



# ONEIDA COUNTY BOARD OF LEGISLATORS

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

April 14, 2010

Gerald J. Fiorini  
Chairman  
(315) 798-5900

Mikale Billard  
Clerk  
(315) 798-5901

David J. Wood  
Majority Leader

Patricia A. Hudak  
Minority Leader

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

<u>FILE NO.</u>	<u>COMMITTEE</u>
2010-167 . . .	Memorializing Petition .....
2010-191 . . .	Public Health, Ways & Means.....
2010-192 . . .	Airport, Ways and Means.....
2010-193 . . .	Read & Filed.....
2010-194 . . .	Ways & Means (to Ways & Means & Board on 4/14/10).....
2010-195 . . .	Public Works, Ways & Means.....
2010-196 . . .	Ways & Means .....
2010-197 . . .	Read & Filed.....
2010-198 . . .	Public Safety, Ways & Means .....
2010-199 . . .	Public Safety, Ways & Means .....
2010-200 . . .	Public Safety, Ways & Means .....
2010-201 . . .	Public Safety, Ways & Means .....
2010-202 . . .	Public Safety, Ways & Means .....
2010-203 . . .	Ways & Means .....
2010-204 . . .	Internal Affairs, Ways & Means.....
2010-205 . . .	Airport, Ways & Means.....
2010-206 . . .	Public Safety, Ways & Means .....
2010-207 . . .	Public Health, Ways & Means.....
2010-208 . . .	Public Health, Ways & Means.....
2010-209 . . .	Public Health, Ways & Means.....
2010-210 . . .	Public Health, Ways & Means.....

**AVAILABLE ON WEBSITE ONLY**

**PETITION BY ONEIDA COUNTY, N. Y., BOARD OF LEGISLATORS**

**for**

**MEMORIALIZING PETITION**

F.N. 2010-167

SPONSOR(S): Legislator

**RE: MEMORIALIZING PETITION DESIGNATING ONEIDA COUNTY AS A "HEALTHY ONEIDA COUNTY" FOR THE PURPOSES OF COMBATING OBESITY**

**WHEREAS**, obesity takes a tremendous toll on the health and productivity of many residents of New York State, and

**WHEREAS**, the annual cost of medical bills, workers compensation and lost productivity due to overweight, obesity and physical inactivity in the State exceeds six billion dollars annually, and

**WHEREAS**, supporting the health of residents and the local workforce would decrease chronic disease and health care costs and increase productivity, and

**WHEREAS**, Oneida County has a goal to promote and develop safe and healthy communities, now, therefore, be it hereby

**RESOLVED**, that Oneida County shall become a "Healthy Oneida County", and be it further

**RESOLVED**, that Oneida County shall collaborate with Herkimer County to combat obesity and promote a healthy lifestyle for its residents.

LEGISLATORS SUPPORTING PETITION

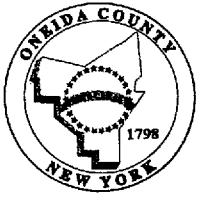
LEGISLATORS OPPOSING PETITION

<p><i>John J. Fava</i></p> <p><i>Michael J. Lintner</i></p> <p><i>Tommy Lee</i></p> <p><i>James A. Saper</i></p> <p><i>Dept. G. P. William Goodman</i></p> <p><i>Sam Mandy</i></p> <p><i>L. Porter</i></p> <p><i>David Wilcox</i></p> <p><i>Brian Miller</i></p> <p>21 . 0 . 13 . 11</p>	<p><i>Howard Webb</i></p>
--	---------------------------

Fidel Scullal  
 Emil R. Paparella  
 Paul H. Brennan  
 [Signature]  
 Patricia DeHendel  
 Joseph Jergal  
 [Signature]  
 Jose Am Conventino  
 Paul Lang  
 Duane Robert Lewis  
 Gerald [Signature]  
 Manuel J. Kennedy  
 [Signature]

The enclosed petition represents the opinion of those members of the Oneida County Board of Legislators signing the same regarding the contents or subject matter of the petition. Under the Rules of the Board, a Legislator may sign said petition or may, in the alternative, elect not to sign the petition. There are 29 members of the Oneida County Board of Legislators.

Dated: \_\_\_\_\_



COUNTY OF ONEIDA  
**OFFICE OF THE COUNTY EXECUTIVE**

**ANTHONY J. PICENTE JR.**

County Executive  
ce@ocgov.net

ONEIDA COUNTY OFFICE BUILDING  
800 PARK AVENUE  
UTICA, NEW YORK 13501  
(315) 798-5800  
FAX: (315) 798-2390  
www.ocgov.net

April 1, 2010

FN 20 10-191

RECEIVED  
ONEIDA COUNTY LEGISLATURE  
2010 APR 07 AM 10:28

Board of Legislators  
Oneida County  
800 Park Ave.  
Utica, NY 13501

**PUBLIC HEALTH**

**WAYS & MEANS**

Re: Appointment of Director of Public Health

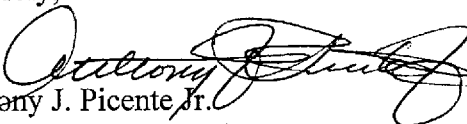
Honorable Members:

I am respectfully requesting that the appointment of Gayle D. Jones, PhD, M.P.H., CHES to the position of Director of Public Health at a level of Grade 49H, Step 3 (\$78,296) to be confirmed by the Board of Legislators pursuant to Article XI, Section 1102 of the Oneida County Charter.

Dr. Jones is a Doctor of Public Health and has significant experience in many aspects of the public health field. Throughout the interview process she has demonstrated her knowledge of public health as well as her ability to lead and manage our Health Department. Dr. Jones has a vision of where she would like to lead the department in the future and I am confident that she will be able to execute this vision and move our Health Department forward.

I respectfully request the Board's consideration of this appointment at its earliest opportunity.

Sincerely,

  
Anthony J. Picente Jr.  
Oneida County Executive

Cc: Gayle Jones

# APPLICATION FOR CIVIL SERVICE EXAMINATION OR EMPLOYMENT

Application also available on line at [www.ocgov.net](http://www.ocgov.net)  
 Department of Personnel, 800 Park Avenue Utica, NY 13501  
 John P. Talerico - Commissioner of Personnel  
 Phone: (315) 798-5726 Fax: (315) 798-6490 Web site: [www.ocgov.net](http://www.ocgov.net)

<b>POSITION TITLE</b> <u>Public Health Div.</u>		<b>EXAM NUMBER</b> _____		<b>SOCIAL SECURITY #:</b> _____																			
Print Last Name <u>JONES</u> First <u>GAYLE</u> MI <u>D</u>		(Area Code) Home Phone _____		(Area Code) Business Phone _____																			
Permanent Legal Address _____ (Mailing Address if different)				_____																			
Street _____ Apt _____		Street _____ Apt _____		_____																			
City / Town _____ State _____ Zip Code _____		City / Town _____ State _____ Zip Code _____		_____																			
Referring to your <b>PERMANENT LEGAL ADDRESS</b> , complete all items which apply to where you live.					If age is required on appointment or to take the examination, complete Date Of Birth:  <b>DOB:</b> _____																		
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;">NAME</th> <th style="width: 10%;">Years</th> <th style="width: 10%;">Months</th> </tr> </thead> <tbody> <tr> <td>What School District do you live in and for how long? _____</td> <td></td> <td></td> </tr> <tr> <td>What City do you live in and for how long? <u>Columbia SC</u></td> <td></td> <td><u>4</u></td> </tr> <tr> <td>What Village do you live in and for how long? _____</td> <td></td> <td></td> </tr> <tr> <td>What Town do you live in and for how long? _____</td> <td></td> <td></td> </tr> <tr> <td>What County do you live in and for how long? <u>Richland SC</u></td> <td></td> <td><u>4</u></td> </tr> </tbody> </table>						NAME	Years	Months	What School District do you live in and for how long? _____			What City do you live in and for how long? <u>Columbia SC</u>		<u>4</u>	What Village do you live in and for how long? _____			What Town do you live in and for how long? _____			What County do you live in and for how long? <u>Richland SC</u>		<u>4</u>
NAME	Years	Months																					
What School District do you live in and for how long? _____																							
What City do you live in and for how long? <u>Columbia SC</u>		<u>4</u>																					
What Village do you live in and for how long? _____																							
What Town do you live in and for how long? _____																							
What County do you live in and for how long? <u>Richland SC</u>		<u>4</u>																					
A. Are you a citizen of the United States? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO (If NO, see instruction H on page 4)			<b>SPECIAL ARRANGEMENTS</b> (Optional-See instruction E, on page 4)																				
B. Are you or were you an exempt volunteer firefighter? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			<input type="checkbox"/> Religious Accommodation <input type="checkbox"/> Military <input type="checkbox"/> Disability																				
Check appropriate box to the right of each question:																							
A. Were you ever dismissed or discharged from any employment for reasons other than lack of work, funds, disability or medical condition?			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO																				
B. Did you ever resign from any employment rather than face dismissal?			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO																				
C. Did you ever receive a discharge from the Armed Forces of the United States which was other than "Honorable" or which was issued under other than honorable circumstances?			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO																				
D. Are you now under charges for any crime?			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO																				
E. Have you ever been convicted of any crime (felony or misdemeanor)? If Yes, attach completed form, Request For Criminal Offense			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO																				
If you answered "YES" to any of the Questions A-D above, you may give specifics under "Remarks" on page 3 of this application. If you elect not to provide specifics, or if such explanation is insufficient, you may be required to submit further information. None of the above circumstances represents an automatic bar to employment. Each case is considered and evaluated on individual merits in relation to the duties and responsibilities of the position (s) for which you are applying.																							
F. Are you currently or have you ever served in the Armed Forces of the United States? If yes, complete questions for Veterans' Credits.			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO																				
<b>VETERANS' CREDITS</b> (See instruction F, on page 4) If you wish to claim additional credits complete questions 1-4																							
<input type="checkbox"/> Disabled War Veteran (10 Points)		<input type="checkbox"/> Non-disabled War Veteran (5 Points)																					
1. Did you receive a discharge which was honorable or were you released under honorable circumstances?			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO																				
2. Did you serve in the Armed Forces of the United States during any of the following periods? (12/7/41 - 12/31/45) (5/27/50 - 1/31/55) (02/28/61 - 5/7/75) (Persian Gulf: 5/2/90-present) (Lebanon: 6/1/83 - 12/1/87) (Grenada: 10/23/83 - 11/21/83) (Panama: 12/20/89 - 1/31/90)			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO																				
NOTE: Credits for Lebanon, Grenada, and Panama will be limited to those who received the following Expeditionary Medals: Armed Forces, Navy, or Marine Corps (U.S. Public Health Service: (7/29/45 - 12/31/45) OR (5/27/50 - 7/3/52)																							
3. Since January 1, 1961, have you received a permanent appointment in New York State using your veterans credits?			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO																				
4. At the time of this application are you currently a New York State Resident?			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO																				

- Approved
- Conditioned
- Disapproved

(DATE STAMP BELOW)

<b>THIS AFFIRMATION MUST BE COMPLETED</b>	
I affirm that the statements made on this application (including any attached papers) are true under the penalties of perjury. (SEE page 4)	
_____ (Signature in blue ink)	_____ Date
Indicate any other surname (last name) by which you are or have been known	

**BE SURE TO ANSWER THIS SECTION.** Section 50-b of the NYS Civil Law requires that all applicants for examination answer the following questions:

1. Have you any loans made or guaranteed by the New York State Higher Education Services Corporation which are currently outstanding?  YES  NO
2. If yes, are you presently in default on any such loan?  YES  NO

**EDUCATION:** Read examination announcement for educational requirements. If specialized coursework is required, attach transcripts showing the required courses and credit hours you completed.

Have you graduated from high school?  YES  NO IF YES, NAME AND LOCATION OF HIGH SCHOOL YEAR GRADUATED  
 Jasper County High Pickensland SC 1995

Do you have a high school equivalency diploma?  YES  NO IF YES, ISSUING GOVERNMENTAL AUTHORITY: NUMBER DATE OF ISSUE

	Name of School OR College and Address	Dates of Attendance (Month and Year)		Type of Course or Major Subject	Number of College Credits Rec'd	Type of Degree Rec'd	Date Degree Rec'd
		From	To				
College University, Professional Or Technical School	Uni of SC Aiken Aiken, SC	8/00	12/02	Biology	122	BS	12/02
	Uni of SC Columbia, SC	8/03	8/05	Public Hth Admin	51	MPH	8/05
Other Schools Or Special Courses	Walden University Minneapolis, MN	9/05	8/09	Public Hth Comm Hth Edu.	119	PHD	8/09

**LICENSES:** If a license, or other authorization to practice trade or profession is listed as a requirement on the examination announcement for which you are applying, complete the following and submit a copy of license with this application. If not currently licensed check this box.

Name of Trade or Profession CHES	License Number 13912	Granted by (licensing agency) NCHEC	City or State of
Specialty Hth Edu	Date of License First Issued 4/07	Registered From: (Mo./Yr.) To: (Mo./Yr.)	

If required on the announcement: Do you have a valid license to operate a motor vehicle in New York State?  YES  NO

**DESCRIPTION OF EXPERIENCE:** Beginning with your most recent employer, list all employment, military service, or volunteer experience that shows you meet the minimum qualifications for the examination. We cannot interpret omissions or vagueness in your favor. You are responsible for an accurate and clear description of your experience. (Do not send your resume.) Describe the work which you personally performed. If you supervised, state how many people and the nature of such supervision.

Dates Employed MO YR MO YR 7 / 09 to 8 / 09	Employer Spectrum Healthcare Resources	Address 12641 Olive Blvd Ste 600	City and State St Louis MO
Hours per week 40	Job Title Hth Edu Promotion Mgr	Supervisor's Name Helen Wilbanks	Supervisor's Title Type of Business Healthcare

Describe specific work performed and job responsibilities:

Managed health promotion, health education, and capacity building activities for military personnel and their families. Developed new programs and curriculum. Coordinated with the community to establish partnerships for the provision of wellness programs. Developed strategic plans in order to direct programs and meet objectives.

Dates Employed MO YR MO YR 1 / 08 to 07 / 09		Employer Virginia Dept of Health	Address 109 Governors St	City and State Richmond VA
Hours per week 40	Job Title Program Mgr	Supervisor's Name Nancy Ford	Supervisor's Title Dir of Ped Scrn	Type of Business NITH Dept

Describe specific work performed and job responsibilities:

Managed statewide program performance. Performed federal, state, & local grant writing. Responsible for fiscal management, resource allocation, and progress reports. Supervision of 2 direct staff and 64 hospitals statewide indirectly. Performed community planning, outreach, and mobilization of partnerships. Revised policy and regulations as needed for legislation.

Dates Employed MO YR MO YR 1 / 10		Employer Virginia Dept of NITH	Address 75 Rogers St	City and State Lebanon VA
Hours per week	Job Title Sr NITH Edu	Supervisor's Name John Dreyzehner	Supervisor's Title NITH Director	Type of Business NITH Dept

Describe specific work performed and job responsibilities:

Developed and implemented new health education programs for 4 counties. Developed & maintained relationships at the federal, state, and local levels. Performed community assessments to determine direction and objectives of new programs. Performed grant writing, fiscal management, and resource allocation. Supervised personnel. Developed, implemented, and evaluated community events and programs.

Dates Employed MO YR MO YR 4 / 03 to 10 / 06		Employer Hilton Head Reg Med Ctr	Address 25 Hospital Blvd	City and State Hilton Head SC
Hours per week 40	Job Title Lab Tech	Supervisor's Name B. Pawlishyn	Supervisor's Title Labs Director	Type of Business Hospital

Describe specific work performed and job responsibilities:

Performed lab work in chemistry, microbiology, pathology, cytology, hematology, histology, and phlebotomy.

Dates Employed MO YR MO YR 8 / 04 to 3 / 05		Employer SC Dept of NITH & Environ. Control	Address Port Royal Dr	City and State Beaufort SC
Hours per week 35	Job Title Program Coordinator	Supervisor's Name Brad Smith	Supervisor's Title Dir. of Special Programs	Type of Business NITH dept

Describe specific work performed and job responsibilities:

Provided health consultations and presentations on various topics of interest. Developed and implemented educational materials for healthcare professionals. Evaluated new programs to determine cost effectiveness and sustainability.

REMARKS: (Use this space to provide any additional information, as necessary. If more space is required, attach additional 8 1/2 x 11 sheets)

# Gayle D. Jones, Ph.D, M.P.H, CHES

## Curriculum Vitae

### SUMMARY OF PROFESSIONAL EXPERIENCE

- Experience coordinating community outreach and capacity building activities with target populations for public health, community health and health education programs in 4 counties of southwestern Virginia.
- Significant experience in federal grant writing, fiscal management, and program management.
- Consultation and leadership in the development of culturally appropriate materials (e.g., brochures, pamphlets, training guides).
- Liaison for community partnership development.
- Significant experience in health promotion, community trainings and leadership, including expertise in working with priority populations on issues including obesity, cardiovascular disease, diabetes, and maternal and child health.
- Recruiting and educating program participants, conducting assessments and groups evaluations, conducting pilot studies, performing project support and management duties.
- Experience reviewing and revising legislation.

### ACADEMIC EXPERIENCE

- |   |             |
|---|-------------|
| Doctor of Philosophy – Public Health,<br><i>Walden University, Minneapolis, Minnesota</i>                         | 2005 - 2009 |
| Master of Public Health – Health Administration,<br><i>University of South Carolina, Columbia, South Carolina</i> | 2003 – 2005 |
| Bachelor of Science – Biology,<br><i>University of South Carolina Aiken, Aiken, South Carolina</i>                | 2000 - 2002 |



## RELEVANT PROFESSIONAL EXPERIENCE

### **Health Education Promotion Program Manager**

*Shaw AFB, Spectrum Healthcare Resources, Sumter, SC 2009-2009*

Responsible for the management of health promotion, health education, and capacity building activities for military personnel and their families. Facilitate health awareness seminars, health assessments, health fairs, and programs to encourage healthy living. Develop and design new programs and curriculum. Develop and implement strategic plans in order to direct programs and meet objectives. Coordinate with the community to establish partnerships for the provision of wellness programs.

### **Early Hearing Detection Program Manager**

*2008 – 2009*

*Virginia Department of Health, Richmond, Virginia*

Responsible for statewide program performance; federal grant writing; supervision and direction of personnel; research, analysis, and reporting; fiscal management; excellent organizational and communication skills; community planning and outreach; coordination of projects; review of legislation, policy, and regulations; and mobilization of community partnerships.

### **Senior Health Educator**

*2006 – 2008*

*Virginia Department of Health, Lebanon, Virginia*

Responsible for development and implementation of new health education programs for four counties; develop and maintain relationships at all levels; curriculum development and presentation of health information using various methods to diverse groups; data analysis and research reviews; program planning; community assessment; grant writing, fiscal management; program evaluation; implementation of community events. Coordinator for diabetes prevention and control in southwest Virginia.

### **Senior Laboratory Technician**

*2003 - 2006*

*Hilton Head Regional Medical Center, Hilton Head, S.C.*

Responsible for conducting laboratory work in various areas including pathology, histology, cytology, chemistry, phlebotomy, hematology, and microbiology.

### **Teen Pregnancy Prevention Program Coordinator**

*2004 – 2005*

*South Carolina Dept. of Health & Envir. Control, Beaufort, S.C.*

Responsible for development and implementation of education and evaluation methods; data analysis; health consultation, and teaching various health topics.

PROFESSIONAL ORGANIZATIONS

*American Public Health Association*

PROFESSIONAL CERTIFICATIONS

*Certified Trainer for Chronic Disease Self Management, 2007*

*Certified Health Education Specialist, 2007*

*Certified Trainer for Childhood Obesity, 2007*

PROFESSIONAL PRESENTATIONS

2005: Reducing the Risk of Sexually Transmitted Diseases among High Risk  
Adolescents

2005: Increasing Healthcare Access to Rural Areas

2007: Virginia Healthy Student Summit on Childhood Obesity

2007: Diabetes Prevention and Control Project

2009: African American Pregnancies-The Role of Acute and Chronic Stress in Birth  
Outcomes

*\* References available upon request*

# Griffiss International Airport



592 Hangar Road, Suite 200  
Rome, NY 13441  
Telephone: 315-736-4171 / Fax: 315-736-0568

ANTHONY J. PICENTE, JR.  
County Executive

W. VERNON GRAY, III  
Commissioner of Aviation

January 8, 2010

FN 20 10 - 192

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

**AIRPORT**

**WAYS & MEANS**

Re: **HANGAR 220 LEASE - LANDCARE AVIATION**

RECEIVED  
ONEIDA COUNTY LEGISLATURE  
2010 APR - 1 AM 10:30

Dear Mr. Picente,

With the completion of the renovation of Hangar 220, Landcare Aviation is being relocated from the East Bay of Building 100 to this hangar.

It is requested that you submit to the Board of Legislators for approval the enclosed Commercial Hangar Use Agreement between the County and Landcare Aviation, effective as of January 1, 2010.

Sincerely,

W. Vernon Gray, III  
Commissioner of Aviation

Encl: Five (5) copies of Lease

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

Anthony J. Picente, Jr.  
County Executive

Date 3/29/10

Oneida County Department: Aviation

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

## Oneida County Board of Legislators Contract Summary

Name of Proposing Organization: Landcare Aviation

Title of Activity or Service: **Tenant Lease**

Client Population/Number to be Served: N/A

Summary Statements:

1) Narrative Description of Proposed Services:

**Airport property lease to tenant.**

2) Program/Service Objectives and Outcomes:

N/A

3) Program Design and Staffing Level:

N/A

Total Funding Requested: N/A

Oneida County Department Funding Recommendation: N/A

Account # **A1781.3**

Proposed Funding Source: Federal N/A State N/A County N/A

Cost Per Client Served: N/A

Past Performance Data: N/A

Oneida County Department Staff Comments:



# ONEIDA COUNTY BOARD OF LEGISLATORS

*Patricia A. Hudak, Minority Leader*  
103 Drought Drive, Rome, New York 13440 Phone: 339-9960

April 9, 2010

FN 20 10 - 193

The Honorable Gerald J. Fiorini, Chairman  
Oneida County Board of Legislators  
Oneida County Office Building  
800 Park Ave.  
Utica, New York 13501

**READ & FILED**

Dear Chairman Fiorini:

Enclosed please find a memorializing petition number 193 which supports and benefits volunteer firefighters across Oneida County.

The necessity for continuing and expanded benefits for our volunteer firefighters was brought to light at the annual volunteer firefighters' breakfast which I attended along with Mr. Clancy.

As you will see, the Petition is in support of the Assembly and Senate Bills that will extend the effective date of the Volunteer Firefighter Benefit Law that provides benefits to volunteer firefighters that are disabled (or have died) as a result of lung disease. The Bills also expand coverage under the law to include cancer of the digestive, hematological, lymphatic, urinary and prostrate systems since exposure to smoke and toxic fumes creates greater risk of cancer in other parts of the body.

The Bills will also make permanent the section of the Volunteer Firefighter Benefit Law commonly referred to as the "heart benefit" which requires a claim for heart-related benefits be paid unless shown by substantial evidence that an individual firefighter's activities did not cause the heart-related injury.

We hope this petition will bring awareness to an existing problem in benefits afforded to those individuals who undertake significant risks while serving our communities in the line of duty as volunteer firefighters. The volunteer firefighters play a crucial role in our community and are important to the welfare of our world constituency.

Therefore, we respectfully submit the attached petition and ask that the caption be read at the April 14<sup>th</sup> board meeting.

RECEIVED  
ONEIDA COUNTY LEGISLATIVE  
2010 APR 13 PM 10:34

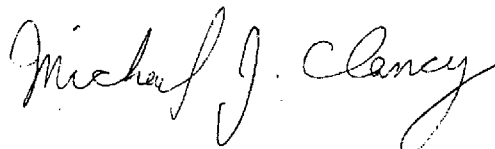
Hon. Gerald Fiorini, Chairman  
April 9, 2010  
Page 2

We would also ask that this petition be forwarded to the appropriate state officials once all the necessary signatures have been obtained.

Sincerely,



PATRICIA A. HUDAK  
Minority Leader  
Oneida County Legislator  
29<sup>th</sup> District



MICHAEL J. CLANCY  
Co-Minority Leader  
Oneida County Legislator  
12<sup>th</sup> District

PAH/MJC/cg

CC: The Hon. Anthony J. Picente, Jr., Oneida County Executive

PETITION BY ONEIDA COUNTY, N. Y.,  
BOARD OF LEGISLATORS

for  
MEMORIALIZING PETITION

FN 20 10 - 193

F.N. 2010-193

**READ & FILED**

SPONSOR(S): PATRICIA HUDAK, MICHAEL CLANCY

RE: MEMORIALIZING PETITION CALLING UPON GOVERNOR PATERSON AND NEW YORK STATE LEGISLATURE TO SUPPORT BILLS S2769/A5895 TO MAKE SECTION 61 OF THE VOLUNTEER FIREFIGHTER BENEFIT LAW (VFBL) PERMANENT AND BILLS S5114/A8516, S4987/A8298 TO EXTEND THE EFFECTIVE DATE OF THE LAW THAT PROVIDES A BENEFIT TO VOLUNTEER FIREFIGHTERS THAT ARE DISABLED (OR HAVE DIED) AS A RESULT OF LUNG DISEASE AND TO EXPAND COVERAGE UNDER THE LAW

WHEREAS, The State of New York adopted a "heart benefit" for volunteer firefighters in 1977 under Section 61 of the Volunteer Firefighters Benefits Law, **and**

WHEREAS, The original 1977 law expired in 1979, and then was re-authorized and extended every two (2) years until 2005. In 2005, the Legislature re-authorized and extended the law for another five (5) years. This law is currently scheduled to expire in 2010, **and**

WHEREAS, Bills S2769 and A5895 request an Act to repeal Section 4 of Chapter 668 of the laws of 1977, amending the VFBL to make Section 61 permanent which requires a claim for heart-related benefits be paid unless shown by substantial evidence that an individual's volunteer firefighting activity did not cause the heart-related injury, **and**

WHEREAS, The State of New York passed a law in 2006 to assist volunteer firefighters that are affected by diseases of the lung under Section 11-c of the Volunteer Firefighters' Benefit Law. Section 11-c of the VFBL creates the presumption that a volunteer's death or disability from lung disease was incurred in the volunteer's line of duty and the death or disability was not caused by the firefighter's own negligence. The benefits under Section 11-c were extended until June 30, 2010, **and**

WHEREAS, Bills S5114 and A8516 seek to extend the presumption relating to certain lung disabilities incurred by volunteer firefighters to June 30, 2012, **and**

WHEREAS, Bills S4987 and A8298 are designed to expand the existing coverage under VFBL to include cancer of the digestive, hematological, lymphatic, urinary and prostrate systems since exposure to smoke and toxic fumes creates greater risks of cancer in other parts of the body as well, **and now therefore be it**

**RESOLVED**, That the Oneida County Board of Legislators calls upon Governor Paterson and locally elected State Legislators to support amendments to N.Y. State Volunteer Firefighter Benefit Law to make Section 61 of permanent, to extend the effective date that provides a benefit to volunteer firefighters that are disabled or have died

as a result of lung disease and to expand coverage under this law, **and it is further**

**RESOLVED,** That the Clerk of this Board of Legislators of Oneida County shall transmit copies of this memorializing petition to New York State Governor David A. Paterson, Assembly Representatives RoAnn M. Destito (D-116), David R. Townsend (R-115), and William Magee (D-111), New York State Senators Joseph A. Griffo (R-47) and David Valesky (D-49), New York State Assembly Speaker Sheldon Silver, and New York State Majority Leader Pedro Espada, Jr., Chair of Senate Standing Committee on Local Government, Senator Andrea Stewart-Cousins; Chair of Assembly Local Government Committee, Assembly Representative, Sam Hoyt.

LEGISLATORS SUPPORTING PETITION

LEGISLATORS OPPOSED TO PETITION



The enclosed petition represents the opinion of those members of the Oneida County Board of Legislators signing the same regarding the contents or subject matter of the petition. Under the Rules of the Board, a Legislator may sign said petition or may, in the alternative, elect not to sign the petition. There are 29 members of the Oneida County Board of Legislators.

Dated: \_\_\_\_\_

# Oneida County Department of Public Works

ANTHONY J. PICENTE JR.  
County Executive

DENNIS S. DAVIS  
Commissioner

6000 Airport Road  
Oriskany, New York 13424  
Phone: (315) 793-6235  
Fax: (315) 768-6299

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

April 6, 2010

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

FN 20 10 - 194

RECEIVED  
ONEIDA COUNTY LEGISLATURE  
2010 APR -7 PM 12:46

## WAYS & MEANS

Dear County Executive Picente:

I have reviewed and concur with the request from the Mohawk Valley Community College (MVCC) dated April 5, 2010, to standardize certain proprietary equipment used in the renovation, reconstruction, or construction projects undertaken on the Mohawk Valley Community College campuses. I recommend that the Oneida County Board of Legislators approve Allerton building management hardware and software as standardized equipment to be used on future renovation, reconstruction, or construction projects. Justification for this recommendation is outlined in the aforementioned request from MVCC.

