) Incidentals

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
1. Prepare ARM or other mapping, showing preliminary taking lines.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. ROW mapping and any necessary ROW relocation plans.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Obtain abstracts of title and certify those having an interest in ROW to be acquired.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Secure Appraisals.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Perform Appraisal Review and establish an amount representing just compensation.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
6. Determination of exemption from public hearing that is otherwise required by the Eminent Domain Procedure Law, including <i>de minimis</i> determination, as may be applicable. If NYSDOT is responsible for acquiring the right-of-way, this determination may be performed by NYSDOT only if NYSDOT is responsible for the Preliminary Engineering Phase under Phase A1 of this Schedule B.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Conduct any public hearings and/or informational meetings as may be required by the Eminent Domain Procedures Law, including the provision of stenographic services, preparation and distribution of transcripts, and response to issues raised at such meetings.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

B. Right-of-Way (ROW) Acquisition

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
1. Perform all Right-of-Way (ROW) Acquisition work, including negotiations with property owners, acquisition of properties and accompanying legal work, payments to and/or deposits on behalf of property owners; Prepare, publish, and pay for any required legal notices; and all other actions necessary to secure title to, possession of, and entry to required properties. If NYSDOT is to acquire property, including property described as an uneconomic remainder, on behalf of the Municipality/Sponsor, the Municipality/Sponsor agrees to accept and take title to any and all permanent property rights so acquired which form a part of the completed Project.	<input type="checkbox"/>	<input type="checkbox"/>
2. Provide required relocation assistance, including payment of moving expenses, replacement supplements, mortgage interest differentials, closing costs, mortgage prepayment fees.	<input type="checkbox"/>	<input type="checkbox"/>
3. Conduct eminent domain proceedings, court and any other legal actions required to acquire properties.	<input type="checkbox"/>	<input type="checkbox"/>
4. Monitor all ROW Acquisition work and activities, including review and processing of payments of property owners.	<input type="checkbox"/>	<input type="checkbox"/>
5. Provide official certification that all right-of-way required for the construction has been acquired in compliance with applicable Federal, State or Local requirements and is available for use and/or making projections of when such property(ies) will be available if such properties are not in hand at the time of contract award.	<input type="checkbox"/>	<input type="checkbox"/>
6. Conduct any property management activities, including establishment and collecting rents, building maintenance and repairs, and any other activities necessary to sustain properties and/or tenants until the sites are vacated, demolished, or otherwise used for the construction project.	<input type="checkbox"/>	<input type="checkbox"/>
7. Subsequent to completion of the Project, conduct ongoing property management activities in a manner consistent with applicable Federal, State and Local requirements including, as applicable, the development of any ancillary uses, establishment and collection of rent, property maintenance and any other related activities.	<input type="checkbox"/>	<input type="checkbox"/>

C. Construction, Construction Support (C/S) and Construction Inspection (C/I) Phase

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
1. Advertise contract lettings and distribute contract documents to prospective bidders.	<input type="checkbox"/>	<input type="checkbox"/>
2. Conduct all contract lettings, including receipt, opening, and analysis of bids, evaluation/certification of bidders, notification of rejected bids/bidders, and awarding of the construction contract(s).	<input type="checkbox"/>	<input type="checkbox"/>
3. Receive and process bid deposits and verify any bidder's insurance and bond coverage that may be required.	<input type="checkbox"/>	<input type="checkbox"/>
4. Compile and submit Contract Award Documentation Package.	<input type="checkbox"/>	<input type="checkbox"/>
5. Review/approve any proposed subcontractors, vendors, or suppliers.	<input type="checkbox"/>	<input type="checkbox"/>
6. Conduct and control all construction activities in accordance with the plans and proposal for the project. Maintain accurate, up-to-date project records and files, including all diaries and logs, to provide a detailed chronology of project construction activities. Procure or provide all materials, supplies and labor for the performance of the work on the project, and insure that the proper materials, equipment, human resources, methods and procedures are used.	<input type="checkbox"/>	<input type="checkbox"/>
7a. For non-NHS or non-State Highway System Projects: Test and accept materials, including review and approval for any requests for substitutions.	<input type="checkbox"/>	<input type="checkbox"/>
7b. For NHS or State Highway System Projects: Inspection and approval of materials such as bituminous concrete, Portland cement concrete, structural steel, concrete structural elements and/or their components to be used in a federal aid project will be performed by, and according to the requirements of NYSDOT. The Municipality/Sponsor shall make or require provision for such materials inspection in any contract or subcontract that includes materials that are subject to inspection and approval in accordance with the applicable NYSDOT design and construction standards associated with the federal aid project.	<input type="checkbox"/>	<input type="checkbox"/>
7c. For projects that fall under both 7a and 7b above, check boxes for each.		
8. Design and/or re-design the project or any portion of the project that may be required because of conditions encountered during construction.	<input type="checkbox"/>	<input type="checkbox"/>
9. Administer construction contract, including the review and approval of all contractor requests for payment, orders-on-contract, force account work, extensions of time, exceptions to the plans and specifications, substitutions or equivalents, and special specifications.	<input type="checkbox"/>	<input type="checkbox"/>
10. Review and approve all shop drawings, fabrication details, and other details of structural work.	<input type="checkbox"/>	<input type="checkbox"/>
11. Administer all construction contract claims, disputes or litigation.	<input type="checkbox"/>	<input type="checkbox"/>

Phase/Sub-phase/Task

Responsibility: NYSDOT Sponsor

- | | | |
|--|--------------------------|--------------------------|
| 12. Perform final inspection of the complete work to determine and verify final quantities, prices, and compliance with plans specifications, and such other construction engineering supervision and inspection work necessary to conform to Municipal, State and FHWA requirements, including the final acceptance of the project by NYSDOT. | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. Pursuant to Federal Regulation 49 CFR 18.42(e)(1) The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts. | <input type="checkbox"/> | <input type="checkbox"/> |

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

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STANDARD CLAUSES FOR NYS CONTRACTS

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

- 1. EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.
- 2. NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.
- 3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.
- 4. WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this

contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with 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 (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). 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 (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

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

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

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.

APPENDIX A-1 SUPPLEMENTAL TITLE VI PROVISIONS (CIVIL RIGHTS ACT)

(To be included in all contracts)

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- (1) Compliance with Regulations: The contractor shall comply with the Regulation relative to nondiscrimination in Federally assisted programs of the Department of Transportation of the United States, Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, religion, age, color, sex or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.
- (4) Information and Reports: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by NYSDOT or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to NYSDOT's Office of Civil Rights or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, NYSDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - a) Withholding of payments to the contractor under the contract until the contractor complies; and/or
 - b) Cancellation, termination or suspension of the contract, in whole or in part.
- (6) Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontractor procurement as NYSDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request NYSDOT to enter into such litigation to protect the interests of NYSDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B
REQUIREMENTS FOR FEDERALLY-AIDED TRANSPORTATION PROJECTS
(June 2016)

There is a substantial body of requirements attached to the use of Federal highway or transportation aid. These requirements create or overlay processes, procedures, documentation requirements, authorizations, approvals and certifications that may be substantially greater or different from those that are not funded with Federal-aid and proceed under applicable State and local laws, customs and practices. Under Title 23 of the United States Code, the New York State Department of Transportation (NYSDOT) is responsible for the administration of transportation projects in New York State to which NYSDOT provides Federal highway or transportation-related aid. Through this Agreement, which provides or is associated with such funding, NYSDOT delegates various elements of project and funding administration as described elsewhere in this Agreement. In undertaking a Federally aided project, the Municipality/Sponsor, Authority or Project Manager designated under this Agreement with Federal-aid funding or project administration agrees to proceed in compliance with all the applicable Federal-aid requirements.

NYSDOT, in cooperation with FHWA, has assembled the body of Federal-aid requirements, procedures and practices in its Procedures for Locally Administered Federal-Aid Projects Manual (available through NYSDOT's web site at: <http://www.dot.ny.gov/plafap>). In addition, the Municipality/Sponsor, Authority or Project Manager designated under this Agreement for Federal-aid funding or project administration that enters into Federally aided project construction contracts is required to physically incorporate into all its Federally aided construction contracts and subcontracts there under the provisions that are contained in Form FHWA-1273 (available from NYSDOT or electronically at: <http://www.fhwa.dot.gov/programadmin/contracts/1273.htm>).

In addition to the referenced requirements, the attention of Municipality/Sponsor hereunder is directed to the following requirements and information:

NON DISCRIMINATION/EEO/DBE REQUIREMENTS

The Municipality/Sponsor and its contractors agree to comply with Executive Order 11246, entitled "Equal Employment Opportunity" and United States Department of Transportation (USDOT) regulations (49 CFR Parts 21, 23, 25, 26 and 27) and the following:

1. **NON DISCRIMINATION**. No person shall, on the ground of race, color, creed, national origin, sex, age or handicap, be excluded from participation in, or denied the benefits of, or be subject to, discrimination under the Project funded through this Agreement.
2. **EQUAL EMPLOYMENT OPPORTUNITY**. In connection with the execution of this Agreement, the Municipality/Sponsors contractors or subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, age, color, sex or national origin. Such contractors shall take affirmative actions to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, national origin or age. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

3. **DISADVANTAGED BUSINESS ENTERPRISES.** In connection with the performance of this Agreement, the Municipality/Sponsor shall cause its contractors to cooperate with the State in meeting its commitments and goals with regard to the utilization of Disadvantaged Business Enterprises (DBEs) and will use its best efforts to ensure that DBEs will have opportunity to compete for subcontract work under this Agreement. Also, in this connection the Municipality or Municipality/Sponsor shall cause its contractors to undertake such actions as may be necessary to comply with 49 CFR Part 26.

As a sub-recipient under 49 CFR Part 26.13, the Municipality/Sponsor hereby makes the following assurance.

The Municipality/Sponsor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any United States Department of Transportation (USDOT)-assisted contract or in the administration of its Disadvantaged Business Enterprise (DBE) program or the requirements of 49 CFR Part 26. The Municipality/Sponsor shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of the United States Department of Transportation-assisted contracts. The New York State Department of Transportation's DBE program, as required by 49 CFR Part 26 and as approved by the United States Department of Transportation, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

FEDERAL SINGLE AUDIT REQUIREMENTS

Non-Federal entities that expend \$750,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations. Non-Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non-Federal entities that expend less than the amount above in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in Sec. 215 (a) of OMB Circular A-133 Subpart B--Audits, records must be available for review or audit by appropriate officials of the cognizant Federal agency¹ the New York State Department of Transportation, the New York State Comptrollers Office and the U.S. Governmental Accountability Office (GAO).

Non-Federal entities are required to submit a copy of all audits, as described above, within 30 days of issuance of audit report, but no later than 9 months after the end of the entity's fiscal year, to the New York State Department of Transportation, Contract Audit Bureau, 50 Wolf Road, Albany, NY 12232. Unless a time extension has been granted by the cognizant Federal Agency and has been filed with the New York State Department of Transportation's Contract Audit Bureau, failure to comply with the requirements of OMB Circular A-133 may result in suspension or termination of Federal award payments.

¹ The designated cognizant agency for audit shall be the federal awarding agency that provides the predominant amount of direct funding to a recipient unless OMB changes it.

THE CATALOG OF FEDERAL DOMESTIC ASSISTANCE

The Catalog of Federal Domestic Assistance (CFDA²), is an on-line database of all Federally-aided programs available to State and local governments (including the District of Columbia); Federally recognized Indian tribal governments; Territories (and possessions) of the United States; domestic public, quasi-public, and private profit and nonprofit organizations and institutions; specialized groups; and individuals.

THE CFDA IDENTIFICATION NUMBER

OMB Circular A-133 requires all Federal-aid recipients to identify and account for awards and expenditures by CFDA Number. The Municipality/Sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.

The most commonly used CFDA number for the Federal Aid Highway Planning and Construction program is 20.205.

Additional CFDA numbers for other transportation and non-transportation related programs are:

- 20.215 Highway Training and Education**
- 20.219 Recreational Trails Program**
- 20.XXX Highway Planning and Construction - Highways for LIFE;**
- 20.XXX Surface Transportation Research and Development;**
- 20.500 Federal Transit-Capital Investment Grants**
- 20.505 Federal Transit-Metropolitan Planning Grants**
- 20.507 Federal Transit-Formula Grants**
- 20.509 Formula Grants for Other Than Urbanized Areas**
- 20.600 State and Community Highway Safety**
- 23.003 Appalachian Development Highway System**
- 23.008 Appalachian Local Access Roads**

PROMPT PAYMENT MECHANISMS

In accordance with 49 CFR 26.29, and NY State Finance Law 139-f or NY General Municipal Law 106-b(2) as applicable:

- (a)** You must establish, as part of your DBE program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 7 calendar days from receipt of each payment you make to the prime contractor.
- (b)** You must ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 7 calendar days after the subcontractor's work is satisfactorily completed. You must use one of the following methods to comply with this requirement:
 - (1)** You may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.
 - (2)** You may decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by

² <http://www.cfda.gov/>

prime contractor to the subcontractor within 7 calendar days after the subcontractor's work is satisfactorily completed.

(3) You may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 7 calendar days after your payment to the prime contractor.

(c) For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the recipient. When a recipient has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

(d) Your DBE program must provide appropriate means to enforce the requirements of this section. These means may include appropriate penalties for failure to comply, the terms and conditions of which you set. Your program may also provide that any delay or postponement of payment among the parties may take place only for good cause, with your prior written approval.

(e) You may also establish, as part of your DBE program, any of the following additional mechanisms to ensure prompt payment:

(1) A contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes. You may specify the nature of such mechanisms.

(2) A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

(3) Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.

CARGO PREFERENCE ACT REQUIREMENTS – U.S. FLAG VESSELS

In accordance with 46 CFR 381, the contractor agrees:

- (a) To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
- (b) To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b) (1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.
- (c) To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

SAMPLE RESOLUTIONS

SAMPLE RESOLUTION BY MUNICIPALITY

(Locally Administered Project)

RESOLUTION NUMBER: _____

Authorizing the implementation, and funding in the first instance 100% of the federal-aid and State "Marchiselli" Program-aid eligible costs, of a transportation federal-aid project, and appropriating funds therefore.

WHEREAS, a Project for the _____, P.I.N. _____ (the Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of ____% Federal funds and ____% non-federal funds; and

[For **SOFT MATCH CREDIT AGREEMENTS** add: WHEREAS, as provided for by agreement with the NYS Department of Transportation, PE and/or ROW Incidental or ROW acquisition work performed by the municipality for the federal aid-eligible construction project covered by the agreement, the costs of such work that are approved in writing by NYSDOT as applicable to the federal aid and Marchiselli aid construction work (excluding costs applicable to non-federally eligible or non-Marchiselli eligible project elements) shall be credited following FHWA's construction phase closeout audit of the Project to Project costs that are eligible for federal aid and Marchiselli aid; and]

WHEREAS, the _____ of _____ desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of _____.

NOW, THEREFORE, the _____ Board, duly convened does hereby

RESOLVE, that the _____ Board hereby approves the above-subject project; and it is hereby further

RESOLVED, that the _____ Board hereby authorizes the _____ of _____ to pay in the first instance 100% of the federal and non-federal share of the cost of _____ work for the Project or portions thereof; and it is further

RESOLVED, that the sum of _____ is hereby appropriated from _____ [or, appropriated pursuant to _____] and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the _____ of _____ shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the _____ thereof, and it is further

RESOLVED, that the _____ of the _____ of the _____ of _____ be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the _____ of _____ with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of

Transportation by attaching it to any necessary Agreement in connection with the Project. and it is further

RESOLVED, this Resolution shall take effect immediately

SAMPLE RESOLUTION BY MUNICIPALITY

(NYSDOT Administered Project)

RESOLUTION NUMBER: _____

Authorizing the implementation and funding of a State "Marchiselli" Program-aid eligible transportation federal-aid project, to fully fund the local share of federal- and state-aid eligible and ineligible project costs and appropriating funds therefore.

WHEREAS, a Project for the _____, P.I.N. _____ (the "Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of ____% Federal funds and ____% non-federal funds; and

[For **SOFT MATCH CREDIT AGREEMENTS** add: WHEREAS, as provided for by agreement with the NYS Department of Transportation, PE and/or ROW Incidental or ROW acquisition work performed by the municipality for the federal aid-eligible construction project covered by the agreement, the costs of such work that are approved in writing by NYSDOT as applicable to the federal aid and Marchiselli aid construction work (excluding costs applicable to non-federally eligible or non-Marchiselli eligible project elements) shall be credited following FHWA's construction phase closeout audit of the Project to Project costs that are eligible for federal aid and Marchiselli aid; and]

WHEREAS, the _____ of _____ desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of _____ work for the Project or portions thereof, with the federal share of such costs to be applied directly by the New York State Department of Transportation ("NYSDOT") pursuant to Agreement; and it is further

NOW, THEREFORE, the _____ Board, duly convened does hereby

RESOLVE, that the _____ Board hereby approves the Project; and it is hereby further

RESOLVED, that the _____ Board hereby authorizes the _____ of _____ to pay in the first instance the full non-federal share of the cost of _____ work for the Project or portions thereof; and it is further

RESOLVED, that the sum of _____ is hereby appropriated from _____ [or, appropriated pursuant to _____] and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that in the event the non-federal share of the costs of the project exceed the amount appropriated above, the _____ of _____ shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the _____ thereof, and it is further

RESOLVED, that the _____ of the _____ of the _____ of _____ be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the _____ of _____ with NYSDOT in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of the non-federal share of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project. and it is further

RESOLVED, this Resolution shall take effect immediately.

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

September 26, 2018

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

FN 20 18-369

PUBLIC WORKS

Dear County Executive Picente,

WAYS & MEANS

Oneida County (Lessor) currently leases space at Union Station to the National Railroad Passenger Corporation (Lessee) for operation of Amtrak passenger train services. The current term of this lease will expire on December 31, 2018.

Enclosed is a proposed Fourth Amendment to the lease that would grant the Lessee an additional five year term commencing on January 1, 2019 and ending on December 31, 2023. For the duration of this term, the Lessee would pay the Lessor \$73,690.00 annually. This would be a 5.4% increase over the previous rental rate. The increase was based on an aggregate of Consumer Price Index increases/decreases over the previous five year term. The Fourth Amendment to the Lease would also grant the Lessee an option to renew the lease for one (1) additional five (5) year term with annual rental rate increases as specified, conditioned upon Board approval.

Please consider the enclosed agreement and if acceptable forward to the Oneida County Board of Legislators for consideration.

Thank you for your support.

Sincerely,

Dennis S. Davis
Commissioner

cc: Mark E. Laramie, PE, Deputy Commissioner

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

Anthony J. Picente, Jr.
County Executive

Date 10-3-18

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

ONEIDA COUNTY BOARD OF LEGISLATORS

Name & Address of Vendor: National Railroad Passenger Corporation
30th Street Station, 5th Floor South Tower
Philadelphia, PA 19104

Title of Activity or Service: Lease Amendment
Proposed Dates of Operation: 01/01/2019 – 12/31/2023
Client Population/Number to be Served: N/A

Summary Statements

1) Narrative Description of Proposed Services:

Oneida County (Lessor) currently leases space at Union Station to the National Railroad Passenger Corporation (Lessee) for operation of Amtrak passenger train services. The current term of this lease will expire on December 31, 2018.

Enclosed is a proposed Fourth Amendment to the lease that would grant the Lessee an additional five year term commencing on January 1, 2019 and ending on December 31, 2023. For the duration of this term the Lessee would pay the Lessor \$73,690.00 annually. This would be a 5.4% increase over the previous rental rate. The increase was based on an aggregate of Consumer Price Index increases/decreases over the previous five year term. The Fourth Amendment to the Lease would also grant the Lessee an option to renew the lease for one (1) additional five (5) year term with annual rental rate increases as specified, conditioned upon Board approval.

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

3) Program Design and Staffing: N/A

4) Funding	Account #:	A1740
	Total Funding Requested (Revenue):	\$368,450.00
	Oneida County Dept. Funding Recommendation (Revenue):	\$368,450.00

Proposed Funding Sources	Federal:	
	New York State:	
	County (Revenue):	\$368,450.00
	Other:	

Past Performance Data: N/A
O.C. Department Staff Comments: None

Fourth Amendment to Lease

This Fourth Amendment to the Lease dated July 24, 2002, is made the 1st day of January, 2019 by and between the County of Oneida (the "Lessor") and the National Railroad Passenger Corporation (the "Lessee").

The Lessor and the Lessee agree to the following:

- 1) The Lessor grants the Lessee an additional five year term commencing on January 1, 2019 and ending on December 31, 2023.
- 2) The Lessee shall pay rent to the Lessor in the amount of Seventy-Three Thousand, Six Hundred Ninety dollars and Zero cents (\$73,690.00) per year. Such rent shall be payable to the Lessor in quarterly payments of Eighteen Thousand, Four Hundred Twenty-Two dollars and Fifty cents (\$18,422.50), the first of which is due January 1, 2019 with the remaining quarterly payments due on the first day of each subsequent quarterly date thereafter.
- 3) The Lessor grants the Lessee an option to renew the lease on the same terms contained herein for one (1) additional five (5) year term beginning on January 1, 2024, conditioned upon the approval of the Oneida County Board of Legislators. Rent for said term shall be negotiated by the parties prior to the termination of the current lease term, and shall be increased by no less than five percent (5%) and no more than fifteen percent (15%) over the previous rent; unless there are extraordinary events including but not limited to national or state directives that increase the operating costs of the Lessor.
- 4) All provisions of the July 24, 2002 lease and the subsequent amendments thereto, not inconsistent with the provisions contained herein, remain in effect.

IN WITNESS WHEREOF, the parties hereto have executed this instrument for the purposes herein expressed, the day and year above first written.