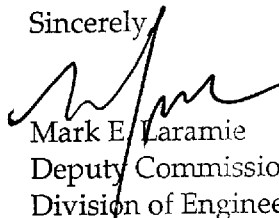
General Municipal Law, Section 103(5), provides that, upon adoption of a resolution by at least 3/5 vote, stating that, for reasons of efficiency or economy, there is a need for standardization, a political subdivision or district may award purchase contracts for a particular type or kind of equipment, material or supplies. Upon adoption of a proper standardization resolution, a municipality may provide in its specifications for a particular make or brand to the exclusion of all other competitors. Please note that the adoption of a standardization resolution does not eliminate the necessity for compliance with the competitive bidding requirements. Although the make or brand of an item may be stated in the specifications, anyone who can furnish the item may bid. Therefore, it is possible that competition among contractors will be maintained.

Bids for the Jorgensen Athletics and Events Center will be opened on April 22, 2010. In order to standardize on Allerton building management hardware, a standardization resolution would have to be passed by the Oneida County Board of Legislators prior to the bid opening date. If a standardization resolution is not passed then the project would have to be bid with an "or equal" option which would put MVCC at risk of having to operate and maintain two separate non-compatible systems.


If you concur with this recommendation, please present an appropriate standardization resolution to the Oneida County Board of Legislators for consideration by the full Board on April 14, 2008.

Thank you for your support in this matter.

Sincerely,

  
Mark E. Laramie  
Deputy Commissioner  
Division of Engineering

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

  
Anthony J. Picente, Jr.  
County Executive  
Date 4/7/10

cc: Commissioner of Public Works

Oneida County Attorney

File



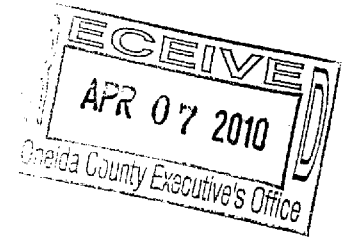
**Mohawk Valley Community College**

1101 Sherman Drive  
Utica, New York 13501-5394  
www.mvcc.edu

Office of the President  
315-792-5333  
fax 315-792-5678

April 5, 2010

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



RE: Standardization of Building Management Systems and Controls

Dear Mr. Picente:

Please have this letter serve as a request from Mohawk Valley Community College to standardize certain proprietary equipment in the renovation/reconstruction and construction projects undertaken by Mohawk Valley Community College.

In the past, programmable controllers used in temperature control, fire alarm and security systems used a software related proprietary (closed) communication protocol for sending and receiving signals. Subsequently, attempts have been made to create software related building management system (BMS) suppliers with significant success at the supervisory level. However, the commissioning and programming software remains proprietary.

Therefore, whenever a controller fails or requires programming modification, proprietary software is required to do so. Accordingly, the number of necessary software packages and their associated support will be a reflection of the multiplicity of BMS providers.

Consequently, a single source/standardized BMS and controls will be much easier to interface, less costly to maintain and operate with far better diagnostic and operating features. Our present building management system is Allerton with Pasco controls in all campus buildings. We respectfully request that Allerton BMS and Pasco controls be included in all prospective Bid specifications for Mohawk Valley Community College.

We thank you for your attention to this matter and are available to answer any questions or concerns.

Sincerely,

Randall J. VanWagoner, Ph.D.  
President

# Oneida County Department of Public Works

ANTHONY J PICENTE JR  
County Executive

DENNIS S DAVIS  
Commissioner

6000 Airport Road  
Oriskany, New York 13424  
Phone:(315) 793-6221 Fax: (315) 768-6299

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

March 4, 2010

FN 20 10 - 195

**PUBLIC WORKS**

**WAYS & MEANS**

RECEIVED  
ONEIDA COUNTY LEGISLATURE  
2010 APR -6 PM 12:07

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

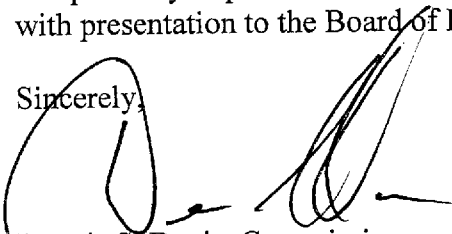
Dear County Executive Picente:

This is a request to consider agreements between the County of Oneida and the involved towns and villages in Oneida County for road striping for the 2010 season.

Attached is a copy of the typical agreements. The language in most of the agreements is the same with the exception of those who utilize sharing of services, i.e. we will stripe certain roads, and in turn, that municipality will mow or ditch County roads. The County purchases the materials and is reimbursed by the Towns.

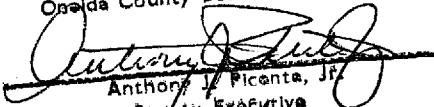
I respectfully request that the Public Works and Ways and Means Committees consider this agreement, with presentation to the Board of Legislators at their next regular scheduled meeting.

Sincerely,



Dennis S. Davis, Commissioner  
Department of Public Works

cc: County Attorney  
Highways, Bridges & Structures

Reviewed and Approved for submittal to the  
Oneida County Board of Legislators by  
  
Anthony J. Picente, Jr.  
County Executive  
Date 4/5/10

letter to CoExecutivestripingagreement  
March 4, 2010 (9:07AM)

Oneida County Department: Public Works  
4/6/10

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

## Oneida County Board of Legislators Contract Summary

Name of Proposing Organization: Various Municipalities in Oneida County

Title of Activity or Service: Road Striping/Pavement Marking for 2010 Season

Client Population/Number to be Served:

**Summary Statements:**

1) Narrative Description of Proposed Services: Heat, haul & apply traffic markings on various town roads and village streets in Oneida County..

2) Program/Service Objectives and Outcomes:

3) Program Design and Staffing Level:

Total Funding Requested: None

Oneida County Department Funding Recommendation: None

Account # D1710

Proposed Funding Source: Federal \_\_\_\_\_ State \$ \_\_\_\_\_ County \_\_\_\_\_  
Towns & Villages \$ \_\_\_\_\_

Cost Per Client Served:

Past Performance Data:

Oneida County Department Staff Comments: Intermunicipal agreement between Oneida County & various Towns and Villages in Oneida County whereby Oneida County installs pavement marking on their roads

# Oneida County - Town/Village Pavement Marking Agreement 2010

**THIS AGREEMENT**, entered into this \_\_\_\_ day of \_\_\_\_\_ 20\_\_ by and between the **COUNTY OF ONEIDA**, by and through the Department of Public Works, with its offices located at 6000 Airport Road, Oriskany, New York, hereinafter called "County" and the Town of **SAMPLE**, municipal corporation organized and existing under the laws of the State of New York, with its principal place of business being located at **SAMPLE**, New York , hereinafter called "Town".

## WITNESSETH:

That for and in consideration of payment and agreements hereinafter mentioned:

1. The County agrees to perform certain work and furnish certain materials for the Town as follows:

The County will furnish labor, machinery and materials required to stripe Town roads. The Town of *Sample* will supply all supervision to stripe Town roads. The Town of *Sample* shall reimburse the County for materials used and ditch 40 hours (at \$275.00/Hr.rate) on County Highways.

2. The County agrees to indemnify and hold harmless the Town against all claims for injuries to persons or damage to property attributable to negligence of the County or its employees. The County shall be solely responsible for the safety and protection of all employees and other persons involved in the performance of this agreement and of all property at the site and shall be solely responsible and liable for any injury or damage thereto and for all injuries to persons occurring thereon due to the negligence, fault or default of the County of

# Oneida County - Town/Village Pavement Marking Agreement 2010

Oneida or its employees. It is not the purpose or intention of the County to hereby indemnify any architect, engineer, surveyor or their agents, servants or employees from liability in violation of Section 5-324 of the General Obligation Law. Nothing in the contract documents shall create or give to third parties any claim or right of action against the Town or the County beyond such as may legally exist irrespective of the contract.

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

COUNTY OF ONEIDA

(Seal)

By \_\_\_\_\_

Anthony J. Picente, Jr., County Executive

TOWN OF *Sample*

(Seal)

By \_\_\_\_\_

Supervisor

APPROVED AS TO FORM \_\_\_\_\_

ONEIDA COUNTY ATTORNEY



# Oneida County - Town/Village Pavement Marking Agreement 2010

**THIS AGREEMENT**, entered into this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ by and between the **COUNTY OF ONEIDA**, by and through the Department of Public Works, with its offices located at 6000 Airport Road, Oriskany, New York, hereinafter called "County" and the Village of **SAMPLE**, municipal corporation organized and existing under the laws of the State of New York, with its principal place of business being located at \_\_\_\_\_ hereinafter called "Village".

## WITNESSETH:

That for and in consideration of payment and agreements hereinafter mentioned:

1. The County agrees to perform certain work and furnish certain materials for the Village as follows:

The County will furnish labor, machinery and materials required to stripe Village roads. The Village of **SAMPLE** will supply all supervision to stripe Village roads. The Village of **SAMPLE** shall reimburse the County for labor, machinery and materials used.

2. The County agrees to indemnify and hold harmless the Village against all claims for injuries to persons or damage to property attributable to negligence of the County or its employees. The County shall be solely responsible for the safety and protection of all employees and other persons involved in the performance of this agreement and of all property at the site and shall be solely responsible and liable for any injury or damage thereto and for all injuries to persons occurring thereon due to the negligence, fault or default of the County of



# Oneida County - Town/Village Pavement Marking Agreement 2010

Oneida or its employees. It is not the purpose or intention of the County to hereby indemnify any architect, engineer, surveyor or their agents, servants or employees from liability in violation of Section 5-324 of the General Obligation Law. Nothing in the contract documents shall create or give to third parties any claim or right of action against the Village or the County beyond such as may legally exist irrespective of the contract.

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

COUNTY OF ONEIDA

(Seal)

By \_\_\_\_\_

Anthony J. Picente, Jr., County Executive

VILLAGE OF *SAMPLE*

(Seal)

By \_\_\_\_\_

Mayor

APPROVED AS TO FORM \_\_\_\_\_

ONEIDA COUNTY ATTORNEY

# *Oneida County Department of Public Works*

ANTHONY J PICENTE JR  
County Executive

DENNIS S DAVIS  
Commissioner

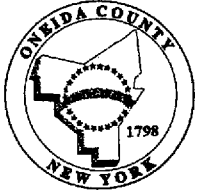
6000 Airport Road  
Oriskany, New York 13424  
Phone:(315) 793-6221 Fax: (315) 768-6299

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

March 5, 2010

RE: 2010 TOWN/VILLAGE PAVEMENT MARKING AGREEMENTS HAVE BEEN SENT TO THE FOLLOWING TOWNS 7 VILLAGES WITH SPECIFIED STIPULATIONS:

Town of Annsville	Reimburse for labor, machinery & materials
Town of Deerfield	Reimburse for labor, machinery & materials
Town of Kirkland	Reimburse for materials and mows 24.29 miles of County Highways
Town of Marcy	Reimburse for materials and ditch 40 hrs. on County Highways
Town of New Hartford	Reimburse for materials and ditch 40 hrs. on County Highways
Town of Paris	Reimburse for labor, machinery & materials
Town of Remsen	Reimburse for labor, machinery & materials
Town of Verona	Reimburse for labor, machinery & materials
Town of Westmoreland	Mow 40 miles of County Rds & ditch 20 hrs. on County highways
Town of Whitestown	Reimburse for labor, machinery & materials
Village of Holland Patent	Reimburse for labor, machinery & materials
Village of New York Mills	Reimburse for labor, machinery & materials
Village of Remsen	Reimburse for labor, machinery & materials
Village of Sylvan Beach	Reimburse for labor, machinery & materials
Village of Whitesboro	Reimburse for labor, machinery & materials
Village of Yorkville	Reimburse for labor, machinery & materials



COUNTY OF ONEIDA  
**OFFICE OF THE COUNTY EXECUTIVE**

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

ONEIDA COUNTY OFFICE BUILDING  
800 PARK AVENUE  
UTICA, NEW YORK 13501  
(315) 798-5800  
FAX: (315) 798-2390  
www.ocgov.net

April 6, 2010

FN 20 10-196

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

RE: **Meier Law Renewal**

**WAYS & MEANS**

RECEIVED  
ONEIDA COUNTY LEGISLATURE  
2010 APR -6 PM 4:21

Honorable Members:

In 2005, the US Supreme Court in the Sherrill decision ruled that properties owned by the Oneida Indian Nation (OIN) were subject to property taxes. There was, however, uncertainty as to when and to what extent those taxes would be paid and, in fact, the County has been barred by the US District Court from enforcing its tax foreclosure procedures. As a consequence, the State enacted chapter 521 of the laws of 2005, commonly known as the "Meier Law".

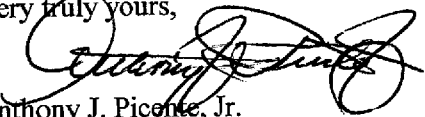
The Meier Law limits the effects of unpaid OIN taxes on the County's tax guarantees to localities, limits the effects of assessments on OIN lands to our sales tax distribution to localities, and limits the effect of those assessments on the VVS pupil wealth ratio thereby preserving that district's state aid. The law creates a separate fund to fairly distribute such tax payments when they are eventually made.

The Meier law currently expires on June 30, 2010. The District Court order is on appeal but the matter remains unsettled and it is important that this law be extended. Senate bill S7188 and Assembly bill A10297 have been introduced, extending the law to June 30, 2012, unless the taxes are paid sooner.

I respectfully request that you ask the Board to pass a home rule message in support of these bills. To assure sufficient time for the State Legislature to act, this should be done at the Board's **April 28, 2010** meeting.

Thank you.

Very truly yours,

  
Anthony J. Picente, Jr.  
Oneida County Executive

Cc: Harris J. Samuels

# **ONEIDA COUNTY BOARD OF LEGISLATORS**

## **RESOLUTION NO.**

**INTRODUCED BY:  
2ND BY:**

**RE: HOME RULE REQUEST SUPPORTING SENATE BILL NO. S7188 AND ASSEMBLY BILL NO. A10297 TO AMEND THE STATE FINANCE LAW IN RELATION TO THE ONEIDA INDIAN NATION REAL PROPERTY TAX DEPOSITORY FUND**

**WHEREAS,** In 2005, the U.S. Supreme Court, in its City of Sherrill Decision, ruled that properties owned by the Oneida Indian Nation (OIN) would be subject to property taxes resulting in uncertainty as to when, or to what extent, such taxes would be paid, and

**WHEREAS,** The U.S. District Court further ruled that the County of Oneida would be barred from enforcing tax foreclosure procedures, and

**WHEREAS,** In an effort to protect the interests of the citizens of Oneida County, the State enacted Chapter 521 of the Laws of 2005 commonly known as the "Meier Law" which limits the effects of unpaid OIN taxes on the County's tax guarantees to localities, limits the effects of assessments on OIN lands to our sales tax distribution to localities, limits the effect of those assessments on the VVS pupil wealth ratio thereby preserving that Districts' State Aid, and creates a separate fund to fairly distribute such tax payments when they are eventually made, and

**WHEREAS,** Said Law is set to expire June 30, 2010 and the U.S. District Court Order, which is on appeal, remains unsettled thereby necessitating the extension of such law through June 30, 2012 unless taxes are paid sooner, now, therefore, be it hereby

**RESOLVED,** That the Oneida County Board of Legislators sends a Home Rule Request to Representatives in the NYS Senate and NYS Assembly urging the introduction and passage of Senate Bill No. S7188 and Assembly Bill No. A10297 to amend the State Finance Law in relation to the Oneida Indian Nation Real Property Tax Depository Fund and to extend such provisions through June 30, 2012, unless such taxes are paid sooner, and it is further

**RESOLVED,** That the Clerk of this Board is hereby authorized and directed to forward a certified copy of this Resolution and Home Rule Request on the appropriate form to Senators Joseph A. Griffo and David J. Valesky, Assemblywoman RoAnn M. Destito and Assemblymen David R. Townsend and William D. Magee and to the Home Rule Counsels for the New York State Senate and Assembly.

**APPROVED:** Ways & Means Committee (April 28, 2010)

**DATED:** April 28, 2010

Adopted by the following roll call vote:

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



## ONEIDA COUNTY DEPARTMENT OF LAW

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

ANTHONY J. PICENTE JR.  
COUNTY EXECUTIVE

LINDA M.H. DILLON  
COUNTY ATTORNEY

March 30, 2010

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

### Re: Meier Law Renewal

Dear Mr. Picente:

In 2005, the US Supreme Court in the Sherrill decision ruled that properties owned by the Oneida Indian Nation (OIN) were subject to property taxes. There was, however, uncertainty as to when and to what extent those taxes would be paid and, in fact, the County has been barred by the US District Court from enforcing its tax foreclosure procedures. Therefore, the State enacted chapter 521 of the laws of 2005, commonly known as the "Meier Law".

The Meier Law limits the effects of unpaid OIN taxes on the County's tax guarantees to localities, limits the effects of assessments on OIN lands on our sales tax distribution to localities, and limits the effect of those assessments on the VVS pupil wealth ratio thereby preserving that district's state aid. The law creates a separate fund to fairly distribute such tax payments when they are eventually made.

The Meier Law was extended in 2008 but currently expires on June 30, 2010. The District Court order is on appeal but the matter remains unsettled and it is important that this law be extended. Senate bill S7188 and Assembly bill A10297 have been introduced, extending the law to June 30, 2012, unless the taxes are paid sooner.

I respectfully request that you ask the Board to pass a home rule message in support of these bills. To assure sufficient time for State Legislature to act, this should be done at the Board's **April 28, 2010** meeting.

Thank you.

Very Truly Yours,

Harris J. Samuels  
Assistant County Attorney

# ONEIDA-HERKIMER SOLID WASTE AUTHORITY

## BOARD MEMBERS

Donald Gross, Chairman  
Neil C. Angell, Vice Chairman  
Harry A. Herline, Treasurer  
Vincent A. Casale  
Alicia Dicks

James M. D'Onofrio  
Barbara Freeman  
Kenneth A. Long  
Robert J. Roberts, III  
James M. Williams

William A. Rabbia, Executive Director  
Peter M. Rayhill, Authority Counsel  
Jodi M. Tuttle, Authority Secretary

April 6, 2010

FN 20 10 - 197

RECEIVED  
ONEIDA COUNTY LEGISLATURE  
2010 APR -7 PM 4:45

Mr. Mikale Billard  
Clerk  
Oneida County Board of Legislators  
800 Park Ave.  
Utica, NY 13501

**READ & FILED**

Dear Mr. Billard:

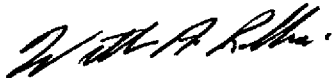
Enclosed for your review is a copy of the Oneida-Herkimer Solid Waste Management Authority's financial report including the independently audited financial statements for the periods ending December 31, 2009 and December 31, 2008.

Although 2009 was a challenging year considering the national and global economic downturn, the Authority remained in a very stable financial position. While cutting costs, the Authority continued to provide a full range of services to handle all categories of waste generated by the region's individuals, businesses, industries and institutions. While continuing to emphasize reduction and recycling, the Authority remains committed to maintaining and enhancing the region's self reliant integrated solid waste management system.

Last year marked the 14<sup>th</sup> consecutive year of stable rates. The 2009 operating surplus and corresponding positive net asset position is a result of a careful decision by the Authority Board to begin establishing reserves for major capital projects in the future. Specifically, the Authority continued reserves for major landfill equipment replacement (\$358,000), and for extension of the landfill liner for new waste disposal cells (\$1,855,000). By reserving these funds from current disposal fees it will reduce or eliminate the need to borrow for these projects in the future.

We hope this letter and the attached financial report provide useful information. However, if you have any questions please do not hesitate to contact our office.

Sincerely,



William A. Rabbia  
Executive Director

WAR/aag

Enclosure

ONEIDA COUNTY  
OFFICE OF THE DISTRICT ATTORNEY

Scott D. McNamara  
District Attorney

Michael A. Coluzza  
First Assistant

Kurt D. Hameline  
Timothy P. Fitzgerald  
Laurie Lisi  
Paul J. Hernon  
Matthew P. Worth  
Joseph A. Saba  
Grant J. Garramone  
Steven C. Cox  
Stacey L. Paolozzi  
Bernard L. Hyman, Jr.

Dawn Catera Lupi  
First Assistant

Todd C. Carville  
Robert L. Bauer  
Michael R. Nolan  
Kurt D. Schultz  
Kara E. Wilson  
John J. Raspante  
Joshua L. Bauer  
Patrick F. Scully  
Christopher D. Hameline

FN 20 10 - 198

**PUBLIC SAFETY**

March 30, 2010

**WAYS & MEANS**

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

Dear Mr. Picente:

By this letter, I am requesting your approval, as well as that of the Board of Legislators, for the following supplemental appropriation from the federal forfeiture cost center to purchase a laptop computer, tasers and taser holsters, as well as other miscellaneous equipment, for the investigative staff of my office:

TO:

A1162.495121      Other Expenses-Federal Forfeiture Funds      \$7,500


This 2010 supplemental appropriation will be fully supported by federal forfeiture funds that are already on deposit.

A2678.1      Federal Seizure      \$7,500

At your earliest convenience, please submit this request to the Board of Legislators for their approval.

If you have any questions or concerns, please contact me.

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

  
Anthony J. Picente, Jr.  
County Executive

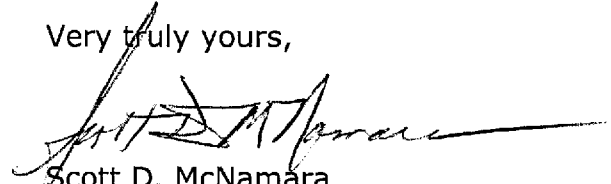
Date 4/5/10

RECEIVED  
ONEIDA COUNTY LEGISLATURE  
2010 APR -6 PM 12:06

The Honorable Anthony J. Picente, Jr.  
March 30, 2010  
Page Two

Thank you for your time and assistance in this matter.

Very truly yours,



Scott D. McNamara  
Oneida County District Attorney

se

cc: Hon. Gerald J. Fiorini, Chairman  
Hon. David J. Wood, Majority Leader  
Hon. Patricia A. Hudak, Minority Leader  
Hon. Les Porter, Chairman, Ways & Means Comm.  
Hon. Richard A. Flisnik, Chairman, Public Safety  
Thomas Keeler, Budget Director





# OFFICE OF THE SHERIFF

COUNTY OF ONEIDA

DANIEL G. MIDDAGH  
SHERIFF

M. PETER PARAVATI  
UNDERSHERIFF

March 29, 2010

FN 20 10 - 199

**PUBLIC SAFETY**

**WAYS & MEANS**

RECEIVED  
ONEIDA COUNTY LEGISLATURE  
2010 APR -6 PM 12:05

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

RE: GTSC- Selective Traffic Enforcement – SO – 00060- (033)

Dear Mr. Picente,

This Office is again participating in the statewide Selective Traffic Enforcement Program through agreement with the Governor's Traffic Safety Committee. These traffic law enforcement projects target speeding and aggressive driving, which includes failure to yield right of way, following too closely, unsafe passing or line changing, disregarding traffic control devices including red light and stop sign running. I am pleased to be involved in this program again. Please refer to the attached letter from the department of Motor Vehicles.

I am requesting a Supplemental Appropriation to be approved by the Board of Legislators to pay for overtime costs incurred for Deputy Sheriff's that are assigned to these details. The request is as follows:

A3120.103	Overtime	\$25,840
A3387	State Aid: Safety Traffic	\$25,840

Please feel free to contact me if I can be of further assistance.

Sincerely,

Daniel G. Middaugh,  
Sheriff

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

Anthony Picente, Jr.  
County Executive

Date 4/5/10

cc: Tom Keeler

**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



DAVID A. PATERSON  
Governor

STATE OF NEW YORK  
GOVERNOR'S TRAFFIC SAFETY COMMITTEE  
DEPARTMENT OF MOTOR VEHICLES



DAVID J. SWARTS  
Chair

December 7, 2009

Sergeant Ronald Townsend  
Oneida County Sheriff's Office  
6065 Judd Road  
Oriskany, New York 13424

Re: STEP-2010-Oneida Co SO -00060-(033)  
Selective Traffic Enforcement Program (STEP)  
EFFECTIVE DATE: October 1, 2009

Dear Sergeant Townsend:

On behalf of Governor David A. Paterson, I am pleased to notify you that Oneida County has been awarded \$25,840 to participate in the statewide "Selective Traffic Enforcement Program." Our goal is to reduce aggressive driving and speeding.

Thank you for participating in this very important statewide program. I wish you success in your efforts. If you have any questions, please contact the Governor's Traffic Safety Committee at (518) 474-5111.

Sincerely,

David J. Swarts  
Chair and  
Commissioner of Motor Vehicles

DJS:et  
Enclosure

cc: Anthony Carvelli  
Richard Antanavige



# OFFICE OF THE SHERIFF

COUNTY OF ONEIDA

DANIEL G. MIDDAGH  
SHERIFF

M. PETER PARAVATI  
UNDERSHERIFF

RECEIVED  
ONEIDA COUNTY LEGISLATURE  
2010 APR - 6 PM 12: 01

March 29, 2010

FN 20 10 - 200

**PUBLIC SAFETY**

**WAYS & MEANS**

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

RE: Buckle Up Grant # SO - 00053-(033)

*Tom*  
Dear Mr. Picente,

The Oneida County Sheriff's Office is again participating in "Buckle Up New York" being administered out of the State of New York Governor's Traffic Safety Committee. This is a statewide, high visibility campaign designed to save lives and reduce the severity of injuries by increasing seatbelt use. Please refer to the attached letter from the State Department of Motor Vehicles.

Special details will be performed by Sheriff's Deputies on overtime assignments specifically committed for this purpose. A supplemental appropriation is needed to allocate funding into the Law Enforcement Budget for this purpose as follows:

A3120.103	Law Enforcement - Overtime	\$ 5,440
A3387	State Traffic Safety Grant	\$ 5,440

Please feel free to contact me, if I can be of further assistance.

Sincerely,  
*Dan*  
Daniel G. Middaugh, Sheriff

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

*Anthony J. Picente, Jr.*  
Anthony J. Picente, Jr.  
County Executive  
Date 4/5/10

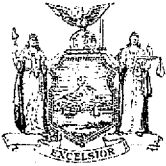
cc: Tom Keeler

**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



DAVID A. PATERSON  
Governor

STATE OF NEW YORK  
GOVERNOR'S TRAFFIC SAFETY COMMITTEE  
DEPARTMENT OF MOTOR VEHICLES



DAVID J. SWARTS  
Chair

September 23, 2009

Sergeant Ronald Townsend  
Oneida County Sheriff's Office  
6065 Judd Road  
Oriskany, New York 13424

Re: BUNY-2010-Oneida Co SO -00053-(033)  
"BUCKLE UP NEW YORK!"  
EFFECTIVE DATE: October 1, 2009

Dear Sergeant Townsend:

On behalf of Governor David A. Paterson, I am pleased to notify you that Oneida County has been awarded \$5,440 to participate in the statewide "BUCKLE UP NEW YORK!" campaign. Our goal is to increase seat belt usage in an effort to reduce serious injury or death from traffic crashes.

Thank you for participating in this very important statewide program. I wish you success in your efforts. If you have any questions, please contact the Governor's Traffic Safety Committee at (518) 474-5111.

Sincerely,

David J. Swarts  
Chair and  
Commissioner of Motor Vehicles

DJS:et  
Enclosure  
cc: Anthony Carvelli  
Richard Antanavige



# OFFICE OF THE SHERIFF

DANIEL G. MIDDAUGH  
SHERIFF

COUNTY OF ONEIDA

M. PETER PARAVATI  
UNDERSHERIFF

FN 20 10 - 201

RECEIVED  
ONEIDA COUNTY LEGISLATURE  
2010 APR -6 PM 12:03

March 29, 2010

## PUBLIC SAFETY

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

## WAYS & MEANS

RE: GTSC- Child Passenger Safety # SO -00040-(33)

*Tom*  
Dear Mr. Picente,

This Office will be participating in the Child Passenger Safety Program. This program reduces the risk of fatal injury when used correctly to restrain children in safety seats. Unfortunately, many child safety seats need replacement due to age, safety or recall. The goal is to increase the proper use and installation of child safety seats and to continue to educate parents in New York State. Please see the attached letter from the State Department of Motor Vehicles.

The funding through this grant will be used to purchase car seats. Therefore, a supplemental appropriation will be required to place funds in this account.

The Request is as follows:

A3120.295	Law Enforcement Equipment	\$ 6,800
A3387	State Aid – Traffic Safety	\$ 6,800

Please feel free to call me if I can be of further assistance.

Sincerely, *Dan*  
Daniel G. Middaugh  
Sheriff

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

*Anthony J. Picente, Jr.*  
Anthony J. Picente, Jr.  
County Executive  
Date 4/5/10

cc: Tom Keeler

**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



DAVID A. PATERSON  
Governor

STATE OF NEW YORK  
GOVERNOR'S TRAFFIC SAFETY COMMITTEE  
DEPARTMENT OF MOTOR VEHICLES



DAVID J. SWARTS  
Chair

October 23, 2009

Sergeant Ronald Townsend  
Oneida County Sheriff's Office  
6065 Judd Road  
Oriskany, New York 13424

Re: CPS-2010-Oneida Co SO -00040-(033)  
Child Passenger Safety Program  
EFFECTIVE DATE: October 1, 2009

Dear Sergeant Townsend:

On behalf of Governor David A. Paterson, I am pleased to notify you that Oneida County has been awarded \$6,800 to participate in the statewide "Child Passenger Safety" program. Our goal is to increase the proper use and installation of child safety seats in New York State.

Thank you for participating in this very important statewide program. I wish you success in your efforts. If you have any questions, please contact the Governor's Traffic Safety Committee at (518) 474-5111.

Sincerely,

David J. Swarts  
Chair and  
Commissioner of Motor Vehicles

DJS:et

Enclosure

cc: Anthony Carvelli  
Richard Antanavige



# OFFICE OF THE SHERIFF

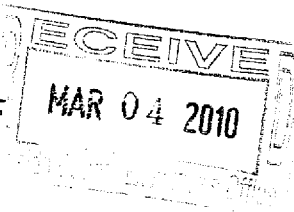
DANIEL G. MIDDAUGH  
SHERIFF

COUNTY OF ONEIDA

M. PETER PARAVATI  
UNDERSHERIFF

April 5, 2010

FN 20 10 - 202



RECEIVED  
ONEIDA COUNTY LEGISLATURE  
2010 APR -6 PM 12:02

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

**PUBLIC SAFETY**

**WAYS & MEANS**

Dear Mr. Picente,

The Commissary Account is governed under 7016.1 N.Y.C.R.R. Part 7000 - Correction. Inmate profits made from the sale of products through the Commissary must be used for prisoner welfare and rehabilitation. In 2010, there is a carryover of 2009 revenue that exceeded 2009 expenses. Please see the attached audit trail. I am therefore requesting a 2010 Supplemental Appropriation of funds to purchase equipment and supplies for inmate programming.

The Supplemental Appropriation request is as follows:

A3152.211	Office Equipment	5,000
A3152.212	Hardware	14,000
A3152.271	Recreational Equipment	5,333
A3152.295	Other Equipment	7,200
A3152.411	Office Supplies	5,000
A3152.431	Commissary Supplies	1,000
A3152.471	Recreational Supplies	5,000
A3152.472	Recreational Activities	2,000
A3152.491	Other Materials/Supplies	5,000
A3152.495	Other Expenses	1,000
Total Expenses:		\$ 50,333

A1525 Commissary Revenue \$ 50,333

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

Anthony J. Picente, Jr.  
County Executive  
Date 4/5/10

The Inmate Commissary account is self supporting and there are no county funds required to sustain this program. If you have any further questions, please feel free to contact me.

Sincerely,

Daniel G. Middaugh,  
Sheriff

cc: Tom Keeler

**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

# Account Audit Trail

April 05, 2010

IFM / Access  
Oneida County

Audit of selected accounts, for dates from 01/01/10 to 04/05/10 for fiscal year 2010

Fund: A - General Fund  
Account: A1525 - Prisoner Charges Commissary - Revenue  
Department: 3152 - Sheriff - Inmate Commissary

Date	Type	Journal	Posted	Description	Details	Est. Revenues	Received	Revenue Remaining
01/01/10	Bud	1355750	12/28/09	Fiscal year 2010 Adopted Budgetary Entry for Fund A		\$80,000.00		\$80,000.00
02/01/10	Rec	1372088	02/09/10	2009 COMMISSARY RECONCILIATION	100596 SHERIFF'S OFFICE		\$0.30	\$79,999.70
02/17/10	Rec	1376549	02/23/10	1/10 COFIN	100911 SHERIFF'S DEPT		\$7,448.88	\$72,550.82
03/15/10	Adj	1384350	03/15/10	Reversing : (Carry Forward To 2010 Inmate Commissary. JRR 3/15/2010.) - P#: 1313047	2009 1		(\$50,333.00)	\$122,883.82
03/15/10	Adj	1384507	03/16/10	Reversing adjusting entry Journal #1384350	2010 1384350		\$50,333.00	\$72,550.82
03/16/10	Adj	1384520	03/16/10	Reversing : (Carry Forward To 2010 Inmate Commissary. JRR 3/16/2010.) - P#: 1313204	2009 1		\$50,333.00	\$22,217.82
03/19/10	Rec	1388483	03/29/10	2/10 COFIN	101489 SHERIFF'S DEPT		\$8,404.44	\$13,813.38
						\$80,000.00	\$66,186.62	\$13,813.38
						\$0.00		

End of report





# 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

David J. Wood  
Majority Leader

Patricia A. Hudak  
Minority Leader

FN 20 10 - 203

April 12, 2010

## Agriculture & Rural Development

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

## WAYS & MEANS

Honorable Members:

The Oneida County Board of Legislators designated January 1 through January 31, 2010 as "Open Enrollment" for farm-land owners in Oneida County, pursuant to an amendment by New York State to the Agriculture and Markets Law. This "open enrollment" period allowed the opportunity for landowner inclusion in an agricultural district, without waiting till the traditional review period of a district.

I have received the attached documentation provided by Brymer Humphreys, Chair of the Farmland Protection Board (FPB), after the Oneida County Agricultural and Farmland Protection Board reviewed the submitted applications for this year on an individual basis and found 30 landowners owning 2,887.6 acres to be in accordance with the qualifications for inclusion within an agricultural district.

Therefore, I submit the attached packet of information for final approval of the "Open Enrollment" period and respectfully request that this be considered by the Agriculture & Rural Development Committee, Ways & Means and by the full Board at the meeting of **April 28, 2010**, thereafter being submitted to the State for final approval.

Respectfully submitted,

  
GERALD J. FIORINI,  
CHAIRMAN OF THE BOARD

GJF:pp  
attachments

2010 APR 12 AM 10:08  
RECEIVED  
ONEIDA COUNTY LEGISLATURE

**ONEIDA COUNTY AGRICULTURAL DISTRICTS**  
**2010 OPEN ENROLLMENT APPLICATIONS**

<b><u>PIN</u></b>	<b><u>OWNER</u></b>	<b><u>TOWN</u></b>	<b><u>DISTRICT</u></b>	<b><u>ACRES</u></b>
274.000-2-13	Besig, Robert	Westmoreland	5	39.3
274.000-2-47	Besig, Robert	Westmoreland	5	37.2
374.000-1-12.1	Brouillette, John & Julia	Marshall	6	106.6
376.000-1-10.1	Brouillette, John & Julia	Paris	6	9.8
376.000-1-10.1	Brouillette, John & Julia	Paris	6	15.3
376.000-1-10.1	Brouillette, John & Julia	Paris	6	51.9
276.017-1-8.2	Burtch, Chris & Nolander, Jan	Whitestown	5	10.1
314.000-2-58	Bustos, Gary	Westmoreland	5	23.1
22.000-1-49.3	Chase, Lawrence & Joan	Boonville	3	111.7
146.000-1-18	Clark, Gary	Camden	1	130.5
164.000-2-11.4	Clarke, Paul H.	Camden	1	120.7
164.000-2-15	Clarke, Paul H.	Camden	1	2.1
165.000-1-3.1	Clarke, Paul H.	Camden	1	332.2
165.000-1-3.1	Clarke, Paul H.	Camden	1	88.6
274.000-1-75.1	Coleman, Allen & Karen	Westmoreland	5	55.5
289.000-1-69	Cook, David & Mary	Westmoreland	5	26.0
313.000-1-2.1	Crary, Roger S.	Westmoreland	5	21.1
313.000-1-2.2	Crary, Roger S.	Westmoreland	5	12.5
313.000-1-2.6	Crary, Roger S.	Westmoreland	5	2.7
313.000-1-2.7	Crary, Roger S.	Westmoreland	5	10.9
313.000-1-3	Crary, Roger S.	Westmoreland	5	5.3
277.004-1-8.5	DeArmond, James S.	Marcy	7	3.8
303.000-1-35	Fedor, David & Karen	Westmoreland	5	0.9
303.000-1-37.1	Fedor, David & Karen	Westmoreland	5	102.8
303.000-1-37.1	Fedor, David & Karen	Westmoreland	5	29.8
303.000-1-42	Fedor, David & Karen	Westmoreland	5	64.6
303.000-3-11.1	Fedor, David & Karen	Whitestown	5	7.4
303.000-3-11.1	Fedor, David & Karen	Whitestown	5	5.9
315.000-3-18.1	Fedor, David & Karen	Whitestown	5	2.9
315.000-3-20.1	Fedor, David & Karen	Whitestown	5	7.4
315.000-3-20.1	Fedor, David & Karen	Whitestown	5	26.1
315.000-3-22	Fedor, David & Karen	Whitestown	5	20.8
184.000-2-68.2	Harosia, David J.	Annsville	1	0.9
184.000-2-68.2	Harosia, David J.	Annsville	1	6.6
184.000-2-68.2	Harosia, David J.	Annsville	1	82.8
184.000-2-68.2	Harosia, David J.	Annsville	1	67.8
219.000-2-35	Harosia, David J.	Vienna	1	23.8
335.000-3-38.1	Kitchen, Clifford	Vernon	4	21.8
315.000-1-15.1	Kwasniewski, Thomas J.	Westmoreland	5	71.0
315.000-1-20.3	Kwasniewski, Thomas J.	Westmoreland	5	8.0
138.000-1-15.2	Lauber, Jeff	Steuben	3	83.5
289.000-1-81	Marcellus, George R. & Beth	Westmoreland	5	9.7
274.000-2-17.1	Mudge, Baden P., JR.	Westmoreland	5	17.2
326.000-1-20	Nelson, Chad	Westmoreland	5	34.7
288.000-2-20.1	O'Brien, Timothy H.	Westmoreland	5	102.8
274.000-1-8.5	Oakes, James & Michele	Westmoreland	5	11.9
301.000-1-44	Pflanz, Thomas C.	Westmoreland	5	6.7

<u>PIN</u>	<u>OWNER</u>	<u>TOWN</u>	<u>DISTRICT</u>	<u>ACRES</u>
313.000-1-4	Pflanz, Thomas C.	Westmoreland	5	6.2
313.000-1-4	Pflanz, Thomas C.	Westmoreland	5	53.7
287.000-2-24.1	Reed, Georgeann	Westmoreland	5	22.2
249.000-1-13.1	Roland, Jean & Gage, Teresa	Deerfield	7	97.2
301.000-1-21.13	Ruben, David	Westmoreland	5	5.9
313.000-2-11.1	Seelman, Jenile & Albert	Westmoreland	5	3.0
313.000-2-11.5	Seelman, Jenile & Albert	Westmoreland	5	6.4
313.000-2-11.7	Seelman, Jenile & Albert	Westmoreland	5	14.5
313.000-2-43.1	Smith, Alan C.	Westmoreland	5	12.9
313.000-2-14.2	Smith, Richard	Westmoreland	5	8.1
288.000-2-66.12	Steixner, Richard	Westmoreland	5	39.2
324.000-1-38	Vaill, Milton	Vernon	4	113.6
325.000-2-12.1	Vaill, Milton	Vernon	4	243.0
325.000-2-12.2	Vaill, Milton	Vernon	4	103.7
325.000-2-15	Vaill, Milton	Vernon	4	20.1
325.000-2-27	Vaill, Milton	Vernon	4	45.2
325.000-2-27	Vaill, Milton	Vernon	4	23.1
325.000-2-28.5	Vaill, Milton	Vernon	4	28.3
343.000-1-1.3	Vaill, Milton	Vernon	4	6.1
			<b>TOTAL</b>	
			<b>ACRES</b>	<b>2887.6</b>



# ONEIDA COUNTY BOARD OF LEGISLATORS

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

Gerald J. Fiorini  
Chairman  
(315) 798-5900

Susan L. Crabtree  
Clerk  
(315) 798-5901

David J. Wood  
Majority Leader

Michael J. Hennessy  
Minority Leader

November 20, 2009

Susan L. Crabtree, Clerk  
Oneida County Board of Legislators  
800 Park Avenue  
Utica, New York 13501

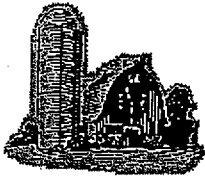
Dear Susan:

The Chair of the Farmland Protection Board submitted the attached letter notifying the Board of the Agricultural District Open Enrollment process which will begin January 1, 2010 and run for 30 days, ending January 31, 2010. I ask that you please file appropriately.

Sincerely yours,

Gerald J. Fiorini  
Chairman of the Board

RECEIVED  
ONEIDA COUNTY LEGISLATURE  
2009 NOV 20 PM 12:20



## ONEIDA COUNTY FARMLAND PROTECTION BOARD

---

Brymer Humphreys, Chair

Paul Kirk ♦ Thomas Cassidy ♦ George Gafner ♦ Michael J. Cosgrove ♦ Andy Gale  
Brian D. Miller ♦ Marty Broccoli ♦ John R. Kent, Jr. ♦ Kathy Pilbeam ♦ Clifford Kitchen

November 20, 2009


Susan L. Crabtree, Clerk  
Oneida County Board of Legislators  
800 Park Avenue  
Utica, New York 13501

Dear Mrs. Crabtree:

The Farmland Protection Board will be accepting open enrollment applications for inclusion into agricultural districts for a 30 day period beginning January 1, 2010 through January 31, 2010, pursuant to Resolution No. 365, passed by the Oneida County Board of Legislators on December 10, 2003.

I ask that you please file this correspondence as official notice to the Board of Legislators that the 30 day open enrollment period will begin January 1, 2010 and subsequent to review by the Farmland Protection Board, these applications will require legislative approval.

Respectfully submitted,

  
Brymer Humphreys  
Chair, Farmland Protection Board

p



# ONEIDA COUNTY FARMLAND PROTECTION BOARD



Brymer Humphreys, Chair

Paul Kirk ♦ Thomas Cassidy ♦ George Gafner ♦ Michael J. Cosgrove ♦ Andy Gale  
Brian D. Miller ♦ Marty Broccoli ♦ John R. Kent, Jr. ♦ Kathy Pilbeam ♦ Clifford Kitchen

## NOTICE

**TO: ALL ONEIDA COUNTY TOWN CLERKS**  
**FROM: BRYMER HUMPHREYS, CHAIR FARMLAND PROTECTION BOARD**  
**DATE: DECEMBER 7, 2009**

Please post the enclosed notice in your municipal building.

Oneida County has designated the month of January to be Open Enrollment Period for persons applying to be included in an agricultural district. In September of 2003, the Department of Agriculture and Markets amended a section of the law adding section 303-b which states that counties must select a 30 day period in which a landowner can submit a request for inclusion of any viable agricultural land in an already established Agricultural District. Oneida County has selected January, with applications being accepted until JANUARY 31<sup>ST</sup>.

The procedure will be as follows:

1. Persons wishing to submit an application should pick up forms at their Town Clerk's Office, complete the forms and return them to the Oneida County Planning Department, Union Station, 321 Main St., Utica, NY 13501, postmarked by January 31<sup>st</sup>, 2010.
2. Applications will then be reviewed by the Farmland Protection Board, after which time, the Farmland Protection Board will request to commence a Public Hearing. The members will vote to adopt or reject the inclusion of such land.
3. The Farmland Protection Board will forward the results of the Public Hearing, along with their recommendations to the County Board of Legislators.
4. The County Board of Legislators will have the final vote for acceptance and then will forward their resolution to the Commissioner of Agriculture and Markets who certifies that the inclusion of such land would serve the public interest by assisting in maintaining a viable agricultural industry within the district.
5. Within 30 days, the Commissioner of Ag & Markets will send notice of certification to the County and notification will be made to the individuals that submitted applications. Once the parcels have been certified by the State, assessors can make changes to the tax rolls.

If you have any questions, you may contact me at 793-3108, Guy Sassaman at the Oneida County Planning Department at 798-5710 or Ron Mead at the Department of Agriculture and Markets at 518-457-2713.

Thank you in advance for your attention and cooperation.

Enclosures

cc: Farmland Protection Board Members Ronald Bunce, Director, Cooperative Extension, Marty Broccoli, Cooperative Extension

---

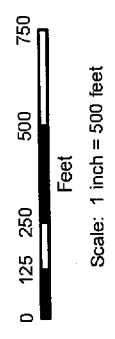
Oneida County Farmland Protection Board C/O Cornell Cooperative Extension  
121 Second Street Oriskany, New York 13424 (315) 736-3394



**Legend**

- Municipal Boundaries
- 2010 Applicants
- Roads
- Parcels
- Existing Ag. Properties

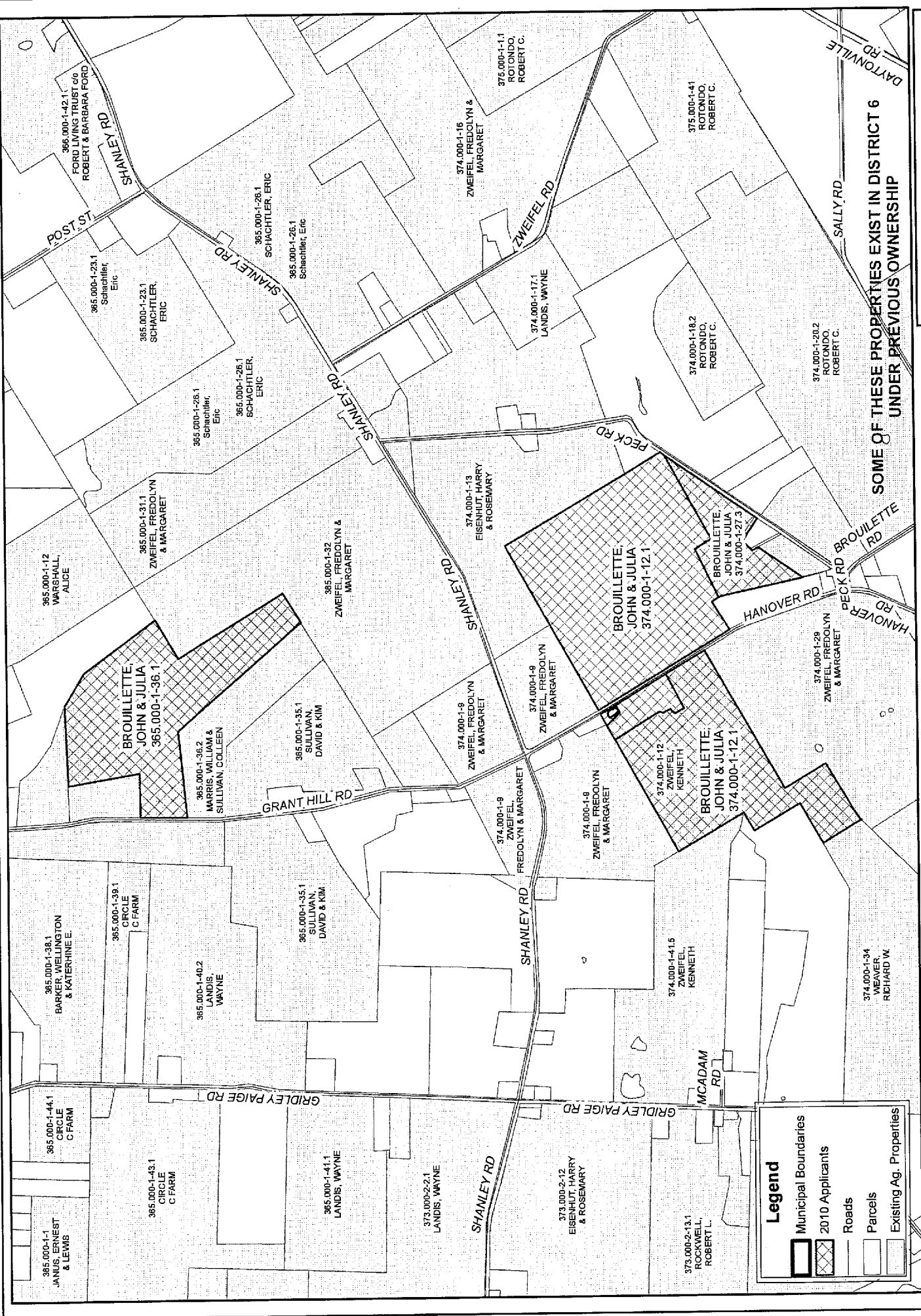
**Besig, Robert**  
**Westmoreland**  
**46.5 acres**



**Agricultural District Open Enrollment**  
**Oneida County**  
**2010**



This information has been compiled for planning purposes and may not be reproduced or transmitted for any other purpose without the prior approval of the Herkimer Oneida Counties Comprehensive Planning Program (HOCOPP). The HOCOPP shall not be liable for any misuse or misrepresentation of this information. The HOCOPP makes no claim as to the completeness or accuracy of the data contained herein.



This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer, Oneida Counties Comprehensive Planning Program (HOCPP). The HOCPP shall not be liable for any misuse or misrepresentation of this information. The HOCPP makes no claim as to the completeness or accuracy of the data contained herein.



**SOME OF THESE PROPERTIES EXIST IN DISTRICT 6 UNDER PREVIOUS OWNERSHIP**

**Agricultural District Open Enrollment**

Oneida County

2010

MAP 1 OF 2

0 500 1,000 2,000 3,000

Feet

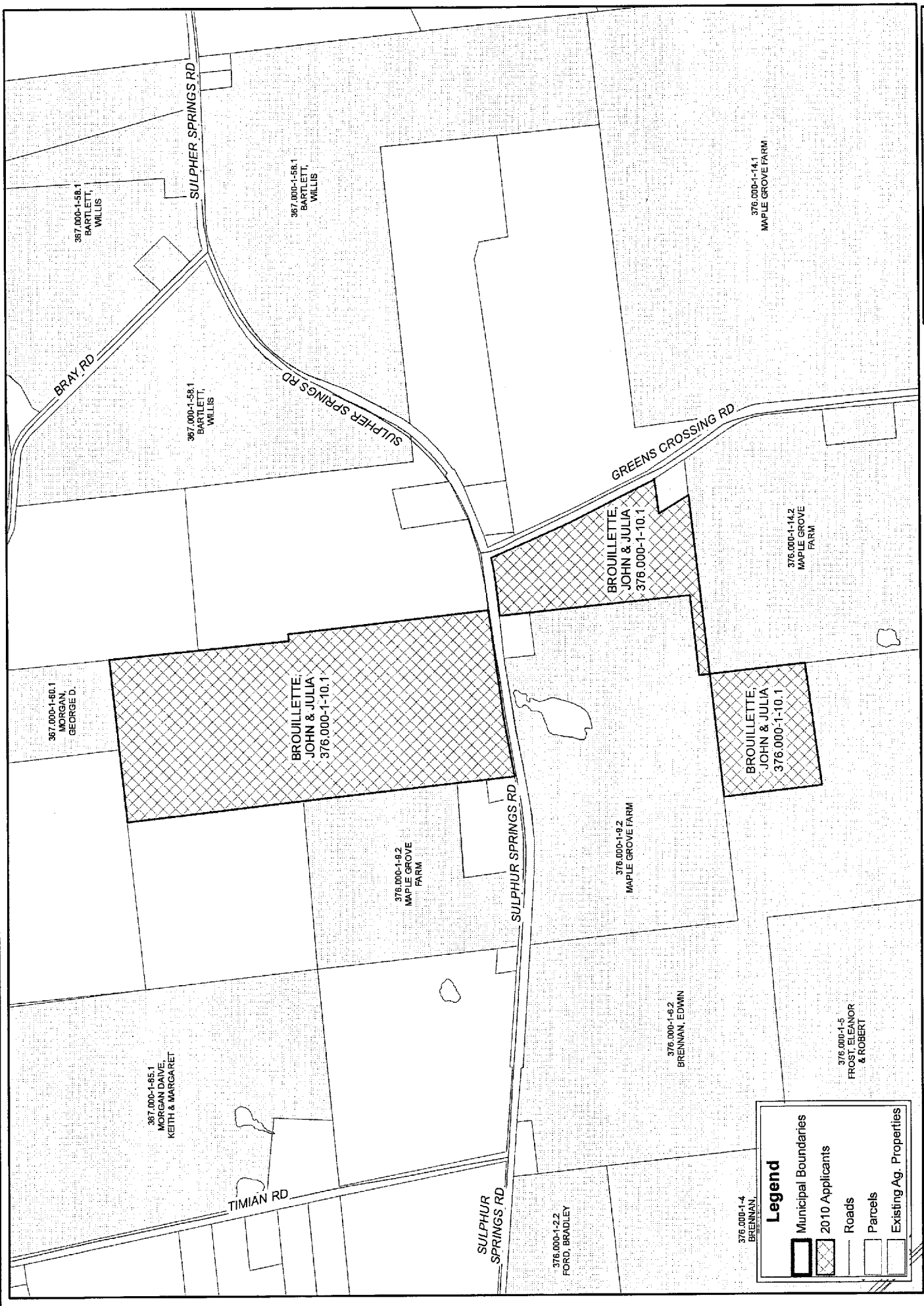
Scale: 1 inch = 1,500 feet

**Legend**

- Municipal Boundaries
- 2010 Applicants
- Roads
- Parcels
- Existing Ag. Properties

**Brouillette, John  
Marshall**  
355.4 acres

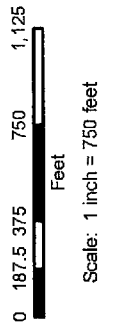




This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer Oneida Counties Comprehensive Planning Program (HOCPPP). The HOCPPP shall not be liable for any misuse or misrepresentation of this information. The HOCPPP makes no claim as to the completeness or accuracy of the data contained hereon.



**Agricultural District Open Enrollment**  
**Oneida County**  
**2010**



**Brouillette, John**  
**Paris**  
**355.4 acres**

**Legend**

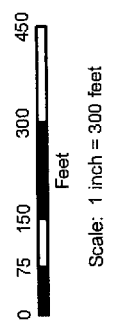
- Municipal Boundaries
- 2010 Applicants
- Roads
- Parcels
- Existing Ag. Properties



**Legend**

- Municipal Boundaries
- 2010 Applicants
- Roads
- Parcels
- Existing Ag. Properties

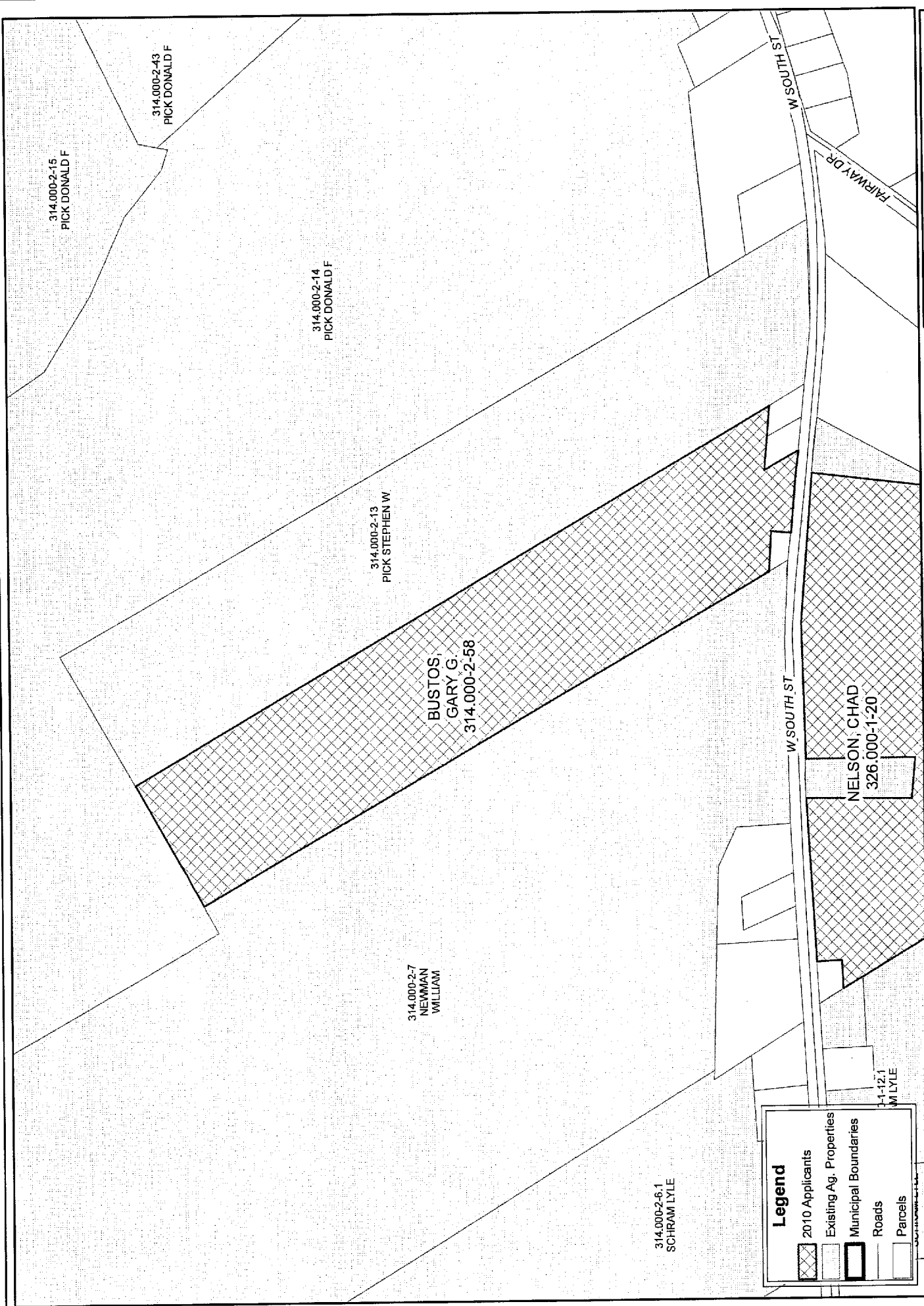
**Burtch, Christopher & Janice Nolander**  
**Whitestown**  
**10.1 acres**



**Agricultural District Open Enrollment**  
 Oneida County  
 2010



This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer Oneida Counties Comprehensive Planning Program (HOCOPP). The HOCOPP shall not be liable for any misuses or misrepresentation of this information. The HOCOPP makes no claim as to the completeness or accuracy of the data contained hereon.