NATIONAL RAILROAD PASSENGER CORPORATION



David J. Handera
Vice President of Stations, Properties and Accessibility

COUNTY OF ONEIDA

Anthony J. Picente Jr.
Oneida County Executive

Approved

Linda Bylica Lark
Assistant County Attorney



ONEIDA COUNTY
OFFICE OF THE COUNTY EXECUTIVE

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

September 19, 2018

FN 20 18-370

Hon. Joseph A. Griffo
Senator
NYS Senate District 47
207 Genesee Street
Utica, New York 13501

PUBLIC WORKS

WAYS & MEANS

Dear Senator Griffo,

In 2016, Oneida County was awarded a grant from New York State in the amount of \$3,120,000.00 (PIN 2754.27.101, .201 - D035453) for the purpose of reconstructing Middle Settlement Road in the Town of New Harford. Middle Settlement Road has become one of the most heavily traveled roads maintained by Oneida County. We believe increased use can be attributed to construction of New York State Route 840, immediate access to said highway, and associated commercial development.

Original project cost estimates were based on historical data for similar projects. Due to funding sources, this project must comply with current New York State Department of Transportation standards and policies. Required work items including pedestrian access, geometric improvements and resulting right-of-way acquisitions have increased construction cost estimates significantly. The total project cost estimate is now approximately \$4,478,000.00 resulting in a \$1,358,000.00 shortfall.

Oneida County respectfully requests your assistance in acquiring additional State or Federal Aid for the purpose of fully or partially covering the aforementioned shortfall. Planned improvements to Middle Settlement Road are critical to the continued safe and efficient operation of a rapidly developing commercial highway corridor.

Thank you for your consideration and continued support.

Sincerely,

Anthony J. Picente Jr.
Oneida County Executive

cc: Chairman Fiorini
Dwight Evans
Brian Adey

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

September 13, 2018

FN 20 18 391

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

Dear County Executive Picente,

This Supplemental Agreement No. 1 amends a grant, which the County received previously, to include construction expenses.

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 executed an initial Federal Aid Project Agreement (OC #15916) in the amount of \$85,000.00 (\$80,750 Federal, \$4,250.00 County) for preliminary engineering services. Plans and specifications were prepared and a construction contract has been awarded to Winn Construction Services, Inc.

The enclosed Supplemental Agreement No. 1 to the aforementioned Federal Aid Project Agreement will add construction phase funding and increase grant totals to \$610,857.12 (\$446,500.00 Federal, \$164,357.12 County). If acceptable, please forward Supplemental Agreement No. 1 to the Oneida County Board of Legislators for consideration.

Thank you for your continued support.

Sincerely,

Dennis S. Davis
Commissioner

cc: Mark E. Laramie, PE, Deputy Commissioner

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

Anthony J. Picente, Jr.
County Executive

Date 9-19-18

Oneida Co. Dept: Public Works

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

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: New York State Department of Transportation
50 Wolf Road
Albany, NY 12232

Title of Activity or Service: PIN 2754.36: Woodhull Rd. Bridge Replacement
Federal Aid Project Agreement
Supplemental Agreement No. 1

Proposed Dates of Operation: Upon Execution – 9/30/2021

Client Population/Number to be Served: N/A

Summary Statements

1) Narrative Description of Proposed Services:

This Supplemental Agreement No. 1 amends a grant, which the County received previously, to include construction expenses.

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 executed an initial Federal Aid Project Agreement in the amount of \$85,000.00 (\$80,750 Federal, \$4,250.00 County) for preliminary engineering services. Plans and specifications were prepared and a construction contract has been awarded to Winn Construction Services, Inc.

The enclosed Supplemental Agreement No. 1 to the aforementioned Federal Aid Project Agreement will add construction phase funding and increase grant totals to \$610,857.12 (\$446,500.00 Federal, \$164,357.12 County). If acceptable, please forward Supplemental Agreement No. 1 to the Oneida County Board of Legislators for consideration.

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

3) Program Design and Staffing: N/A

Total Funding Requested: \$610,857.12

Account # H-557

Oneida County Dept. Funding Recommendation: \$610,557.12

Proposed Funding Sources (Federal \$/ State \$/County \$): Federal: \$446,500; County: \$164,357.12

Cost Per Client Served: N/A

Past Performance Data: N/A

O.C. Department Staff Comments: None

Press F1 for instructions in the blank fields:

SUPPLEMENTAL AGREEMENT No. 1 to D035577 (Comptroller's Contract No.)

This Supplemental Agreement is by and between:

the New York State Department of Transportation ("NYSDOT"), having its principal office at 50 Wolf Road, Albany, NY 12232, on behalf of New York State ("State");

and

County of Oneida (the Sponsor)
Acting by and through the **County Executive**
with its office at **800 Park Avenue, Utica 13501**.

This amends the existing Agreement between the parties in the following respects only (check applicable categories):

Amends a previously adopted Schedule A by (check as applicable):

amending a project description

amending the contract end date

amending the scheduled funding by:

adding additional funding (check and enter the # phase(s) as applicable):

adding phase **Construction** which covers eligible costs incurred on/after

5/25/2018

adding phase _____ which covers eligible costs incurred on/after / /

increasing funding for a project phase(s)

adding a pin extension

change from Non-Marchiselli to Marchiselli

deleting/reducing funding for a project phase(s)

other (_____)

Amends a previously adopted Schedule "B" (Phases, Sub-phase/Tasks, and Allocation of Responsibility)

Amends a previously adopted Agreement by adding Appendix 2-S – Iran Divestment Act:

Amends the text of the Agreement as follows (insert text below):

Press F1 for instructions in the blank fields:

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officials as of the date first above written.

SPONSOR:

SPONSOR ATTORNEY:

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

STATE OF NEW YORK

)ss.:

COUNTY OF _____

On this _____ day of _____, 20__ before me personally came _____ to me known, who, being by me duly sworn did depose and say that he/she resides at _____; that he/she is the _____ of the Municipal/Sponsor Corporation described in and which executed the above instrument; (except New York City) that it was executed by order of the _____ of said Municipal/Sponsor Corporation pursuant to a resolution which was duly adopted on _____ and which a certified copy is attached and made a part hereof; and that he/she signed his/her name thereto by like order.

Notary Public

APPROVED FOR NYSDOT:

**APPROVED AS TO FORM:
STATE OF NEW YORK ATTORNEY GENERAL**

BY: _____

For Commissioner of Transportation

Agency Certification: In addition to the acceptance of this contract I also certify that original copies of this signature page will be attached to all other exact copies of this contract.

By: _____

Assistant Attorney General

Date: _____

COMPTROLLER'S APPROVAL:

By: _____

For the New York State Comptroller
Pursuant to State Finance Law '112

**SCHEDULE A – Description of Project Phase, Funding and Deposit Requirements
 NYSDOT/ State-Local Agreement - Schedule A for PIN _____**

OSC Municipal Contract #: D035577	Contract Start Date: 4/13/2017 _(mm/dd/yyyy)	Contract End Date: 9/30/2021 _(mm/dd/yyyy) <input type="checkbox"/> Check, if date changed from the last Schedule A
---	---	---

Purpose: Original Standard Agreement Supplemental Schedule A No. 1

Agreement Type: Locally Administered Municipality/Sponsor (Contract Payee): Oneida County
 Other Municipality/Sponsor (if applicable): _____

State Administered *List participating Municipality(ies) and the % of cost share for each and indicate by checkbox which Municipality this Schedule A applies.*

<input type="checkbox"/> Municipality:	% of Cost share
<input type="checkbox"/> Municipality:	% of Cost share
<input type="checkbox"/> Municipality:	% of Cost share

Authorized Project Phase(s) to which this Schedule applies: PE/Design ROW Incidentals
 ROW Acquisition Construction/CI/CS

Work Type: BR REHAB **County (If different from Municipality):** _____

Marchiselli Eligible Yes No *(Check, if Project Description has changed from last Schedule A):*

Project Description: Bridge NY 2016: Woodhull Road over Woodhull Creek (BIN 3310660), Bridge Deck Replacement, Town of Forestport, Oneida County

Marchiselli Allocations Approved FOR ALL PHASES *All totals will calculate automatically.*

<i>Check box to indicate change from last Schedule A</i>	State Fiscal Year(s)	Project Phase			TOTAL
		PE/Design	ROW (RI & RA)	Construction/CI/CS	
<input type="checkbox"/>	Cumulative total for all prior SFYs	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
<input type="checkbox"/>	Current SFY	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Authorized Allocations to Date		\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

A. Summary of allocated MARCHISELLI Program Costs FOR ALL PHASES *For each PIN Fiscal Share below, show current costs on the rows indicated as "Current.". Show the old costs from the previous Schedule A on the row indicated as "Old." All totals will calculate automatically.*

PIN Fiscal Share	"Current" or "Old" entry indicator	Federal Funding	Total Costs	FEDERAL Participating Share	STATE MARCHISELLI Match	LOCAL Matching Share	LOCAL DEPOSIT AMOUNT (Required only if State Administered)
	Current		\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
	Old		\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
	Current		\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
	Old		\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
	Current		\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
	Old		\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
	Current		\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
	Old		\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
	Current		\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
	Old		\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
TOTAL CURRENT COSTS:			\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

NYS DOT/State-Local Agreement – Schedule A

B. Summary of Other (including Non-allocated MARCHISELLI) Participating Costs FOR ALL PHASES For each PIN Fiscal Share, show current costs on the rows indicated as "Current." Show the old costs from the previous Schedule A on the row indicated as "Old." All totals will calculate automatically.

Other PIN Fiscal Shares	'Current' or 'Old' entry indicator	Funding Source	TOTAL	Other FEDERAL	Other STATE	Other LOCAL
2754.36.121	Current	STP	\$85,000.00	\$80,750.00	\$0.00	\$4,250.00
	Old		\$	\$0.00	\$0.00	\$0.00
2754.36.302	Current	100% Local	\$140,857.12	\$0.00	\$0.00	\$140,857.12
	Old		\$	\$0.00	\$0.00	\$0.00
2754.36.321	Current	STP	\$385,000.00	\$365,750.00	\$0.00	\$19,250.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
TOTAL CURRENT COSTS:			\$610,857.12	\$446,500.00	\$ 0.00	\$164,357.12

C. Local Deposit(s) from Section A:	\$ 0.00
Additional Local Deposit(s)	\$
Total Local Deposit(s)	\$ 0.00

D. Total Project Costs All totals will calculate automatically.				
Total FEDERAL Cost	Total STATE MARCHISELLI Cost	Total OTHER STATE Cost	Total LOCAL Cost	Total ALL SOURCES Cost
\$446,500.00	\$ 0.00	\$ 0.00	\$164,357.12	\$610,857.12

E. Point of Contact for Questions Regarding this Schedule A (Must be completed)	Name: <u>Jim McLaughlin</u> Phone No: <u>315-793-2450</u>
--	--

See Agreement (or Supplemental Agreement Cover) for required contract signatures.

SCHEDULE B: Phases, Sub-phase/Tasks, and Allocation of Responsibility

Instructions: Identify the responsibility for each applicable Sub-phase task by entering X in either the *NYSDOT* column to allocate the task to State labor forces or a State Contract, or in the *Sponsor* column indicating non-State labor forces or a locally administered contract.

A1. Preliminary Engineering ("PE") Phase

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
1. <u>Scoping</u> : Prepare and distribute all required project reports, including an Expanded Project Proposal (EPP) or Scoping Summary Memorandum (SSM), as appropriate.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Perform data collection and analysis for design, including traffic counts and forecasts, accident data, Smart Growth checklist, land use and development analysis and forecasts.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Smart Growth Attestation (NYSDOT ONLY).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. <u>Preliminary Design</u> : Prepare and distribute Design Report/Design Approval Document (DAD), including environmental analysis/assessments, and other reports required to demonstrate the completion of specific design sub-phases or tasks and/or to secure the approval/authorization to proceed.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. Review and Circulate all project reports, plans, and other project data to obtain the necessary review, approval, and/or other input and actions required of other NYSDOT units and external agencies.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Obtain aerial photography and photogrammetric mapping.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7. Perform all surveys for mapping and design.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8. <u>Detailed Design</u> : Perform all project design, including preparation of plan sheets, cross-sections, profiles, detail sheets, specialty items, shop drawings, and other items required in accordance with the Highway Design Manual, including all Highway Design, including pavement evaluations, including taking and analyzing cores; design of Pavement mixes and applications procedures; preparation of bridge site data package, if necessary, and all Structural Design, including hydraulic analyses, if necessary, foundation design, and all design of highway appurtenances and systems [e.g., Signals, Intelligent Transportation System (ITS) facilities], and maintenance protection of traffic plans. Federal Railroad Administration (FRA) criteria will apply to rail work.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
9. Perform landscape design (including erosion control).	<input type="checkbox"/>	<input checked="" type="checkbox"/>
10. Design environmental mitigation, where appropriate, in connection with: Noise readings, projections, air quality monitoring, emissions projections, hazardous waste, asbestos, determination of need of cultural resources survey.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
11. Prepare demolition contracts, utility relocation plans/contracts, and any other plans and/or contract documents required to advance, separate, any portions of the project which may be more appropriately progressed separately and independently.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12. Compile PS&E package, including all plans, proposals, specifications, estimates, notes, special contract requirements, and any other contract documents necessary to advance the project to construction.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
13. Conduct any required soils and other geological investigations.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
14. Obtain utility information, including identifying the locations and types of utilities within the project area, the ownership of these utilities, and prepare utility relocations plans and agreements, including completion of Form HC-140, titled Preliminary Utility Work Agreement.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
15. Determine the need and apply for any required permits, including U.S. Coast Guard, U.S. Army Corps of Engineers, Wetlands (including identification and delineation of wetlands), SPDES, NYSDOT Highway Work Permits, and any permits or other approvals required to comply with local laws, such as zoning ordinances, historic districts, tax assessment and special districts.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
16. Prepare and execute any required agreements, including: <ul style="list-style-type: none"> - Railroad force account - Maintenance agreements for sidewalks, lighting, signals, betterments - Betterment Agreements - Utility Work Agreements for any necessary Utility Relocations of Privately owned Utilities 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
17. Provide overall supervision/oversight of design to assure conformity with Federal and State design standards or conditions, including final approval of PS&E (Contract Bid Documents) by NYSDOT.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

A2. Right-of-Way (ROW) Incidentals

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
1. Prepare ARM or other mapping, showing preliminary taking lines.	<input type="checkbox"/>	<input type="checkbox"/>
2. ROW mapping and any necessary ROW relocation plans.	<input type="checkbox"/>	<input type="checkbox"/>
3. Obtain abstracts of title and certify those having an interest in ROW to be acquired.	<input type="checkbox"/>	<input type="checkbox"/>
4. Secure Appraisals.	<input type="checkbox"/>	<input type="checkbox"/>
5. Perform Appraisal Review and establish an amount representing just compensation.	<input type="checkbox"/>	<input type="checkbox"/>

- | <u>Phase/Sub-phase/Task</u> | <u>Responsibility: NYSDOT Sponsor</u> | |
|---|---------------------------------------|--------------------------|
| 6. Determination of exemption from public hearing that is otherwise required by the Eminent Domain Procedure Law, including <i>de minimis</i> determination, as may be applicable. If NYSDOT is responsible for acquiring the right-of-way, this determination may be performed by NYSDOT only if NYSDOT is responsible for the Preliminary Engineering Phase under Phase A1 of this Schedule B. | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Conduct any public hearings and/or informational meetings as may be required by the Eminent Domain Procedures Law, including the provision of stenographic services, preparation and distribution of transcripts, and response to issues raised at such meetings. | <input type="checkbox"/> | <input type="checkbox"/> |

B. Right-of-Way (ROW) Acquisition

- | <u>Phase/Sub-phase/Task</u> | <u>Responsibility: NYSDOT Sponsor</u> | |
|---|---------------------------------------|--------------------------|
| 1. Perform all Right-of-Way (ROW) Acquisition work, including negotiations with property owners, acquisition of properties and accompanying legal work, payments to and/or deposits on behalf of property owners; Prepare, publish, and pay for any required legal notices; and all other actions necessary to secure title to, possession of, and entry to required properties. If NYSDOT is to acquire property, including property described as an uneconomic remainder, on behalf of the Municipality/Sponsor, the Municipality/Sponsor agrees to accept and take title to any and all permanent property rights so acquired which form a part of the completed Project. | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Provide required relocation assistance, including payment of moving expenses, replacement supplements, mortgage interest differentials, closing costs, mortgage prepayment fees. | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Conduct eminent domain proceedings, court and any other legal actions required to acquire properties. | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Monitor all ROW Acquisition work and activities, including review and processing of payments of property owners. | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Provide official certification that all right-of-way required for the construction has been acquired in compliance with applicable Federal, State or Local requirements and is available for use and/or making projections of when such property(ies) will be available if such properties are not in hand at the time of contract award. | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Conduct any property management activities, including establishment and collecting rents, building maintenance and repairs, and any other activities necessary to sustain properties and/or tenants until the sites are vacated, demolished, or otherwise used for the construction project. | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Subsequent to completion of the Project, conduct ongoing property management activities in a manner consistent with applicable Federal, State and Local requirements including, as applicable, the development of any ancillary uses, establishment and collection of rent, property maintenance and any other related activities. | <input type="checkbox"/> | <input type="checkbox"/> |

C. Construction, Construction Support (C/S) and Construction Inspection (C/I) Phase

<u>Phase/Sub-phase/Task</u>	Responsibility: <u>NYSDOT</u> <u>Sponsor</u>	
1. Advertise contract lettings and distribute contract documents to prospective bidders.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Conduct all contract lettings, including receipt, opening, and analysis of bids, evaluation/certification of bidders, notification of rejected bids/bidders, and awarding of the construction contract(s).	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Receive and process bid deposits and verify any bidder's insurance and bond coverage that may be required.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Compile and submit Contract Award Documentation Package.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. Review/approve any proposed subcontractors, vendors, or suppliers.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Conduct and control all construction activities in accordance with the plans and proposal for the project. Maintain accurate, up-to-date project records and files, including all diaries and logs, to provide a detailed chronology of project construction activities. Procure or provide all materials, supplies and labor for the performance of the work on the project, and insure that the proper materials, equipment, human resources, methods and procedures are used.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7a. For non-NHS or non-State Highway System Projects: Test and accept materials, including review and approval for any requests for substitutions.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7b. For NHS or State Highway System Projects: Inspection and approval of materials such as bituminous concrete, Portland cement concrete, structural steel, concrete structural elements and/or their components to be used in a federal aid project will be performed by, and according to the requirements of NYSDOT. The Municipality/Sponsor shall make or require provision for such materials inspection in any contract or subcontract that includes materials that are subject to inspection and approval in accordance with the applicable NYSDOT design and construction standards associated with the federal aid project.	<input type="checkbox"/>	<input type="checkbox"/>
7c. For projects that fall under both 7a and 7b above, check boxes for each.		
8. Design and/or re-design the project or any portion of the project that may be required because of conditions encountered during construction.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
9. Administer construction contract, including the review and approval of all contactor requests for payment, orders-on-contract, force account work, extensions of time, exceptions to the plans and specifications, substitutions or equivalents, and special specifications.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
10. Review and approve all shop drawings, fabrication details, and other details of structural work.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
11. Administer all construction contract claims, disputes or litigation.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Phase/Sub-phase/Task

Responsibility: NYSDOT Sponsor

12. Perform final inspection of the complete work to determine and verify final quantities, prices, and compliance with plans specifications, and such other construction engineering supervision and inspection work necessary to conform to Municipal, State and FHWA requirements, including the final acceptance of the project by NYSDOT.
13. Pursuant to Federal Regulation 49 CFR 18.42(e)(1) The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.

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

September 24, 2018

FN 20 19-372

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

PUBLIC WORKS

WAYS & MEANS

Dear County Executive Picente,

The enclosed grant agreement funds the preliminary engineering and design services needed to replace the Horton Road Bridge over Big Woodhull Creek in the Town of Forestport.

Replacement of the Horton Road Bridge over Big Woodhull Creek in the Town of Forestport has been added to the State Transportation Improvement Plan. Eligible project expenditures qualify for 80% Federal aid and 15% State aid. The 5% remaining is paid by local funds. The subject bridge is owned by the Town of Forestport.

New York State Department of Transportation rules and regulations for Locally Administered Federal Aid Projects apply. Due to the complexity of these rules and regulations, it is very difficult for local municipalities to complete projects within budget and schedule constraints. Oneida County has the experience, expertise, and financial flexibility required to successfully complete Locally Administered Federal Aid Projects. Therefore, Oneida County has agreed to act as project sponsor. An Inter-municipal agreement between Oneida County and the Town of Forestport has been executed establishing the Town's responsibility for 100% of any local and/or unfunded expense.

The enclosed Federal aid Local Project Agreement will allow Oneida County to be reimbursed up to \$154,400.00 in Federal and State Marcheselli funds for preliminary engineering and design services as eligible expenditures are made per Schedule A of the agreement. The Town of Forestport would be responsible for the local matching share, currently estimated to be \$8,600.00. The total cost of this phase of engineering is \$163,000.00.

If acceptable, please forward the enclosed Federal aid Local Project Agreement to the Oneida County Board of Legislators for consideration.

Thank you for your continued support.

Sincerely,

Dennis S. Davis
Commissioner

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

Anthony J. Picente, Jr.
County Executive

Date 10-1-18

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

Oneida Co. Department: Public Works

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

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: New York State Department of Transportation
50 Wolf Road
Albany, NY 12232

Title of Activity or Service: Grant

Proposed Dates of Operation: Start on Execution – 09/30/2022

Client Population/Number to be Served: N/A

Summary Statements

1) Narrative Description of Proposed Services:

The enclosed grant agreement funds the preliminary engineering and design services needed to replace the Horton Road Bridge over Big Woodhull Creek in the Town of Forestport.

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The enclosed Federal aid Local Project Agreement will allow Oneida County to be reimbursed up to \$154,400.00 in Federal and State Marcheselli funds for preliminary engineering and design services as eligible expenditures are made per Schedule A of the agreement. The Town of Forestport would be responsible for the local matching share, currently estimated to be \$8,600.00. The total cost of this phase of engineering is \$163,000.00.