314.000-2-15  
PICK DONALD F

314.000-2-43  
PICK DONALD F

314.000-2-14  
PICK DONALD F

314.000-2-13  
PICK STEPHEN W

BUSTOS,  
GARY G.  
314.000-2-58

314.000-2-7  
NEWMAN  
WILLIAM

314.000-2-6.1  
SCHRAM LYLE

W SOUTH ST






FAIRWAY DR

W SOUTH ST

NELSON, CHAD  
326.000-1-20

3-1-12.1  
W LYLE

**Legend**

-  2010 Applicants
-  Existing Ag. Properties
-  Municipal Boundaries
-  Roads
-  Parcels

This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer Oneida Counties Comprehensive Planning Program (HOCPPP). The HOCPPP shall not be liable for any misuse or misrepresentation of this information. The HOCPPP makes no claim as to the completeness or accuracy of the data contained herein.



**Agricultural District Open Enrollment**  
Oneida County  
2010



Scale: 1 inch = 400 feet






**Bustos, Gary G.**  
**Westmoreland**  
**23.1 acres**

STATE ROUTE 120

DENSLOW DR

CHASE, LAWRENCE  
& JOAN  
22.000-1-49.3

21.000-1-12  
LeChair,  
Harold

Legend	
	Municipal Boundaries
	2010 Applicants
	Roads
	Parcels
	Existing Ag. Properties

This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior consent of the Herkimer Oneida Counties Comprehensive Planning Program (HOCOPP). The HOCOPP shall not be liable for any misuse or misrepresentation of this information. The HOCOPP makes no claim as to the completeness or accuracy of the data contained hereon.



Agricultural District Open Enrollment  
Oneida County  
2010



Scale: 1 inch = 400 feet

Chase, Lawrence & Joan  
Boonville  
111.7 acres








CLARK, GARY  
146.000-1-18

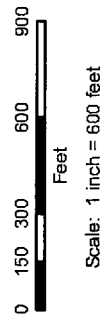
CLARK, PAUL H  
165.000-1-3.1

CLARK, PAUL H  
164.000-2-11.4

**Legend**

-  2010 Applicants
-  Existing Ag. Properties
-  Municipal Boundaries
-  Roads
-  Parcels

**Clark, Gary  
Camden  
130.5 acres**

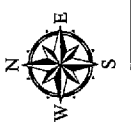


**Agricultural District Open Enrollment  
Oneida County  
2010**

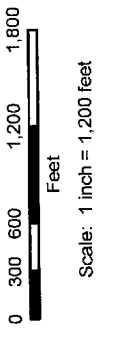
This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer, Oneida Counties Comprehensive Planning Program (HOCCPP). The HOCCPP shall not be liable for any misuse or misrepresentation of this information. The HOCCPP makes no claim as to the completeness or accuracy of the data contained herein.



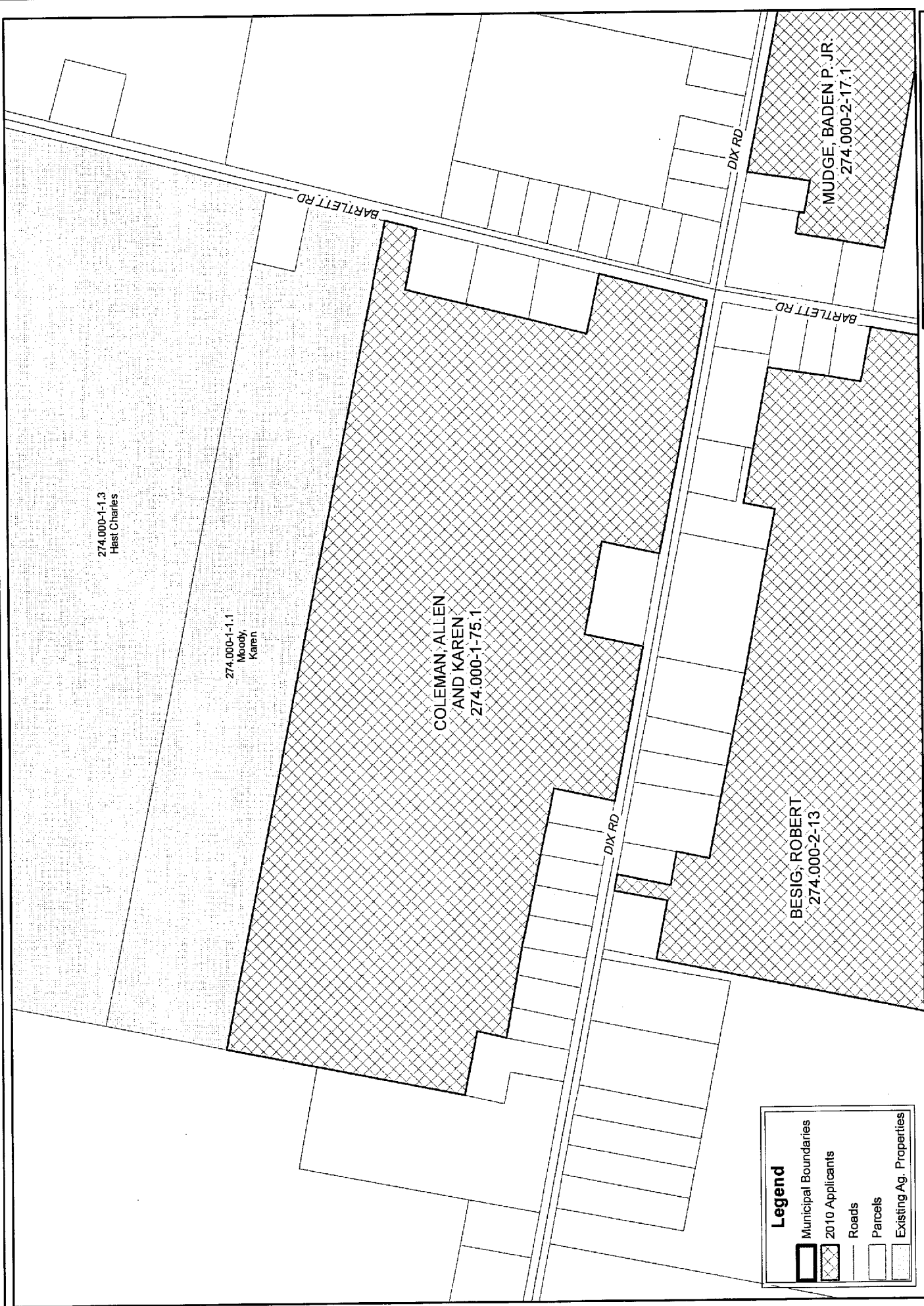
This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer Oneida Counties Comprehensive Planning Program (HOCOPP). The HOCOPP shall not be liable for any misuse or misrepresentation of this information. The HOCOPP makes no claim as to the completeness or accuracy of the data contained hereon.



**Agricultural District Open Enrollment**  
**Oneida County**  
**2010**



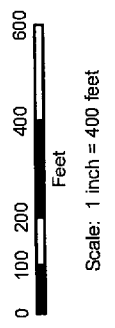
**Clarke, Paul H.**  
**Camden**  
**543.7 acres**



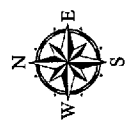
**Legend**

	Municipal Boundaries
	2010 Applicants
	Roads
	Parcels
	Existing Ag. Properties

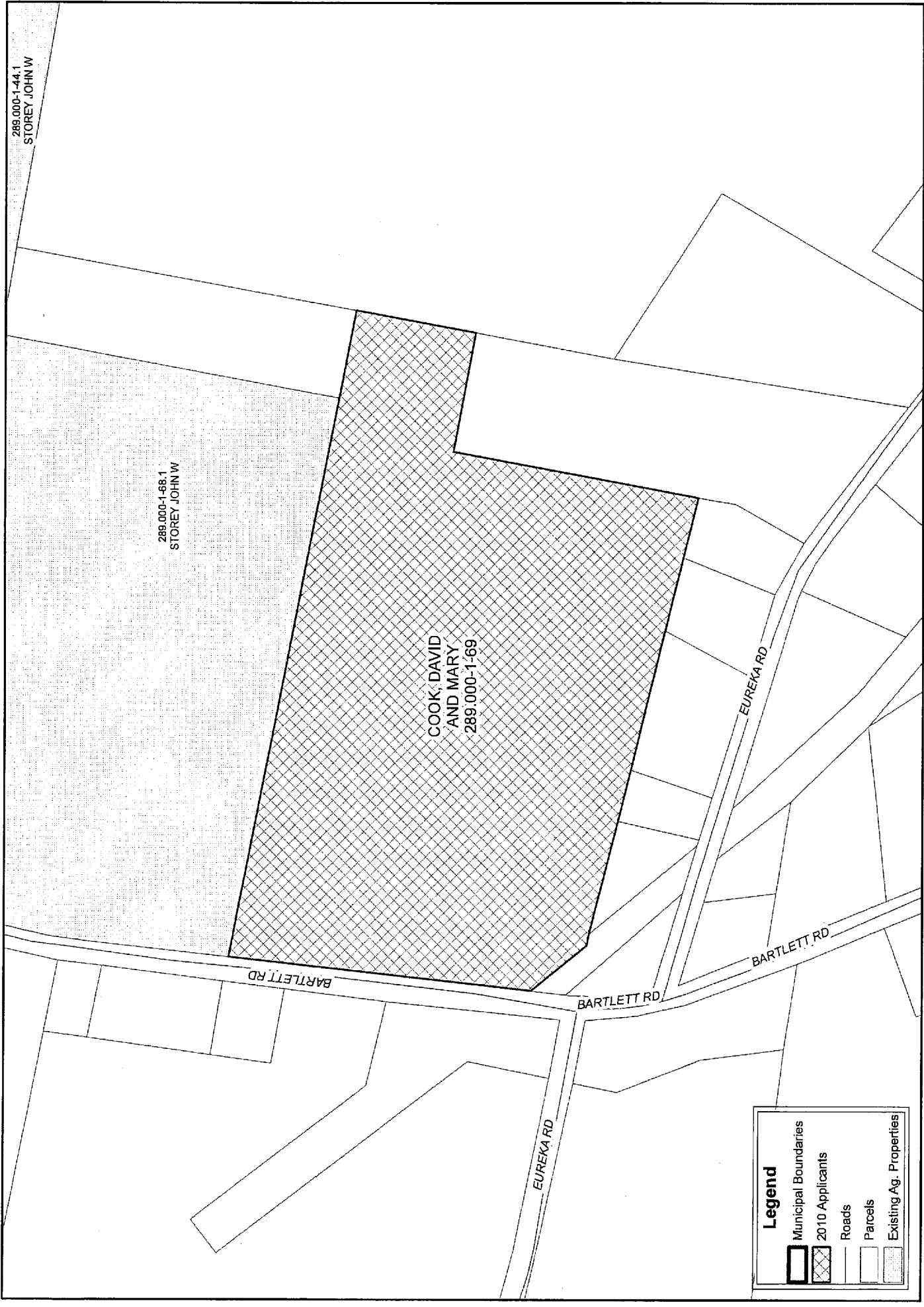
**Coleman, Allen & Karen  
Westmoreland  
55.5 acres**








**Agricultural District Open Enrollment  
Oneida County  
2010**



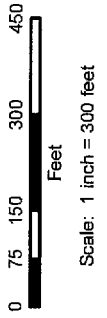
This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer/Oneida Counties Comprehensive Planning Program (HOCPPP). The HOCPPP shall not be liable for any misuse or misrepresentation of this information. The HOCPPP makes no claim as to the completeness or accuracy of the data contained herein.



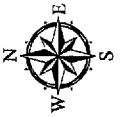
**Legend**

-  Municipal Boundaries
-  2010 Applicants
-  Roads
-  Parcels
-  Existing Ag. Properties

**Cook, David & Mary  
Westmoreland  
26.0 acres**

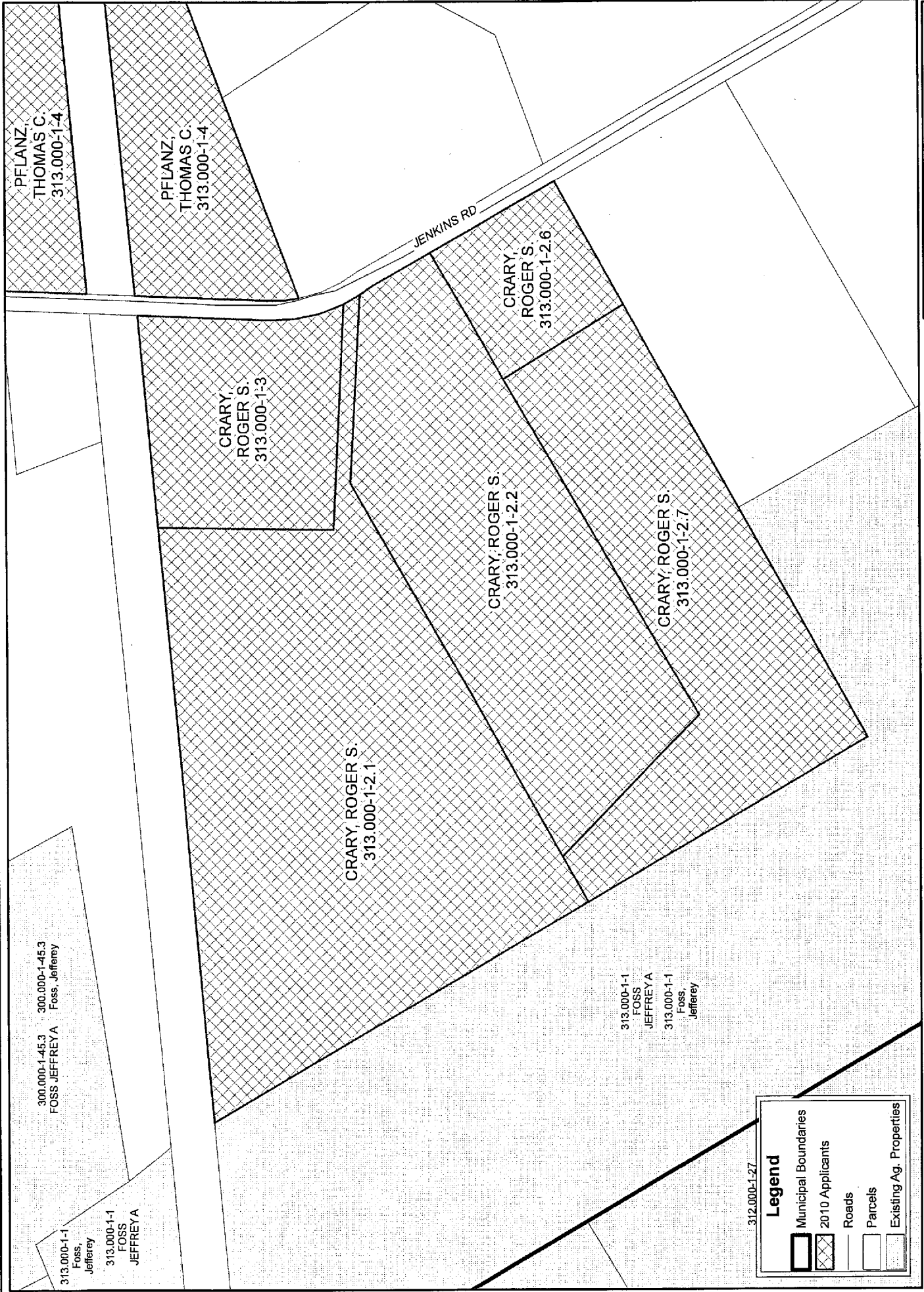


**Agricultural District Open Enrollment  
Oneida County  
2010**



This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer Oneida Counties Comprehensive Planning Program (HOCCPP). The HOCCPP shall not be liable for any misuse or misrepresentation of this information. The HOCCPP makes no claim as to the completeness or accuracy of the data contained hereon.

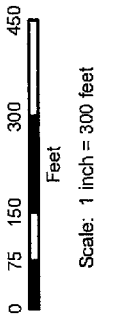




This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer, Oneida Counties Comprehensive Planning Program (HOCCPP). The HOCCPP shall not be liable for any misuse or misrepresentation of this information. The HOCCPP makes no claim as to the completeness or accuracy of the data contained herein.



**Agricultural District Open Enrollment**  
 Oneida County  
 2010



**Legend**

- Municipal Boundaries
- 2010 Applicants
- Roads
- Parcels
- Existing Ag. Properties

**Crary, Roger S.**  
**Westmoreland**  
**52.5 acres**

313.000-1-1  
 Foss, Jeffrey

300.000-1-45.3  
 FOSS, Jeffrey

313.000-1-1  
 CRARY, ROGER S.

313.000-1-2.2  
 CRARY, ROGER S.

313.000-1-3  
 CRARY, ROGER S.

313.000-1-2.6  
 CRARY, ROGER S.

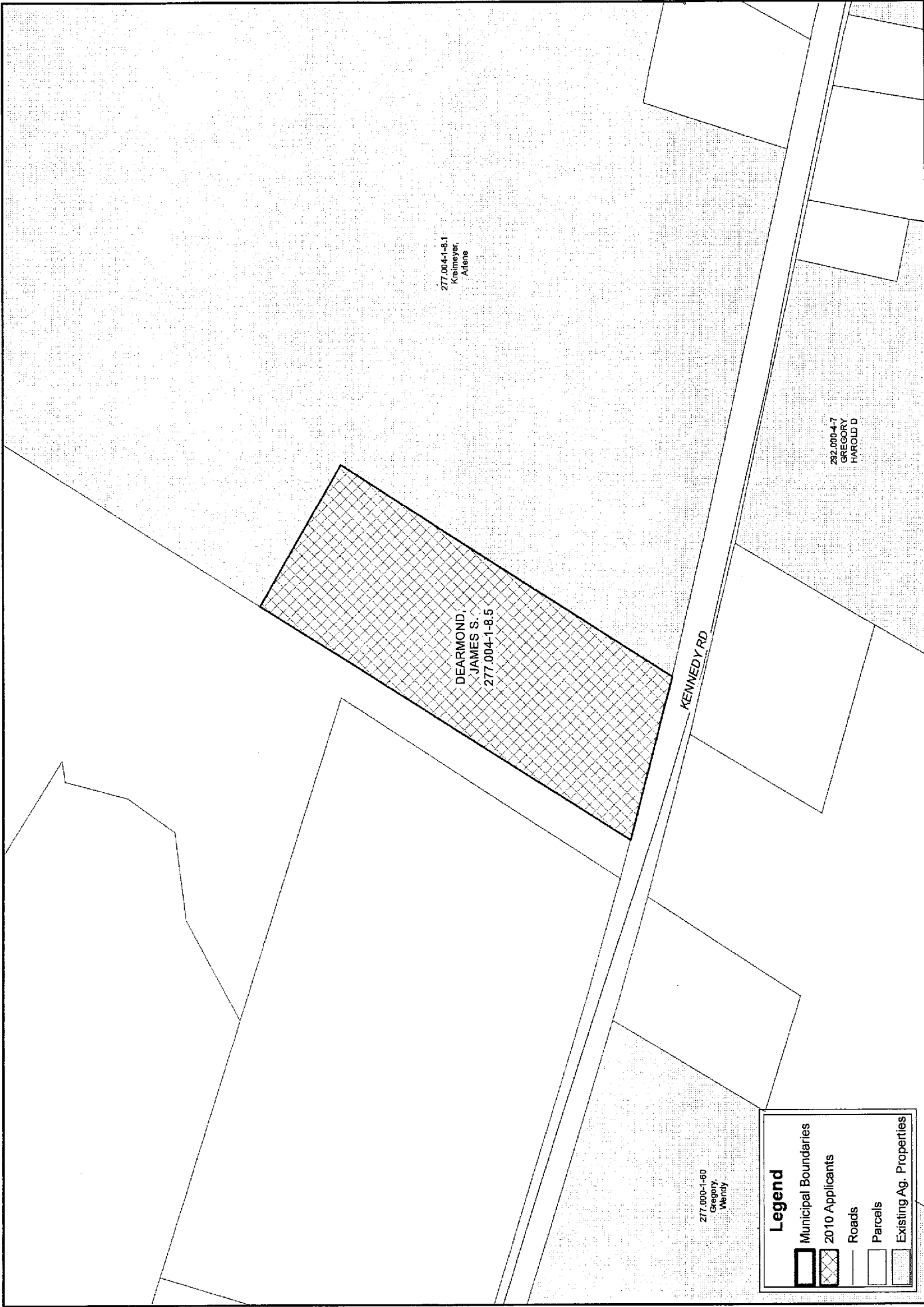
313.000-1-2.7  
 CRARY, ROGER S.

313.000-1-1  
 FOSS, Jeffrey

313.000-1-4  
 PFLANZ, THOMAS C.

313.000-1-4  
 PFLANZ, THOMAS C.

312.000-1-27



277.004-1-8.1  
Kreimeyer,  
Ariene






DEARMOND,  
JAMES S.  
277.004-1-8.5

292.000-4-7  
GREGORY  
HAROLD D

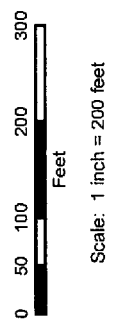
277.000-1-60  
Gregory,  
Wendy

KENNEDY RD

**Legend**

-  Municipal Boundaries
-  2010 Applicants
-  Roads
-  Parcels
-  Existing Ag. Properties

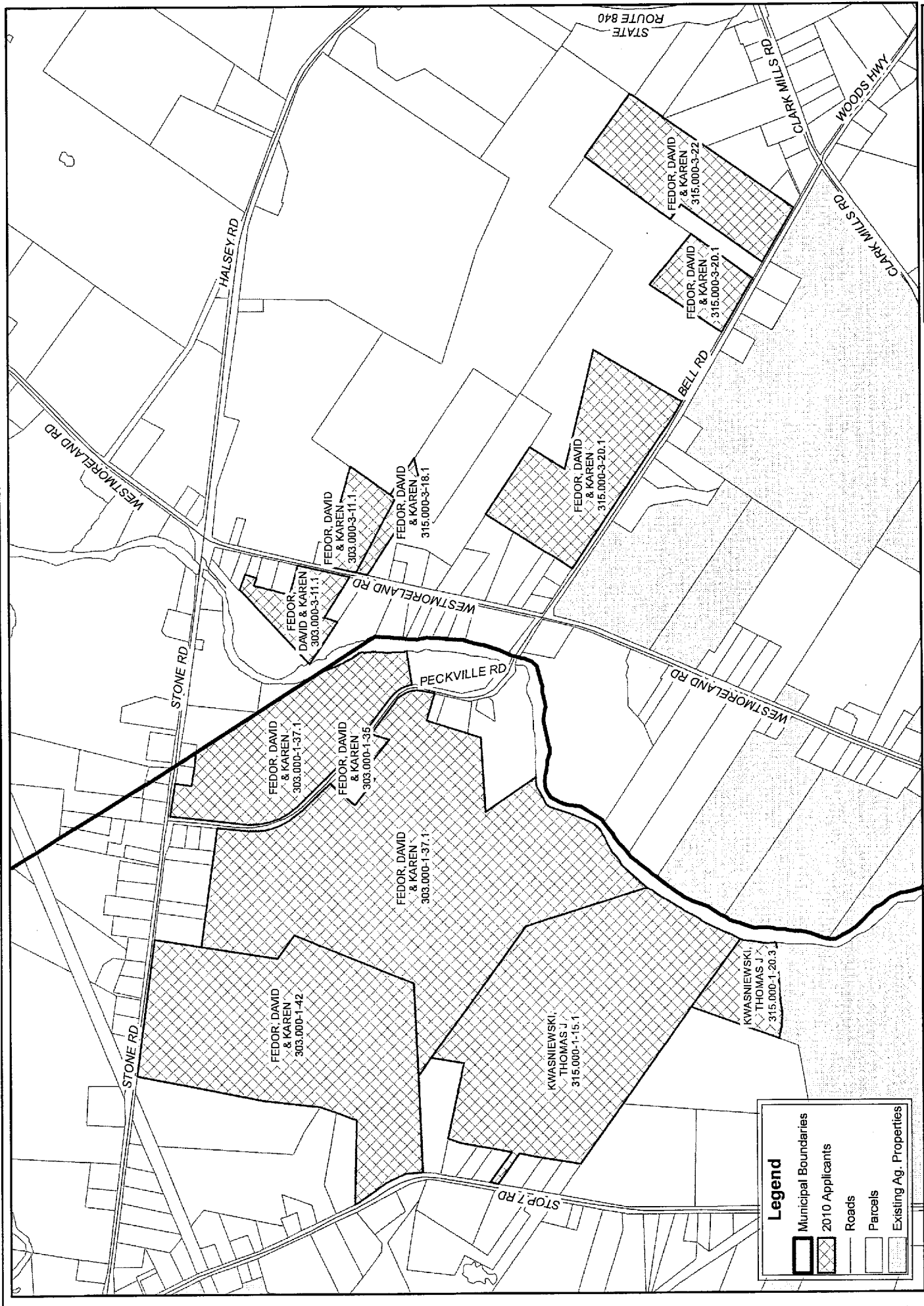
**DeArmond, James S.  
Marcy  
3.8 acres**



**Agricultural District Open Enrollment**  
Oneida County  
2010



This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes for any other purpose without the prior approval of the Oneida County Comprehensive Planning Program (HOCCPP). The HOCCPP shall not be liable for any misuse or misrepresentation of this information. The HOCCPP makes no claim as to the completeness or accuracy of the data contained hereon.



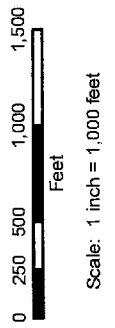
**Legend**

	Municipal Boundaries
	2010 Applicants
	Roads
	Parcels
	Existing Ag. Properties

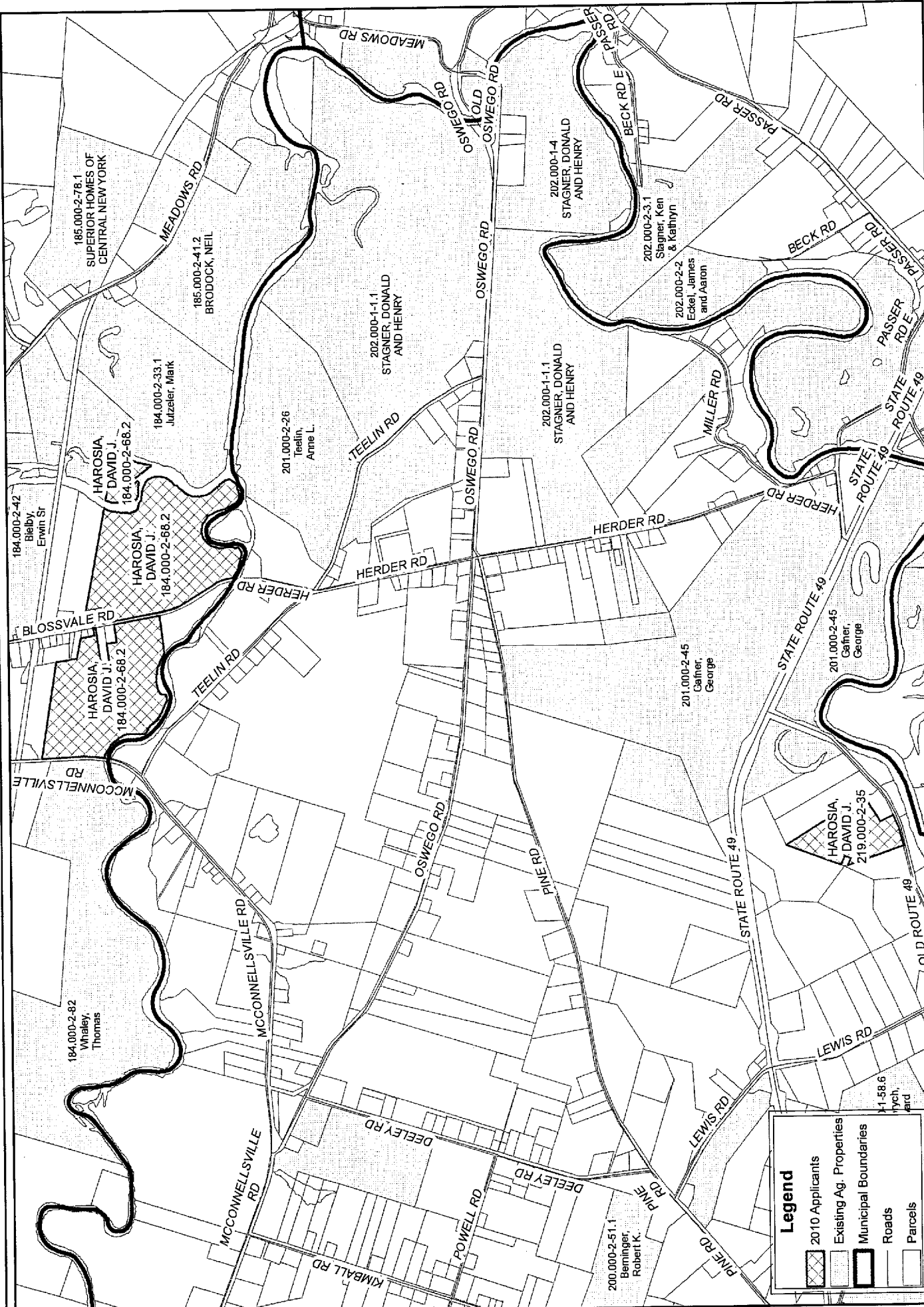
This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer Onondaga Counties Comprehensive Planning Program (HOCPPP). The HOCPPP shall not be liable for any misuse or misrepresentation of this information. The HOCPPP makes no claim as to the completeness or accuracy of the data contained hereon.



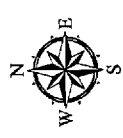
**Agricultural District Open Enrollment**  
**Onondaga County**  
**2010**



**Fedor, David & Karen**  
**Westmoreland/Whitestown**  
**268.6 acres**



This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer Oneida Counties Comprehensive Planning Program (HOCCPP). The HOCCPP shall not be liable for any misuse or misrepresentation of this information. The HOCCPP makes no claim as to the completeness or accuracy of the data contained herein.



**Agricultural District Open Enrollment**  
**Oneida County**  
**2010**



**Legend**

- 2010 Applicants
- Existing Ag. Properties
- Municipal Boundaries
- Roads
- Parcels

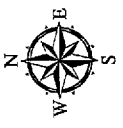
**Harosia, David J.**  
**Annsville/Vienna**  
**181.9 acres**

1-58.6  
 ych.  
 ard

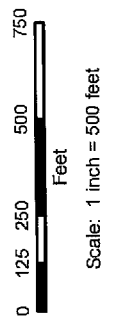


PROPERTY EXISTS IN DISTRICT 3 UNDER PRIOR OWNERSHIP

This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer Oneida Counties Comprehensive Planning Program (HOCCPP). The HOCCPP shall not be liable for any misuse or misrepresentation of this information. The HOCCPP makes no claim as to the completeness or accuracy of the data contained hereon.



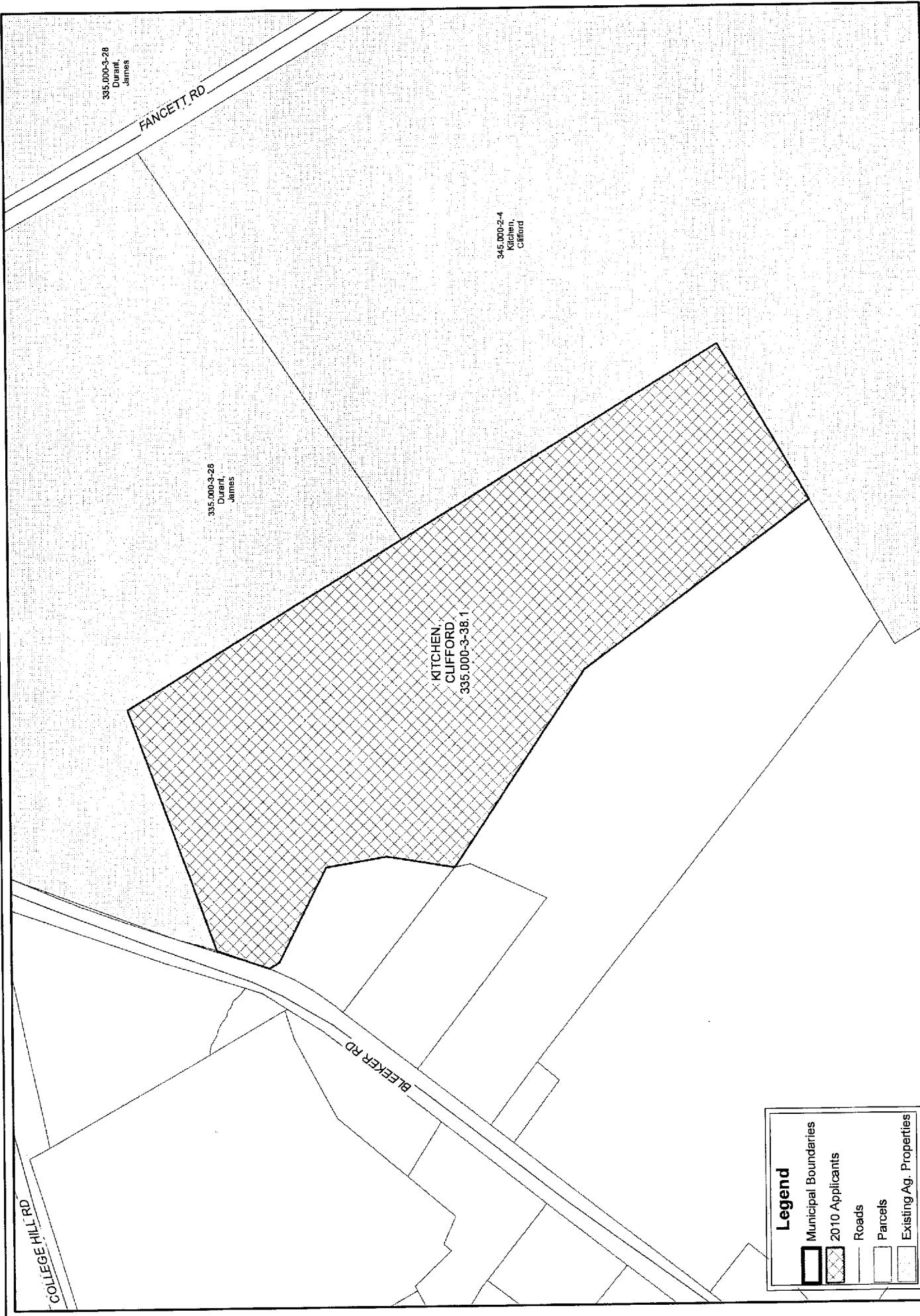
**Agricultural District Open Enrollment**  
 Oneida County  
 2010



**Legend**

- 2010 Applicants
- Existing Ag. Properties
- Municipal Boundaries
- Roads
- Parcels

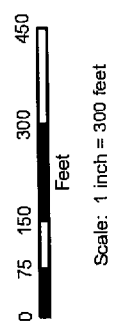
**Jones, William**  
**Reimsen**  
**98.8 acres**



This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer/Oneida Counties Comprehensive Planning Program (HOCCPP). The HOCCPP shall not be liable for any misuse or misrepresentation of this information. The HOCCPP makes no claim as to the completeness or accuracy of the data contained herein.



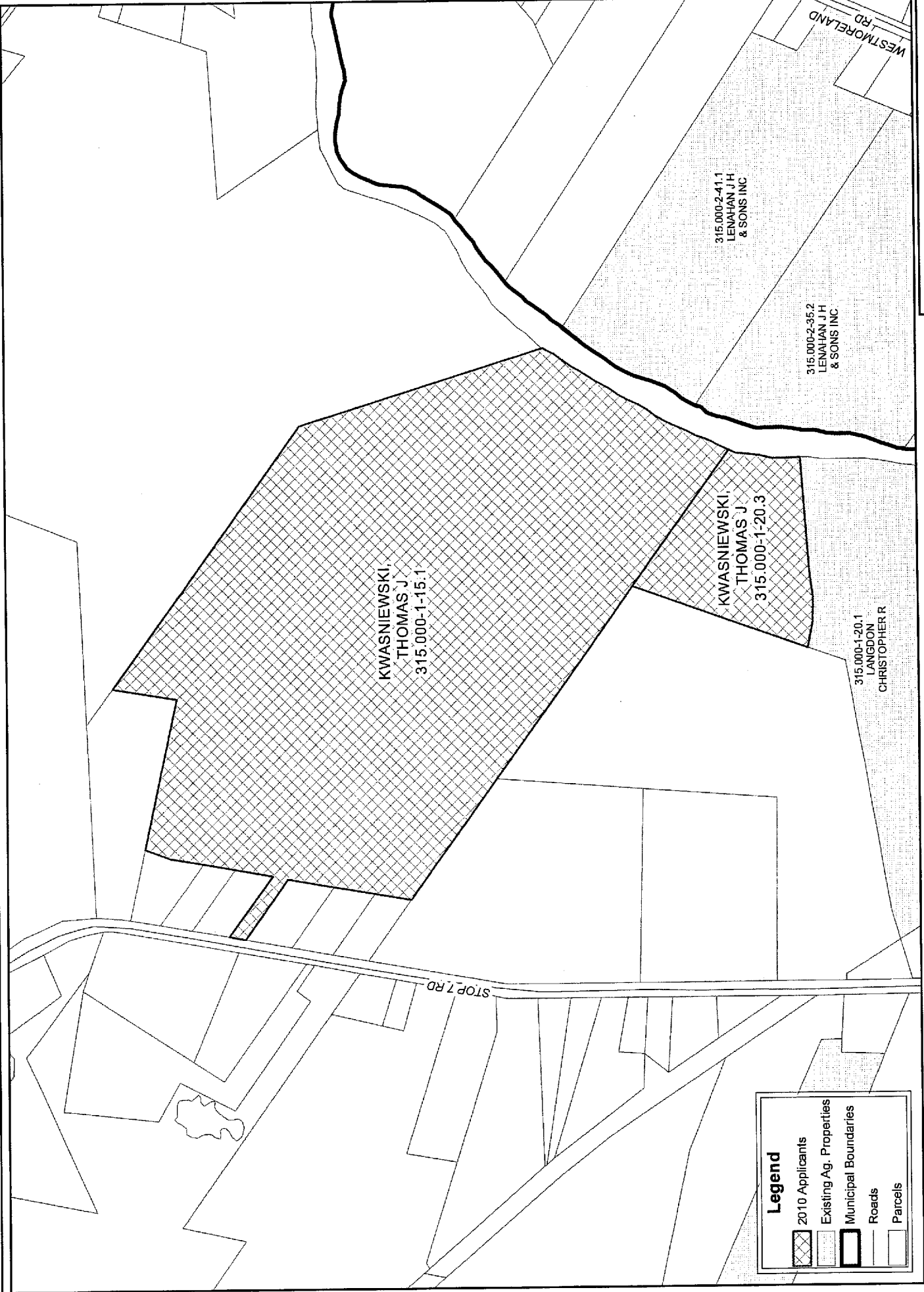
**Agricultural District Open Enrollment**  
**Oneida County**  
**2010**



**Legend**

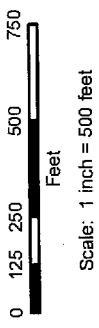
- Municipal Boundaries
- 2010 Applicants
- Roads
- Parcels
- Existing Ag. Properties

**Kitchen, Clifford**  
**Vernon**  
**21.8 acres**



Legend	
	2010 Applicants
	Existing Ag. Properties
	Municipal Boundaries
	Roads
	Parcels

**Kwasniewski, Thomas J.**  
**Westmoreland**  
**79.0 acres**



**Agricultural District Open Enrollment**  
**Oneida County**  
**2010**

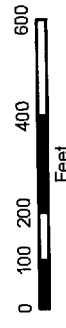


This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer/Oneida Counties Cooperative Planning Program (HOCOPP). The HOCOPP shall not be liable for any misuse or misrepresentation of this information. The HOCOPP makes no claim as to the completeness or accuracy of the data contained herein.

This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer, Oneida Counties Comprehensive Planning Program (HOCPPP). The HOCPPP shall not be liable for any misuse or misrepresentation of this information. The HOCPPP makes no claim as to the completeness or accuracy of the data contained herein.








**Agricultural District Open Enrollment**  
**Oneida County**  
**2010**

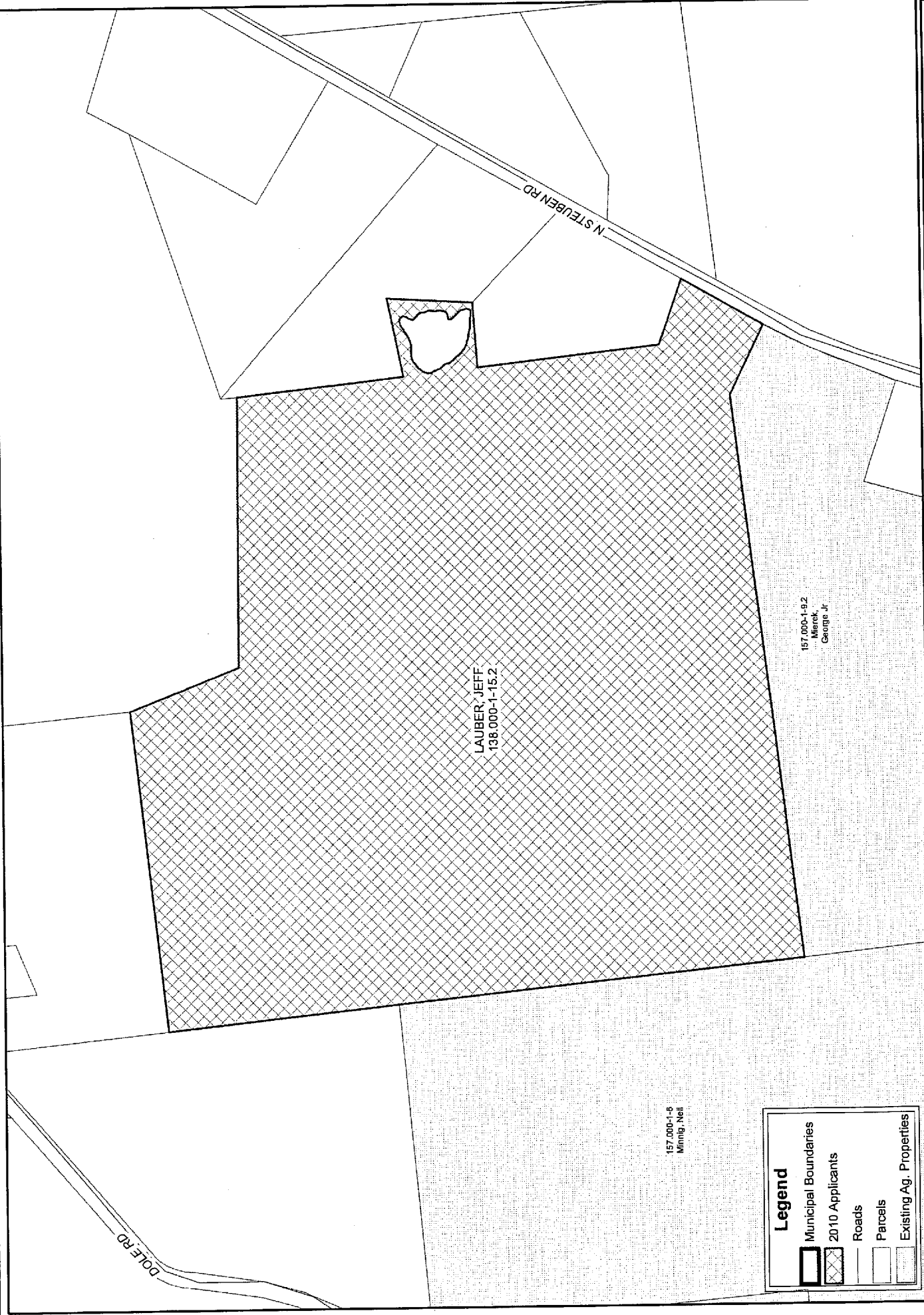


Scale: 1 inch = 400 feet

**Lauber, Jeff**  
**Steuben**  
**83.5 acres**

**Legend**

-  Municipal Boundaries
-  2010 Applicants
-  Roads
-  Parcels
-  Existing Ag. Properties



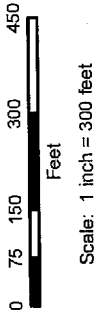









This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer Oneida Counties Comprehensive Planning Program (HOCPPP). The HOCPPP shall not be liable for any misuse or misrepresentation of this information. The HOCPPP makes no claim as to the completeness or accuracy of the data contained hereon.



**Agricultural District Open Enrollment**  
**Oneida County**  
**2010**



**Legend**

-  Municipal Boundaries
-  2010 Applicants
-  Roads
-  Parcels
-  Existing Ag. Properties

**Marcellus, George & Beth**  
**Westmoreland**  
**9.7 acres**



COLEMAN,  
ALLEN AND KAREN  
274.000-1-75.1

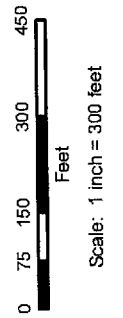
BESIG,  
ROBERT  
274.000-2-13

MUDGE, BADEN  
P. JR.  
274.000-2-17.1

**Legend**

- Municipal Boundaries
- 2010 Applicants
- Roads
- Parcels
- Existing Ag. Properties

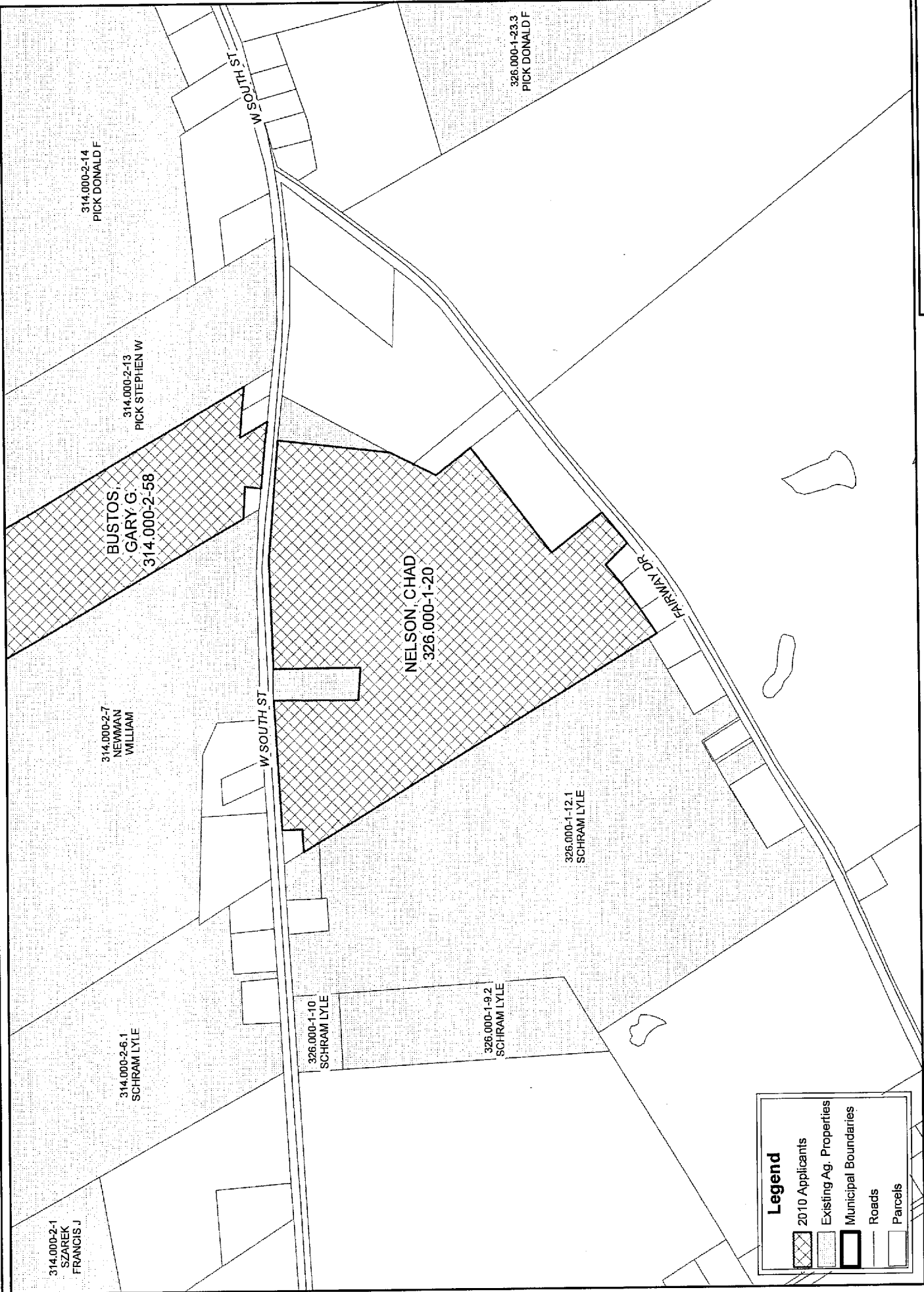
**Mudge, Baden P. Jr.**  
**Westmoreland**  
**17.2 acres**



**Agricultural District Open Enrollment**  
Oneida County  
2010



This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Heikimer Oneida Counties Comprehensive Planning Program (HOCPP). The HOCPP shall not be liable for any misuse or misrepresentation of this information. The HOCPP makes no claim as to the completeness or accuracy of the data contained herein.



314.000-2-1  
SZAREK  
FRANCIS J

314.000-2-6.1  
SCHRAM LYLE

314.000-2-7  
NEWMAN  
WILLIAM

BUSTOS,  
GARY G.  
314.000-2-58

314.000-2-13  
PICK STEPHEN W

314.000-2-14  
PICK DONALD F

326.000-1-10  
SCHRAM LYLE

326.000-1-9.2  
SCHRAM LYLE

326.000-1-12.1  
SCHRAM LYLE

NELSON, CHAD  
326.000-1-20

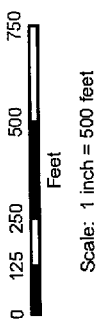
326.000-1-23.3  
PICK DONALD F

**Legend**

- 2010 Applicants
- Existing Ag. Properties
- Municipal Boundaries
- Roads
- Parcels

**Nelson, Chad**  
**Westmoreland**  
**34.7 acres**

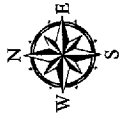
**Agricultural District Open Enrollment**  
Oneida County  
2010



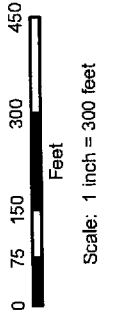
This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer Oneida Counties Comprehensive Planning Program (HOCOPP). The HOCOPP shall not be liable for any misuse or misrepresentation of this information. The HOCOPP makes no claim as to the completeness or accuracy of the data contained herein.



This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Heckerling Oneida Counties Comprehensive Planning Program (HOCPPP). The HOCPPP shall not be liable for any misuse or misrepresentation of this information. The HOCPPP makes no claim as to the completeness or accuracy of the data contained herein.



**Agricultural District Open Enrollment**  
 Oneida County  
 2010

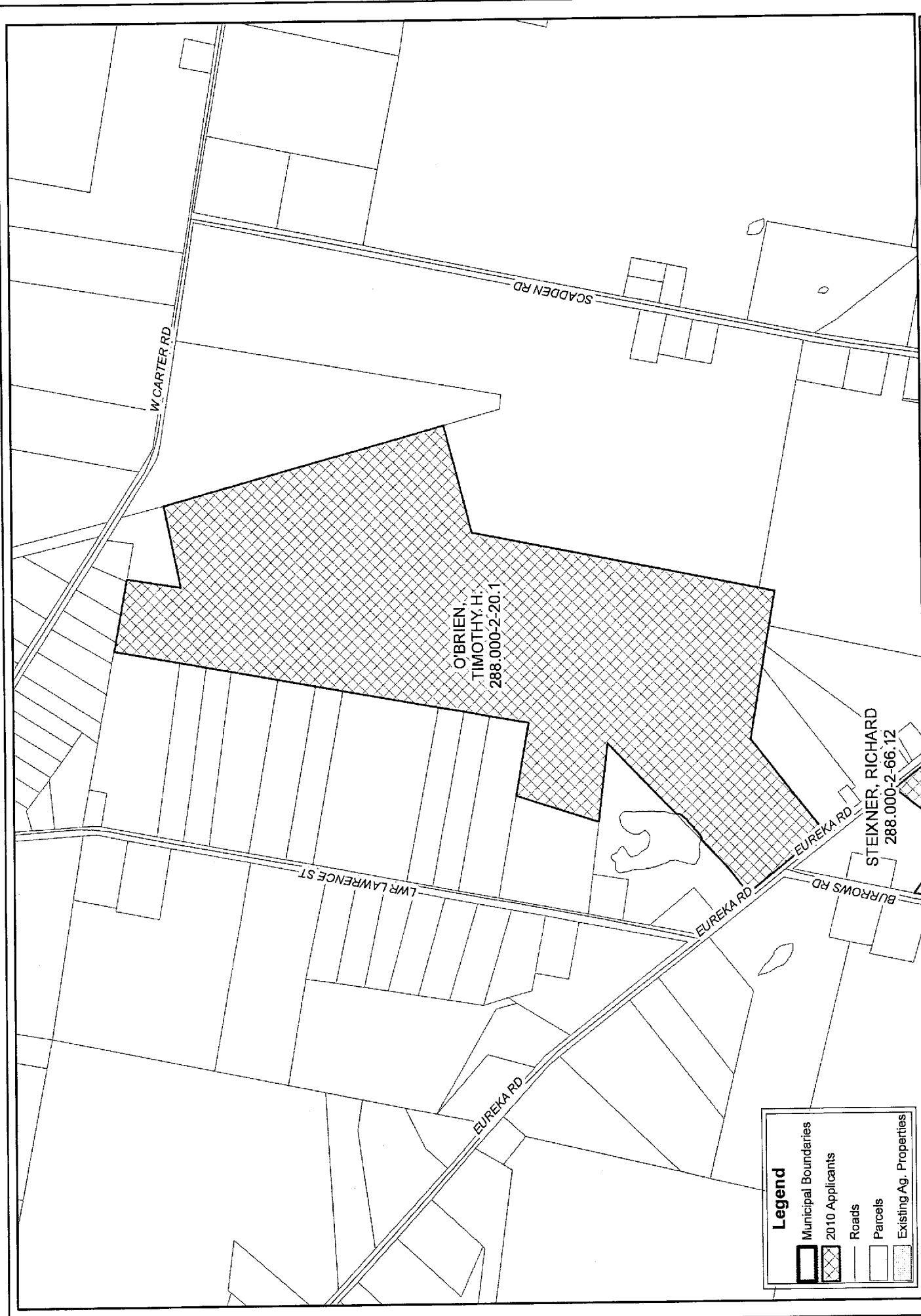


Legend	
	Municipal Boundaries
	2010 Applicants
	Roads
	Parcels
	Existing Ag. Properties

**Oakes, James & Michele**  
**Westmoreland**  
**11.9 acres**

274-000-1-1.3  
 Hast, Charles

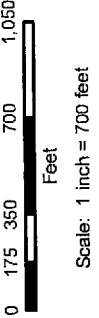
OAKES, JAMES  
 AND MICHELE  
 274-000-1-8.5



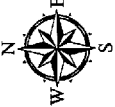
**Legend**

- Municipal Boundaries
- 2010 Applicants
- Roads
- Parcels
- Existing Ag. Properties

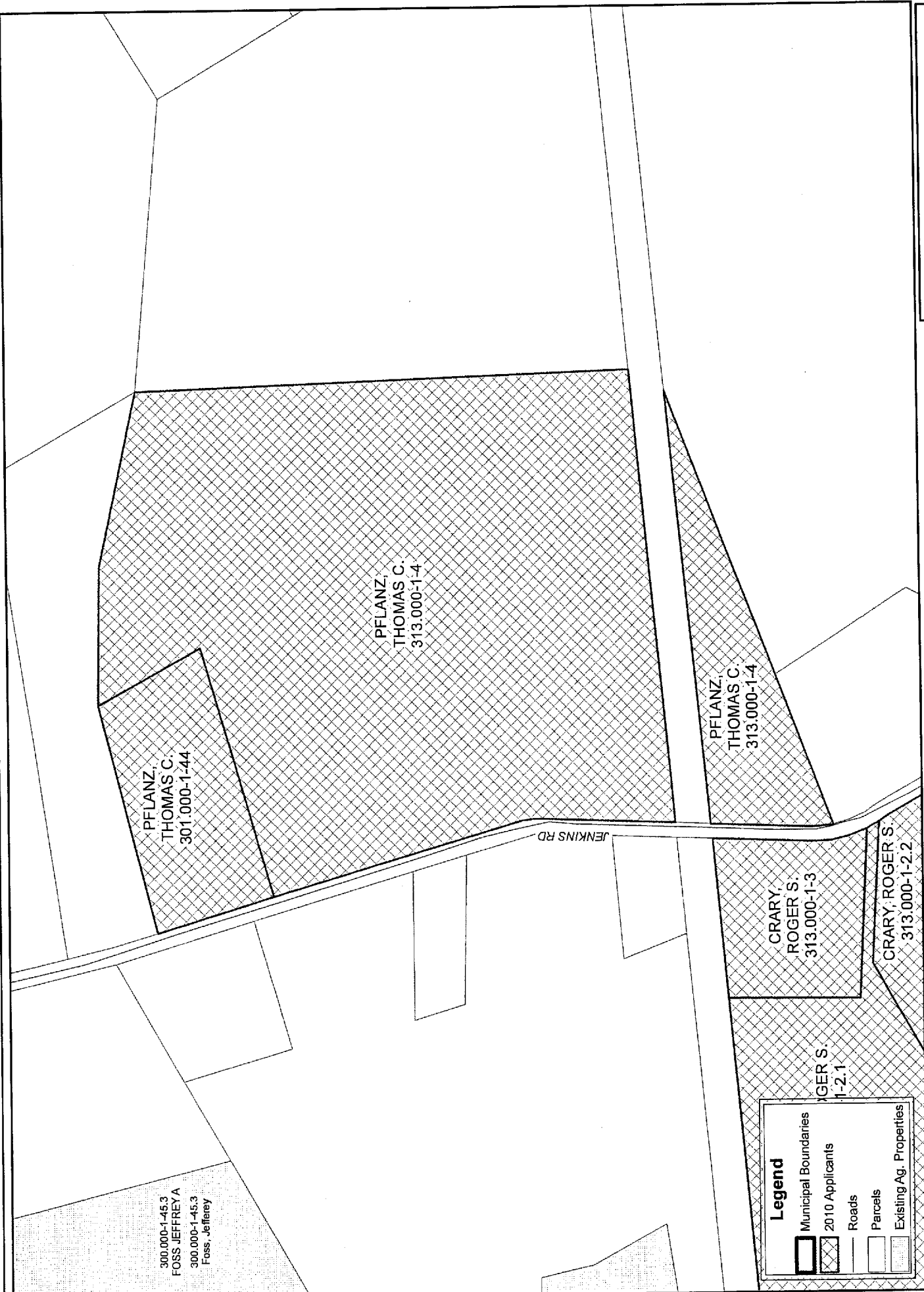
**O'Brien, Timothy H.  
Westmoreland  
102.8 acres**



**Agricultural District Open Enrollment**  
Oneida County  
2010



This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer Oneida Counties Comprehensive Planning Program (HOCCPP). The HOCCPP shall not be liable for any misuse or misrepresentation of this information. The HOCCPP makes no claim as to the completeness or accuracy of the data contained hereon.