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

3) Program Design and Staffing: N/A

4) Funding

	Account #:	H569
	Total Funding Requested:	\$163,000.00
	Oneida County Dept. Funding Recommendation:	\$163,000.00
Proposed Funding Sources	Federal:	\$130,400.00
	New York State:	\$24,000.00
	County:	\$0.00
	Town of Forestport:	\$8,600.00

Past Performance Data: N/A

O.C. Department Staff Comments: None

MUNICIPALITY/SPONSOR: **Oneida County**
PROJECT ID NUMBER: **2754.43** BIN: **2205730**
CFDA NUMBER: **20.205**
PHASE: PER SCHEDULES A

Federal aid Local Project Agreement

COMPTROLLER'S CONTRACT NO **D035951**

This Agreement is by and between:

the New York State Department of Transportation ("NYSDOT"), having its principal office at 50 Wolf Road, Albany, NY 12232, on behalf of New York State ("State");

and

the **County of Oneida** (the "Municipality/Sponsor")
acting by and through **Chairman, Board of Supervisors**
with its office at **800 Park Avenue, Utica 13501**.

This Agreement covers eligible costs incurred on or after **7/18/2018**.

This Agreement identifies the party responsible for administration and establishes the method or provision for funding of applicable phases of a Federal aid project for the improvement of a street or highway, not on the State highway system, as such project and phases are more fully described by Schedule A annexed to this Agreement or one or more Supplemental Schedule(s) A to this Agreement as duly executed and approved by the parties hereto. The phases that are potentially the subject of this Agreement, as further enumerated below, are: Preliminary Engineering ("PE") and Right-of-Way Incidental ("ROW Incidentals") work; Right-of-Way Acquisition; Construction; and/or Construction Supervision and Inspection. The Federal aid project shall be identified for the purposes of this Agreement as **Horton Road over Big Woodhull Creek (BIN2205730) Bridge Replacement, Town of Forestport, Oneida County** (as more specifically described in such Schedule A, the "Project").

WITNESSETH:

WHEREAS, the United States has provided for the apportionment of Federal aid funds to the State for the purpose of carrying out Federal aid highway projects pursuant to the appropriate sections of Title 23 U.S. Code as administered by the Federal Highway Administration ("FHWA"); and

WHEREAS, the New York State Highway Law authorizes the Commissioner of Transportation (hereinafter referred to as "Commissioner") to use Federal aid available under the Federal aid highway acts and provides for the consent to and approval by the Municipality/Sponsor of any project under the Federal aid highway program which is not on the State highway system before such Project is commenced; and

WHEREAS, pursuant to Highway Law §10(34-a) and section 15 of Chapter 329 of the Laws of 1991 as amended by section 9 of Chapter 330 of the Laws of 1991, as further amended by Chapter 57 of the Laws of New York of 2014, the State has established the "Marchiselli" Program, which provides certain State-aid for Federal aid highway projects not on the State highway system; and

WHEREAS, funding of the "State share" of projects under the Marchiselli Program is administered through the New York State Office of the Comptroller ("State Comptroller"); and

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PROJECT ID NUMBER: **2754.43** BIN: **2205730**
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WHEREAS, Highway Law §80-b authorizes the funding of eligible costs of Federal aid Municipal/Sponsor streets and highway projects using State-aid and Federal aid; and

WHEREAS, project eligibility for Marchiselli Program funds is determined by NYSDOT; and

WHEREAS, pursuant to authorizations therefore, NYSDOT and the Municipality/Sponsor are desirous of progressing the Project under the Federal aid and, if applicable, Marchiselli-aid Programs; and

WHEREAS, The Legislative Body of the Municipality/Sponsor by Resolution No. _____ adopted at meeting held on _____ approved the Project, the Municipality/Sponsor's entry into this Agreement, has appropriated necessary funds in connection with any applicable Municipal/Sponsor Deposit identified in applicable Schedules A and has further authorized the **County Executive** of the Municipality/Sponsor to execute this Agreement and the applicable Schedule A on behalf of the Municipality/Sponsor and a copy of such Resolution is attached to and made a part of this Agreement (where New York City is the Municipality/Sponsor, such resolution is not required).

NOW, THEREFORE, the parties agree as follows:

1. *Documents Forming this Agreement.* The Agreement consists of the following:

- Agreement Form - this document titled "Federal aid Local Project Agreement";
- Schedule "A" - Description of Project Phase, Funding and Deposit Requirements;
- Schedule "B" - Phases, Subphase/Tasks, and Allocation of Responsibility
- Appendix "A" - New York State Required Contract Provisions
- Appendix "A-1" - Supplemental Title VI Provisions (Civil Rights Act)
- Appendix "B" - U.S. Government Required Clauses (Only required for agreements with federal funding)
- Municipal/Sponsor Resolution(s) - duly adopted Municipal/Sponsor resolution authorizing the appropriate Municipal/Sponsor official to execute this Agreement on behalf of the Municipality/Sponsor and appropriating the funding required therefore. (Where New York City is the Municipality/Sponsor, such resolution is not required).

***Note – Resolutions for Bridge NY projects must also include an express commitment by the Municipality/Sponsor that construction shall commence no later than twenty-four (24) months after award, and the project must be completed within thirty (30) months of commencing construction.**

2. *General Description of Work and Responsibility for Administration and Performance.* Subject to the allocations of responsibility for administration and performance thereof as shown in Schedule B (attached), the work of the Project may consist generally of the categories of work marked and described in Schedule B for the scope and phase in effect according to Schedule A or one or more Supplemental Schedule(s) A as may hereafter be executed and approved by the parties hereto as required for a State contract, and any additions or deletions made thereto by NYSDOT subsequent to the development of such Schedule(s) A for the purposes of conforming to New York State or to Federal Highway Administration requirements.

The Municipality/Sponsor understands that funding is contingent upon the Municipality/Sponsor's compliance with the applicable requirements of the "Procedures for Locally Administered Federal Aid Projects" (available through NYSDOT's web site at <https://www.dot.ny.gov/plafap>, and as such may be

MUNICIPALITY/SPONSOR: Oneida County
PROJECT ID NUMBER: 2754.43 BIN: 2205730
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amended from time to time.

3. *Municipal/Sponsor Deposit.* Where the work is performed by consultant or construction contract entered into with NYSDOT, or by NYSDOT forces, and unless the total non-Federal share of the Project phase is under \$5,000, the Municipality/Sponsor shall deposit with the State Comptroller, prior to the award of NYSDOT's contract or NYSDOT's performance of work by its own forces, the full amount of the non-Federal share of the Project costs due in accordance with Schedule A.

4. *Payment or Reimbursement of Costs.* For work performed by NYSDOT, NYSDOT will directly apply Federal aid and the required Municipality/Sponsor Deposit for the non-Federally aided portion, and, if applicable, shall request State Comptroller funding of Marchiselli aid to the Municipality/Sponsor as described below. For work performed by or through the Municipality/Sponsor, NYSDOT will reimburse the Municipality/Sponsor with Federal aid and, if applicable, Marchiselli aid as described below. NYSDOT will periodically make reimbursements upon request and certification by the Sponsor. The frequency of reimbursement requests must be in conformance with that stipulated in the NYSDOT Standard Specifications; Construction and Materials (section 109-06, Contract Payments). NYSDOT recommends that reimbursement requests not be submitted more frequently than monthly for a typical project. In all cases, reimbursement requests must be submitted at least once every six months.

4.1 *Federal aid.* NYSDOT will administer Federal funds for the benefit of the Municipality/Sponsor for the Federal share and will fund the applicable percentage designated in Schedule A of Federal aid participating costs incurred in connection with the work covered by this Agreement, subject to the limitations set forth on Schedule A. For work performed by or through the Municipality/Sponsor, NYSDOT will reimburse Federal aid-eligible expenditures in accordance with NYSDOT policy and procedures.

4.1.1 *Participating Items.* NYSDOT shall apply Federal funds only for that work and those items that are eligible for Federal participation under Title 23 of U.S. Code, as amended, that requires Federal aid eligible projects to be located on the Federal Aid Highway System ("FAHS"), except for bridge and safety projects which can be located off the FAHS. Included among the Federal participating items are the actual cost of employee personal services, and leave and fringe benefit additives. Other participating costs include materials and supplies, equipment use charges or other Federal Participating costs directly identifiable with the eligible project.

4.2 *Marchiselli Aid (if applicable).* NYSDOT will request State Comptroller reimbursement to the Municipality of the upset amount and designated percentage in Schedule A of the non-overmatched non-Federal share of Federal participating cost, (the "State share"), incurred in connection with the work covered by this Agreement, subject to the limitations set forth on Schedule A. Not all Federal aid-eligible participating costs are eligible for Marchiselli aid. Only "Eligible Project Costs" (as defined in Marchiselli Program instructions issued by NYSDOT) incurred after April 1, 1991 are reimbursable.

4.2.1 *Marchiselli Eligible Project Costs.* To be eligible for Marchiselli Aid, Project costs must: (a) be eligible for Federal participation as described under 4.1 above; (b) be for work which, when completed, has a certifiable service life of at least 10 years; (c) be for work that relates directly and exclusively to a municipally-owned highway, bridge or highway-railroad crossing located off the State Highway System; and (d) be submitted for reimbursement in accordance with 4.2.2.

4.2.2 *Marchiselli Reimbursement Requests.* A Sponsor's reimbursement requests are

MUNICIPALITY/SPONSOR: **Oneida County**

PROJECT ID NUMBER: **2754.43** BIN: **2205730**

CFDA NUMBER: **20.205**

PHASE: PER SCHEDULES A

restricted to eligible project costs. To be classified as an "eligible project cost", in addition to other requirements of this agreement, the original expenditure must have been paid within the past 15 months in order to comply with Federal Tax Law (26 CFR 1.150-2 (d)(2)(i)) which governs fund disbursements from the issuance of tax-exempt bonds. Hence, expenditures paid greater than 15 months prior to the reimbursement request are ineligible for reimbursement.

4.2.3 *Marchiselli Extended Records Retention Requirements.*

4.2.3.1 To ensure that NYSDOT meets certain requirements under the Code of Federal Regulations, Part 26, and to ensure that NYSDOT may authorize the use of funds for this project, notwithstanding any other provision of this Contract to the contrary, the Sponsor must retain the following documents in connection with the Projects:

- a) Documents evidencing the specific assets financed with such proceeds, including but not limited to project costs, and documents evidencing the use and ownership of the property financed with proceeds of the bonds; and
- b) Documents, if any, evidencing the sale or other disposition of the financed property.

4.2.3.2 The Sponsor covenants to retain those records described above, which are used by the Sponsor in connection with the administration of this Program, for thirty-six (36) years after the date of NYSDOT's final payment of the eligible project cost(s).

4.2.3.3 Failure to maintain such records in a manner that ensures complete access thereto, for the period described above, shall constitute a material breach of the contract and may, at the discretion of NYSDOT, result in loss of funds allocated, or the Sponsor's repayment of funds distributed, to the Sponsor under this agreement.

4.3 In no event shall this Agreement create any obligation to the Municipality/Sponsor for funding or reimbursement of any amount in excess of:

- (a) the amount stated in Schedule A for the Federal Share; or
- (b) the amount stated in Schedule A as the State (Marchiselli) share.

4.4 All items included by the Municipality/Sponsor in the record of costs shall be in conformity with accounting procedures acceptable to NYSDOT and the FHWA. Such items shall be subject to audit by the State, the federal government or their representatives.

4.5 If Project-related work is performed by NYSDOT, NYSDOT will be paid for the full costs thereof. To effect such payment, the reimbursement to the Municipality/Sponsor provided for in sections 4.1 and 4.2 above may be reduced by NYSDOT by the amounts thereof in excess of the Municipality/Sponsor Deposit available for such payment to NYSDOT.

MUNICIPALITY/SPONSOR: Oneida County
PROJECT ID NUMBER: 2754.43 BIN: 2205730
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5. *Supplemental Agreements and Supplemental Schedule(s) A.* Supplemental Agreements or Supplemental Schedule(s) A may be entered into by the parties, and must be executed and approved in the manner required for a State contract. A Supplemental Schedule A is defined as a Supplemental Agreement which revises only the Schedule A of a prior Agreement or Supplemental Agreement. In the event Project cost estimates increase over the amounts provided for in Schedule A, no additional reimbursement shall be due to the Municipality/Sponsor unless the parties enter into a Supplemental Agreement or Supplemental Schedule A for reimbursement of additional Eligible Project Costs.
6. *State Recovery of Ineligible Reimbursements.* NYSDOT shall be entitled to recover from the Municipality/Sponsor any monies paid to the Municipality/Sponsor pursuant to this Agreement which are subsequently determined to be ineligible for Federal aid or Marchiselli Aid hereunder.
7. *Loss of Federal Participation.* In the event the Municipality/Sponsor withdraws its approval of the project, suspends or delays work on the Project or takes other action that results in the loss of Federal participation for the costs incurred pursuant to this Agreement, the Municipality/Sponsor shall refund to the State all reimbursements received from the State, and shall reimburse the State for 100% of all preliminary engineering and right-of-way incidental costs incurred by NYSDOT. The State may offset any other State or Federal aid due to the Municipality/Sponsor by such amount and apply such offset to satisfy such refund.
8. *Municipal/Sponsor Liability.*
- 8.1 If the Municipality/Sponsor performs work under this Agreement with its own forces, it shall be responsible for all damage to person or property arising from any act or negligence performed by or on behalf of the Municipality/Sponsor, its officers, agents, servants or employees, contractors, subcontractors or others in connection therewith. The Municipality/Sponsor specifically agrees that its agents or employees shall possess the experience, knowledge and character necessary to qualify them individually for the particular duties they perform.
- 8.2 The Municipality/Sponsor shall indemnify and save harmless the State for all damages and costs arising out of any claims, suits, actions, or proceedings resulting from the negligent performance of work by or on behalf of the Municipality/Sponsor its officers, agents, servants, employees, contractors, subcontractors or others under this Agreement. Negligent performance of service, within the meaning of this section, shall include, in addition to negligence founded upon tort, negligence based upon the Municipality/Sponsor's failure to meet professional standards and resulting in obvious or patent errors in the progression of its work. Additionally, the Municipality/Sponsor shall defend the State in any action arising out of any claims, suits, actions, or proceedings resulting from the negligent performance of work by or on behalf of the Municipality/Sponsor, its officers, agents, servants, employees, contractors, subcontractors or others under this Agreement.
- 8.3 The Municipality/Sponsor shall at all times during the Contract term remain responsible. The Municipality/Sponsor agrees, if requested by the Commissioner of Transportation 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.
- 8.4 The Commissioner of Transportation 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 Municipality/Sponsor. In the

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event of such suspension, the Municipality/Sponsor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Municipality/Sponsor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of Transportation or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

8.5 Upon written notice to the Municipality/Sponsor, and a reasonable opportunity to be heard with appropriate Department of Transportation officials or staff, the Contract may be terminated by the Commissioner of Transportation or his or her designee at the Municipality's/Sponsor's expense where the Municipality/Sponsor is determined by the Commissioner of Transportation or his or her designee to be non-responsible. In such event, the Commissioner of Transportation 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.

9. *Maintenance.* The Municipality/Sponsor shall be responsible for the maintenance of the project at the sole cost and expense of the Municipality/Sponsor. If the Municipality/Sponsor intends to have the project maintained by another, any necessary maintenance agreement will be executed and submitted to NYSDOT before construction of the Project is begun. Upon its completion, the Municipality/Sponsor will operate and maintain the Project at no expense to NYSDOT; and during the useful life of the Project, the Municipality/Sponsor shall not discontinue operation and maintenance of the Project, nor dispose of the Project, unless it receives prior written approval to do so from NYSDOT.

9.1 The Municipality/Sponsor may request such approved disposition from NYSDOT where the Municipality/Sponsor either causes the purchaser or transferee to assume the Municipality/Sponsor's continuing obligations under this Agreement, or agrees immediately to reimburse NYSDOT for the pro-rata share of the funds received for the project, plus any direct costs incurred by NYSDOT, over the remaining useful life of the Project.

9.2 If a Municipality/Sponsor fails to obtain prior written approval from NYSDOT before discontinuing operation and maintenance of the Project or before disposing of the project, in addition to the costs provided, above in 9.1, Municipality/Sponsor shall be liable for liquidated damages for indirect costs incurred by NYSDOT in the amount of 5% of the total Federal and non-Federal funding provided through NYSDOT.

9.3 For NYSDOT-administered projects, NYSDOT is responsible for maintenance only during the NYSDOT administered construction phase. Upon completion of the construction phase, the Municipality/Sponsor's maintenance obligations start or resume.

10. *Independent Contractor.* The officers and employees of the Municipality/Sponsor, in accordance with the status of the Municipality/Sponsor as an independent contractor, covenant and agree that they will conduct themselves consistent with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the State by reason hereof, and that they will not by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the State, including, but not limited to, Workers Compensation coverage, Unemployment Insurance benefits, Social Security or Retirement membership or credit.

11. *Contract Executory; Required Federal Authorization.* It is understood by and between the parties hereto that this Agreement shall be deemed executory only to the extent of the monies available to the State and no liability on account thereof shall be incurred by the State beyond monies available for the

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purposes hereof. No phase of work for the project shall be commenced unless and until NYSDOT receives authorization from the Federal government.

12. *Assignment or Other Disposition of Agreement.* The Municipality/Sponsor agrees not to assign, transfer, convey, sublet or otherwise dispose of this Agreement or any part thereof, or of its right, title or interest therein, or its power to execute such Agreement to any person, company or corporation without previous consent in writing of the Commissioner.

13. *Term of Agreement.* As to the Project and phase(s) described in the Schedule A executed herewith, the term of this Agreement shall begin on the date of this Agreement as first above written. This Agreement shall remain in effect so long as Federal aid and Marchiselli-aid funding authorizations are in effect and funds are made available pursuant to the laws controlling such authorizations and availabilities. However, if such authorizations or availabilities lapse and are not renewed, continued or reenacted, as to funds encumbered or available and to the extent of such encumbrances or availabilities, this Agreement shall remain in effect for the duration of such encumbrances or availabilities. Although the liquidity of encumbrances or the availability of funds may be affected by budgetary hiatuses, a Federal or State budgetary hiatus will not by itself be construed to cause a lapse in this Agreement provided any necessary Federal or State appropriations or other funding authorizations therefore are eventually enacted.

13.1 *Time is of the essence (Bridge NY Projects).* The Municipality/Sponsor understands and agrees that construction of Bridge NY Projects shall commence no later than twenty-four (24) months after award, and the project must be completed within thirty (30) months of commencing construction.

14. *NYSDOT Obligations.* NYSDOT's responsibilities and obligations are as specifically set forth in this contract, and neither NYSDOT nor any of its officers or employees shall be responsible or liable, nor shall the Municipality/Sponsor assert, make or join in any claim or demand against NYSDOT, its officers or employees, for any damages or other relief based on any alleged failure of NYSDOT, its officers or employees, to undertake or perform any act, or for undertaking or performing any act, which is not specifically required or prohibited by this Agreement.

15. *Offset Rights.* In addition to any and all set-off rights provided to the State in the attached and incorporated Appendix A, Standard Clauses for New York Contracts, NYSDOT shall be entitled to recover and offset from the Municipality/Sponsor any ineligible reimbursements and any direct or indirect costs to the State as to paragraph 6 above, as well as any direct or indirect costs incurred by the State for any breach of the term of this agreement, including, but not limited to, the useful life requirements in paragraph 9 above. At its sole discretion NYSDOT shall have the option to permanently withhold and offset such direct and indirect cost against any monies due to the Municipality/Sponsor from the State of New York for any other reason, from any other source, including but not limited to, any other Federal or State Local Project Funding, and/or any Consolidated Highway and Local Street Improvement Program (CHIPS) funds

16. *Reporting Requirements.* The Municipality/Sponsor agrees to comply with and submit to NYSDOT in a timely manner all applicable reports required under the provisions of this Agreement and the Procedures for Locally Administered Federal aid Projects manual and in accordance with current Federal and State laws, rules, and regulations.

17. *Notice Requirements.*

17.1 All notices permitted or required hereunder shall be in writing and shall be transmitted:

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- (a) Via 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.

Such notices shall be address as follows or to such different addresses as the parties may from time-to-time designate:

New York State Department of Transportation (NYSDOT)

Name: **Jim McLaughlin**
Title: **Project Manager**

Address: **Planning and Program Management Group, 13th Floor, Utica State Office Building, 207 Genesee Street, Utica, NY 13501**
Telephone Number: **315-793-2450**
Facsimile Number: **315-793-2719**
E-Mail Address: **Jim.McLaughlin@dot.ny.gov**

[Municipality/Sponsor] Oneida County

Name: **Mr. Mark Laramie**
Title: **Deputy Commissioner of Engineering**
Address: **6000 Airport Road, Oriskany, NY 13424**
Telephone Number: **315-793-6228**
Facsimile Number: **315-768-6299**
E-Mail Address: **mlaramie@ocgov.net**

17.2 Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States Mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt. 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 receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

18. *Electronic Contract Payments.* Municipality/Sponsor shall provide complete and accurate supporting documentation of eligible local expenditures as required by this Agreement, NYSDOT and the State Comptroller. Following NYSDOT approval of such supporting documentation, payment for invoices submitted by the Municipality/Sponsor 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 contracting local Municipality/Sponsor shall comply with the State Comptroller's procedures for all Federal and applicable State Aid to authorize electronic payments. Authorization forms are available on the State Comptroller's website at www.osc.state.ny.us/epay/index.htm or by email at epunit@osc.state.ny.us. When applicable to State

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Marchiselli and other State reimbursement by the State Comptroller, registration forms and instructions can be found at the NYSDOT [Electronic Payment Guidelines](#) website.

The Municipality/Sponsor herein acknowledges that it will not receive payment on any invoices submitted under this agreement if it does not comply with the applicable State Comptroller and/or NYS State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

19. *Compliance with Legal Requirements.* Municipality/Sponsor must comply with all applicable federal, state and local laws, rules and regulations, including but not limited to the following:

19.1 Title 49 of the Code of Federal Regulations Part 26 (49 CFR 26), Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs; Title 23 Code of Federal Regulations Part 230 (23 CFR 230), External Programs; and, Title 41 of the Code of Federal Regulations Part 60 Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, including the requirements thereunder related to utilization goals for contracting opportunities for disadvantaged business enterprises (DBEs) and equal employment opportunity.

19.1.1 If the Municipality/Sponsor fails to monitor and administer contracts funded in whole or in part in accordance with Federal requirements, the Municipality/Sponsor will not be reimbursed for ineligible activities within the affected contracts. The Municipality/Sponsor must ensure that the prime contractor has a Disadvantaged Business Enterprise (DBE) Utilization Plan and complies with such plan. If, without prior written approval by NYSDOT, the Municipality/Sponsor's contractors and subcontractors fail to complete work for the project as proposed in the DBE Schedule of Utilization, NYSDOT at its discretion may (1) cancel, terminate or suspend this agreement or such portion of this agreement or (2) assess liquidated damages in an amount of up to 20% of the pro rata share of the Municipality/Sponsor's contracts and subcontracts funded in whole or in part by this agreement for which contract goals have been established.

19.2 New York State Environmental Law, Article 6, the State Smart Growth Public Infrastructure Policy Act, including providing true, timely and accurate information relating to the project to ensure compliance with the Act.

19.3 28 CFR 35.105, which requires a Municipality/Sponsor employing 50 or more persons to prepare a Transition Plan addressing compliance with the Americans with Disabilities Act (ADA).

20. *Compliance with Procedural Requirements.* The Municipality/Sponsor understands that funding is contingent upon the Municipality/Sponsor's compliance with the applicable requirements of the Procedures for Locally Administered Federal Aid Projects (PLAFAP) manual, which, as such, may be amended from time to time. Locally administered Federal aid transportation projects must be constructed in accordance with the current version of NYSDOT Standard Specifications; Construction and Materials, including any and all modifications to the Standard Specifications issued by the Engineering Information Issuance System, and NYSDOT-approved Special Specifications for general use. (Cities with a population of 3 million or more may pursue approval of their own construction specifications and procedures on a project by project basis).

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officials as of the date first above written.

MUNICIPALITY/SPONSOR:

MUNICIPALITY/SPONSOR ATTORNEY:

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

STATE OF NEW YORK)
)ss.:
COUNTY OF)

On this _____ day of _____, 20__ before me personally came _____ to me known, who, being by me duly sworn did depose and say that he/she resides at _____; that he/she is the _____ of the Municipal/Sponsor Corporation described in and which executed the above instrument; (except New York City) that it was executed by order of the _____ of said Municipal/Sponsor Corporation pursuant to a resolution which was duly adopted on _____ and which a certified copy is attached and made a part hereof; and that he/she signed his name thereto by like order.

Notary Public

APPROVED FOR NYSDOT:

**APPROVED AS TO FORM:
STATE OF NEW YORK ATTORNEY GENERAL**

By: _____
For Commissioner of Transportation

By: _____
Assistant Attorney General

Agency Certification: In addition to the acceptance of this contract I also certify that original copies of this signature page will be attached to all other exact copies of this contract.

COMPTROLLER'S APPROVAL:

Date: _____

By: _____
For the New York State Comptroller
Pursuant to State Finance Law §112

SCHEDULE A – Description of Project Phase, Funding and Deposit Requirements
NYS DOT/ State-Local Agreement - Schedule A for PIN 2754.43

OSC Municipal Contract #: D035951	Contract Start Date: 7/18/2018 _(mm/dd/yyyy)	Contract End Date: 9/30/2022 _(mm/dd/yyyy) <input type="checkbox"/> Check, if date changed from the last Schedule A
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Purpose: Original Standard Agreement Supplemental Schedule A No.

Agreement Type: Locally Administered Municipality/Sponsor (Contract Payee): County of Oneida
 State Administered Other Municipality/Sponsor (if applicable):

State Administered *List participating Municipality(ies) and the % of cost share for each and indicate by checkbox which Municipality this Schedule A applies.*

<input type="checkbox"/> Municipality:	% of Cost share
<input type="checkbox"/> Municipality:	% of Cost share
<input type="checkbox"/> Municipality:	% of Cost share

Authorized Project Phase(s) to which this Schedule applies: PE/Design ROW Incidentals
 ROW Acquisition Construction/CI/CS

Work Type: BR REPLACE **County (If different from Municipality):**

Marchiselli Eligible Yes No *(Check, if Project Description has changed from last Schedule A):*
Project Description: HORTON ROAD OVER BIG WOODHULL CREEK BIN 2205730, TOWN OF FORESTPORT, ONEIDA COUNTY. BRIDGE REPLACEMENT (STRUCTURAL) PROJECT.

Marchiselli Allocations Approved FOR ALL PHASES *All totals will calculate automatically.*

<i>Check box to indicate change from last Schedule A</i>	State Fiscal Year(s)	Project Phase			TOTAL
		PE/Design	ROW (RI & RA)	Construction/CI/CS	
<input type="checkbox"/>	Cumulative total for all prior SFYs	\$0.00	\$0.00	\$0.00	\$ 0.00
<input type="checkbox"/>	Current SFY 18/19	\$24,000.00	\$750.00	\$0.00	\$24,750.00
Authorized Allocations to Date		\$24,000.00	\$ 750.00	\$ 0.00	\$24,750.00

A. Summary of allocated MARCHISELLI Program Costs FOR ALL PHASES *For each PIN Fiscal Share below, show current costs on the rows indicated as "Current." Show the old costs from the previous Schedule A on the row indicated as "Old." All totals will calculate automatically.*

PIN Fiscal Share	"Current" or "Old" entry indicator	Federal Funding	Total Costs	FEDERAL Participating Share	STATE MARCHISELLI Match	LOCAL Matching Share	LOCAL DEPOSIT AMOUNT (Required only if State Administered)
2754.43.121	Current	STP	\$160,000.00	\$128,000.00	\$24,000.00	\$8,000.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$	\$0.00	\$0.00	\$0.00
TOTAL CURRENT COSTS:			\$160,000.00	\$128,000.00	\$24,000.00	\$8,000.00	\$ 0.00

NYS DOT/State-Local Agreement – Schedule A

B. Summary of Other (including Non-allocated MARCHISELLI) Participating Costs FOR ALL PHASES For each PIN Fiscal Share, show current costs on the rows indicated as "Current." Show the old costs from the previous Schedule A on the row indicated as "Old." All totals will calculate automatically.

Other PIN Fiscal Shares	'Current' or 'Old' entry indicator	Funding Source	TOTAL	Other FEDERAL	Other STATE	Other LOCAL
2754.43.122	Current	STP	\$3,000.00	\$2,400.00	\$0.00	\$600.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
TOTAL CURRENT COSTS:			\$3,000.00	\$2,400.00	\$ 0.00	\$ 600.00

C. Local Deposit(s) from Section A:	\$ 0.00
Additional Local Deposit(s)	\$
Total Local Deposit(s)	\$ 0.00

D. Total Project Costs All totals will calculate automatically.

Total FEDERAL Cost	Total STATE MARCHISELLI Cost	Total OTHER STATE Cost	Total LOCAL Cost	Total ALL SOURCES Cost
\$130,400.00	\$24,000.00	\$ 0.00	\$8,600.00	\$163,000.00

E. Point of Contact for Questions Regarding this Schedule A (Must be completed)	Name: <u>Jim McLaughlin</u> Phone No: <u>315-793-2450</u>
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See Agreement (or Supplemental Agreement Cover) for required contract signatures.



SCHEDULE B: Phases, Sub-phase/Tasks, and Allocation of Responsibility

Instructions: Identify the responsibility for each applicable Sub-phase task by entering X in either the *NYSDOT* column to allocate the task to State labor forces or a State Contract, or in the *Sponsor* column indicating non-State labor forces or a locally administered contract.

A1. Preliminary Engineering ("PE") Phase

<u>Phase/Sub-phase/Task</u>	Responsibility: <u>NYSDOT</u> <u>Sponsor</u>	
1. <u>Scoping</u> : Prepare and distribute all required project reports, including an Expanded Project Proposal (EPP) or Scoping Summary Memorandum (SSM), as appropriate.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Perform data collection and analysis for design, including traffic counts and forecasts, accident data, Smart Growth checklist, land use and development analysis and forecasts.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Smart Growth Attestation (NYSDOT ONLY).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. <u>Preliminary Design</u> : Prepare and distribute Design Report/Design Approval Document (DAD), including environmental analysis/assessments, and other reports required to demonstrate the completion of specific design sub-phases or tasks and/or to secure the approval/authorization to proceed.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. Review and Circulate all project reports, plans, and other project data to obtain the necessary review, approval, and/or other input and actions required of other NYSDOT units and external agencies.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Obtain aerial photography and photogrammetric mapping.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7. Perform all surveys for mapping and design.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8. <u>Detailed Design</u> : Perform all project design, including preparation of plan sheets, cross-sections, profiles, detail sheets, specialty items, shop drawings, and other items required in accordance with the Highway Design Manual, including all Highway Design, including pavement evaluations, including taking and analyzing cores; design of Pavement mixes and applications procedures; preparation of bridge site data package, if necessary, and all Structural Design, including hydraulic analyses, if necessary, foundation design, and all design of highway appurtenances and systems [e.g., Signals, Intelligent Transportation System (ITS) facilities], and maintenance protection of traffic plans. Federal Railroad Administration (FRA) criteria will apply to rail work.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
9. Perform landscape design (including erosion control).	<input type="checkbox"/>	<input checked="" type="checkbox"/>
10. Design environmental mitigation, where appropriate, in connection with: Noise readings, projections, air quality monitoring, emissions projections, hazardous waste, asbestos, determination of need of cultural resources survey.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
11. Prepare demolition contracts, utility relocation plans/contracts, and any other plans and/or contract documents required to advance, separate, any portions of the project which may be more appropriately progressed separately and independently.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12. Compile PS&E package, including all plans, proposals, specifications, estimates, notes, special contract requirements, and any other contract documents necessary to advance the project to construction.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
13. Conduct any required soils and other geological investigations.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
14. Obtain utility information, including identifying the locations and types of utilities within the project area, the ownership of these utilities, and prepare utility relocations plans and agreements, including completion of Form HC-140, titled Preliminary Utility Work Agreement.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
15. Determine the need and apply for any required permits, including U.S. Coast Guard, U.S. Army Corps of Engineers, Wetlands (including identification and delineation of wetlands), SPDES, NYSDOT Highway Work Permits, and any permits or other approvals required to comply with local laws, such as zoning ordinances, historic districts, tax assessment and special districts.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
16. Prepare and execute any required agreements, including: <ul style="list-style-type: none"> - Railroad force account - Maintenance agreements for sidewalks, lighting, signals, betterments - Betterment Agreements - Utility Work Agreements for any necessary Utility Relocations of Privately owned Utilities 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
17. Provide overall supervision/oversight of design to assure conformity with Federal and State design standards or conditions, including final approval of PS&E (Contract Bid Documents) by NYSDOT.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

A2. Right-of-Way (ROW) Incidentals

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
1. Prepare ARM or other mapping, showing preliminary taking lines.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. ROW mapping and any necessary ROW relocation plans.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Obtain abstracts of title and certify those having an interest in ROW to be acquired.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Secure Appraisals.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Perform Appraisal Review and establish an amount representing just compensation.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Phase/Sub-phase/Task

Responsibility: NYSDOT Sponsor

- | | | |
|---|-------------------------------------|-------------------------------------|
| 6. Determination of exemption from public hearing that is otherwise required by the Eminent Domain Procedure Law, including <i>de minimis</i> determination, as may be applicable. If NYSDOT is responsible for acquiring the right-of-way, this determination may be performed by NYSDOT only if NYSDOT is responsible for the Preliminary Engineering Phase under Phase A1 of this Schedule B. | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 7. Conduct any public hearings and/or informational meetings as may be required by the Eminent Domain Procedures Law, including the provision of stenographic services, preparation and distribution of transcripts, and response to issues raised at such meetings. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

B. Right-of-Way (ROW) Acquisition

Phase/Sub-phase/Task

Responsibility: NYSDOT Sponsor

- | | | |
|---|--------------------------|--------------------------|
| 1. Perform all Right-of-Way (ROW) Acquisition work, including negotiations with property owners, acquisition of properties and accompanying legal work, payments to and/or deposits on behalf of property owners; Prepare, publish, and pay for any required legal notices; and all other actions necessary to secure title to, possession of, and entry to required properties. If NYSDOT is to acquire property, including property described as an uneconomic remainder, on behalf of the Municipality/Sponsor, the Municipality/Sponsor agrees to accept and take title to any and all permanent property rights so acquired which form a part of the completed Project. | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Provide required relocation assistance, including payment of moving expenses, replacement supplements, mortgage interest differentials, closing costs, mortgage prepayment fees. | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Conduct eminent domain proceedings, court and any other legal actions required to acquire properties. | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Monitor all ROW Acquisition work and activities, including review and processing of payments of property owners. | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Provide official certification that all right-of-way required for the construction has been acquired in compliance with applicable Federal, State or Local requirements and is available for use and/or making projections of when such property(ies) will be available if such properties are not in hand at the time of contract award. | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Conduct any property management activities, including establishment and collecting rents, building maintenance and repairs, and any other activities necessary to sustain properties and/or tenants until the sites are vacated, demolished, or otherwise used for the construction project. | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Subsequent to completion of the Project, conduct ongoing property management activities in a manner consistent with applicable Federal, State and Local requirements including, as applicable, the development of any ancillary uses, establishment and collection of rent, property maintenance and any other related activities. | <input type="checkbox"/> | <input type="checkbox"/> |

C. Construction, Construction Support (C/S) and Construction Inspection (C/I) Phase

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
1. Advertise contract lettings and distribute contract documents to prospective bidders.	<input type="checkbox"/>	<input type="checkbox"/>
2. Conduct all contract lettings, including receipt, opening, and analysis of bids, evaluation/certification of bidders, notification of rejected bids/bidders, and awarding of the construction contract(s).	<input type="checkbox"/>	<input type="checkbox"/>
3. Receive and process bid deposits and verify any bidder's insurance and bond coverage that may be required.	<input type="checkbox"/>	<input type="checkbox"/>
4. Compile and submit Contract Award Documentation Package.	<input type="checkbox"/>	<input type="checkbox"/>
5. Review/approve any proposed subcontractors, vendors, or suppliers.	<input type="checkbox"/>	<input type="checkbox"/>
6. Conduct and control all construction activities in accordance with the plans and proposal for the project. Maintain accurate, up-to-date project records and files, including all diaries and logs, to provide a detailed chronology of project construction activities. Procure or provide all materials, supplies and labor for the performance of the work on the project, and insure that the proper materials, equipment, human resources, methods and procedures are used.	<input type="checkbox"/>	<input type="checkbox"/>
7a. For non-NHS or non-State Highway System Projects: Test and accept materials, including review and approval for any requests for substitutions.	<input type="checkbox"/>	<input type="checkbox"/>
7b. For NHS or State Highway System Projects: Inspection and approval of materials such as bituminous concrete, Portland cement concrete, structural steel, concrete structural elements and/or their components to be used in a federal aid project will be performed by, and according to the requirements of NYSDOT. The Municipality/Sponsor shall make or require provision for such materials inspection in any contract or subcontract that includes materials that are subject to inspection and approval in accordance with the applicable NYSDOT design and construction standards associated with the federal aid project.	<input type="checkbox"/>	<input type="checkbox"/>
7c. For projects that fall under both 7a and 7b above, check boxes for each.		
8. Design and/or re-design the project or any portion of the project that may be required because of conditions encountered during construction.	<input type="checkbox"/>	<input type="checkbox"/>
9. Administer construction contract, including the review and approval of all contactor requests for payment, orders-on-contract, force account work, extensions of time, exceptions to the plans and specifications, substitutions or equivalents, and special specifications.	<input type="checkbox"/>	<input type="checkbox"/>
10. Review and approve all shop drawings, fabrication details, and other details of structural work.	<input type="checkbox"/>	<input type="checkbox"/>
11. Administer all construction contract claims, disputes or litigation.	<input type="checkbox"/>	<input type="checkbox"/>

Phase/Sub-phase/Task

Responsibility: NYSDOT Sponsor

12. Perform final inspection of the complete work to determine and verify final quantities, prices, and compliance with plans specifications, and such other construction engineering supervision and inspection work necessary to conform to Municipal, State and FHWA requirements, including the final acceptance of the project by NYSDOT.
13. Pursuant to Federal Regulation 49 CFR 18.42(e)(1) The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

January 2014

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STANDARD CLAUSES FOR NYS CONTRACTS

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

1. **EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.
2. **NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.
3. **COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.
4. **WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this

contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. **NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with 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 (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). 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 (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

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

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

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.

APPENDIX A-1 SUPPLEMENTAL TITLE VI PROVISIONS (CIVIL RIGHTS ACT)

(To be included in all contracts)

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- (1) Compliance with Regulations: The contractor shall comply with the Regulation relative to nondiscrimination in Federally assisted programs of the Department of Transportation of the United States, Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, religion, age, color, sex or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.
- (4) Information and Reports: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by NYSDOT or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to NYSDOT's Office of Civil Rights or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, NYSDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - a) Withholding of payments to the contractor under the contract until the contractor complies; and/or
 - b) Cancellation, termination or suspension of the contract, in whole or in part.
- (6) Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontractor procurement as NYSDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request NYSDOT to enter into such litigation to protect the interests of NYSDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B
REQUIREMENTS FOR FEDERALLY-AIDED TRANSPORTATION PROJECTS
(June 2016)

There is a substantial body of requirements attached to the use of Federal highway or transportation aid. These requirements create or overlay processes, procedures, documentation requirements, authorizations, approvals and certifications that may be substantially greater or different from those that are not funded with Federal-aid and proceed under applicable State and local laws, customs and practices. Under Title 23 of the United States Code, the New York State Department of Transportation (NYSDOT) is responsible for the administration of transportation projects in New York State to which NYSDOT provides Federal highway or transportation-related aid. Through this Agreement, which provides or is associated with such funding, NYSDOT delegates various elements of project and funding administration as described elsewhere in this Agreement. In undertaking a Federally aided project, the Municipality/Sponsor, Authority or Project Manager designated under this Agreement with Federal-aid funding or project administration agrees to proceed in compliance with all the applicable Federal-aid requirements.

NYSDOT, in cooperation with FHWA, has assembled the body of Federal-aid requirements, procedures and practices in its Procedures for Locally Administered Federal-Aid Projects Manual (available through NYSDOT's web site at: <http://www.dot.ny.gov/plafap>). In addition, the Municipality/Sponsor, Authority or Project Manager designated under this Agreement for Federal-aid funding or project administration that enters into Federally aided project construction contracts is required to physically incorporate into all its Federally aided construction contracts and subcontracts there under the provisions that are contained in Form FHWA-1273 (available from NYSDOT or electronically at: <http://www.fhwa.dot.gov/programadmin/contracts/1273.htm>).

In addition to the referenced requirements, the attention of Municipality/Sponsor hereunder is directed to the following requirements and information:

NON DISCRIMINATION/EEO/DBE REQUIREMENTS

The Municipality/Sponsor and its contractors agree to comply with Executive Order 11246, entitled "Equal Employment Opportunity" and United States Department of Transportation (USDOT) regulations (49 CFR Parts 21, 23, 25, 26 and 27) and the following:

1. **NON DISCRIMINATION**. No person shall, on the ground of race, color, creed, national origin, sex, age or handicap, be excluded from participation in, or denied the benefits of, or be subject to, discrimination under the Project funded through this Agreement.
2. **EQUAL EMPLOYMENT OPPORTUNITY**. In connection with the execution of this Agreement, the Municipality/Sponsors contractors or subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, age, color, sex or national origin. Such contractors shall take affirmative actions to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, national origin or age. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

3. **DISADVANTAGED BUSINESS ENTERPRISES**. In connection with the performance of this Agreement, the Municipality/Sponsor shall cause its contractors to cooperate with the State in meeting its commitments and goals with regard to the utilization of Disadvantaged Business Enterprises (DBEs) and will use its best efforts to ensure that DBEs will have opportunity to compete for subcontract work under this Agreement. Also, in this connection the Municipality or Municipality/Sponsor shall cause its contractors to undertake such actions as may be necessary to comply with 49 CFR Part 26.

As a sub-recipient under 49 CFR Part 26.13, the Municipality/Sponsor hereby makes the following assurance.

The Municipality/Sponsor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any United States Department of Transportation (USDOT)-assisted contract or in the administration of its Disadvantaged Business Enterprise (DBE) program or the requirements of 49 CFR Part 26. The Municipality/Sponsor shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of the United States Department of Transportation-assisted contracts. The New York State Department of Transportation's DBE program, as required by 49 CFR Part 26 and as approved by the United States Department of Transportation, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

FEDERAL SINGLE AUDIT REQUIREMENTS

Non-Federal entities that expend \$750,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations. Non-Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non-Federal entities that expend less than the amount above in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in Sec. 215 (a) of OMB Circular A-133 Subpart B--Audits, records must be available for review or audit by appropriate officials of the cognizant Federal agency¹ the New York State Department of Transportation, the New York State Comptrollers Office and the U.S. Governmental Accountability Office (GAO).

Non-Federal entities are required to submit a copy of all audits, as described above, within 30 days of issuance of audit report, but no later than 9 months after the end of the entity's fiscal year, to the New York State Department of Transportation, Contract Audit Bureau, 50 Wolf Road, Albany, NY 12232. Unless a time extension has been granted by the cognizant Federal Agency and has been filed with the New York State Department of Transportation's Contract Audit Bureau, failure to comply with the requirements of OMB Circular A-133 may result in suspension or termination of Federal award payments.