PFLANZ,  
THOMAS C.  
301.000-1-44

PFLANZ,  
THOMAS C.  
313.000-1-4

PFLANZ,  
THOMAS C.  
313.000-1-4

CRARY,  
ROGER S.  
313.000-1-3

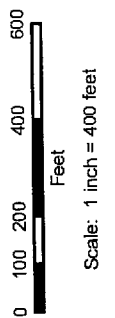
CRARY, ROGER S.  
313.000-1-2.2

300.000-1-45.3  
FOSS JEFFREY A  
300.000-1-45.3  
Foss, Jeffrey

**Legend**

- Municipal Boundaries
- 2010 Applicants
- Roads
- Parcels
- Existing Ag. Properties

**Pflanz, Thomas C.  
Westmoreland  
66.6 acres**



**Agricultural District Open Enrollment**  
Oneida County  
2010



This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer Oneida Counties Comprehensive Planning Program (HOCPPP). The HOCPPP shall not be liable for any misuse or misrepresentation of this information. The HOCPPP makes no claim as to the completeness or accuracy of the data contained hereon.

287.000-2-39.1  
ARCHER, MIKE

LOWELL RD

REED, GEORGEANN  
287.000-2-24.1

STATE ROUTE 26

I-90






I-90

287.000-1-42  
PRITCHARD  
HUBERT

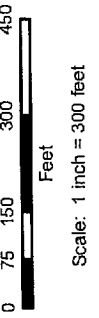
LOWELL RD

STATE ROUTE 26

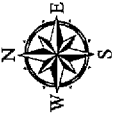
**Legend**

-  Municipal Boundaries
-  2010 Applicants
-  Roads
-  Parcels
-  Existing Ag. Properties

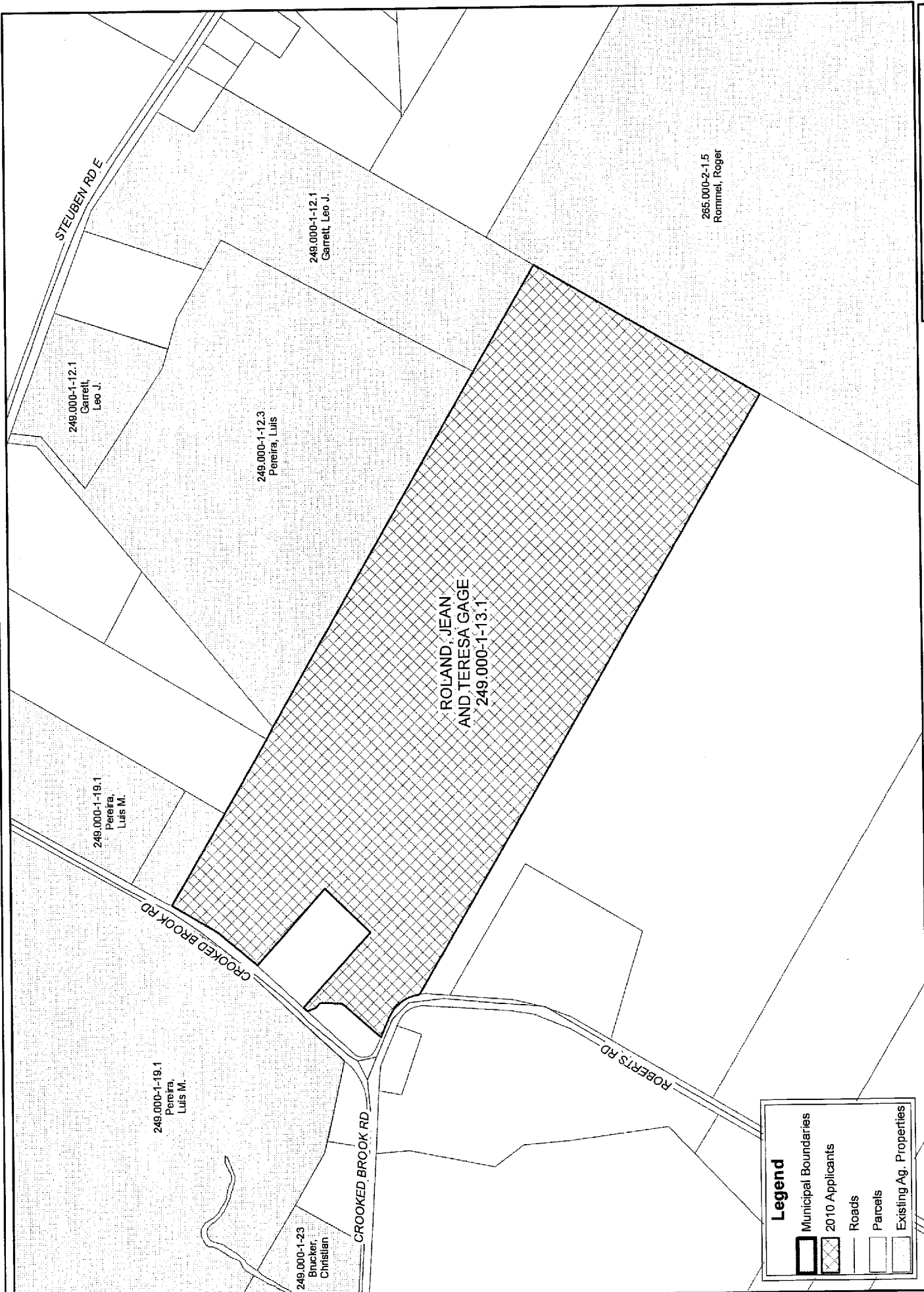
**Reed, Georgeann**  
**Westmoreland**  
**22.2 acres**



**Agricultural District Open Enrollment**  
Oneida County  
2010



This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer, Oneida Counties Comprehensive Planning Program (HOCCPP). The HOCCPP shall not be liable for any misuse or misrepresentation of this information. The HOCCPP makes no claim as to the completeness or accuracy of the data contained hereon.



ROLAND, JEAN  
AND TERESA GAGE  
249.000-1-13.1

249.000-1-12.1  
Garrett, Leo J.

249.000-1-12.3  
Pereira, Luis

249.000-1-12.1  
Garrett, Leo J.

265.000-2-1.5  
Rommel, Roger

249.000-1-19.1  
Pereira, Luis M.

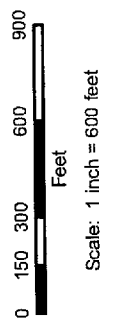
249.000-1-19.1  
Pereira, Luis M.

249.000-1-23  
Brucker, Christian

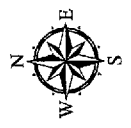
**Legend**

- Municipal Boundaries
- 2010 Applicants
- Roads
- Parcels
- Existing Ag. Properties

**Roland, Jean &  
Teresa Gage  
Deerfield  
97.0 acres**

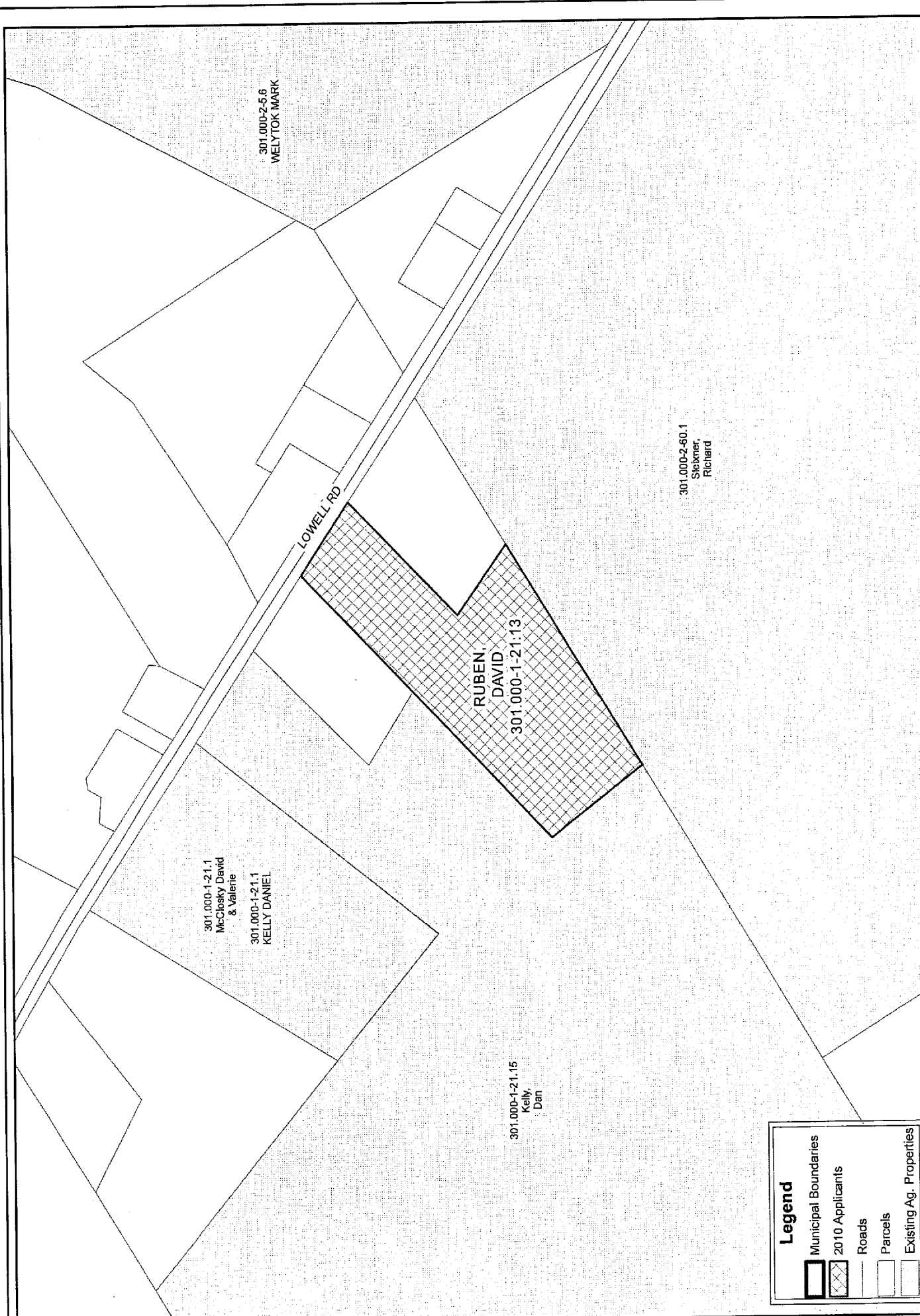


**Agricultural District Open Enrollment**  
Oneida County  
2010



This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Planning and Zoning Commission. The HOCCPP shall not be liable for any misuse or misrepresentation of this information. The HOCCPP makes no claim as to the completeness or accuracy of the data contained hereon.





301.000-2-56  
WELYTOK MARK

LOWELL RD

RUBEN,  
DAVID  
301.000-1-21.13






301.000-2-60.1  
Stakmer,  
Richard

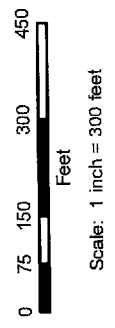
301.000-1-21.1  
McClosky David  
& Valerie

301.000-1-21.1  
KELLY DANIEL

301.000-1-21.15  
Kelly,  
Dan

**Legend**

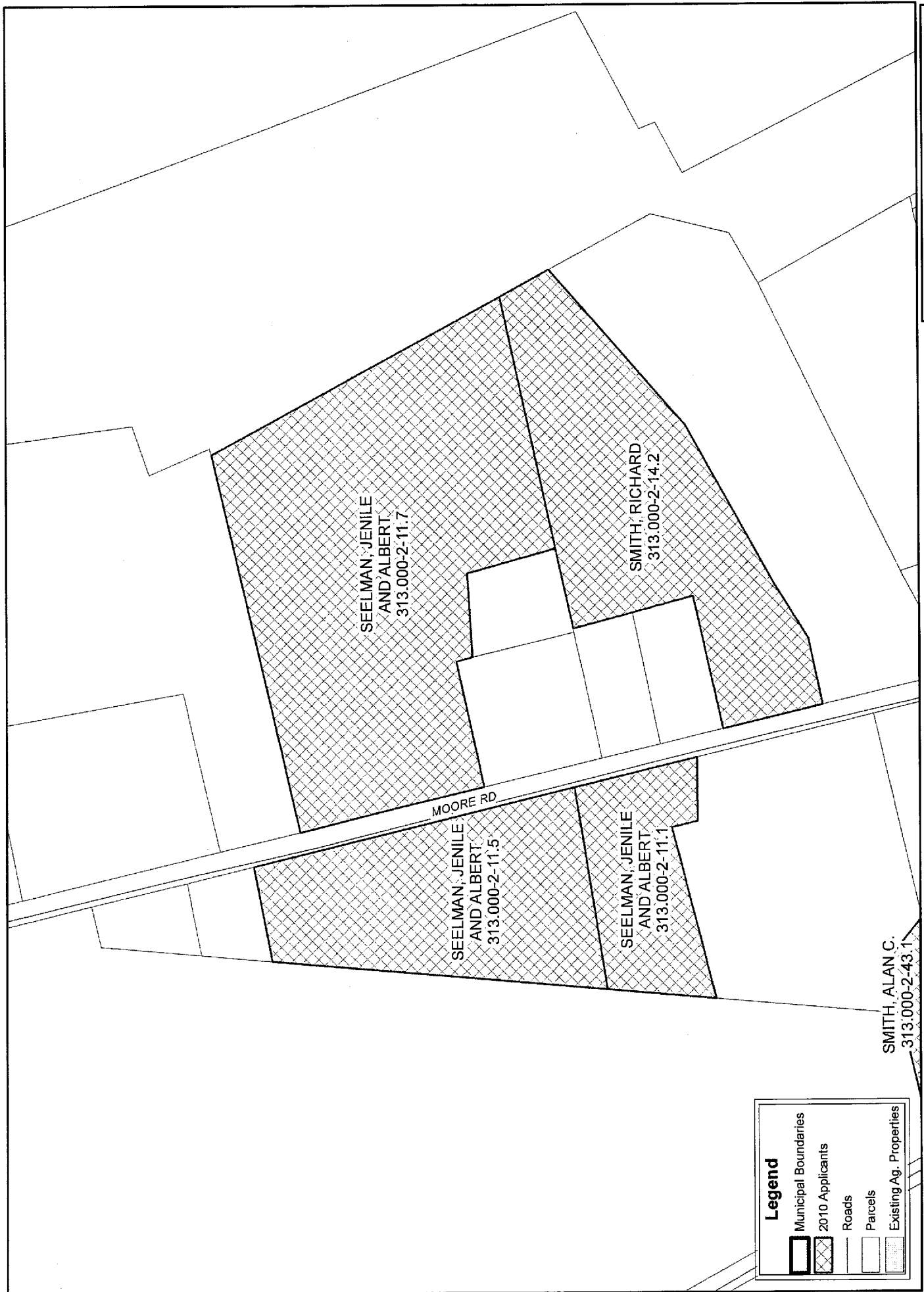
-  Municipal Boundaries
-  2010 Applicants
-  Roads
-  Parcels
-  Existing Ag. Properties



**Agricultural District Open Enrollment**  
Oneida County  
2010

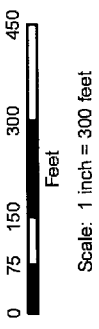
**Ruben, David**  
**Westmoreland**  
**5.7 acres**

This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purposes without the prior approval of the Herkimer Oneida Counties Collaborative Planning Program (HOCOPP). The HOCOPP shall not be liable for any misuse or misrepresentation of this information. The HOCOPP makes no claim as to the completeness or accuracy of the data contained hereon.



Legend	
	Municipal Boundaries
	2010 Applicants
	Roads
	Parcels
	Existing Ag. Properties

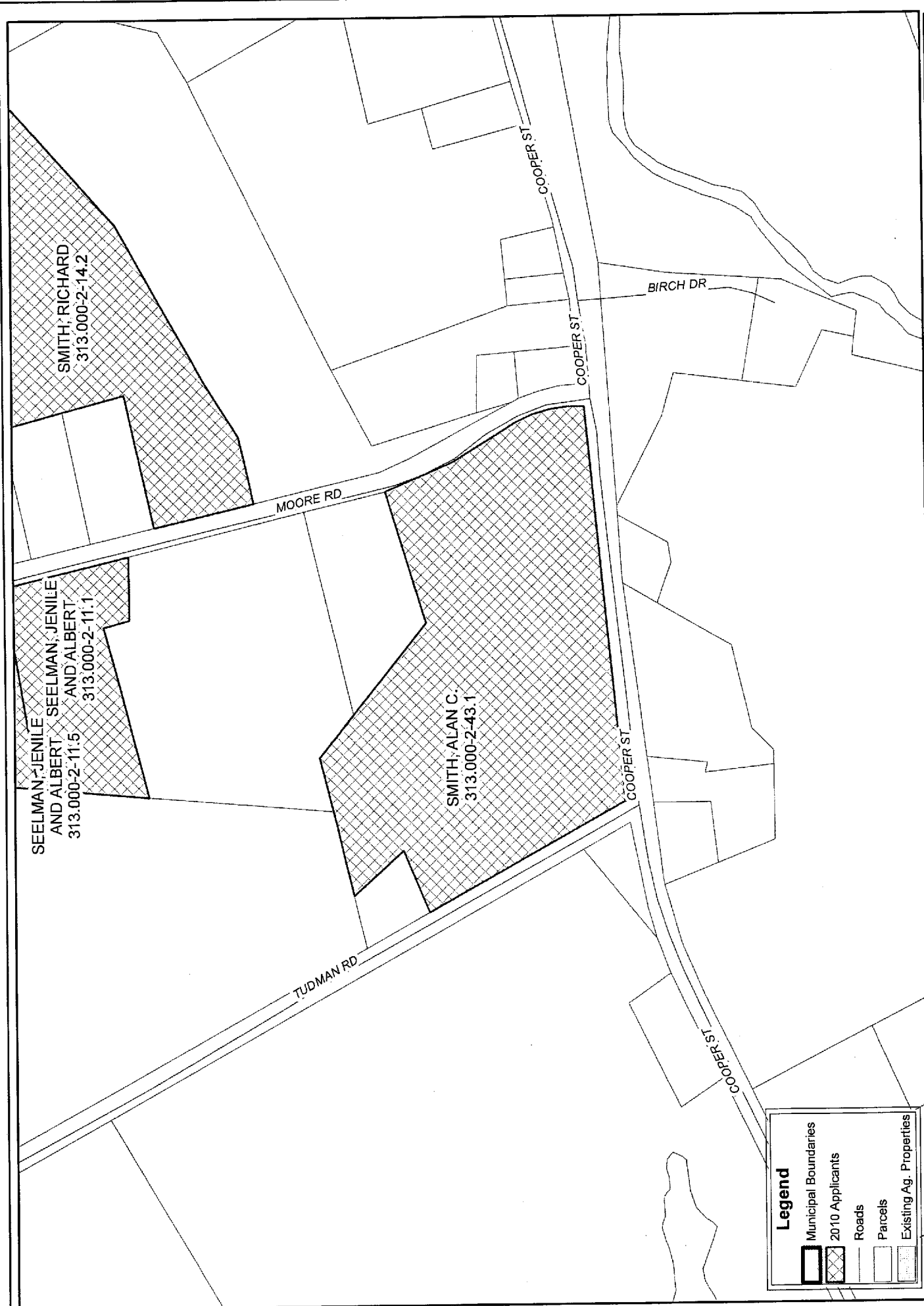
**Seelman, Jenile & Albert**  
**Westmoreland**  
**23.9 acres**



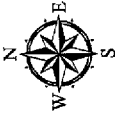
**Agricultural District Open Enrollment**  
**Oneida County**  
**2010**



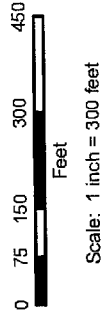
This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer Oneida Counties Comprehensive Planning Program (HOCPPP). The HOCPPP shall not be liable for any misuse or misrepresentation of this information. The HOCPPP makes no claim as to the completeness or accuracy of the data contained herein.



This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer Oneida Counties Comprehensive Planning Program (HOCCPP). The HOCCPP shall not be liable for any misuse or misrepresentation of this information. The HOCCPP makes no claim as to the completeness or accuracy of the data contained herein.



**Agricultural District Open Enrollment**  
 Oneida County  
 2010



**Legend**

- Municipal Boundaries
- 2010 Applicants
- Roads
- Parcels
- Existing Ag. Properties

**Smith, Alan C.**  
**Westmoreland**  
**12.9 acres**



SEELMAN, JENILE  
AND ALBERT  
313.000-2-11.7

SMITH, RICHARD  
313.000-2-14.2

SEELMAN, JENILE  
AND ALBERT  
313.000-2-11.5

SEELMAN, JENILE  
AND ALBERT  
313.000-2-11.1

SMITH, ALAN C.  
313.000-2-43.1

COOPER ST

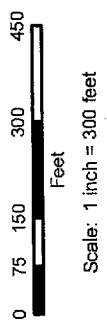
STATION  
HILL RD

COOPER ST

MOORE RD

**Legend**

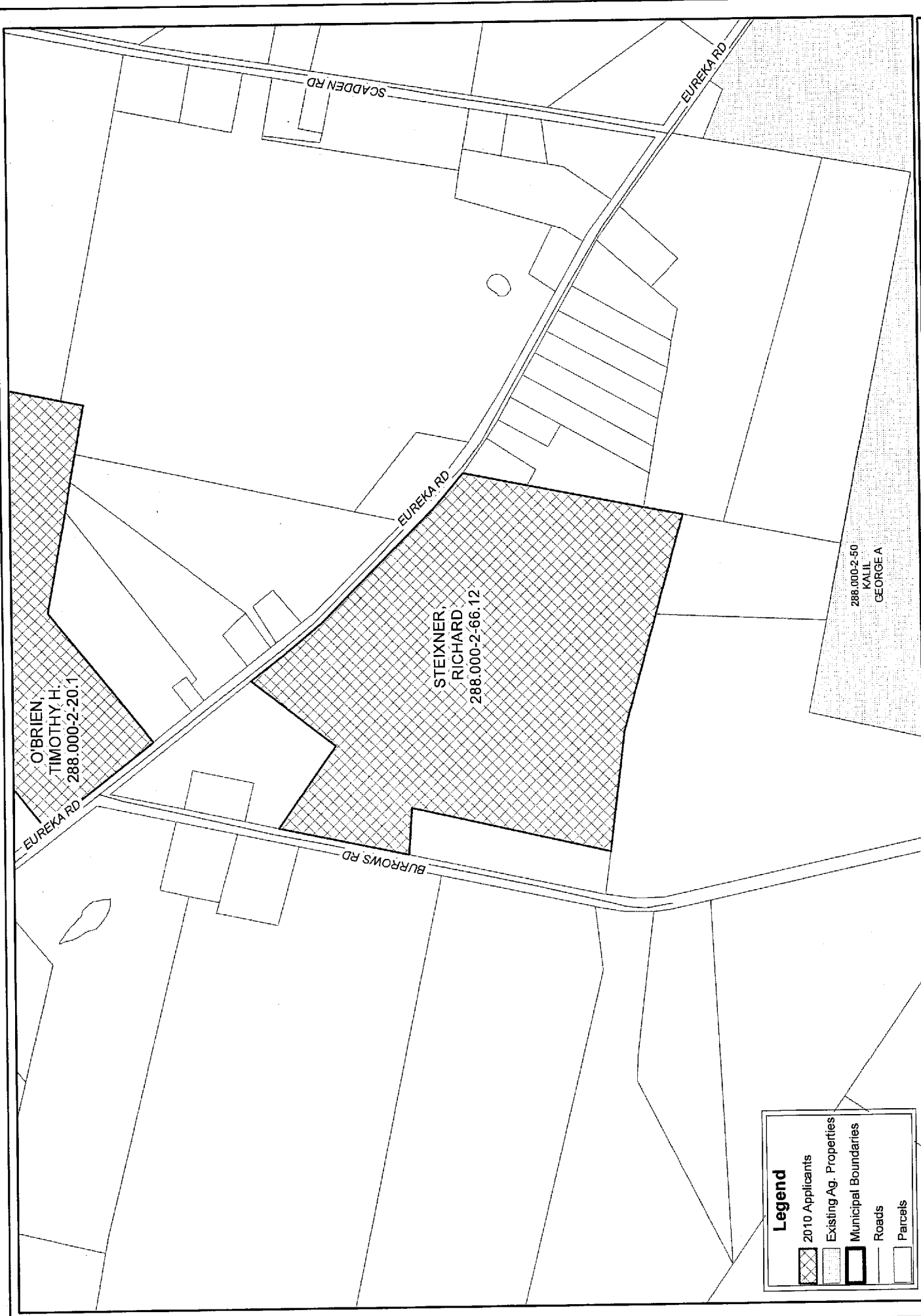
- Municipal Boundaries
- 2010 Applicants
- Roads
- Parcels
- Existing Ag. Properties








**Agricultural District Open Enrollment**  
Oncida County  
2010

**Smith, Richard  
Westmoreland**  
8.1 acres

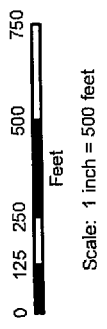
This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Heninger County Planning and Comprehensive Planning Program (HOCPP). The HOCPP shall not be liable for any misuse or misrepresentation of this information. The HOCPP makes no claim as to the completeness or accuracy of the data contained herein.



**Legend**

-  2010 Applicants
-  Existing Ag. Properties
-  Municipal Boundaries
-  Roads
-  Parcels

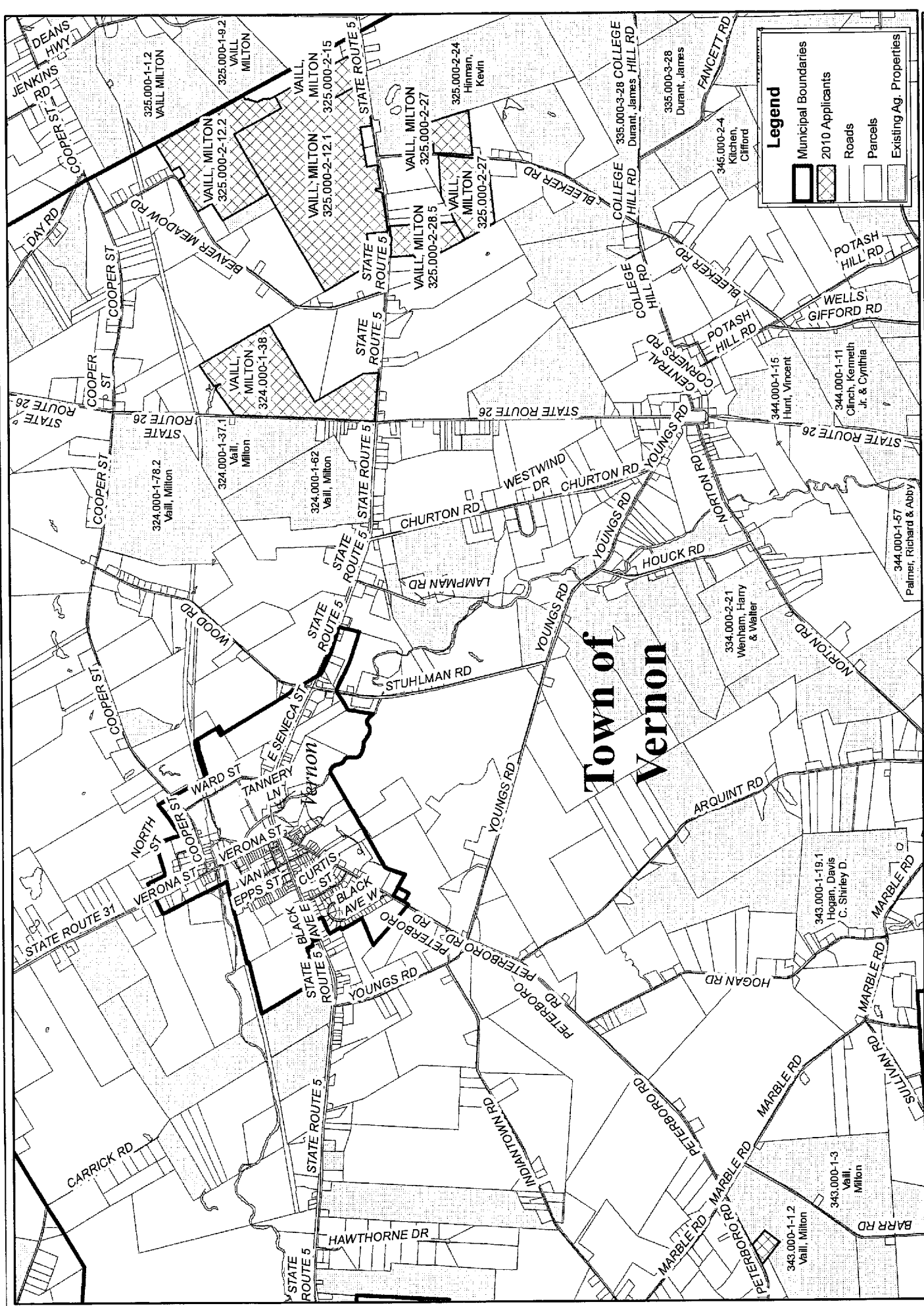
**Steixner, Richard**  
**Westmoreland**  
**39.2 acres**



**Agricultural District Open Enrollment**  
**Oneida County**  
**2010**



This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer, Oneida Counties Comprehensive Planning Program (HOCPP). The HOCPP shall not be liable for any misuse or misrepresentation of this information. The HOCPP makes no claim as to the completeness or accuracy of the data contained herein.



# Town of Vernon

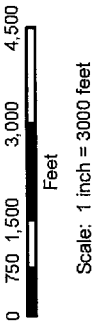
**Legend**

- Municipal Boundaries
- 2010 Applicants
- Roads
- Parcels
- Existing Ag. Properties

This information has been compiled for planning purposes and may not be reproduced or transmitted for commercial purposes or for any other purpose without the prior approval of the Herkimer Oneida Counties Comprehensive Planning Program (HOCOPP). The HOCOPP shall not be liable for any misuses or misrepresentation of this information. The HOCOPP makes no claim as to the completeness or accuracy of the data contained herein.



**Agricultural District Open Enrollment**  
 Oneida County  
 2010



**Vaill, Milton**  
**Vernon**  
**583.1 acres**

## **ONEIDA COUNTY BOARD OF LEGISLATORS**

### ***RESOLUTION NO. 96***

***INTRODUCED BY: Mr. Porter  
2ND BY: Mr. Brennan***

**RE: RESOLUTION SCHEDULING A PUBLIC HEARING ON THE RESULTS OF THE  
"OPEN ENROLLMENT" PERIOD REGARDING AGRICULTURAL DISTRICTS**

**WHEREAS,** On December 10, 2003, the Oneida County Board of Legislators adopted Resolution #365 designating an "Open Enrollment" period (January 1 through January 31) to consider the inclusion of any viable agricultural land in an Agricultural District prior to its sanctioned review period, and

**WHEREAS,** Current applications for inclusion in existing Agricultural Districts have been received by the Farmland Protection Board for consideration and summarily approved for further review at a Public Hearing to be held by Oneida County now, therefore, be it hereby

**RESOLVED,** That the Clerk of the Oneida County Board of Legislators be, and hereby is, authorized and directed to cause a notice to be published in the Utica Observer Dispatch and Rome Sentinel in which shall be stated the time, place and date of such Public Hearing, and it is further

**RESOLVED,** That said Public Hearing shall be held on Thursday, March 11, 2010 at 7:30 PM at the Westmoreland Town Hall, 100 Station Road, Westmoreland, NY 13490.

APPROVED: WAYS AND MEANS COMMITTEE (February 24, 2010)

DATED: February 24, 2010

Adopted by the following v.v. vote:  
AYES 28 NAYS 0 ABSENT 1 (Welch)

**NOTICE OF PUBLIC HEARING**

**AGRICULTURAL DISTRICTS OPEN ENROLLMENT**

**NOTICE IS HEREBY GIVEN**, that a public hearing shall be held by the Oneida County Board of Legislators on Thursday, March 11, 2010 at 7:30 PM at the Westmoreland Town Hall, 100 Station Road, Westmoreland, NY 13490.

Said public hearing is being held to consider applications submitted by landowners (during the Open Enrollment period January 1-January 31) in compliance with Section 303(b) of the Agriculture and Markets Law for inclusion of viable agricultural land in an Agricultural District prior to its sanctioned review period.

Proposed recommendations of the County Planning Board and Agricultural Districting Advisory Committee may be examined in the Office of the Clerk of the Oneida County Board of Legislators, 800 Park Avenue, Utica, NY.

All parties of interest and citizens will be heard by the Oneida County Board of Legislators at the public hearing.

ONEIDA COUNTY BOARD OF LEGISLATORS

Mikale Billard, Clerk  
MIKALE, BILLARD, CLERK

DATED: February 25, 2010



# State of New York } County of Oneida } SS:

NOTICE OF PUBLIC HEARING

AGRICULTURAL DISTRICTS

OPEN/ENROLLMENT

NOTICE IS HEREBY

GIVEN, that a public hearing shall be held by the Oneida County Board of Legislators on Thursday, March 11, 2010 at 7:30 PM at the Westmoreland Town Hall, 100 Station Road, Westmoreland, NY 13380.

Said public hearing is being held to consider applications submitted by landowners (during the Open Enrollment period January 1-January 31) in compliance with Section 303(d) of the Agriculture and Markets Law for inclusion of viable agricultural land in an Agricultural District prior to its sanctioned review period.

Proposed recommendations of the County Planning Board and Agricultural Districting Advisory Committee may be examined in the Office of the Clerk of the Oneida County Board of Legislators, 800 Park Avenue, Utica, NY.

All parties of interest and citizens will be heard by the Oneida County Board of Legislators at the public hearing.

ONEIDA COUNTY BOARD OF LEGISLATORS

DATED: February 25, 2010

Mikale Billard, Clerk

Mikale Billard, Clerk

3/7/10

Keria Joseph being sworn, says he is, and during the time hereinafter mentioned, was Advertising Director of the DAILY SENTINEL, a newspaper printed and published in the County of Oneida, aforesaid; and that the annexed printed Notice was inserted and published in said Newspaper once/ commencing

on the 1<sup>st</sup> day of March, 2010

to wit: March 1, 2010

March, 2010  
Keria Joseph

Sworn to before me this 1<sup>st</sup> day of March, 2010

Mikael B. Brockway Notary Public

MICHAEL B. BROCKWAY  
Notary Public, State of New York  
Appointed In Oneida County  
My Commission Expires April 29, 2010

BY ORDER OF THE TOWN BOARD OF THE TOWN OF FRANKFORT.

RESPECTFULLY SUBMITTED, GEORGINA BELLINO TOWN CLERK TOWN OF FRANKFORT OD: 03/01/2010

**LEGAL NOTICE NOTICE TO BIDDERS LIQUEFIED PETROLEUM (LP) PROPANE FOR TOWN OF FRANKFORT HIGHWAY DEPARTMENT**

THE TOWN BOARD OF THE TOWN OF FRANKFORT AND THE SUPERINTENDENT OF HIGHWAYS REQUEST SEALED BIDS FOR THE PRICE OF LIQUEFIED PETROLEUM (LP), PER GALLON, FOR THE TOWN OF FRANKFORT HIGHWAY DEPARTMENT. TWO BIDS FOR THE PERIOD FROM 3/11/2010 TO 12/31/2010 SHOULD BE SUBMITTED. ONE FIRM AND THE OTHER FLUCTUATING WITH PRICE CHANGES. (THREE) ONE THOUSAND TANK RESERVOIRS ON SITE SHOULD BE DELIVERED ON AN AUTOMATIC FILL SCHEDULE.

AUTO FILL (WINTER SEASON NOVEMBER 1 THROUGH APRIL 30). THE LIQUEFIED PETROLEUM MUST BE DELIVERED ON AN AUTOMATIC FILL SCHEDULE.

BID PROPOSALS WILL BE AVAILABLE AT THE OFFICE OF THE TOWN CLERK, TOWN HALL, 140 S. LITCHFIELD STREET, FRANKFORT NY 13340, UPON REQUEST BETWEEN THE HOURS OF 9:00 - 4:00, MON - FRI.

ALL BIDS MUST BE SUBMITTED ON FORMS SUPPLIED BY THE TOWN CLERK IN A SEALED ENVELOPE CLEARLY MARKED WITH "SEALED BID - LIQUEFIED PETROLEUM (LP)".

SEALED BIDS WILL BE RECEIVED UP TO AND NO LATER THAN 2:00 P.M. ON THURSDAY, MARCH 11, 2010 IN THE OFFICE OF THE TOWN CLERK, 140 LITCHFIELD ST, FRANKFORT, N.Y. AND PUBLICLY OPENED AND READ ALOUD AT 7:00 P.M. ON THURSDAY, MARCH 11, 2010 AT THE REGULAR MEETING OF THE TOWN BOARD OF THE TOWN OF FRANKFORT.

THE TOWN BOARD OF THE TOWN OF FRANKFORT RESERVES THE RIGHT TO REJECT ANY AND/OR ALL BIDS.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF FRANKFORT.

RESPECTFULLY SUBMITTED, GEORGINA BELLINO TOWN CLERK TOWN OF FRANKFORT OD: 03/01/2010

**LEGAL NOTICE NOTICE TO BIDDERS UNLEADED GASOLINE 89 OCTANE FOR TOWN OF FRANKFORT HIGHWAY DEPARTMENT**

THE TOWN BOARD OF THE

THE TOWN BOARD OF THE TOWN OF FRANKFORT.

THE TOWN BOARD OF THE TOWN OF FRANKFORT RESERVES THE RIGHT TO REJECT ANY AND/OR ALL BIDS.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF FRANKFORT.

RESPECTFULLY SUBMITTED, GEORGINA BELLINO TOWN CLERK TOWN OF FRANKFORT OD: 03/01/2010

**LEGAL NOTICE NOTICE OF PUBLIC HEARING AGRICULTURAL DISTRICTS OPEN ENROLLMENT**

NOTICE IS HEREBY GIVEN, that a public hearing shall be held by the Oneida County Board of Legislators on Thursday, March 11, 2010 at 7:30 PM at the Westmoreland Town Hall, 100 Station Road, Westmoreland, NY 13490.

Said public hearing is being held to consider applications submitted by landowners (during the Open Enrollment period January 1-January 31) in compliance with Section 303(b) of the Agriculture and Markets Law for inclusion of viable agricultural land in an Agricultural District prior to its sanctioned review period.

Proposed recommendations of the County Planning Board and Agricultural Districting Advisory Committee may be examined in the Office of the Clerk of the Oneida County Board of Legislators, 800 Park Avenue, Utica, NY.

All parties of interest and citizens will be heard by the Oneida County Board of Legislators at the public hearing.

ONEIDA COUNTY BOARD OF LEGISLATORS Mikale Billard, Clerk MIKALE, BILLARD, CLERK

DATED: February 25, 2010 OD: 03/01/2010

**LEGAL NOTICE INVITATION TO BID**

Sealed bids, subject to the conditions contained herein, will be received by the DIRECTOR OF PURCHASING, Oneida County Purchasing Department, 800 Park Avenue, Utica, NY until 10:30 AM local time on Wednesday, March 17, 2010 and then publicly opened and read for

**Bid # 1430 CUTTING, TRIMMING AND TOPPING TREES Along Oneida County Highways and Right-of-ways.**

Specifications MUST be PURCHASED from the Oneida County Purchasing Department, 800 Park Avenue, Utica, NY 13501. Administration fees: \$10 picked up, \$15 mailed. (Non-refundable). NO CASH ACCEPTED. (Mail is by 1st Class or Priority only). This bid is also available electronically by going to the County website: www.Ocgov.net. (fee for electronic submission (bidnet) is

10:30 A.M., local time (Official DYMO Time Stamp) on Tuesday, March 16, 2010 and then publicly opened and read for:

**Bid Reference #1429 Highway Guide Rail Post Driving Services**

Specifications MUST be PURCHASED from the Oneida County Purchasing Dept., Third Floor, 800 Park Ave., Utica, NY 13501. Administration fees are as follows: \$10.00 if picked up in person or \$15.00 for mailing. Cash is not acceptable and fee is non-refundable. (Mail is by 1st Class or Priority Only) This bid as also available electronically (BidNet) by going to the County website and following the links at: <http://www.ocgov.net/> (fee for electronic submission is also \$10.00 and should be mailed with bid submission). Bids without fee may not be considered.

Copies of the described bid may be examined at no expense at the Oneida County Purchasing Dept. Upon examination potential bidders may purchase a book as described above and bidders may not obtain books from any other source or bid will be disqualified.

Sealed bids must be returned on the form furnished. The return-envelope must be clearly marked with the bid number & name on the outside lower left corner and addressed to Oneida County Purchasing, Third Floor Bids Department, 800 Park Avenue, Utica, NY 13501. The owner reserves the right to reject any or all bids 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.

Mello J. Testa Director of Purchasing Dated: March 1, 2010 PLEASE MAKE CHECKS PAYABLE TO: COUNTY OF ONEIDA OD: 03/01, 03/02/2010

**LEGAL NOTICE NOTICE OF PUBLIC HEARING CONSOLIDATED AGRICULTURAL DISTRICT NO. 2 AVA, LEE, WESTERN, ROME**

NOTICE IS HEREBY GIVEN, that a public hearing on the Consolidation of Agricultural District #2, Towns of Ava, Lee, Western and Rome shall be held by the Oneida County Board of Legislators at 7:30 PM on Tuesday, April 13, 2010 at the Western Town Hall, 9129 Main Street, Westernville, NY 13486, to acknowledge consolidation changes.

Said public hearing is being held to consider the recommendations of the Oneida County Planning Board and the Agricultural and Farmland Protection Board for proposed modifications of said District.

A description of maps of the District, proposed modifications and recommendations may be examined in the Office of the Clerk of the Oneida County

Rochester, NY 14624. Dated 2/23/2010 OD: 03/01, 03/08, 03/15, 03/22/2010

**NOTICE OF SALE**

SUPREME COURT: COUNTY OF ONEIDA - KEYBANK NATIONAL ASSOCIATION Plaintiff, AGAINST BARON A. ZIMMERMAN, ET AL., Defendant(s). Pursuant to a judgment of foreclosure and sale duly dated 2/4/2010, I, the undersigned Referee will sell at public auction at the Lobby of the Oneida County Courthouse, 200 Elizabeth Street, Utica, on 3/22/2010 at 10:00 AM, premises known as 1730 LAKE SHORE DRIVE, NORTH BAY, NY 13123. All that certain plot piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of VIENNA, County of Oneida and State of New York, Section, Block and Lot: 235.007-1-26. Approximate amount of lien \$18,371.27 plus interest and costs. Premises will be sold subject to provisions of Judgment of Foreclosure and Sale, Terms of Sale with Index #CA2008-000969. Ricardo J. Mauro, Referee,

FEIN, SUCH & CRANE, LLP, Attorney for Plaintiff 28 East Main St, Rochester, NY 14614 Dated: 2/16/2010 OD: 02/22, 03/01, 03/08, 03/15/2010

**LEGAL NOTICE**

Housing Visions Construction Co, a GC for residential affordable housing in Syracuse, Oswego, Utica, and Rome, is inviting potential bidders to add their names to our "evite" Invitation to Bid List. To receive invitations to bid by email you must add your email and work specialties by completing the form found at [www.housingvisions.org](http://www.housingvisions.org), construction. Scopes of work include abatement, demolition, excavation, masonry, framing, hvac, plumbing, sprinklers, insulation, drywall, flooring, painting, siding, trim carpentry, sidewalks, curbs, paving, landscaping, and post-construction/pre-occupancy cleaning. Insurance certificates per HVCC sample are required for all subcontractors. HVCC is an EOE. OD: 02/28, 03/01, 03/02, 03/03

**LEGAL NOTICE NOTICE OF FORMATION OF LIMITED LIABILITY COMPANY (LLC)**

Name: BRABANT REALTY LLC. Articles of Organization filed with Secretary of State of New York (SSNY) on 01/19/10 Office Location: Oneida County, SSNY designated as agent of LLC upon whom process against it may be served. SSNY shall mail copy of process to 6166 Happy Valley Road, Verona, NY 13478 Purpose: to engage in any and all business for which LLCs may be formed under New York LLC Law. OD: 02/15, 02/22, 03/01, 03/08, 03/15, 03/22/2010

PROJECT I.D. NUMBER  
Open Enrollment Ag Districts  
OC 2010

617.21  
Appendix C  
State Environmental Quality Review  
**SHORT ENVIRONMENTAL ASSESSMENT FORM**  
For UNLISTED ACTIONS Only

**PART I - PROJECT INFORMATION** (To be completed by Applicant or Project sponsor)

1. APPLICANT/SPONSOR Oneida County Board of Legislators	2. PROJECT NAME Open Enrollment Applications for Oneida County
3. PROJECT LOCATION: Municipality: Several Towns throughout Oneida County County: Oneida	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) Individual parcel maps have been provided to show the various properties since they are scattered throughout Oneida County.	
5. IS PROPOSED ACTION: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification	
6. DESCRIBE PROJECT BRIEFLY: The addition of several properties to various Agricultural Districts throughout Oneida County as a result of the Open Enrollment Period for Oneida County	
7. AMOUNT OF LAND AFFECTED: Initially      Ultimately acres 2,887.6	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No      If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Agriculture <input checked="" type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe:	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No      If yes, list agency name and permit/approval: New York State Department of Agriculture and Markets.	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No      If yes, list agency name and permit/approval. The properties will be included in previously created agricultural districts, which have been certified by the New York State Department of Agriculture and Markets.	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Application/sponsor Name: John R. Kent, Jr., Commissioner, Oneida County Department of Planning      Date: 3/26/10	
Signature: <u>Regina J. Vantaggi, for</u>	

**If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment**

**PART II – ENVIRONMENTAL ASSESSMENT (To be completed by Agency)**

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.12? If yes, coordinate the review process and use the FULL EAF.  
 Yes  No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTION IN 6NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.  
 Yes  No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly: Yes. Potential effect to air quality caused by odor, effects to surface or groundwater caused by farming practices, and erosion if livestock permitted direct access to stream banks. (See attached Determination of Significance)

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:  
 No. Proposed action may result in beneficial effects. (See attached Determination of Significance)

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:  
 No. Proposed action may result in beneficial effects. (See attached Determination of Significance)

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain Briefly:  
 No. Proposed action may result in beneficial effects. (See attached Determination of Significance)

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:  
 No. (See attached Determination of Significance)

C6. Long term, short term, cumulative, or other effects not identified in C1-5? Explain briefly:  
 No.

C7. Other impacts (including changes in use of either quantify or type of energy)? Explain briefly:  
 No.

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CEA?  
 Yes  No

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?  
 Yes  No

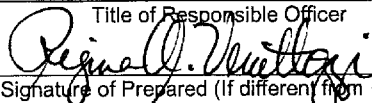
**PART III – DETERMINATION OF SIGNIFICANCE (To be completed by Agency)**

**INSTRUCTIONS:** For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probably of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed.

- Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the **FULL EAF** and/or prepare a positive declaration.
- Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impact **AND** provide on attachments as necessary, the reasons supporting this determination:

Oneida County Board of Legislators  
 Name of Lead Agency

Gerald J. Fiorini  
 Print or Type Name of Responsible Officer in Lead Agency  
  
 GERALD J. FIORINI, CHAIRMAN  
 ONEIDA COUNTY BOARD OF LEGISLATORS  
 Agency

Chairman  
 Title of Responsible Officer  
  
 Signature of Prepared (If different from responsible officer)

3/26/10  
 Date

617.21  
Appendix C  
State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM

Part III - Determination of Significance

Re: Open Enrollment Properties for Oneida County 2010

The following paragraphs include responses to questions C1 through C5 of Part II of the Environmental Assessment Form.

- C1) While the attached Environmental Assessment - Part II, C1 notes a potential adverse effect caused by the agricultural activity with regard to odor, surface and groundwater quality, and erosion, the effect is not considered substantial, large or otherwise significant. The area is predominantly agricultural with scattered rural residences and woodland. Additionally, the duration and reversibility of any such potential impact is highly controllable through the implementation of Agricultural Best Management Practices, which will also further reduce the likelihood of the adverse effects occurring.
- C2) With regard to aesthetic, agricultural resources and community character discussed in Part II, C2, the proposed agricultural use will have no adverse effects and may, in fact, have beneficial effects by encouraging the continuation of existing land uses as agriculture and open space. (See the discussion of C4 and C5 below)
- C3) With regard to vegetation and wildlife habitat discussed in Part II, C3, the agricultural uses of lands may have a beneficial effect in creating wildlife habitat and, in some cases of crop production, providing a source of food supply for wildlife.
- C4) Regarding potential impacts to a community's existing plans or land use goals discussed in Part II, C4, the addition of the 2,887.6 acres will not be in conflict with any community's existing plans or land use goals.
- C5) Regarding potential adverse impacts associated with topics discussed within Part II, C5, including: growth, subsequent development, or related activities induced by the proposed action, the continuation of land as agriculture and open space, in combination with the intent of the NYS Agricultural and Markets Law, will further control growth and development in most municipalities within Oneida County.

617.12  
Appendix F  
State Environmental Quality Review  
**NEGATIVE DECLARATION**  
Notice of Determination of Non-Significance

Project Number Open Enrollment 2010Date 3/25/10

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Oneida County Board of Legislators, as lead agency, has determined that the proposed action described below will not have significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

**Name of Action:** Open Enrollment Additions to Existing Agricultural Districts within Oneida County

**SEQR status:**      Type I      
                         Unlisted  

**Conditional Negative Declaration:**     Yes  
    No

**Description of Action:**    The addition of 55 parcels and 2,887.3 acres to existing agricultural districts within Oneida County for 2010.

**Location:** (Include street address and the name of the municipality/county. A location map of appropriated scale is also recommended.) Since the properties to be added are spread throughout the county, individual parcel maps are included.

**Reasons Supporting This Determination:**

(See 617.6(g) for requirements of this determination: see 617.6(h) for Conditional Negative Declaration)

**If Conditional Negative Declaration, Provide on attachment the specific mitigation measures imposed.**

For Further Information:

Contact Person:

Address:

Telephone Number:

**For Type I Actions and Conditioned Negative Declarations, a Copy of this Notice Sent to:**

Commissioner, Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233-0001

Appropriate Regional Office of the Department of Environmental Conservation

Office of the Chief Executive Officer of the political subdivision in which the action will be principally located.

Applicant (if any)

Other involved agencies (if any)

**ONEIDA COUNTY FARMLAND PROTECTION BOARD REPORT  
OPEN ENROLLMENT ADDITIONS TO EXISTING AGRICULTURAL DISTRICTS  
MARCH 2010**

**I. INTRODUCTION**

Oneida County established January 1, 2010 – January 31, 2010 as the Open Enrollment Period for Agricultural Districts. A public hearing was held on March 11, 2010. This report reflects the recommendations of the Oneida County Farmland Protection Board.

**II. DISCUSSION**

A total of 30 landowners, owning 2,887.6 acres of farmland expressed a desire to be within an agricultural district by submitting an Agricultural District Enrollment Form to the Agricultural and Farmland Protection Board. These landowners, together with the specific parcels and acreages to be enrolled in the modified district, are shown on the attached list. In addition to the new properties added, there were a few instances where property changed ownership and the new owner decided to re-enroll the properties into the agricultural district. These properties were not included in the acreage totals but maps indicating the new ownership were created and are included in the package of materials.

**III. FINDINGS MADE BY THE ONEIDA COUNTY AGRICULTURAL AND FARMLAND PROTECTION BOARD**

The Oneida County Agricultural and Farmland Protection Board reviewed all of the applications and parcels on an individual basis and found all of them to be in accordance with the qualifications for inclusion within an agricultural district.

**IV. RECOMMENDATION**

The Oneida County Agricultural and Farmland Protection Board recommends that the 30 landowners and 2,887.6 acres of farmland shown on the attached list. It is further recommended that the Oneida County Board of Legislators forward the list of properties and landowners to the NYS Commissioner of Agriculture and Markets for approval and certification.



ANTHONY R. CARVELLI  
COMMISSIONER

ONEIDA COUNTY

ANTHONY J. PICENTE JR.  
COUNTY EXECUTIVE

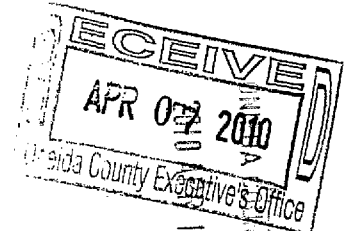


DEPARTMENT OF FINANCE

County Office Building ♦ 800 Park Avenue ♦ Utica, New York 13501  
(315) 798-5750 ♦ Fax: (315) 735-8371 ♦ www.ocgov.net

April 6, 2010

FN 20 10 - 204



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

INTERNAL AFFAIRS

Tax Map Number: 2889 387.000-1-5 QH

WAYS & MEANS

RECEIVED  
NY LEGISLATURE  
12 PM 12:05

Dear Mr. Picente:

The property referenced above, located in the Town of Bridgewater, has been acquired by Oneida County through nonpayment of taxes. Mr. William Stephan has made an offer of \$100.00 plus the recording fee of \$310.00.. The parcel is adjacent to other property owned by Mr. Stephan. As the parcel is landlocked and small in size, previous sale at auction has proven unsuccessful. If the Board of Legislators will agree to Mr. Stephan's offer, we will work with the Town of Bridgewater to merge parcel 387.000-1-5 with parcel 387.000-1-2.2. Mr. Stephan owns parcel 387.000-2-8 in the Town of Paris and parcel 387.000-1-2.2 in the Town of Bridgewater. It is our recommendation that Mr. Stephan's bid be accepted. Included are current taxes and a map of the parcels involved.

After your review, please forward Mr. Stephan's request to the Board of Legislators for their consideration.

Sincerely,

Anthony Carvelli  
Commissioner of Finance

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

Anthony J. Picente, Jr.  
County Executive

Date 4/7/10

AC/bad

Enclosures

cc: Linda M. H. Dillon, Oneida County Attorney

ONEIDA COUNTY DEPARTMENT OF FINANCE

PHONE: (315) 798-5754

DATE: 03/31/10

TO: LOVELACE PAULINE
161-19 28 AVE
SPRINGFIELD GARDENS NY 11434-

DELINQUENT NOTICE

DELINQUENT TAXES EXIST AGAINST THE PROPERTY LISTED BELOW. A 5% PENALTY WAS ADDED PURSUANT TO LAW AND INTEREST AT 10% PER YEAR IS ACCUMULATING AGAINST THE BALANCE DUE.

IN ORDER TO PROTECT YOUR INTEREST IN YOUR PROPERTY IT IS ESSENTIAL THAT YOU PAY THIS TOTAL. SHOULD TAX REMAIN UNPAID THIS PROPERTY WILL BE ADVERTISED AND THE COST ADDED TO THE AMOUNT DUE.

TOWN OF BRIDGEWATER

302889 387.000-1-5

ACCOUNT #: 3340

SCHOOL CODE: 215601

QH \* ASSESSMENT LAND: 1200
\* ASSESSMENT TOTAL: 1200
\* PROPERTY CLASS: 323

PROPERTY LOCATION: 0 EAST STONE RD
PROPERTY DESCRIPTION: STONE RD E 2 ACRE
N 3310 E 3310
S 3320 W 3320

Table with columns: TX YR, TAX TYPE, CERT. NO., TAX PLUS PENALTY, INTEREST, ADV. FEE, TOTAL DUE. Rows include tax entries for years 06-09 and a stub search fee.

>>>>>>>>> TOTAL AMOUNT DUE IF PAID BY 03/31/10 = \$ 2337.39

MAKE CHECK PAYABLE TO: COMMISSIONER OF FINANCE
MAIL TO: 800 PARK AVE.
UTICA, NY 13501

FAILURE TO RECEIVE A TAX BILL DOES NOT WAIVE OBLIGATION TO PAY TAX OR PENALTY. PLEASE RETURN THIS NOTICE WITH CHECK OR MONEY ORDER. IF RETURN RECEIPT IS NEEDED, PLEASE INCLUDE SELF-ADDRESSED, STAMPED ENVELOPE.

> THE ORIGINAL TOWN AND COUNTY TAX FOR 2010 TOTALS ==> \$ 43.30 <

ATTENTION: Taxes and/or charges in transition to this office from local collector(s) are not reflected on this statement.