¹ The designated cognizant agency for audit shall be the federal awarding agency that provides the predominant amount of direct funding to a recipient unless OMB changes it.

THE CATALOG OF FEDERAL DOMESTIC ASSISTANCE

The Catalog of Federal Domestic Assistance (CFDA²), is an on-line database of all Federally-aided programs available to State and local governments (including the District of Columbia); Federally recognized Indian tribal governments; Territories (and possessions) of the United States; domestic public, quasi-public, and private profit and nonprofit organizations and institutions; specialized groups; and individuals.

THE CFDA IDENTIFICATION NUMBER

OMB Circular A-133 requires all Federal-aid recipients to identify and account for awards and expenditures by CFDA Number. The Municipality/Sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.

The most commonly used CFDA number for the Federal Aid Highway Planning and Construction program is 20.205.

Additional CFDA numbers for other transportation and non-transportation related programs are:

20.215	Highway Training and Education
20.219	Recreational Trails Program
20.XXX	Highway Planning and Construction - Highways for LIFE;
20.XXX	Surface Transportation Research and Development;
20.500	Federal Transit-Capital Investment Grants
20.505	Federal Transit-Metropolitan Planning Grants
20.507	Federal Transit-Formula Grants
20.509	Formula Grants for Other Than Urbanized Areas
20.600	State and Community Highway Safety
23.003	Appalachian Development Highway System
23.008	Appalachian Local Access Roads

PROMPT PAYMENT MECHANISMS

In accordance with 49 CFR 26.29, and NY State Finance Law 139-f or NY General Municipal Law 106-b(2) as applicable:

(a) You must establish, as part of your DBE program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 7 calendar days from receipt of each payment you make to the prime contractor.

(b) You must ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 7 calendar days after the subcontractor's work is satisfactorily completed. You must use one of the following methods to comply with this requirement:

(1) You may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.

(2) You may decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by

² <http://www.cfda.gov/>

prime contractor to the subcontractor within 7 calendar days after the subcontractor's work is satisfactorily completed.

(3) You may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 7 calendar days after your payment to the prime contractor.

(c) For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the recipient. When a recipient has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

(d) Your DBE program must provide appropriate means to enforce the requirements of this section. These means may include appropriate penalties for failure to comply, the terms and conditions of which you set. Your program may also provide that any delay or postponement of payment among the parties may take place only for good cause, with your prior written approval.

(e) You may also establish, as part of your DBE program, any of the following additional mechanisms to ensure prompt payment:

(1) A contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes. You may specify the nature of such mechanisms.

(2) A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

(3) Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.

CARGO PREFERENCE ACT REQUIREMENTS – U.S. FLAG VESSELS

In accordance with 46 CFR 381, the contractor agrees:

- (a) To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
- (b) To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b) (1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.
- (c) To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

SAMPLE RESOLUTIONS

SAMPLE RESOLUTION BY MUNICIPALITY

(Locally Administered Project)

RESOLUTION NUMBER: _____

Authorizing the implementation, and funding in the first instance 100% of the federal-aid and State "Marchiselli" Program-aid eligible costs, of a transportation federal-aid project, and appropriating funds therefore.

WHEREAS, a Project for the _____, P.I.N. _____ (the Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of ____% Federal funds and ____% non-federal funds; and

[For **SOFT MATCH CREDIT AGREEMENTS** add: WHEREAS, as provided for by agreement with the NYS Department of Transportation, PE and/or ROW Incidental or ROW acquisition work performed by the municipality for the federal aid-eligible construction project covered by the agreement, the costs of such work that are approved in writing by NYSDOT as applicable to the federal aid and Marchiselli aid construction work (excluding costs applicable to non-federally eligible or non-Marchiselli eligible project elements) shall be credited following FHWA's construction phase closeout audit of the Project to Project costs that are eligible for federal aid and Marchiselli aid; and]

WHEREAS, the _____ of _____ desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of _____.

NOW, THEREFORE, the _____ Board, duly convened does hereby

RESOLVE, that the _____ Board hereby approves the above-subject project; and it is hereby further

RESOLVED, that the _____ Board hereby authorizes the _____ of _____ to pay in the first instance 100% of the federal and non-federal share of the cost of _____ work for the Project or portions thereof; and it is further

RESOLVED, that the sum of _____ is hereby appropriated from _____ [or, appropriated pursuant to _____] and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the _____ of _____ shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the _____ thereof, and it is further

RESOLVED, that the _____ of the _____ of the _____ of _____ be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the _____ of _____ with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of

Transportation by attaching it to any necessary Agreement in connection with the Project. and it is further

RESOLVED, this Resolution shall take effect immediately

SAMPLE RESOLUTION BY MUNICIPALITY

(NYSDOT Administered Project)

RESOLUTION NUMBER: _____

Authorizing the implementation and funding of a State "Marchiselli" Program-aid eligible transportation federal-aid project, to fully fund the local share of federal- and state-aid eligible and ineligible project costs and appropriating funds therefore.

WHEREAS, a Project for the _____, P.I.N. _____ (the "Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of ____% Federal funds and ____% non-federal funds; and

[For **SOFT MATCH CREDIT AGREEMENTS** add: WHEREAS, as provided for by agreement with the NYS Department of Transportation, PE and/or ROW Incidental or ROW acquisition work performed by the municipality for the federal aid-eligible construction project covered by the agreement, the costs of such work that are approved in writing by NYSDOT as applicable to the federal aid and Marchiselli aid construction work (excluding costs applicable to non-federally eligible or non-Marchiselli eligible project elements) shall be credited following FHWA's construction phase closeout audit of the Project to Project costs that are eligible for federal aid and Marchiselli aid; and]

WHEREAS, the _____ of _____ desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of _____ work for the Project or portions thereof, with the federal share of such costs to be applied directly by the New York State Department of Transportation ("NYSDOT") pursuant to Agreement; and it is further

NOW, THEREFORE, the _____ Board, duly convened does hereby

RESOLVE, that the _____ Board hereby approves the Project; and it is hereby further

RESOLVED, that the _____ Board hereby authorizes the _____ of _____ to pay in the first instance the full non-federal share of the cost of _____ work for the Project or portions thereof; and it is further

RESOLVED, that the sum of _____ is hereby appropriated from _____ [or, appropriated pursuant to _____] and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that in the event the non-federal share of the costs of the project exceed the amount appropriated above, the _____ of _____ shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the _____ thereof, and it is further

RESOLVED, that the _____ of the _____ of the _____ of _____ be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the _____ of _____ with NYSDOT in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of the non-federal share of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, and it is further

RESOLVED, this Resolution shall take effect immediately.

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

September 13, 2018

FN 20 18-323

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

PUBLIC WORKS

WAYS & MEANS

Dear County Executive Picente,

The enclosed grant agreement funds the preliminary engineering and design services for the replacement of the Clinton Street Bridge over Sauquoit Creek in the Town of New Hartford.

The replacement of the Clinton Street Bridge over Sauquoit Creek in the Town of New Hartford has been added to the State Transportation Improvement Plan. Eligible project expenditures qualify for 80% Federal aid and 15% State aid. The balance remaining is paid by local funds. The subject bridge is owned by the Town of New Hartford.

New York State Department of Transportation rules and regulations for Locally Administered Federal Aid Projects apply. Due to the complexity of these rules and regulations, it is very difficult for local municipalities to complete projects within budget and schedule constraints. Oneida County has the experience, expertise, and financial flexibility required to successfully complete Locally Administered Federal Aid Projects. Therefore, Oneida County has agreed to act as project sponsor. An Inter-municipal agreement between Oneida County and the Town of New Hartford has been executed establishing the Town's responsibility for 100% of any local and/or unfunded expense.

The enclosed Federal aid Local Project Agreement will allow Oneida County to be reimbursed up to \$216,000.00 in Federal aid and \$40,500.00 in State aid for preliminary engineering and design services associated with replacement of the subject bridge. The Town of New Hartford would be responsible for 100% of the local matching share, currently estimated to be \$13,500.00.

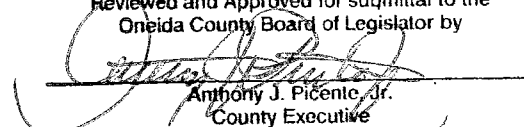
If acceptable, please forward the enclosed Federal aid Local Project Agreement to the Oneida County Board of Legislators for consideration.

Thank you for your continued support.

Sincerely,


Dennis S. Davis
Commissioner

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


Anthony J. Picente, Jr.
County Executive

Date 9-19-18

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

Oneida Co. Department: Public Works

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

ONEIDA COUNTY BOARD OF LEGISLATORS

Name & Address of Vendor: New York State Department of Transportation
50 Wolf Road
Albany, NY 12232

Title of Activity or Service: Grant

Proposed Dates of Operation: Start on Execution – 09/30/2022

Client Population/Number to be Served: N/A

Summary Statements

1) Narrative Description of Proposed Services:

The enclosed grant agreement funds the preliminary engineering and design services for the replacement of the Clinton Street Bridge over Sauquoit Creek in the Town of New Hartford.

The replacement of the Clinton Street Bridge over Sauquoit Creek in the Town of New Hartford has been added to the State Transportation Improvement Plan. Eligible project expenditures qualify for 80% Federal aid and 15% State aid. The balance remaining is paid by local funds. The subject bridge is owned by the Town of New Hartford.

New York State Department of Transportation rules and regulations for Locally Administered Federal Aid Projects apply. Due to the complexity of these rules and regulations, it is very difficult for local municipalities to complete projects within budget and schedule constraints. Oneida County has the experience, expertise, and financial flexibility required to successfully complete Locally Administered Federal Aid Projects. Therefore, Oneida County has agreed to act as project sponsor. An Inter-municipal agreement between Oneida County and the Town of New Hartford has been executed establishing the Town's responsibility for 100% of any local and/or unfunded expense.

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

3) Program Design and Staffing: N/A

4) Funding

	Account #:	H569
	Total Funding Requested:	\$270,000.00
	Oneida County Dept. Funding Recommendation:	\$270,000.00
Proposed Funding Sources	Federal:	\$216,000.00
	New York State:	\$40,500.00
	County:	\$0.00
	Town of New Hartford:	\$13,500.00

Past Performance Data: N/A

O.C. Department Staff Comments: None

MUNICIPALITY/SPONSOR: **Oneida County**
PROJECT ID NUMBER: **2754.41** BIN: **2206280**
CFDA NUMBER: **20.205**
PHASE: PER SCHEDULES A

Federal aid Local Project Agreement

COMPTROLLER'S CONTRACT NO **D035950**

This Agreement is by and between:

the New York State Department of Transportation ("NYSDOT"), having its principal office at 50 Wolf Road, Albany, NY 12232, on behalf of New York State ("State");

and

the **County of Oneida** (the "Municipality/Sponsor")
acting by and through **Chairman, Board of Supervisors**
with its office at **800 Park Avenue, Utica, New York 13501**.

This Agreement covers eligible costs incurred on or after **7/5/2018**.

This Agreement identifies the party responsible for administration and establishes the method or provision for funding of applicable phases of a Federal aid project for the improvement of a street or highway, not on the State highway system, as such project and phases are more fully described by Schedule A annexed to this Agreement or one or more Supplemental Schedule(s) A to this Agreement as duly executed and approved by the parties hereto. The phases that are potentially the subject of this Agreement, as further enumerated below, are: Preliminary Engineering ("PE") and Right-of-Way Incidental ("ROW Incidentals") work; Right-of-Way Acquisition; Construction; and/or Construction Supervision and Inspection. The Federal aid project shall be identified for the purposes of this Agreement as **Bridge Replacement, Clinton Street over Sauquoit Creek (BIN 2206280)** **Town of New Hartford, Oneida County** (as more specifically described in such Schedule A, the "Project").

WITNESSETH:

WHEREAS, the United States has provided for the apportionment of Federal aid funds to the State for the purpose of carrying out Federal aid highway projects pursuant to the appropriate sections of Title 23 U.S. Code as administered by the Federal Highway Administration ("FHWA"); and

WHEREAS, the New York State Highway Law authorizes the Commissioner of Transportation (hereinafter referred to as "Commissioner") to use Federal aid available under the Federal aid highway acts and provides for the consent to and approval by the Municipality/Sponsor of any project under the Federal aid highway program which is not on the State highway system before such Project is commenced; and

WHEREAS, pursuant to Highway Law §10(34-a) and section 15 of Chapter 329 of the Laws of 1991 as amended by section 9 of Chapter 330 of the Laws of 1991, as further amended by Chapter 57 of the Laws of New York of 2014, the State has established the "Marchiselli" Program, which provides certain State-aid for Federal aid highway projects not on the State highway system; and

WHEREAS, funding of the "State share" of projects under the Marchiselli Program is

MUNICIPALITY/SPONSOR: Oneida County

PROJECT ID NUMBER: 2754.41 BIN: 2206280

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PHASE: PER SCHEDULES A

administered through the New York State Office of the Comptroller ("State Comptroller"); and

WHEREAS, Highway Law §80-b authorizes the funding of eligible costs of Federal aid Municipal/Sponsor streets and highway projects using State-aid and Federal aid; and

WHEREAS, project eligibility for Marchiselli Program funds is determined by NYSDOT; and

WHEREAS, pursuant to authorizations therefore, NYSDOT and the Municipality/Sponsor are desirous of progressing the Project under the Federal aid and, if applicable, Marchiselli-aid Programs; and

WHEREAS, The Legislative Body of the Municipality/Sponsor by Resolution No. _____ adopted at meeting held on _____ approved the Project, the Municipality/Sponsor's entry into this Agreement, has appropriated necessary funds in connection with any applicable Municipal/Sponsor Deposit identified in applicable Schedules A and has further authorized the County Executive of the Municipality/Sponsor to execute this Agreement and the applicable Schedule A on behalf of the Municipality/Sponsor and a copy of such Resolution is attached to and made a part of this Agreement (where New York City is the Municipality/Sponsor, such resolution is not required).

NOW, THEREFORE, the parties agree as follows:

1. *Documents Forming this Agreement.* The Agreement consists of the following:

- Agreement Form - this document titled "Federal aid Local Project Agreement";
- Schedule "A" - Description of Project Phase, Funding and Deposit Requirements;
- Schedule "B" - Phases, Subphase/Tasks, and Allocation of Responsibility
- Appendix "A" - New York State Required Contract Provisions
- Appendix "A-1"- Supplemental Title VI Provisions (Civil Rights Act)
- Appendix "B" - U.S. Government Required Clauses (Only required for agreements with federal funding)
- Municipal/Sponsor Resolution(s) - duly adopted Municipal/Sponsor resolution authorizing the appropriate Municipal/Sponsor official to execute this Agreement on behalf of the Municipality/Sponsor and appropriating the funding required therefore. (Where New York City is the Municipality/Sponsor, such resolution is not required).

***Note – Resolutions for Bridge NY projects must also include an express commitment by the Municipality/Sponsor that construction shall commence no later than twenty-four (24) months after award, and the project must be completed within thirty (30) months of commencing construction.**

2. *General Description of Work and Responsibility for Administration and Performance.* Subject to the allocations of responsibility for administration and performance thereof as shown in Schedule B (attached), the work of the Project may consist generally of the categories of work marked and described in Schedule B for the scope and phase in effect according to Schedule A or one or more Supplemental Schedule(s) A as may hereafter be executed and approved by the parties hereto as required for a State contract, and any additions or deletions made thereto by NYSDOT subsequent to the development of such Schedule(s) A for the purposes of conforming to New York State or to Federal Highway Administration requirements.

The Municipality/Sponsor understands that funding is contingent upon the Municipality/Sponsor's

MUNICIPALITY/SPONSOR: **Oneida County**PROJECT ID NUMBER: **2754.41** BIN: **2206280**CFDA NUMBER: **20.205**

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compliance with the applicable requirements of the "Procedures for Locally Administered Federal Aid Projects" (available through NYSDOT's web site at <https://www.dot.ny.gov/plafap>, and as such may be amended from time to time.

3. *Municipal/Sponsor Deposit.* Where the work is performed by consultant or construction contract entered into with NYSDOT, or by NYSDOT forces, and unless the total non-Federal share of the Project phase is under \$5,000, the Municipality/Sponsor shall deposit with the State Comptroller, prior to the award of NYSDOT's contract or NYSDOT's performance of work by its own forces, the full amount of the non-Federal share of the Project costs due in accordance with Schedule A.

4. *Payment or Reimbursement of Costs.* For work performed by NYSDOT, NYSDOT will directly apply Federal aid and the required Municipality/Sponsor Deposit for the non-Federally aided portion, and, if applicable, shall request State Comptroller funding of Marchiselli aid to the Municipality/Sponsor as described below. For work performed by or through the Municipality/Sponsor, NYSDOT will reimburse the Municipality/Sponsor with Federal aid and, if applicable, Marchiselli aid as described below. NYSDOT will periodically make reimbursements upon request and certification by the Sponsor. The frequency of reimbursement requests must be in conformance with that stipulated in the NYSDOT Standard Specifications; Construction and Materials (section 109-06, Contract Payments). NYSDOT recommends that reimbursement requests not be submitted more frequently than monthly for a typical project. In all cases, reimbursement requests must be submitted at least once every six months.

4.1 *Federal aid.* NYSDOT will administer Federal funds for the benefit of the Municipality/Sponsor for the Federal share and will fund the applicable percentage designated in Schedule A of Federal aid participating costs incurred in connection with the work covered by this Agreement, subject to the limitations set forth on Schedule A. For work performed by or through the Municipality/Sponsor, NYSDOT will reimburse Federal aid-eligible expenditures in accordance with NYSDOT policy and procedures.

4.1.1 *Participating Items.* NYSDOT shall apply Federal funds only for that work and those items that are eligible for Federal participation under Title 23 of U.S. Code, as amended, that requires Federal aid eligible projects to be located on the Federal Aid Highway System ("FAHS"), except for bridge and safety projects which can be located off the FAHS. Included among the Federal participating items are the actual cost of employee personal services, and leave and fringe benefit additives. Other participating costs include materials and supplies, equipment use charges or other Federal Participating costs directly identifiable with the eligible project.

4.2 *Marchiselli Aid (if applicable).* NYSDOT will request State Comptroller reimbursement to the Municipality of the upset amount and designated percentage in Schedule A of the non-overmatched non-Federal share of Federal participating cost, (the "State share"), incurred in connection with the work covered by this Agreement, subject to the limitations set forth on Schedule A. Not all Federal aid-eligible participating costs are eligible for Marchiselli aid. Only "Eligible Project Costs" (as defined in Marchiselli Program instructions issued by NYSDOT) incurred after April 1, 1991 are reimbursable.

4.2.1 *Marchiselli Eligible Project Costs.* To be eligible for Marchiselli Aid, Project costs must: (a) be eligible for Federal participation as described under 4.1 above; (b) be for work which, when completed, has a certifiable service life of at least 10 years; (c) be for work that relates directly and exclusively to a municipally-owned highway, bridge or highway-railroad crossing located off the State Highway System; and (d) be submitted for reimbursement in accordance with 4.2.2.

MUNICIPALITY/SPONSOR: Oneida County

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PHASE: PER SCHEDULES A

4.2.2 *Marchiselli Reimbursement Requests.* A Sponsor's reimbursement requests are restricted to eligible project costs. To be classified as an "eligible project cost", in addition to other requirements of this agreement, the original expenditure must have been paid within the past 15 months in order to comply with Federal Tax Law (26 CFR 1.150-2 (d)(2)(i)) which governs fund disbursements from the issuance of tax-exempt bonds. Hence, expenditures paid greater than 15 months prior to the reimbursement request are ineligible for reimbursement.

4.2.3 *Marchiselli Extended Records Retention Requirements.*

4.2.3.1 To ensure that NYSDOT meets certain requirements under the Code of Federal Regulations, Part 26, and to ensure that NYSDOT may authorize the use of funds for this project, notwithstanding any other provision of this Contract to the contrary, the Sponsor must retain the following documents in connection with the Projects:

- a) Documents evidencing the specific assets financed with such proceeds, including but not limited to project costs, and documents evidencing the use and ownership of the property financed with proceeds of the bonds; and
- b) Documents, if any, evidencing the sale or other disposition of the financed property.

4.2.3.2 The Sponsor covenants to retain those records described above, which are used by the Sponsor in connection with the administration of this Program, for thirty-six (36) years after the date of NYSDOT's final payment of the eligible project cost(s).

4.2.3.3 Failure to maintain such records in a manner that ensures complete access thereto, for the period described above, shall constitute a material breach of the contract and may, at the discretion of NYSDOT, result in loss of funds allocated, or the Sponsor's repayment of funds distributed, to the Sponsor under this agreement.

4.3 In no event shall this Agreement create any obligation to the Municipality/Sponsor for funding or reimbursement of any amount in excess of:

- (a) the amount stated in Schedule A for the Federal Share; or
- (b) the amount stated in Schedule A as the State (Marchiselli) share.

4.4 All items included by the Municipality/Sponsor in the record of costs shall be in conformity with accounting procedures acceptable to NYSDOT and the FHWA. Such items shall be subject to audit by the State, the federal government or their representatives.

4.5 If Project-related work is performed by NYSDOT, NYSDOT will be paid for the full costs thereof. To effect such payment, the reimbursement to the Municipality/Sponsor provided for in sections 4.1 and 4.2 above may be reduced by NYSDOT by the amounts thereof

MUNICIPALITY/SPONSOR: Oneida County

PROJECT ID NUMBER: 2754.41 BIN: 2206280

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in excess of the Municipality/Sponsor Deposit available for such payment to NYSDOT.

5. *Supplemental Agreements and Supplemental Schedule(s) A.* Supplemental Agreements or Supplemental Schedule(s) A may be entered into by the parties, and must be executed and approved in the manner required for a State contract. A Supplemental Schedule A is defined as a Supplemental Agreement which revises only the Schedule A of a prior Agreement or Supplemental Agreement. In the event Project cost estimates increase over the amounts provided for in Schedule A, no additional reimbursement shall be due to the Municipality/Sponsor unless the parties enter into a Supplemental Agreement or Supplemental Schedule A for reimbursement of additional Eligible Project Costs.

6. *State Recovery of Ineligible Reimbursements.* NYSDOT shall be entitled to recover from the Municipality/Sponsor any monies paid to the Municipality/Sponsor pursuant to this Agreement which are subsequently determined to be ineligible for Federal aid or Marchiselli Aid hereunder.

7. *Loss of Federal Participation.* In the event the Municipality/Sponsor withdraws its approval of the project, suspends or delays work on the Project or takes other action that results in the loss of Federal participation for the costs incurred pursuant to this Agreement, the Municipality/Sponsor shall refund to the State all reimbursements received from the State, and shall reimburse the State for 100% of all preliminary engineering and right-of-way incidental costs incurred by NYSDOT. The State may offset any other State or Federal aid due to the Municipality/Sponsor by such amount and apply such offset to satisfy such refund.

8. *Municipal/Sponsor Liability.*

8.1 If the Municipality/Sponsor performs work under this Agreement with its own forces, it shall be responsible for all damage to person or property arising from any act or negligence performed by or on behalf of the Municipality/Sponsor, its officers, agents, servants or employees, contractors, subcontractors or others in connection therewith. The Municipality/Sponsor specifically agrees that its agents or employees shall possess the experience, knowledge and character necessary to qualify them individually for the particular duties they perform.

8.2 The Municipality/Sponsor shall indemnify and save harmless the State for all damages and costs arising out of any claims, suits, actions, or proceedings resulting from the negligent performance of work by or on behalf of the Municipality/Sponsor its officers, agents, servants, employees, contractors, subcontractors or others under this Agreement. Negligent performance of service, within the meaning of this section, shall include, in addition to negligence founded upon tort, negligence based upon the Municipality/Sponsor's failure to meet professional standards and resulting in obvious or patent errors in the progression of its work. Additionally, the Municipality/Sponsor shall defend the State in any action arising out of any claims, suits, actions, or proceedings resulting from the negligent performance of work by or on behalf of the Municipality/Sponsor, its officers, agents, servants, employees, contractors, subcontractors or others under this Agreement.

8.3 The Municipality/Sponsor shall at all times during the Contract term remain responsible. The Municipality/Sponsor agrees, if requested by the Commissioner of Transportation 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.

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8.4 The Commissioner of Transportation 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 Municipality/Sponsor. In the event of such suspension, the Municipality/Sponsor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Municipality/Sponsor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of Transportation or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

8.5 Upon written notice to the Municipality/Sponsor, and a reasonable opportunity to be heard with appropriate Department of Transportation officials or staff, the Contract may be terminated by the Commissioner of Transportation or his or her designee at the Municipality's/Sponsor's expense where the Municipality/Sponsor is determined by the Commissioner of Transportation or his or her designee to be non-responsible. In such event, the Commissioner of Transportation 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.

9. *Maintenance.* The Municipality/Sponsor shall be responsible for the maintenance of the project at the sole cost and expense of the Municipality/Sponsor. If the Municipality/Sponsor intends to have the project maintained by another, any necessary maintenance agreement will be executed and submitted to NYSDOT before construction of the Project is begun. Upon its completion, the Municipality/Sponsor will operate and maintain the Project at no expense to NYSDOT; and during the useful life of the Project, the Municipality/Sponsor shall not discontinue operation and maintenance of the Project, nor dispose of the Project, unless it receives prior written approval to do so from NYSDOT.

9.1 The Municipality/Sponsor may request such approved disposition from NYSDOT where the Municipality/Sponsor either causes the purchaser or transferee to assume the Municipality/Sponsor's continuing obligations under this Agreement, or agrees immediately to reimburse NYSDOT for the pro-rata share of the funds received for the project, plus any direct costs incurred by NYSDOT, over the remaining useful life of the Project.

9.2 If a Municipality/Sponsor fails to obtain prior written approval from NYSDOT before discontinuing operation and maintenance of the Project or before disposing of the project, in addition to the costs provided, above in 9.1, Municipality/Sponsor shall be liable for liquidated damages for indirect costs incurred by NYSDOT in the amount of 5% of the total Federal and non-Federal funding provided through NYSDOT.

9.3 For NYSDOT-administered projects, NYSDOT is responsible for maintenance only during the NYSDOT administered construction phase. Upon completion of the construction phase, the Municipality/Sponsor's maintenance obligations start or resume.

10. *Independent Contractor.* The officers and employees of the Municipality/Sponsor, in accordance with the status of the Municipality/Sponsor as an independent contractor, covenant and agree that they will conduct themselves consistent with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the State by reason hereof, and that they will not by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the State, including, but not limited to, Workers Compensation coverage, Unemployment Insurance benefits, Social Security or Retirement membership or credit.

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11. *Contract Executory; Required Federal Authorization.* It is understood by and between the parties hereto that this Agreement shall be deemed executory only to the extent of the monies available to the State and no liability on account thereof shall be incurred by the State beyond monies available for the purposes hereof. No phase of work for the project shall be commenced unless and until NYSDOT receives authorization from the Federal government.

12. *Assignment or Other Disposition of Agreement.* The Municipality/Sponsor agrees not to assign, transfer, convey, sublet or otherwise dispose of this Agreement or any part thereof, or of its right, title or interest therein, or its power to execute such Agreement to any person, company or corporation without previous consent in writing of the Commissioner.

13. *Term of Agreement.* As to the Project and phase(s) described in the Schedule A executed herewith, the term of this Agreement shall begin on the date of this Agreement as first above written. This Agreement shall remain in effect so long as Federal aid and Marchiselli-aid funding authorizations are in effect and funds are made available pursuant to the laws controlling such authorizations and availabilities. However, if such authorizations or availabilities lapse and are not renewed, continued or reenacted, as to funds encumbered or available and to the extent of such encumbrances or availabilities, this Agreement shall remain in effect for the duration of such encumbrances or availabilities. Although the liquidity of encumbrances or the availability of funds may be affected by budgetary hiatuses, a Federal or State budgetary hiatus will not by itself be construed to cause a lapse in this Agreement provided any necessary Federal or State appropriations or other funding authorizations therefore are eventually enacted.

13.1 *Time is of the essence (Bridge NY Projects).* The Municipality/Sponsor understands and agrees that construction of Bridge NY Projects shall commence no later than twenty-four (24) months after award, and the project must be completed within thirty (30) months of commencing construction.

14. *NYSDOT Obligations.* NYSDOT's responsibilities and obligations are as specifically set forth in this contract, and neither NYSDOT nor any of its officers or employees shall be responsible or liable, nor shall the Municipality/Sponsor assert, make or join in any claim or demand against NYSDOT, its officers or employees, for any damages or other relief based on any alleged failure of NYSDOT, its officers or employees, to undertake or perform any act, or for undertaking or performing any act, which is not specifically required or prohibited by this Agreement.

15. *Offset Rights.* In addition to any and all set-off rights provided to the State in the attached and incorporated Appendix A, Standard Clauses for New York Contracts, NYSDOT shall be entitled to recover and offset from the Municipality/Sponsor any ineligible reimbursements and any direct or indirect costs to the State as to paragraph 6 above, as well as any direct or indirect costs incurred by the State for any breach of the term of this agreement, including, but not limited to, the useful life requirements in paragraph 9 above. At its sole discretion NYSDOT shall have the option to permanently withhold and offset such direct and indirect cost against any monies due to the Municipality/Sponsor from the State of New York for any other reason, from any other source, including but not limited to, any other Federal or State Local Project Funding, and/or any Consolidated Highway and Local Street Improvement Program (CHIPS) funds

16. *Reporting Requirements.* The Municipality/Sponsor agrees to comply with and submit to NYSDOT in a timely manner all applicable reports required under the provisions of this Agreement and

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the Procedures for Locally Administered Federal aid Projects manual and in accordance with current Federal and State laws, rules, and regulations.

17. *Notice Requirements.*

- 17.1 All notices permitted or required hereunder shall be in writing and shall be transmitted:
 - (a) Via 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.

Such notices shall be address as follows or to such different addresses as the parties may from time-to-time designate:

New York State Department of Transportation (NYSDOT)

Name: **Jim McLaughlin**
Title: **Project Manager**

Address: **Planning and Program Management, 207 Genesee Street Utica, New York 13501**
Telephone Number: **(315)793-2450**
Facsimile Number: **(315) 793-2719**
E-Mail Address: **Jim.McLaughlin@dot.ny.gov**

[Municipality/Sponsor] Oneida County

Name: **Mr. Mark Laramie**
Title: **Deputy Commissioner of Engineering**
Address: **Oneida County Department of Public Works, 6000 Airport Road, Oriskany, NY 13424,**
Telephone Number: **(315)793-6228**
Facsimile Number: **(315)768-6299**
E-Mail Address: **Mlaramie@ocgov.net**

17.2 Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States Mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt. 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 receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

18. *Electronic Contract Payments.* Municipality/Sponsor shall provide complete and accurate supporting documentation of eligible local expenditures as required by this Agreement, NYSDOT and the State Comptroller. Following NYSDOT approval of such supporting documentation, payment for invoices submitted by the Municipality/Sponsor 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

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procedures and practices. The contracting local Municipality/Sponsor shall comply with the State Comptroller's procedures for all Federal and applicable State Aid to authorize electronic payments. Authorization forms are available on the State Comptroller's website at www.osc.state.ny.us/epay/index.htm or by email at epunit@osc.state.ny.us. When applicable to State Marchiselli and other State reimbursement by the State Comptroller, registration forms and instructions can be found at the NYSDOT [Electronic Payment Guidelines](#) website.

The Municipality/Sponsor herein acknowledges that it will not receive payment on any invoices submitted under this agreement if it does not comply with the applicable State Comptroller and/or NYS State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

19. *Compliance with Legal Requirements.* Municipality/Sponsor must comply with all applicable federal, state and local laws, rules and regulations, including but not limited to the following:

19.1 Title 49 of the Code of Federal Regulations Part 26 (49 CFR 26), Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs; Title 23 Code of Federal Regulations Part 230 (23 CFR 230), External Programs; and, Title 41 of the Code of Federal Regulations Part 60 Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, including the requirements thereunder related to utilization goals for contracting opportunities for disadvantaged business enterprises (DBEs) and equal employment opportunity.

19.1.1 If the Municipality/Sponsor fails to monitor and administer contracts funded in whole or in part in accordance with Federal requirements, the Municipality/Sponsor will not be reimbursed for ineligible activities within the affected contracts. The Municipality/Sponsor must ensure that the prime contractor has a Disadvantaged Business Enterprise (DBE) Utilization Plan and complies with such plan. If, without prior written approval by NYSDOT, the Municipality/Sponsor's contractors and subcontractors fail to complete work for the project as proposed in the DBE Schedule of Utilization, NYSDOT at its discretion may (1) cancel, terminate or suspend this agreement or such portion of this agreement or (2) assess liquidated damages in an amount of up to 20% of the pro rata share of the Municipality/Sponsor's contracts and subcontracts funded in whole or in part by this agreement for which contract goals have been established.

19.2 New York State Environmental Law, Article 6, the State Smart Growth Public Infrastructure Policy Act, including providing true, timely and accurate information relating to the project to ensure compliance with the Act.

19.3 28 CFR 35.105, which requires a Municipality/Sponsor employing 50 or more persons to prepare a Transition Plan addressing compliance with the Americans with Disabilities Act (ADA).

20. *Compliance with Procedural Requirements.* The Municipality/Sponsor understands that funding is contingent upon the Municipality/Sponsor's compliance with the applicable requirements of the Procedures for Locally Administered Federal Aid Projects (PLAFAP) manual, which, as such, may be amended from time to time. Locally administered Federal aid transportation projects must be constructed in accordance with the current version of NYSDOT Standard Specifications; Construction and Materials, including any and all modifications to the Standard Specifications issued by the Engineering Information Issuance System, and NYSDOT-approved Special Specifications for general

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use. (Cities with a population of 3 million or more may pursue approval of their own construction specifications and procedures on a project by project basis).

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officials as of the date first above written.

MUNICIPALITY/SPONSOR:

MUNICIPALITY/SPONSOR ATTORNEY:

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

STATE OF NEW YORK)
)ss.:
COUNTY OF)

On this _____ day of _____, 20__ before me personally came _____ to me known, who, being by me duly sworn did depose and say that he/she resides at _____; that he/she is the _____ of the Municipal/Sponsor Corporation described in and which executed the above instrument; (except New York City) that it was executed by order of the _____ of said Municipal/Sponsor Corporation pursuant to a resolution which was duly adopted on _____ and which a certified copy is attached and made a part hereof; and that he/she signed his name thereto by like order.

Notary Public

APPROVED FOR NYSDOT:

**APPROVED AS TO FORM:
STATE OF NEW YORK ATTORNEY GENERAL**

By: _____
For Commissioner of Transportation

By: _____
Assistant Attorney General

Agency Certification: In addition to the acceptance of this contract I also certify that original copies of this signature page will be attached to all other exact copies of this contract.

COMPTROLLER'S APPROVAL:

Date: _____

By: _____
For the New York State Comptroller
Pursuant to State Finance Law §112

**SCHEDULE A – Description of Project Phase, Funding and Deposit Requirements
 NYSDOT/ State-Local Agreement - Schedule A for PIN 2754.41**

OSC Municipal Contract #: D035950	Contract Start Date: <u>7/5/2018</u> <small>(mm/dd/yyyy)</small>	Contract End Date: <u>9/30/2022</u> <small>(mm/dd/yyyy)</small> <input type="checkbox"/> Check, if date changed from the last Schedule A
Purpose:	<input checked="" type="checkbox"/> Original Standard Agreement	<input type="checkbox"/> Supplemental Schedule A No.
Agreement Type:	<input checked="" type="checkbox"/> Locally Administered Municipality/Sponsor (Contract Payee): County of Oneida Other Municipality/Sponsor (if applicable):	
	<input type="checkbox"/> State Administered <small>List participating Municipality(ies) and the % of cost share for each and indicate by checkbox which Municipality this Schedule A applies.</small>	
	<input type="checkbox"/> Municipality:	% of Cost share
	<input type="checkbox"/> Municipality:	% of Cost share
	<input type="checkbox"/> Municipality:	% of Cost share
Authorized Project Phase(s) to which this Schedule applies:	<input checked="" type="checkbox"/> PE/Design	<input type="checkbox"/> ROW Incidentals
	<input type="checkbox"/> ROW Acquisition	<input type="checkbox"/> Construction/CI/CS
Work Type: BR REPLACE	County (If different from Municipality):	
Marchiselli Eligible <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<small>(Check, if Project Description has changed from last Schedule A):</small> <input type="checkbox"/>	
Project Description: Bridge Replacement Clinton Street over Sauquoit Creek (BIN 2206280) Town of New Hartford, Oneida County		

Marchiselli Allocations Approved FOR ALL PHASES All totals will calculate automatically.

<small>Check box to indicate change from last Schedule A</small>	State Fiscal Year(s)	Project Phase			TOTAL
		PE/Design	ROW (RI & RA)	Construction/CI/CS	
<input type="checkbox"/>	Cumulative total for all prior SFYs	\$0.00	\$0.00	\$0.00	\$ 0.00
<input checked="" type="checkbox"/>	Current SFY 18/19	\$48,000.00	\$0.00	\$0.00	\$48,000.00
Authorized Allocations to Date		\$48,000.00	\$ 0.00	\$ 0.00	\$48,000.00

A. Summary of allocated MARCHISELLI Program Costs FOR ALL PHASES For each PIN Fiscal Share below, show current costs on the rows indicated as "Current.". Show the old costs from the previous Schedule A on the row indicated as "Old." All totals will calculate automatically.

PIN Fiscal Share	"Current" or "Old" entry indicator	Federal Funding	Total Costs	FEDERAL Participating Share	STATE MARCHISELLI Match	LOCAL Matching Share	LOCAL DEPOSIT AMOUNT (Required only if State Administered)
2754.41.121	Current	NHPP (80%)	\$270,000.00	\$216,000.00	\$40,500.00	\$13,500.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00	\$0.00
	Current	NHPP	\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL CURRENT COSTS:			\$270,000.00	\$216,000.00	\$40,500.00	\$13,500.00	\$ 0.00

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B. Summary of Other (including Non-allocated MARCHISELLI) Participating Costs FOR ALL PHASES For each PIN Fiscal Share, show current costs on the rows indicated as "Current." Show the old costs from the previous Schedule A on the row indicated as "Old." All totals will calculate automatically.

Other PIN Fiscal Shares	'Current' or 'Old' entry indicator	Funding Source	TOTAL	Other FEDERAL	Other STATE	Other LOCAL
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$	\$0.00	\$0.00	\$0.00
TOTAL CURRENT COSTS:			\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

C. Local Deposit(s) from Section A:	\$ 0.00
Additional Local Deposit(s)	\$
Total Local Deposit(s)	\$ 0.00

D. Total Project Costs All totals will calculate automatically.				
Total FEDERAL Cost	Total STATE MARCHISELLI Cost	Total OTHER STATE Cost	Total LOCAL Cost	Total ALL SOURCES Cost
\$216,000.00	\$40,500.00	\$ 0.00	\$13,500.00	\$270,000.00

E. Point of Contact for Questions Regarding this Schedule A (Must be completed)	Name: <u>Jim McLaughlin</u> Phone No: <u>315-793-2450</u>
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See Agreement (or Supplemental Agreement Cover) for required contract signatures.

SCHEDULE B: Phases, Sub-phase/Tasks, and Allocation of Responsibility

Instructions: Identify the responsibility for each applicable Sub-phase task by entering X in either the *NYSDOT* column to allocate the task to State labor forces or a State Contract, or in the *Sponsor* column indicating non-State labor forces or a locally administered contract.

A1. Preliminary Engineering ("PE") Phase

<u>Phase/Sub-phase/Task</u>	Responsibility: <u>NYSDOT</u>	<u>Sponsor</u>
1. <u>Scoping</u> : Prepare and distribute all required project reports, including an Expanded Project Proposal (EPP) or Scoping Summary Memorandum (SSM), as appropriate.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Perform data collection and analysis for design, including traffic counts and forecasts, accident data, Smart Growth checklist, land use and development analysis and forecasts.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Smart Growth Attestation (NYSDOT ONLY).	<input type="checkbox"/>	<input type="checkbox"/>
4. <u>Preliminary Design</u> : Prepare and distribute Design Report/Design Approval Document (DAD), including environmental analysis/assessments, and other reports required to demonstrate the completion of specific design sub-phases or tasks and/or to secure the approval/authorization to proceed.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. Review and Circulate all project reports, plans, and other project data to obtain the necessary review, approval, and/or other input and actions required of other NYSDOT units and external agencies.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Obtain aerial photography and photogrammetric mapping.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7. Perform all surveys for mapping and design.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8. <u>Detailed Design</u> : Perform all project design, including preparation of plan sheets, cross-sections, profiles, detail sheets, specialty items, shop drawings, and other items required in accordance with the Highway Design Manual, including all Highway Design, including pavement evaluations, including taking and analyzing cores; design of Pavement mixes and applications procedures; preparation of bridge site data package, if necessary, and all Structural Design, including hydraulic analyses, if necessary, foundation design, and all design of highway appurtenances and systems [e.g., Signals, Intelligent Transportation System (ITS) facilities], and maintenance protection of traffic plans. Federal Railroad Administration (FRA) criteria will apply to rail work.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
9. Perform landscape design (including erosion control).	<input type="checkbox"/>	<input checked="" type="checkbox"/>
10. Design environmental mitigation, where appropriate, in connection with: Noise readings, projections, air quality monitoring, emissions projections, hazardous waste, asbestos, determination of need of cultural resources survey.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
11. Prepare demolition contracts, utility relocation plans/contracts, and any other plans and/or contract documents required to advance, separate, any portions of the project which may be more appropriately progressed separately and independently.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12. Compile PS&E package, including all plans, proposals, specifications, estimates, notes, special contract requirements, and any other contract documents necessary to advance the project to construction.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
13. Conduct any required soils and other geological investigations.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
14. Obtain utility information, including identifying the locations and types of utilities within the project area, the ownership of these utilities, and prepare utility relocations plans and agreements, including completion of Form HC-140, titled Preliminary Utility Work Agreement.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
15. Determine the need and apply for any required permits, including U.S. Coast Guard, U.S. Army Corps of Engineers, Wetlands (including identification and delineation of wetlands), SPDES, NYSDOT Highway Work Permits, and any permits or other approvals required to comply with local laws, such as zoning ordinances, historic districts, tax assessment and special districts.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
16. Prepare and execute any required agreements, including: <ul style="list-style-type: none"> - Railroad force account - Maintenance agreements for sidewalks, lighting, signals, betterments - Betterment Agreements - Utility Work Agreements for any necessary Utility Relocations of Privately owned Utilities 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
17. Provide overall supervision/oversight of design to assure conformity with Federal and State design standards or conditions, including final approval of PS&E (Contract Bid Documents) by NYSDOT.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

A2. Right-of-Way (ROW) Incidentals

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
1. Prepare ARM or other mapping, showing preliminary taking lines.	<input type="checkbox"/>	<input type="checkbox"/>
2. ROW mapping and any necessary ROW relocation plans.	<input type="checkbox"/>	<input type="checkbox"/>
3. Obtain abstracts of title and certify those having an interest in ROW to be acquired.	<input type="checkbox"/>	<input type="checkbox"/>
4. Secure Appraisals.	<input type="checkbox"/>	<input type="checkbox"/>
5. Perform Appraisal Review and establish an amount representing just compensation.	<input type="checkbox"/>	<input type="checkbox"/>

Phase/Sub-phase/Task

Responsibility: NYSDOT Sponsor

6. Determination of exemption from public hearing that is otherwise required by the Eminent Domain Procedure Law, including *de minimis* determination, as may be applicable. **If NYSDOT is responsible for acquiring the right-of-way, this determination may be performed by NYSDOT only if NYSDOT is responsible for the Preliminary Engineering Phase under Phase A1 of this Schedule B.**
7. Conduct any public hearings and/or informational meetings as may be required by the Eminent Domain Procedures Law, including the provision of stenographic services, preparation and distribution of transcripts, and response to issues raised at such meetings.

B. Right-of-Way (ROW) Acquisition

Phase/Sub-phase/Task

Responsibility: NYSDOT Sponsor

1. Perform all Right-of-Way (ROW) Acquisition work, including negotiations with property owners, acquisition of properties and accompanying legal work, payments to and/or deposits on behalf of property owners; Prepare, publish, and pay for any required legal notices; and all other actions necessary to secure title to, possession of, and entry to required properties. **If NYSDOT is to acquire property, including property described as an uneconomic remainder, on behalf of the Municipality/Sponsor, the Municipality/Sponsor agrees to accept and take title to any and all permanent property rights so acquired which form a part of the completed Project.**
2. Provide required relocation assistance, including payment of moving expenses, replacement supplements, mortgage interest differentials, closing costs, mortgage prepayment fees.
3. Conduct eminent domain proceedings, court and any other legal actions required to acquire properties.
4. Monitor all ROW Acquisition work and activities, including review and processing of payments of property owners.
5. Provide official certification that all right-of-way required for the construction has been acquired in compliance with applicable Federal, State or Local requirements and is available for use and/or making projections of when such property(ies) will be available if such properties are not in hand at the time of contract award.
6. Conduct any property management activities, including establishment and collecting rents, building maintenance and repairs, and any other activities necessary to sustain properties and/or tenants until the sites are vacated, demolished, or otherwise used for the construction project.
7. Subsequent to completion of the Project, conduct ongoing property management activities in a manner consistent with applicable Federal, State and Local requirements including, as applicable, the development of any ancillary uses, establishment and collection of rent, property maintenance and any other related activities.

C. Construction, Construction Support (C/S) and Construction Inspection (C/I) Phase

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
1. Advertise contract lettings and distribute contract documents to prospective bidders.	<input type="checkbox"/>	<input type="checkbox"/>
2. Conduct all contract lettings, including receipt, opening, and analysis of bids, evaluation/certification of bidders, notification of rejected bids/bidders, and awarding of the construction contract(s).	<input type="checkbox"/>	<input type="checkbox"/>
3. Receive and process bid deposits and verify any bidder's insurance and bond coverage that may be required.	<input type="checkbox"/>	<input type="checkbox"/>
4. Compile and submit Contract Award Documentation Package.	<input type="checkbox"/>	<input type="checkbox"/>
5. Review/approve any proposed subcontractors, vendors, or suppliers.	<input type="checkbox"/>	<input type="checkbox"/>
6. Conduct and control all construction activities in accordance with the plans and proposal for the project. Maintain accurate, up-to-date project records and files, including all diaries and logs, to provide a detailed chronology of project construction activities. Procure or provide all materials, supplies and labor for the performance of the work on the project, and insure that the proper materials, equipment, human resources, methods and procedures are used.	<input type="checkbox"/>	<input type="checkbox"/>
7a. For non-NHS or non-State Highway System Projects: Test and accept materials, including review and approval for any requests for substitutions.	<input type="checkbox"/>	<input type="checkbox"/>
7b. For NHS or State Highway System Projects: Inspection and approval of materials such as bituminous concrete, Portland cement concrete, structural steel, concrete structural elements and/or their components to be used in a federal aid project will be performed by, and according to the requirements of NYSDOT. The Municipality/Sponsor shall make or require provision for such materials inspection in any contract or subcontract that includes materials that are subject to inspection and approval in accordance with the applicable NYSDOT design and construction standards associated with the federal aid project.	<input type="checkbox"/>	<input type="checkbox"/>
7c. For projects that fall under both 7a and 7b above, check boxes for each.		
8. Design and/or re-design the project or any portion of the project that may be required because of conditions encountered during construction.	<input type="checkbox"/>	<input type="checkbox"/>
9. Administer construction contract, including the review and approval of all contactor requests for payment, orders-on-contract, force account work, extensions of time, exceptions to the plans and specifications, substitutions or equivalents, and special specifications.	<input type="checkbox"/>	<input type="checkbox"/>
10. Review and approve all shop drawings, fabrication details, and other details of structural work.	<input type="checkbox"/>	<input type="checkbox"/>
11. Administer all construction contract claims, disputes or litigation.	<input type="checkbox"/>	<input type="checkbox"/>

Phase/Sub-phase/Task

Responsibility: NYSDOT Sponsor

12. Perform final inspection of the complete work to determine and verify final quantities, prices, and compliance with plans specifications, and such other construction engineering supervision and inspection work necessary to conform to Municipal, State and FHWA requirements, including the final acceptance of the project by NYSDOT.
13. Pursuant to Federal Regulation 49 CFR 18.42(e)(1) The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

January 2014

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STANDARD CLAUSES FOR NYS CONTRACTS

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

1. **EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.
2. **NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.
3. **COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.
4. **WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this

contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. **NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with 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 (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). 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 (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

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

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/ VendorSearchPublic.asp>

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.

APPENDIX A-1 SUPPLEMENTAL TITLE VI PROVISIONS (CIVIL RIGHTS ACT)

(To be included in all contracts)

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- (1) Compliance with Regulations: The contractor shall comply with the Regulation relative to nondiscrimination in Federally assisted programs of the Department of Transportation of the United States, Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, religion, age, color, sex or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.
- (4) Information and Reports: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by NYSDOT or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to NYSDOT's Office of Civil Rights or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, NYSDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - a) Withholding of payments to the contractor under the contract until the contractor complies; and/or
 - b) Cancellation, termination or suspension of the contract, in whole or in part.
- (6) Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontractor procurement as NYSDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request NYSDOT to enter into such litigation to protect the interests of NYSDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B
REQUIREMENTS FOR FEDERALLY-AIDED TRANSPORTATION PROJECTS
(June 2016)

There is a substantial body of requirements attached to the use of Federal highway or transportation aid. These requirements create or overlay processes, procedures, documentation requirements, authorizations, approvals and certifications that may be substantially greater or different from those that are not funded with Federal-aid and proceed under applicable State and local laws, customs and practices. Under Title 23 of the United States Code, the New York State Department of Transportation (NYSDOT) is responsible for the administration of transportation projects in New York State to which NYSDOT provides Federal highway or transportation-related aid. Through this Agreement, which provides or is associated with such funding, NYSDOT delegates various elements of project and funding administration as described elsewhere in this Agreement. In undertaking a Federally aided project, the Municipality/Sponsor, Authority or Project Manager designated under this Agreement with Federal-aid funding or project administration agrees to proceed in compliance with all the applicable Federal-aid requirements.

NYSDOT, in cooperation with FHWA, has assembled the body of Federal-aid requirements, procedures and practices in its Procedures for Locally Administered Federal-Aid Projects Manual (available through NYSDOT's web site at: <http://www.dot.ny.gov/plafap>). In addition, the Municipality/Sponsor, Authority or Project Manager designated under this Agreement for Federal-aid funding or project administration that enters into Federally aided project construction contracts is required to physically incorporate into all its Federally aided construction contracts and subcontracts there under the provisions that are contained in Form FHWA-1273 (available from NYSDOT or electronically at: <http://www.fhwa.dot.gov/programadmin/contracts/1273.htm>).

In addition to the referenced requirements, the attention of Municipality/Sponsor hereunder is directed to the following requirements and information:

NON DISCRIMINATION/EEO/DBE REQUIREMENTS

The Municipality/Sponsor and its contractors agree to comply with Executive Order 11246, entitled "Equal Employment Opportunity" and United States Department of Transportation (USDOT) regulations (49 CFR Parts 21, 23, 25, 26 and 27) and the following:

1. **NON DISCRIMINATION**. No person shall, on the ground of race, color, creed, national origin, sex, age or handicap, be excluded from participation in, or denied the benefits of, or be subject to, discrimination under the Project funded through this Agreement.
2. **EQUAL EMPLOYMENT OPPORTUNITY**. In connection with the execution of this Agreement, the Municipality/Sponsors contractors or subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, age, color, sex or national origin. Such contractors shall take affirmative actions to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, national origin or age. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

3. **DISADVANTAGED BUSINESS ENTERPRISES**. In connection with the performance of this Agreement, the Municipality/Sponsor shall cause its contractors to cooperate with the State in meeting its commitments and goals with regard to the utilization of Disadvantaged Business Enterprises (DBEs) and will use its best efforts to ensure that DBEs will have opportunity to compete for subcontract work under this Agreement. Also, in this connection the Municipality or Municipality/Sponsor shall cause its contractors to undertake such actions as may be necessary to comply with 49 CFR Part 26.

As a sub-recipient under 49 CFR Part 26.13, the Municipality/Sponsor hereby makes the following assurance.

The Municipality/Sponsor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any United States Department of Transportation (USDOT)-assisted contract or in the administration of its Disadvantaged Business Enterprise (DBE) program or the requirements of 49 CFR Part 26. The Municipality/Sponsor shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of the United States Department of Transportation-assisted contracts. The New York State Department of Transportation's DBE program, as required by 49 CFR Part 26 and as approved by the United States Department of Transportation, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

FEDERAL SINGLE AUDIT REQUIREMENTS

Non-Federal entities that expend \$750,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations. Non-Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non-Federal entities that expend less than the amount above in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in Sec. 215 (a) of OMB Circular A-133 Subpart B--Audits, records must be available for review or audit by appropriate officials of the cognizant Federal agency¹ the New York State Department of Transportation, the New York State Comptrollers Office and the U.S. Governmental Accountability Office (GAO).

Non-Federal entities are required to submit a copy of all audits, as described above, within 30 days of issuance of audit report, but no later than 9 months after the end of the entity's fiscal year, to the New York State Department of Transportation, Contract Audit Bureau, 50 Wolf Road, Albany, NY 12232. Unless a time extension has been granted by the cognizant Federal Agency and has been filed with the New York State Department of Transportation's Contract Audit Bureau, failure to comply with the requirements of OMB Circular A-133 may result in suspension or termination of Federal award payments.

¹ The designated cognizant agency for audit shall be the federal awarding agency that provides the predominant amount of direct funding to a recipient unless OMB changes it.

THE CATALOG OF FEDERAL DOMESTIC ASSISTANCE

The Catalog of Federal Domestic Assistance (CFDA²), is an on-line database of all Federally-aided programs available to State and local governments (including the District of Columbia); Federally recognized Indian tribal governments; Territories (and possessions) of the United States; domestic public, quasi-public, and private profit and nonprofit organizations and institutions; specialized groups; and individuals.

THE CFDA IDENTIFICATION NUMBER

OMB Circular A-133 requires all Federal-aid recipients to identify and account for awards and expenditures by CFDA Number. The Municipality/Sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.

The most commonly used CFDA number for the Federal Aid Highway Planning and Construction program is 20.205.

Additional CFDA numbers for other transportation and non-transportation related programs are:

20.215	Highway Training and Education
20.219	Recreational Trails Program
20.XXX	Highway Planning and Construction - Highways for LIFE;
20.XXX	Surface Transportation Research and Development;
20.500	Federal Transit-Capital Investment Grants
20.505	Federal Transit-Metropolitan Planning Grants
20.507	Federal Transit-Formula Grants
20.509	Formula Grants for Other Than Urbanized Areas
20.600	State and Community Highway Safety
23.003	Appalachian Development Highway System
23.008	Appalachian Local Access Roads

PROMPT PAYMENT MECHANISMS

In accordance with 49 CFR 26.29, and NY State Finance Law 139-f or NY General Municipal Law 106-b(2) as applicable:

(a) You must establish, as part of your DBE program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 7 calendar days from receipt of each payment you make to the prime contractor.

(b) You must ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 7 calendar days after the subcontractor's work is satisfactorily completed. You must use one of the following methods to comply with this requirement:

(1) You may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.

(2) You may decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by

² <http://www.cfda.gov/>

prime contractor to the subcontractor within 7 calendar days after the subcontractor's work is satisfactorily completed.

(3) You may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 7 calendar days after your payment to the prime contractor.

(c) For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the recipient. When a recipient has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

(d) Your DBE program must provide appropriate means to enforce the requirements of this section. These means may include appropriate penalties for failure to comply, the terms and conditions of which you set. Your program may also provide that any delay or postponement of payment among the parties may take place only for good cause, with your prior written approval.

(e) You may also establish, as part of your DBE program, any of the following additional mechanisms to ensure prompt payment:

(1) A contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes. You may specify the nature of such mechanisms.

(2) A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

(3) Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.

CARGO PREFERENCE ACT REQUIREMENTS – U.S. FLAG VESSELS

In accordance with 46 CFR 381, the contractor agrees:

- (a) To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
- (b) To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b) (1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.
- (c) To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

SAMPLE RESOLUTIONS

SAMPLE RESOLUTION BY MUNICIPALITY

(Locally Administered Project)

RESOLUTION NUMBER: _____

Authorizing the implementation, and funding in the first instance 100% of the federal-aid and State "Marchiselli" Program-aid eligible costs, of a transportation federal-aid project, and appropriating funds therefore.

WHEREAS, a Project for the _____, P.I.N. _____ (the Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of ____% Federal funds and ____% non-federal funds; and

[For **SOFT MATCH CREDIT AGREEMENTS** add: WHEREAS, as provided for by agreement with the NYS Department of Transportation, PE and/or ROW Incidental or ROW acquisition work performed by the municipality for the federal aid-eligible construction project covered by the agreement, the costs of such work that are approved in writing by NYSDOT as applicable to the federal aid and Marchiselli aid construction work (excluding costs applicable to non-federally eligible or non-Marchiselli eligible project elements) shall be credited following FHWA's construction phase closeout audit of the Project to Project costs that are eligible for federal aid and Marchiselli aid; and]

WHEREAS, the _____ of _____ desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of _____.

NOW, THEREFORE, the _____ Board, duly convened does hereby

RESOLVE, that the _____ Board hereby approves the above-subject project; and it is hereby further

RESOLVED, that the _____ Board hereby authorizes the _____ of _____ to pay in the first instance 100% of the federal and non-federal share of the cost of _____ work for the Project or portions thereof; and it is further

RESOLVED, that the sum of _____ is hereby appropriated from _____ [or, appropriated pursuant to _____] and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the _____ of _____ shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the _____ thereof, and it is further

RESOLVED, that the _____ of the _____ of the _____ of _____ be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the _____ of _____ with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of

Transportation by attaching it to any necessary Agreement in connection with the Project, and it is further

RESOLVED, this Resolution shall take effect immediately

SAMPLE RESOLUTION BY MUNICIPALITY

(NYSDOT Administered Project)

RESOLUTION NUMBER: _____

Authorizing the implementation and funding of a State "Marchiselli" Program-aid eligible transportation federal-aid project, to fully fund the local share of federal- and state-aid eligible and ineligible project costs and appropriating funds therefore.

WHEREAS, a Project for the _____, P.I.N. _____ (the "Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of ____% Federal funds and ____% non-federal funds; and

[For **SOFT MATCH CREDIT AGREEMENTS** add: WHEREAS, as provided for by agreement with the NYS Department of Transportation, PE and/or ROW Incidental or ROW acquisition work performed by the municipality for the federal aid-eligible construction project covered by the agreement, the costs of such work that are approved in writing by NYSDOT as applicable to the federal aid and Marchiselli aid construction work (excluding costs applicable to non-federally eligible or non-Marchiselli eligible project elements) shall be credited following FHWA's construction phase closeout audit of the Project to Project costs that are eligible for federal aid and Marchiselli aid; and]

WHEREAS, the _____ of _____ desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of _____ work for the Project or portions thereof, with the federal share of such costs to be applied directly by the New York State Department of Transportation ("NYSDOT") pursuant to Agreement; and it is further

NOW, THEREFORE, the _____ Board, duly convened does hereby

RESOLVE, that the _____ Board hereby approves the Project; and it is hereby further

RESOLVED, that the _____ Board hereby authorizes the _____ of _____ to pay in the first instance the full non-federal share of the cost of _____ work for the Project or portions thereof; and it is further

RESOLVED, that the sum of _____ is hereby appropriated from _____ [or, appropriated pursuant to _____] and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that in the event the non-federal share of the costs of the project exceed the amount appropriated above, the _____ of _____ shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the _____ thereof, and it is further

RESOLVED, that the _____ of the _____ of the _____ of _____ be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the _____ of _____ with NYSDOT in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of the non-federal share of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project. and it is further

RESOLVED, this Resolution shall take effect immediately.

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

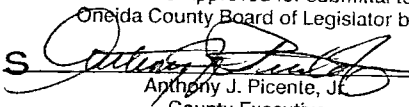
September 13, 2018

FN 20 18-375

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

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

WAYS & MEANS


Anthony J. Picente, Jr.
County Executive

Date 10-3-18

Dear County Executive Picente:

Over the past several years, we have taken significant strides in bringing our salaries in line with both public and private sector employers in our region. In your 2017 budget message, you laid out a 5 year plan to review salaries and make adjustments to bring salaries in line with other counties. Your 2019 Budget is year 3 of a 5 year plan. In keeping with your directive and in order to maintain that momentum, I am recommending the follow actions be taken in the Oneida County 2019 budget.

First, I am recommending the 2019 H, M, and P scales be increased by 1.5%, and employee salaries off scale be increased by 2.75%. This is in line with negotiated settlements in the public sector as well as negotiated settlements with 3 of our employee unions. I believe this adjustment is necessary to effectively recruit and retain individuals for positions covered by those scales.

Second, in 2017 we reallocated the grades of more than 100 Department of Social Services positions in the UPSEU White Collar Unit, and in 2018 we reallocated the grades of 30 positions in the UPSEU Blue Collar Unit. In 2019 I am recommending the following management titles be reallocated: the title of Assistant Personnel Technician be reallocated from Grade 17M with a starting salary of \$27,019 to Grade 18M with a starting salary of \$27,994, Personnel Technician I be reallocated from Grade 19M with a starting salary of \$29,032 to Grade 21M with a starting salary of \$31,271, Personnel Technician II be reallocated from Grade 23M with a starting salary of \$33,765 to Grade 25M with a starting salary of \$36,483, Personnel Technician III be reallocated from Grade 27M with a starting salary of \$39,503 to Grade 29M with a starting salary of \$42,404, Director of Civil Service Administration be reallocated from Grade 32M with a starting salary of \$47,074 to Grade 34M with a starting salary of \$50,434, and Deputy Commissioner of Personnel be reallocated from Grade 36M with a starting salary of \$54,144 to Grade 38M with a starting salary of \$58,193. There are a total of 6 authorized positions in the Personnel Series.

In order to maintain the appropriate relationship among grades and salaries for similar titles I am also requesting the Director of Labor Relations (Vacant and Unfunded) be reallocated from Grade 36M with a starting salary of \$54,144 to Grade 38M with a starting salary of \$58,193. This position should remain unfunded.

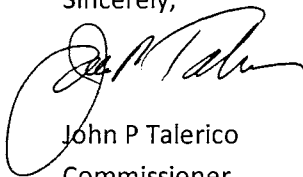
In the Department of Social Services, I am recommending that the Deputy Commissioner of Social Services be reallocated from Grade 42M with a starting salary of \$67,565 to Grade 45M with a starting salary of \$75,893, the Deputy Commissioner of Social Services-Administration be reallocated from Grade 38M with a starting salary of \$58,193 to Grade 42M with a starting salary of \$67,565 and Director of Income Maintenance be reallocated from Grade 33M with a starting salary of \$48,718 to Grade 35M with a starting salary of \$52,250.

In the Department of Budget I am recommending the Director of Budget be reallocated from Grade 42H with a starting salary of \$66,730 to Grade 43H with a starting salary of \$69,328 and Budget Analyst be reallocated from Grade 30M with a starting salary of \$43,947 to Grade 32M with a starting salary of \$47,074.

I am also recommending that 5 positions in the UPSEU White Collar Unit be reallocated: Office of Continuing Care Program Nurse (5) be reallocated from Grade 21W with a starting salary of \$30,809 to Grade 25W with a starting salary of \$35,944.

The above actions will allow us to continue to attract and retain quality employees. Budget Director Keeler has provided you a cost analysis of my recommendations. Although we have discussed these recommendations in detail, let me know if you have any questions or require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "John P. Talerico", is written over a circular stamp or seal.

John P Talerico
Commissioner

CC: Budget Director



ONEIDA COUNTY
OFFICE OF THE COUNTY EXECUTIVE

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

October 2, 2018

FN 20 18-376

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

WAYS & MEANS

Re: Local Law to amend Certain Sections of Article III of the Oneida County Charter

Honorable Members:

Article III of the Oneida County Charter delineates the duties of the Division of Purchase and the Division of Central Services, among others. I am proposing that the title of the Division of Central Services be amended to the Division of Information Technology. I am also proposing that the duties of printing and mail delivery services be transferred from the Division of Central Services to the Division of Purchase. Last, I am proposing that reference to the central repository of commonly used goods be deleted.

To that end, enclosed, please find a proposed Local Law Amending the Oneida County Charter that proposes to amend Article III of the Charter in accordance with the above. I ask that the enclosed be submitted to the Board for consideration in November.

Thank you for the Board's kind attention to this request. Should you have any questions or concerns, or should you require any additional information, please advise.

Very truly yours,

Anthony J. Picente, Jr.
Oneida County Executive



Enclosure

*INTRODUCTORY
NO.*

F.N. 2018-

**BOARD OF COUNTY LEGISLATORS
ONEIDA COUNTY**

RESOLUTION NO.

INTRODUCED BY:

2ND BY:

LOCAL LAW INTRO. ____ OF 2018

LOCAL LAW NO. ____ OF 2018

A LOCAL LAW AMENDING THE ONEIDA COUNTY CHARTER

BE IT ENACTED BY THE BOARD OF COUNTY LEGISLATORS OF THE COUNTY OF ONEIDA, STATE OF NEW YORK, AS FOLLOWS:

1. That Article III, Section 306 of the Oneida County Charter shall be amended by the deletion of all matters that are ~~stricken~~ and the addition of all matters in **bold and underlined** as set forth below:

Section 306. Division of Purchase. There shall be in the office of the County Executive, a ~~d~~Division of ~~p~~Purchase, the head of which shall be a Purchasing Director who shall be appointed by and serve at the pleasure of the County Executive, subject to confirmation by the Board of **County** Legislators. The Purchasing Director shall, in accordance with the requirements as to advertising and competitive bidding, make purchases and sales of all materials, supplies and equipment and contract for the rental or servicing of equipment for the ~~e~~County, except as otherwise provided in this ~~e~~Charter or the ~~e~~Code. He shall not contract for or furnish any services, equipment or other articles except upon the receipt of authorized requisitions and the certification(s) as to availability of funds. **He shall also have the powers and perform such duties in relation to printing and mail delivery services as defined in the Code.**

2. That Article III, Section 306.1 of the Oneida County Charter shall be amended by the deletion of all matters that are ~~stricken~~ and the addition of all matters in **bold and underlined** as set forth below:

Section 306.1. Bureau of Weights and Measures. The Bureau of Weights and Measures shall be headed by the County Director of Weights and Measures. He shall possess all of the qualifications required for, and shall have all the powers and duties of, a county director of weights and measures now or hereafter granted or imposed by Article 16 of the Agriculture and Markets Law of the State of New York, local law, ordinance or resolution of the Board of **County** Legislators, order or direction of the County Executive, or ~~p~~Purchasing ~~d~~Director, and any applicable provision of any act of the legislature not inconsistent with ~~this~~ ~~e~~Charter or ~~the~~ ~~e~~Code.

(a) Whenever the ~~e~~County ~~d~~Director of ~~w~~Weights and ~~m~~Measures is required by any ~~s~~State law to make a report, he shall, at the same time, file a written copy thereof with the ~~purchasing director~~ **County Executive** and the Board of **County** Legislators.

(b) The ~~e~~County ~~d~~Director of ~~w~~Weights and ~~m~~Measures shall be appointed by the County Executive, subject to confirmation by the Board of County Legislators.

3. That Article III, Section 307 of the Oneida County Charter shall be amended by the deletion of all matters that are ~~stricken~~ and the addition of all matters in **bold and underlined** as set forth below:

Section 307. Division of ~~Central Services~~ Information Technology. There shall be in the office of the County Executive a ~~d~~Division of ~~Central Services~~ **Information Technology** headed by an **Information Technology** ~~Central Services~~ Director who shall be appointed by and serve at the pleasure of the County Executive, subject to confirmation by the Board of County Legislators. Such ~~d~~Director shall have the powers and perform such duties in relation to, and including but not limited to establishing and implementing an information technology infrastructure comprised of an integrated, secure, scalable and modernized system which serves to promote the efficient and cost effective delivery of services, to, from, and between the citizens of the County, our departments and allied agencies, both public and private; ~~maintaining a central repository of commonly used goods and materials for departmental use; and printing and mail delivery services as shall be prescribed in the administrative code.~~

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

APPROVED: Ways & Means Committee ()

DATED:

Adopted by the following vote:
AYES NAYS ABSENT



ONEIDA COUNTY
OFFICE OF THE COUNTY EXECUTIVE

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

October 2, 2018

FN 20 18-377

WAYS & MEANS

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

Re: Local Law to amend Certain Sections of Article III of the Oneida County Administrative Code

Honorable Members:

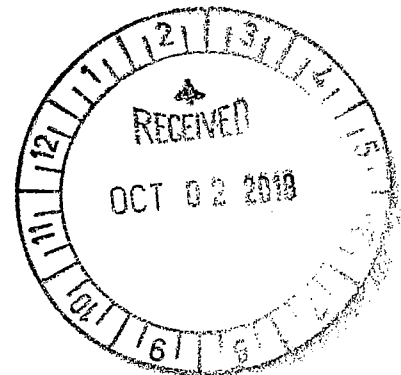
Article III of the Oneida County Administrative Code delineates the duties of the Division of Purchase and the Division of Central Services, among others. I am proposing that the title of the Division of Central Services be amended to the Division of Information Technology. I am also proposing that the duties of printing and mail delivery services be transferred from the Division of Central Services to the Division of Purchase. Last, I am proposing that reference to the central repository of commonly used goods be deleted.

To that end, enclosed, please find a proposed Local Law Amending the Oneida County Administrative Code that proposes to amend Article III of the Code in accordance with the above. I ask that the enclosed be submitted to the Board for consideration in November.

Thank you for the Board's kind attention to this request. Should you have any questions or concerns, or should you require any additional information, please advise.

Very truly yours,

Anthony J. Picente, Jr.
Oneida County Executive



Enclosure

*INTRODUCTORY
NO.*

F.N. 2018-

**BOARD OF COUNTY LEGISLATORS
ONEIDA COUNTY**

RESOLUTION NO.

INTRODUCED BY:

2ND BY:

LOCAL LAW INTRO. ____ OF 2018

LOCAL LAW NO. ____ OF 2018

A LOCAL LAW AMENDING THE ONEIDA COUNTY ADMINISTRATIVE CODE

BE IT ENACTED BY THE BOARD OF COUNTY LEGISLATORS OF THE COUNTY OF ONEIDA, STATE OF NEW YORK, AS FOLLOWS:

1. That Article III, Section 306 of the Oneida County Administrative Code shall be amended by the deletion of all matters that are ~~stricken~~ and the addition of all matters in **bold and underlined** as set forth below:

Section 306. Division of Purchase.

(a) The ~~p~~**P**urchasing ~~d~~**D**irector shall be the head of the ~~d~~**D**ivision of ~~p~~**P**urchase and shall have the powers and duties set forth in Section 306 of Article 3 of the charter. He shall, in addition to his powers and duties, set forth in the ~~e~~**C**harter or ~~this~~ ~~e~~**C**ode, perform such other and related duties as the County Executive may require.

(b) The ~~p~~**P**urchasing ~~d~~**D**irector shall:

(1) ~~e~~**E**stablish and maintain a central purchasing system;

(2) ~~e~~**E**stablish and enforce standard specifications with respect to supplies, materials, equipment, and services;

(3) ~~i~~**I**nspect or supervise, or otherwise provide for the inspection of all deliveries of supplies, materials and equipment and determine their quality, quantity and conformance to contract;

(4) ~~e~~**E**stablish and maintain necessary contact and liaison with the ~~d~~**D**ivision of ~~C~~**C**entral ~~S~~**S**ervices **Information Technology**, including but not limited to procedure for coordinating the controls as set forth relating to the disbursement and transfer of supplies, materials and equipment under the custody of the ~~d~~**D**ivision of ~~C~~**C**entral ~~S~~**S**ervices **Information** Technology to any ~~e~~**C**ounty administrative unit;

(5) ~~s~~**S**ell or lease any surplus, obsolete or unused supplies, materials and equipment under such rules and regulations as may be established by resolution of the Board of County Legislators;

(6) ~~u~~Upon the request of any city, town, village, school district or other unit of local government, act as purchasing agent for the same, either for all or for any part of its purchases, upon such conditions as may be prescribed by the Board of County Legislators;

(7) Except as otherwise provided in the ~~e~~Charter or ~~this e~~this eCode, and subject to the approval of the County Executive, approve and execute all contracts on behalf of the ~~e~~County with respect to the buying, selling or leasing of any supplies, materials, equipment and services other than personal services for any amount not more than such sum set forth in sub-division (c)(1) of this section. The County Executive shall execute all other contracts on behalf of the ~~e~~County as provided by Section 2202 of Article 22 of the ~~e~~Charter;

(8) ~~p~~Perform, under the direction of the County Executive, all other duties of a county purchasing agent under the laws of the State of New York, not inconsistent with the provisions of this ~~e~~eCode;

(9) ~~p~~Prepare procedural regulations to amplify the provisions of this section and submit such regulations to the County Executive for approval and upon such approval, promulgate and enforce compliance with such regulations.

(c) Purchasing Procedure.

(1) The ~~d~~Division of ~~p~~Purchase shall make all purchases of and contract for supplies, materials, equipment and services for the ~~e~~County, the Board of County Legislators or any administrative unit for the payment of which the ~~e~~County shall be liable. Any such purchase or contract of purchase involving an expenditure of the amount set forth in Section 103, sub-division (1) of the General Municipal Law of the State of New York, as amended, shall be made after advertisement in an official daily newspaper printed in the English language and published in the County of Oneida, and having a general circulation in the County of Oneida, which advertisement shall invite sealed bids for the same. The purchase of perishable foodstuffs, drugs and medical supplies, may be made without public advertisement when expressly permitted by written order of the County Executive.

(2) Such advertisement shall contain a statement of the time when and the place where all bids received pursuant to such notice will be publicly opened and read. At least five (5) days shall elapse between the first publication of such advertisement and the date specified therein for the opening and reading of bids. The ~~p~~Purchasing ~~d~~Director, or the person designated by him to open the bids at the time and place specified, shall make a record of such bids in such form and detail as the Purchasing Director shall prescribe. The contract shall be awarded to the lowest responsible bidder furnishing the required security, if any, after advertisement for sealed bids in the manner provided by this section. In cases where two or more responsible bidders furnishing the required security, if any, ~~and~~ submit identical bid as to price, the ~~p~~Purchasing ~~d~~Director may award the contract to any of such bidders. The ~~p~~Purchasing ~~d~~Director may, in his discretion, reject all bids and re-advertise for new bids in the manner provided by this section.

(3) The ~~p~~Purchasing ~~d~~Director may purchase supplies, materials, equipment or services to be rendered by contract without the advertisement required by paragraphs (1) and (2) of ~~this section~~ **subsection (c) herein** in the following cases:

(ia) ~~w~~When the County Executive has declared a public emergency arising out of an accident or other unforeseen occurrence or condition whereby circumstances

affecting the life, health, or safety of inhabitants of the County of Oneida require immediate action which cannot await competitive bidding;

(iib) ~~w~~When, by resolution adopted by a vote of at least two-thirds (2/3) of the whole number, the Board of County Legislators has determined it to be impracticable to advertise for such bids;

(iiie) ~~w~~When through some accident or other unforeseen circumstances the heating, air-conditioning, ventilating, lighting, plumbing system, machinery, equipment or other apparatus of any of the public buildings of the county shall become disabled or any of such buildings or parts thereof shall be rendered untenable by reason of the sudden action of the elements or for some cause due to explosion or fire or from generally unforeseeable events creating an emergency, and the administrative head in charge of such building shall certify in writing to the purchasing director such emergency and the necessity of immediate repair to the defect or defects, and such certificate of necessity is approved by the County Executive; or

(ivd) ~~w~~Whenever the machinery, equipment or other apparatus of the ~~d~~Department of ~~p~~Public ~~w~~Works or of the ~~d~~Department of ~~s~~Solid ~~w~~Waste ~~m~~Management becomes disabled or worn and requires immediate repair, making necessary the immediate purchase of parts for repairs to the same, the Commissioner of Public Works or the ~~e~~Commissioner of ~~s~~Solid ~~w~~Waste ~~m~~Management, as the case may be, shall certify in writing to the director of purchasing of the necessity of such immediate repair and/or replacement, and such certificate of necessity is approved by the County Executive.

(4) Upon the adoption of a resolution by a vote of at least two-thirds (2/3) of the whole number of the Board of County Legislators stating that, for reasons of efficiency and economy, there is need for standardization, purchase contracts for a particular type of or kind of equipment, material or services in excess of the amount fixed by the Board of County Legislators pursuant to paragraph (c)(1) of this section may be awarded to the lowest responsible bidder furnishing the required security, if any, after advertisement for sealed bids therefor in the manner provided by this section. Such resolution shall contain a full explanation of the reasons for its adoption.

(5) All required supplies which can be furnished by the ~~s~~State ~~d~~Department of ~~e~~Correction, and all required products made by the blind which can be furnished by any appropriate charitable non-profit making agency for the blind, incorporated under the laws of the State of New York, shall, after such purchases have been authorized, be purchased from them without competitive bidding at prices established pursuant to Section 175-a of the State Finance Law. In addition, the ~~p~~Purchasing ~~d~~Director may, without the competitive bidding herein before required, make purchases of supplies, materials or equipment, except printed materials, through the ~~s~~State ~~e~~Office of ~~g~~General ~~s~~Services, subject to such rules and regulations as may be established pursuant to section one hundred sixty-three of the State Finance Law or other applicable law.

(6) Surplus and second-hand supplies, materials or equipment may be purchased without competitive bidding from the Federal government, the State of New York or from any other political subdivision or district.

(7) Except as otherwise specifically provided, no supplies, materials or equipment shall be delivered except as specifically ordered by the ~~e~~Division of ~~p~~Purchase. No supplies, materials or equipment shall be delivered by such division to any administrative unit, officer or employee except upon a requisition in writing.

(8) The Comptroller shall not audit any bill for supplies, materials, equipment or services unless it shall fully appear that such items or services were ordered by the ~~p~~Purchasing ~~d~~Director and the ~~p~~Purchasing ~~d~~Director has certified the prices at which he made the purchases. All requisitions received by the ~~p~~Purchasing ~~d~~Director shall be filed in his office and open to public inspection under reasonable regulations for their safety and preservation. The ~~p~~Purchasing ~~d~~Director shall make no purchases until he has first secured the certification of the Comptroller that there are unencumbered balances available for the purpose.

(9) No bid for materials, supplies, equipment or services may be accepted from or contract therefor awarded to any person who is in arrears in taxes or upon debt or contract to or with the ~~e~~County or who has defaulted as surety or otherwise upon a contract or obligation to the ~~e~~County, or who may be otherwise disqualified under any act of the legislature not inconsistent with the ~~e~~Charter or this e~~C~~ode.

(d) Mail Services

(1) The Purchasing Director shall establish mailing services for all County Departments utilizing the services of the United States Postal Services and any other 3rd party carrier that can provide cost effective delivery services to administrative units. Additionally, the Mail Services shall process and deliver all inter-office mail by means of a dedicated County Mail Courier.

(e) Printing and Duplication Services

(1) The Purchasing Director shall establish and maintain printing, duplication and bindery services for all administrative units, and can extend those services to other local governments within Oneida County, as well as not-for-profit agencies within Oneida County.

2. That Article III, Section 306.1 of the Oneida County Administrative Code shall be amended by the deletion of all matters that are ~~stricken~~ and the addition of all matters in **bold and underlined** as set forth below:

Section 306.1. Bureau of Weights and Measures. The Bureau of Weights and Measures shall be headed by the County Director of Weights and Measures. He shall possess all of the qualifications required for, and shall have all the powers and duties of, a county director of weights and measures now or hereafter granted or imposed by Article 16 of the Agriculture and Markets Law of the State of New York, local law, ordinance or resolution of the Board of **County** Legislators, order or direction of the County Executive, ~~or Purchasing Director,~~ and any applicable provision of any act of the legislature not inconsistent with the ~~e~~Charter or this e~~C~~ode.

(a) Whenever the ~~e~~County ~~d~~Director of ~~w~~Weights and ~~m~~Measures is required by any ~~s~~State law to make a report, he shall, at the same time, file a written copy thereof with the ~~Purchasing Director~~ County Executive and the Board of County Legislators.

(b) The ~~e~~County ~~d~~Director of ~~w~~Weights and ~~m~~Measures shall be appointed by the County Executive, subject to confirmation by the Board of County Legislators.

3. That Article III, Section 307 of the Oneida County Administrative Code shall be amended by the deletion of all matters that are ~~stricken~~ and the addition of all matters in **bold and underlined** as set forth below:

Section 307. Division of ~~Central Services~~ Information Technology.

(a) The Information Technology Director of ~~Central Services~~ shall be the head of the ~~d~~Division of ~~Central Services~~ Information Technology and shall have the powers and duties set forth in Section 307 of Article 3 of the ~~e~~Charter. He shall, in addition to his powers and duties set forth in the ~~e~~Charter or this eCode, perform such other and related duties as the County Executive may require.

(b) The ~~Central Services~~ Information Technology Director shall, under the supervision and direction of the County Executive, organize the divisions of Information Technology, ~~Mail Services, Print Shop,~~ and such other divisions as may be authorized by the Board of County Legislators.

(c) ~~The Director of Central Services, and such deputies and other employees of the division of central services as are required by the County Executive shall each give a surety bond to the county in a sum fixed by the Board of County Legislators conditioned for the faithful performance of his duties. Such bond shall be approved as to form by the County Attorney and as to the sufficiency of surety by the County Executive and filed with the Department of Records.~~

(~~cd~~) The ~~Central Services~~ Information Technology Director **shall be the Chief Information Security Officer of the County.** He shall establish, maintain and supervise such facilities for information technology **systems and infrastructure** ~~mailing, printing and reproduction~~ as may be provided by the Board of County Legislators; **and** establish, maintain and supervise such other central service facilities as may be established by direction of the County Executive, within the appropriations provided therefor.

(~~cl~~) ~~Information Technology~~ (i) The ~~Central Services~~ Information Technology Director shall establish, maintain and support a secure and scalable County government-wide area telecommunications network, providing network connectivity to all administrative units as well as providing data file storage, Internet, email access as well as access to any other shared data program or application **and mobile devices** required by that department in the performance of its official duties.

(2) Mail Services

~~(i) The Central Services Director shall establish mailing services for all County Departments utilizing the services of the United States Postal Services and any other 3rd party carrier that can provide cost effective delivery services to administrative units. Additionally, the Mail Services shall process and deliver all inter-office mail by means of a dedicated County Mail Courier.~~

~~**(3) Printing and Duplication Services**~~

~~(i) The Central Services Director shall establish and maintain printing, duplication and bindery services for all administrative units, and can extend those services to other local governments within Oneida County, as well as not for-profit agencies within Oneida County.~~

~~**(4) Central Stores**~~

~~(a) The Director of Central Services shall establish and maintain the Bureau of Central Stores and shall disburse and transfer supplies, materials and equipment in his custody among the administrative units upon receipt of properly executed order from those administrative units. The accounts of Central Stores shall be audited by the Comptroller of Oneida County at any time deemed so appropriate by the Comptroller.~~

~~(b) No disbursement and transfer of supplies, materials and equipment under its custody shall be made by the Bureau of Central Stores, mailing, printing and reproduction to any administrative unit except upon receipt by such bureau of properly executed order from the division of purchase for such disbursement and transfer. For the purpose of this section, an order shall be deemed to be properly executed when a requisition signed by the administrative unit head or by such employees as he shall designate has been received by the division of purchase and such division has secured the certification of the Comptroller that there are unencumbered balances of said administrative unit available for the purchase of supplies, materials and equipment, mas the case may be. And such requisition and certification has been signed by the purchasing director or by an employee authorized to sign the same.~~

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

APPROVED: Ways & Means Committee ()

DATED:

Adopted by the following vote:
AYES NAYS ABSENT



ONEIDA COUNTY
OFFICE OF THE COUNTY EXECUTIVE

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

FN 20 18-378

October 4, 2018

WAYS & MEANS

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

Honorable Members:

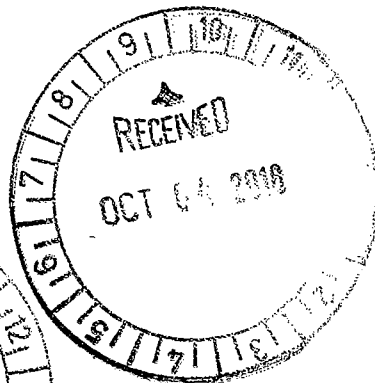
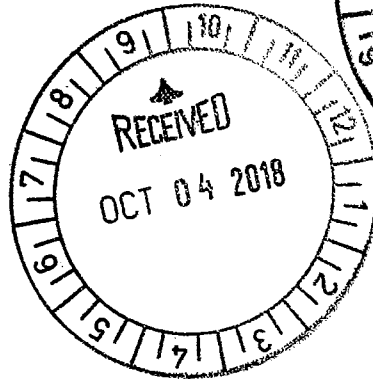
Enclosed for your consideration is a proposed Local Law authorizing the Board of Legislators to adopt a county budget for fiscal year 2019 that requires a real property tax levy in excess of the limit specified in General Municipal Law § 3-c. Passage of this Local Law by a vote of sixty percent (60%) of the total Board membership is required by General Municipal Law § 3-c(5) in order to adopt a budget that exceeds the tax cap.

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

Very truly yours,

Anthony J. Picente, Jr.
Oneida County Executive

Enclosure



**INTRODUCTORY
NO.**

F.N. 2018-

**BOARD OF COUNTY LEGISLATORS
ONEIDA COUNTY**

RESOLUTION NO.

INTRODUCED BY:

2ND BY:

LOCAL LAW INTRO. ____ OF 2018

LOCAL LAW NO. ____ OF 2018

**A LOCAL LAW TO OVERRIDE THE TAX LEVY LIMIT ESTABLISHED IN GENERAL
MUNICIPAL LAW § 3-c**

BE IT ENACTED BY THE BOARD OF COUNTY LEGISLATORS OF THE COUNTY OF
ONEIDA, STATE OF NEW YORK, AS FOLLOWS:

1. Legislative Intent

It is the intent of the Board of County Legislators of County of Oneida, by enactment of this Local Law, to override the limit on the amount of real property taxes that may be levied by the County of Oneida pursuant to General Municipal Law § 3-c, and to allow the County of Oneida to adopt a county budget for the fiscal year 2019 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law § 3-c.

2. Authority

This Local Law is adopted pursuant to General Municipal Law § 3-c(5), which expressly authorizes the Board of County Legislators to override the tax levy limit by adoption of a local law approved by a vote of sixty percent (60%) of the total voting power of the Board.

3. Tax Levy Limit Override

The Board of County Legislators of the County of Oneida is hereby authorized to adopt a budget for the fiscal year 2019 that requires a real property tax levy in excess of the limit specified in General Municipal Law § 3-c.

4. Effective Date

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

APPROVED: Ways & Means Committee ()

DATED:

Adopted by the following vote:
AYES NAYS ABSENT