6  
23.9A(C)

6

23.9A(C)

COUNTY  
ONEIDA  
COUNTY

OF  
ONEIDA  
COUNTY

OF  
OF  
OF

COUNTY  
TOWN

7  
10.2A(C)  
PARIS  
BRIDGEWATER

2.2

29.9A(C)

8  
9.5A(C)

6  
10A

9  
2.4A(E)  
OF  
OF

3  
10A

4  
10A  
12.4A(C)

821(S)  
STREET

373(S)

79(S)

1

387.00

2.1

94.14A

10.3

25.74A

MR-1825

2.1

5 A(C)

TOWN OF PARIS  
OF BRIDGEWATER

1.4

24.95A(C)

1

64A

# Griffiss International Airport



592 Hangar Road, Suite 200  
Rome, NY 13441

Telephone: 315-736-4171 / Fax: 315-736-0568

ANTHONY J. PICENTE, JR.  
County Executive

W. VERNON GRAY, III  
Commissioner of Aviation

March 30, 2010

FN 20 10 - 205

RECEIVED  
ONEIDA COUNTY LEGAL OFFICE  
APR 12 PM 12:02

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

**AIRPORT**

## WAYS & MEANS

Dear County Executive Picente,

Enclosed for your consideration is a State Supplemental Grant Agreement which matches a FFY- '09 federal Airport Improvement Program grant. Please note that this agreement supplements a 5-year Master Agreement that establishes streamlined grant procedures. It retains the contract number from the Master Grant, but has unique Project Identification Numbers (PIN). These projects are:

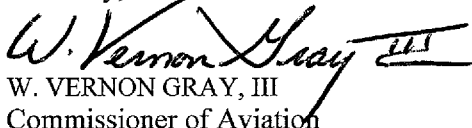
Project Description	Est. Total Cost	Fed. Share	State Share	Local Share
Rehab Hangar Bldg. 782 (Constr.), PIN No. 2905.21	\$2,575,000.00	\$2,446,250.00	\$64,375.00 (\$74,031.25 max.)	\$64,375.00
Wildlife Hazard Management Study, PIN No. 2905.22	\$90,000.00	\$85,500.00	\$2,250 (\$2,587.50 max.)	\$2,250.00
Construct Airport Access Road - Phase I PIN No. 2905.23	\$1,200,000.00	\$1,140,000.00	\$30,000.00 (\$34,500.00 max.)	\$30,000.00
Runway 15-33 Rehab PIN No. 2905.24	\$2,660,000.00	\$2,527,000.00	\$66,500.00 (\$76,475.00 max.)	\$66,500.00

The NYSDOT requires a municipal resolution be passed to accept their supplemental grant. Therefore, we respectfully request you forward to the Oneida County Board of Legislators for authorization to execute the supplemental grant agreement #4 with the New York State Department of Transportation. Capital Account H-339 Griffiss Airfield Redevelopment is established to receive these funds.

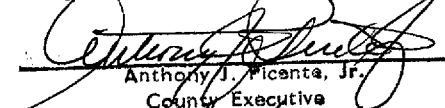
Upon Board approval, please return the signed and notarized agreements as well as *three (3) notarized resolutions* authorizing acceptance of the grant.

Should you have any questions regarding this application please contact me.

Sincerely,

  
W. VERNON GRAY, III  
Commissioner of Aviation  
WVG:wfa  
Attach.

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

  
Anthony J. Picente, Jr.  
County Executive

Date 4/9/10

## Oneida County Board of Legislators Contract Summary

**Name of Proposing Organization:** New York State Dept. of Transportation

**Title of Activity or Service:** State Supplemental Agreement – Airport Improvement Program

**Client Population/No. to be Served:** N/A

**Summary Statements:**

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

State Supplemental Grant Agreement to a 5-Year Master Grant for Federal AIP

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

This Supplemental Grant Agreement provides the States Share (2.5%) to the FFY-'09 Federal AIP Grant Program Projects.

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

**Total Funding Requested:** \$6,525,000.00

**Oneida County Department Funding Recommendation:** \$6,525,00.00 **Account #** H-339

<b>Proposed Funding Source:</b>	<b>Federal</b> \$6,198,750.00	<b>State</b> \$163,125.00 (\$187,593.75max.)	<b>County</b> \$163,125.00
---------------------------------	-------------------------------	---	----------------------------

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

**Past Performance Data:** N/A

**Oneida County Department Staff Comments:**

Projects included in this Supplemental Grant Agreement are:

Project Description	Est. Total Cost	Fed. Share	State Share	Local Share
Rehab Hangar Bldg. 782 (Constr.), PIN No. 2905.21	\$2,575,000.00	\$2,446,250.00	\$64,375.00 (\$74,031.25 max.)	\$64,375.00
Wildlife Hazard Management Study, PIN No. 2905.22	\$90,000.00	\$85,500.00	\$2,250 (\$2,587.50 max.)	\$2,250.00
Construct Airport Access Road – Phase I PIN No. 2905.23	\$1,200,000.00	\$1,140,000.00	\$30,000.00 (\$34,500.00 max.)	\$30,000.00
Runway 15-33 Rehab PIN No. 2905.24	\$2,660,000.00	\$2,527,000.00	\$66,500.00 (\$76,475.00 max.)	\$66,500.00

**COPY**

PROJECT NO. 2905.21/.22/.23/.24  
CONTRACT NO. K006916  
ADDS NEW SCHEDULES A-4, A-5, A-6 and A-7

**NEW YORK STATE  
DEPARTMENT OF TRANSPORTATION  
AVIATION CAPITAL PROJECT AGREEMENT**

**GRIFFISS INTERNATIONAL**

**SUPPLEMENTAL AGREEMENT # 1**

\*\*\* COPY \*\*\*  
Bd. of Leg.'s Packet

This supplemental agreement, made as of this 19th day of February 2009, by and between the People of the State of New York (hereinafter referred to as the "State"), acting by and through the New York State Department of Transportation (the "Department"), having its principal office at 50 Wolf Road, Albany, New York 12232 and the County of Oneida (hereinafter referred to as "Grantee"), whose principal office is located at Rome, New York.

WITNESSETH:

WHEREAS, the parties entered into Contract K006916 dated September 16, 2008 pursuant to which the Grantee shall undertake a Project with State financial assistance in the form of a capital grant pursuant to Article 2 of the Transportation Law; and

WHEREAS, the parties desire to amend Contract K006916 by amending Schedule A of said Contract to add eligible projects to be funded pursuant to the Agreement and/or increase the amount of the grant funds available for a project indicated in Schedule A.

NOW, THEREFORE, in consideration of the mutual covenants herein set forth, the Department and the Grantee agree as follows:

**SECTION 1.**

Contract K006916 is hereby amended to add Schedule(s) A-4, A-5, A-6 and A-7 attached hereto, which supplements Contract K006916.

**SECTION 2.**

All of the terms and conditions of Contract K006916 not specifically amended herein shall remain in full force and effect.



# OFFICE OF THE SHERIFF

DANIEL G. MIDDAUGH  
SHERIFF

COUNTY OF ONEIDA

M. PETER PARAVATI  
UNDERSHERIFF

March 17, 2010

FN 20 10 - 206

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

## PUBLIC SAFETY

## WAYS & MEANS

Dear Tony,

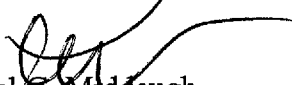
Please find enclosed a contract with The New York State Department of Correctional Services for your signature and approval. This contract is for food service at the Oneida County Jail. Effective May 1, 2010 the nature of this contract has changed due to financial difficulties at the State level. This will no longer be a full food service contract. It will now only include food products produced at the Food Production Center in Rome and the operation will no longer be supervised by a NYS-DOCS employee. Non Quick Chill Foods will be purchased off of State contracts/Bids. It is unfortunate that for economic reasons we can no longer take full advantage of their program. Utilization of the Quick Chill Program for main menu items will continue to be cost effective because of the nature and size of the program. Oneida County has been a model project for it's food service program and county jails throughout the state have and are pursuing a similar program. The State Comptroller's Office has confirmed the cost effectiveness of this program and a positive written report is in draft stages

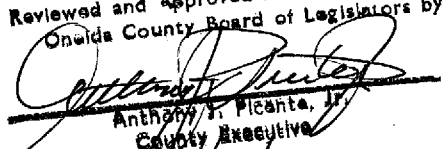
Please note that we are without an existing contract (April 1 2009-April 30, 2010). The State has delayed this process because we have been taking advantage of the full food service operation and the State has not allowed any new county contract with this option. Fortunately, we have met with State representatives who have obtained approval to allow us keep the full service operation until April 30, 2010.

Find enclosed a contract summary sheet for further information.

Please feel free to contact me if you have any questions. Thank you.

Sincerely,

  
Daniel G. Middaugh,  
Sheriff

Reviewed and Approved for submittal to the  
Oneida County Board of Legislators by  
  
Anthony J. Picente, Jr.  
County Executive  
Date 4/9/10

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

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

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

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

Oneida Co. Department: Sheriff

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

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name of Proposing Organization:** State of New York Department of Correctional Services

**Title of Activity or Service:** Food Service Contract for the Jail

**Proposed Dates of Operation:** May 1, 2010 – April 30, 2013

**Client Population/Number to be Served:** Jail Inmates/ Correction Officers

**Summary Statements**

**1) Narrative Description of Proposed Services:** Purchase of food products through the Quick Chill Program for the Food Service Operation at the Jail. This is not a full service food contract and other foods will be purchased separately that are part of the meal (milk, bread, canned, produce etc). Professional support is available but the operation will no longer be managed by a DOCS.

**2) Program/Service Objectives and Outcomes:** To feed inmates in a quality and cost effective manner consistent with state requirements.

**3) Program Design and Staffing** n/a

**Total Funding Requested:** Purchase of Service Contract (Estimate \$333,084 3 years, based on 2009 costs Annual estimate : \$ 111,028 ).

**Account:** A 3150.49510

**Oneida County Dept. Funding Recommendation:** Recommend approval. There are many benefits to Quick Chill. Expertise of vendor and access to professional services ( Dieticians) enable us to avoid costly expenses. Use of State contracts and volume of food purchased is also of benefit. Oneida County has been cited as a model project for this program by New York State.

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

**Cost Per Client Served:** Pricing List to be re evaluated every 3 months. No price list available at this time. Pricing to be based on cost of food service products. The volume of food service production is large making the program cost effective.

**Past Performance Data:** Excellent



**CONTRACT FOR SALE OF FOOD PRODUCTS BETWEEN NYS-DOCS  
AND ONEIDA COUNTY**

The Oneida County Sheriff's Office, an agency of the County of Oneida located in Oriskany, New York (hereinafter referred to as Oneida County), wishes to enter into an agreement to procure food products from the New York State Department of Correctional Services' Office of Nutritional Services located in Rome, New York (hereinafter referred to as DOCS-NS).

Based on historical sales data for food products purchased during the calendar year 2009 by Oneida County, it is estimated that the value of this contract is \$111,028.00 annually or \$333,084.00 total contract value.

WITNESSETH:

WHEREAS, DOCS operates DOCS-NS on the grounds of Oneida Correctional Facility, and;

WHEREAS, food products produced by DOCS-NS are delivered to all of the facilities operated by DOCS for the purpose of feeding the inmate population, and;

WHEREAS, Oneida County is desirous of obtaining food products from the DOCS-NS for the purpose of feeding its inmate population, and;

WHEREAS, Oneida County considers food products prepared by DOCS-NS to be a preferred means of supplying tasty and wholesome food to its inmate population, and;

WHEREAS, DOCS-NS is capable of producing additional food products for use by the Oneida County Jail/Correctional Facility without detriment to its ability to service all existing locations obtaining food products from DOCS-NS, and;

WHEREAS, the production of food products by DOCS-NS for use by the County Jail/Correctional Facility is consistent with Correction Law Sections 170 and 184.

NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS AND MUTUAL PROMISES CONTAINED HEREIN, THE PARTIES HERETO AGREE AS FOLLOWS:

At the request of Oneida County consistent with the mission of DOCS-NS:

1. DOCS-NS will provide food products as requested by Oneida County. These food products will be products that are standard production items processed consistent with DOCS menu items. Food managers at Oneida County and DOCS-NS will work closely to coordinate ordering and delivery schedules.
2. DOCS transportation staff will deliver food products to Oneida County's dock on a weekly basis. Deliveries will be made by refrigerated trucks at a day and time convenient to DOCS-NS. Deliveries will be scheduled in conjunction with deliveries to DOCS facility deliveries in close proximity of Oneida County. A delivery fee of \$.50 per mile for any additional mileage incurred by DOCS-NS and any additional tolls incurred by NYSDOCS will be added to weekly invoices.

3. Food products will be packed in plastic baskets, stacked on pallets. All empty baskets and pallets are to be returned to DOCS-NS via DOCS-NS truck. Receiving agency agrees to reimburse at replacement cost any lost or damaged baskets or pallets.
4. At time of delivery, DOCS-NS will provide an itemized listing of products delivered. Oneida County personnel should verify that correct product and count are received and notate any discrepancies on delivery ticket. Ticket shall be signed by Oneida County personnel and DOCS-NS driver. The DOCS-NS driver will retain one copy as proof of delivery.
5. On a weekly basis, DOCS-NS will provide an invoice to Oneida County for reimbursement for products received. Payment for products received should be made on a monthly basis by check payable to NYSDOCS Office of Nutritional Services.
6. Initial pricing list will be provided by DOCS-NS on a separate schedule. Pricing structure will be evaluated every three months and will increase/decrease directly consistent with cost to produce food products. Written notification of price increases/decreases will be given to receiving agency.
7. This agreement will take effect on 5/1/2010 and will remain in effect until 4/30/2013.
8. It is understood between the parties hereto that this contract shall not become effective until Approved by the Attorney General and the Comptroller of New York State.
9. Appendix A, standard clauses for all New York State contracts, is attached hereto as Exhibit A and is hereby made a part of this contract as if set forth fully herein.
10. Appendix B, General Specifications for Commodities and Non-Technology Services is attached hereto as Exhibit B and is hereby made a part of this contract as if set forth fully herein.
11. In the event that either party to this contract wishes to terminate the agreement, the requesting Agency may do so by giving the other party notice in writing no less than ninety (90) days prior. Such notice shall be directed to the representative of the agency that entered into such agreement with their signature.

FOR THE DEPARTMENT OF CORRECTIONAL SERVICES:

[Signature]  
Robert Schattinger, Director Nutritional Services

3/17/10  
Date

\_\_\_\_\_  
Bruce A. Johnson, Director of Budget & Finance

\_\_\_\_\_  
Date

FOR ONEIDA COUNTY

\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

Acknowledgement:

STATE OF NEW YORK    )  
                                      )  
COUNTY OF                )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2010, before me personally appeared \_\_\_\_\_,  
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  
County of \_\_\_\_\_, described herein which executed the foregoing instrument  
and certification; and that he/she signed his/her name thereto by order of the Legislature/ruling  
municipal body of said County.

(Notary) \_\_\_\_\_

NYS Attorney General Office  
\_\_\_\_\_

Office of the State Comptroller  
\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**APPENDIX A**

**STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS**

**PLEASE RETAIN THIS DOCUMENT  
FOR FUTURE REFERENCE.**

## **TABLE OF CONTENTS**

1. Executory Clause
2. Non-Assignment Clause
3. Comptroller's Approval
4. Workers' Compensation Benefits
5. Non-Discrimination Requirements
6. Wage and Hours Provisions
7. Non-Collusive Bidding Certification
8. International Boycott Prohibition
9. Set-Off Rights
10. Records
11. Identifying Information and Privacy Notification
12. Equal Employment Opportunities For Minorities and Women
13. Conflicting Terms
14. Governing Law
15. Late Payment
16. No Arbitration
17. Service of Process
18. Prohibition on Purchase of Tropical Hardwoods
19. MacBride Fair Employment Principles
20. Omnibus Procurement Act of 1992
21. Reciprocity and Sanctions Provisions
22. Purchases of Apparel

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 previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6.a).

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

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

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

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

**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) **FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER.** All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

(b) **PRIVACY NOTIFICATION.** (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.

(2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of Accounting Operations, 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, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment,

employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

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

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

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

**13. CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

**14. GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

**15. LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 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 State Finance Law §165. (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

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

**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

**20. OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

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

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

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development  
 Division of Minority and Women's Business Development  
 30 South Pearl St -- 2nd Floor  
 Albany, New York 12245  
 Telephone: 518-292-5250  
 Fax: 518-292-5803  
<http://www.empire.state.ny.us>

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

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

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

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

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

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

**22. PURCHASES OF APPAREL.** In accordance with State Finance Law 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that: (i) such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized by the bidder.



THIS PAGE IS INTENTIONALLY LEFT BLANK

**APPENDIX B**

**GENERAL SPECIFICATIONS**

**PLEASE RETAIN THIS DOCUMENT FOR FUTURE REFERENCE**

TABLE OF CONTENTS

<u>GENERAL</u>	<u>PAGE</u>	<u>TERMS &amp; CONDITIONS</u>	<u>PAGE</u>
1. Applicability	1	43. Emergency Contracts	9
2. Governing Law	1	44. Purchase Orders	9
3. Ethics Compliance	1	45. Product Delivery	10
4. Conflict of Terms	1	46. Weekend and Holiday Deliveries	10
5. Definitions	1-3	47. Shipping/Receipt of Product	10
		48. Title and Risk of Loss	10
		49. Re-Weighing Product	10
		50. Product Substitution	10
		51. Rejected Product	10
		52. Installation	10
		53. Repaired or Replaced Product/ Components	11
		54. On-Site Storage	11
		55. Employees/Subcontractors/Agents	11
		56. Assignment	11
		57. Subcontractors and Suppliers	11
		58. Performance/Bid Bond	11
		59. Suspension of Work	11
		60. Termination	11
		61. Savings/Force Majeure	12
		62. Contract Billings	12
		63. Default - Authorized User	12
		64. Interest on Late Payments	12
		65. Remedies for Breach	13
		66. Assignment of Claim	13
		67. Toxic Substances	13
		68. Independent Contractor	13
		69. Security	13
		70. Cooperation with Third Parties	13
		71. Contract Term - Renewal	13
		72. Additional Warranties	13
		73. Legal Compliance	15
		74. Indemnification	15
		75. Indemnification Relating to Third Party Rights	15
		76. Limitation of Liability	15
		77. Insurance	15
		<b><u>THE FOLLOWING CLAUSES PERTAIN TO TECHNOLOGY &amp; NEGOTIATED CONTRACTS</u></b>	
		78. Software License Grant	15
		79. Product Acceptance	17
		80. Audit of Licensed Product Usage	17
		81. Ownership/Title to Project Deliverables	17
		82. Proof of License	18
		83. Product Version	18
		84. Changes to Product or Service Offerings	18
		85. No Hardstop/Passive License Monitoring	19
		86. Source Code Escrow for Licensed Product	19
<b><u>BID SUBMISSION</u></b>			
6. International Bidding	3		
7. Bid Opening	3		
8. Bid Submission	3		
9. Facsimile Submissions	3		
10. Authentication of Facsimile Bids	4		
11. Late Bids	4		
12. Bid Contents	4		
13. Extraneous Terms	4		
14. Confidential/Trade Secret Materials	4		
15. Release of Bid Evaluation Materials	4		
16. Freedom of Information Law	5		
17. Prevailing Wage Rates - Public Works and Building Services Contracts	5		
18. Taxes	6		
19. Expenses Prior to Contract Execution	6		
20. Advertising Results	6		
21. Product References	6		
22. Remanufactured, Recycled, Recyclable Or Recovered Materials	6		
23. Products Manufactured in Public Institutions	6		
24. Pricing	6		
25. Drawings	7		
26. Site Inspection	7		
27. Procurement Card	7		
28. Samples	7		
<b><u>BID EVALUATION</u></b>			
29. Bid Evaluation	8		
30. Conditional Bid	8		
31. Clarification/Revisions	8		
32. Prompt Payment Discounts	8		
33. Equivalent or Identical Bids	8		
34. Performance and Responsibility Qualifications	8		
35. Disqualification for Past Performance	8		
36. Quantity Changes Prior To Award	8		
37. Timeframe for Offers	8		
<b><u>TERMS &amp; CONDITIONS</u></b>			
38. Contract Creation/Execution	8		
39. Participation in Centralized Contracts	8		
40. Modification of Contract Terms	9		
41. Scope Changes	9		
42. Estimated/Specific Quantity Contracts	9		

**GENERAL**

1. **APPLICABILITY** The terms and conditions set forth in this Appendix B are expressly incorporated in and applicable to the resulting procurement contracts let by the Office of General Services Procurement Services Group, or let by any other Authorized User where incorporated by reference in its Bid Documents. Captions are intended as descriptive and are not intended to limit or otherwise restrict the terms and conditions set forth herein.
2. **GOVERNING LAW** This procurement, the resulting contract and any purchase orders issued hereunder shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise, and actions or proceedings arising from the contract shall be heard in a court of competent jurisdiction in the State of New York.
3. **ETHICS COMPLIANCE** All Bidders/Contractors and their employees must comply with the requirements of Sections 73 and 74 of the Public Officers Law, other State codes, rules, regulations and executive orders establishing ethical standards for the conduct of business with New York State. In signing the Bid, Bidder certifies full compliance with those provisions for any present or future dealings, transactions, sales, contracts, services, offers, relationships, etc., involving New York State and/or its employees. Failure to comply with those provisions may result in disqualification from the Bidding process, termination of contract, and/or other civil or criminal proceedings as required by law.
4. **CONFLICT OF TERMS** Unless otherwise set forth in the procurement or contract documents, conflicts among documents shall be resolved in the following order of precedence:
  - a. Appendix A (Standard Clauses for NYS Contracts)
  - b. Mini-Bid Project Definition if applicable and in accordance with the terms and conditions of the Back-Drop Contract.
  - c. Contract and other writing(s) setting forth the final agreements, clarifications and terms between the Bid Documents and Contractor's Bid. In the latter circumstance, clarifications must specifically note in writing what was offered by the Contractor and what was accepted by the State. If not, such clarifications shall be considered last in the order of precedence under this paragraph.
  - d. Bid Documents (Other than Appendix A).
    - i. Bid Specifications prepared by the Authorized User.
    - ii. Appendix B (General Specifications).
    - iii. Incorporated Contract Appendices, if any, following the order of precedence as stated for Contract above.
  - e. Contractor's Bid or Mini-Bid Proposal.
  - f. Unincorporated Appendices (if any).
5. **DEFINITIONS** Terms used in this Appendix B shall have the following meanings:

**AFFILIATE** Any individual or other legal entity, (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) that effectively controls another company in which (a) the Bidder owns more than 50% of the ownership; or (b) any individual or other legal entity which owns more than 50% of the ownership of the Bidder. In addition, if a Bidder owns less than 50% of the ownership of another legal entity, but directs or has the right to direct such entity's daily operations, that entity will be an Affiliate.

**AGENCY OR AGENCIES** The State of New York, acting by or through one or more departments, boards, commissions, offices or institutions of the State of New York.

**ATTORNEY GENERAL** Attorney General of the State of New York.

**AUTHORIZED USER(S)** Agencies, or any other entity authorized by the laws of the State of New York to participate in NYS centralized contracts (including but not limited to political subdivisions, public authorities, public benefit corporations and certain other entities set forth in law), or the State of New York acting on behalf of one or more such Agencies or other entities, provided that each such Agency or other entity shall be held solely responsible for liabilities or payments due as a result of its participation.

**BID OR BID PROPOSAL** An offer or proposal submitted by a Bidder to furnish a described product or a solution, perform services or means of achieving a practical end, at a stated price for the stated Contract term. As required by the Bid Documents, the Bid or proposal may be subject to modification through the solicitation by the Agency of best and final offers during the evaluation process prior to recommendation for award of the Contract.

**BIDDER/OFFERER** Any individual or other legal entity (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) which submits a Bid in response to a Bid Solicitation. The term Bidder shall also include the term "offeror." In the case of negotiated Contracts, "Bidder" shall refer to the "Contractor."

**BID DOCUMENTS** Writings by the State setting forth the scope, terms, conditions and technical specifications for a procurement of Product. Such writings typically include, but are not limited to: Invitation for Bids (IFB), Request for Quotation (RFQ), Request for Proposals (RFP), addenda or amendments thereto, and terms and conditions which are incorporated by reference, including but not limited to, Appendix A (Standard Clauses for NYS Contracts), Appendix B, (General Specifications). Where these General Specifications are incorporated in negotiated Contracts that have not been competitively Bid, the term "Bid Documents" shall be deemed to refer to the terms and conditions set forth in the negotiated Contract and associated documentation.

**BID SPECIFICATION** A written description drafted by the Authorized User setting forth the specific terms of the intended procurement, which may include: physical or functional characteristics, the nature of a commodity or construction item, any description of the work to be performed, Products to be provided, the necessary qualifications of the Bidder, the capacity and capability of the Bidder to successfully carry out the proposed Contract, or the process for achieving specific results and/or anticipated outcomes or any other requirement necessary to perform work. Where these General Specifications are incorporated in negotiated Contracts that have not been competitively Bid, the term "Bid Specifications" shall be deemed to refer to the terms and conditions set forth in the negotiated Contract and associated documentation.

**COMMISSIONER** Commissioner of OGS, or in the case of Bid Specifications issued by an Authorized User, the head of such Authorized User or their authorized representative.

**COMPTROLLER** Comptroller of the State of New York.

**CONTRACT** The writing(s) which contain the agreement of the Commissioner and the Bidder/Contractor setting forth the total legal obligation between the parties as determined by applicable rules of law, and which most typically include the following classifications of public procurements:

**a. Agency Specific Contracts** Contracts where the specifications for a Product or a particular scope of work are described and defined to meet the needs of one or more Authorized User(s).

**b. Centralized Contracts** Single or multiple award Contracts where the specifications for a Product or general scope of work are described and defined by the Office of General Services to meet the needs of Authorized Users. Centralized Contracts may be awarded through multiple awards or through adoption of another jurisdiction's contract or on a sole source, single source, emergency or competitive basis. Once established, procurements may be made from the selected Contractor(s) without further competition or Mini-Bid unless otherwise required by the Bid Specifications or Contract Award Notification.

**c. Back-Drop Contracts** Multiple award Centralized Contracts where the Office of General Services defines the specifications for a Product or general scope of work to meet the needs of Authorized Users. Bids may be submitted either at a date and time certain or may be accepted on a continuous or periodic recruitment basis, as set forth in the Bid Specifications. Selection of a Contractor(s) from among Back-Drop contract holders for an actual Product, project or particular scope of work may subsequently be made on a single or sole source basis, or on the basis of a Mini-Bid among qualified Back-Drop contract holders, or such other method as set forth in the Bid Document.

**d. Piggyback Contract** A Contract let by any department, agency or instrumentality of the United States government, or any department, agency, office, political subdivision or instrumentality of any state or state(s) which is adopted and extended for use by the OGS Commissioner in accordance with the requirements of the State Finance Law.

**e. Contract Letter** A letter to the successful Bidder(s) indicating acceptance of its Bid in response to a solicitation. Unless otherwise specified, the issuance of a Letter of Acceptance forms a Contract but is not an order for Product, and Contractor should not take any action with respect to actual Contract deliveries except on the basis of Purchase Orders sent from Authorized User(s).

**CONTRACT AWARD NOTIFICATION** An announcement to Authorized Users that a Contract has been established.

**CONTRACTOR** Any successful Bidder(s) to whom a Contract has been awarded by the Commissioner.

**DOCUMENTATION** The complete set of manuals (e.g., user, installation, instruction or diagnostic manuals) in either hard or electronic copy, which are necessary to enable an Authorized User to properly test, install, operate and enjoy full use of the Product.

**EMERGENCY** An urgent and unexpected requirement where health and public safety or the conservation of public resources is at risk.

**ENTERPRISE** The total business operations in the United States of Authorized User (s) without regard to geographic location where such operations are performed or the entity actually performing such operations on behalf of Authorized User.

**ENTERPRISE LICENSE** A license grant of unlimited rights to deploy, access, use and execute Product anywhere within the Enterprise up to the maximum capacity stated on the Purchase Order or in the Contract.

**ERROR CORRECTIONS** Machine executable software code furnished by Contractor which corrects the Product so as to conform to the applicable warranties, performance standards and/or obligations of the Contractor.

**GROUP** A classification of Product, services or technology which is designated by OGS.

**INVITATION FOR BIDS (IFB)** A type of Bid Document which is most typically used where requirements can be stated and award will be made based on lowest price to the responsive and responsible Bidder(s).

**LICENSED SOFTWARE** Software transferred upon the terms and conditions set forth in the Contract. "Licensed Software" includes error corrections, upgrades, enhancements or new releases, and any deliverables due under a maintenance or service contract (e.g., patches, fixes, PTFs, programs, code or data conversion, or custom programming).

**LICENSEE** One or more Authorized Users who acquire Product from Contractor by issuing a Purchase Order in accordance with the terms and conditions of the Contract; provided that, for purposes of compliance with an individual license, the term "Licensee" shall be deemed to refer separately to the individual Authorized User(s) who took receipt of and who is executing the Product, and who shall be solely responsible for performance and liabilities incurred. In the case of acquisitions by State Agencies, the Licensee shall be the State of New York.

**LICENSE EFFECTIVE DATE** The date Product is delivered to an Authorized User. Where a License involves Licensee's right to copy a previously licensed and delivered Master Copy of a Program, the license effective date for additional copies shall be deemed to be the date on which the Purchase Order is executed.

**LICENSOR** A Contractor who transfers rights in proprietary Product to Authorized Users in accordance with the rights and obligations specified in the Contract.

**MINI-BID PROJECT DEFINITION** A Bid Document containing project specific Bid Specifications developed by or for an Authorized User which solicits Bids from Contractors previously qualified under a Back-Drop Contract.

**MULTIPLE AWARD** A determination and award of a Contract in the discretion of the Commissioner to more than one responsive and responsible Bidder who meets the requirements of a specification, where the multiple award is made on the grounds set forth in the Bid Document in order to satisfy multiple factors and needs of Authorized Users (e.g., complexity of items, various manufacturers, differences in performance required to accomplish or produce required end results, production and distribution facilities, price, compliance with delivery requirements, geographic location or other pertinent factors).

**NEW PRODUCT RELEASES (Product Revisions)** Any commercially released revisions to the licensed version of a Product as may be generally offered and available to Authorized Users. New releases involve a substantial revision of functionality from a previously released version of the Product.

**OGS** The New York State Office of General Services.

**PROCUREMENT RECORD** Documentation by the Authorized User of the decisions made and approach taken during the procurement process and during the contract term.

**PRODUCT** A deliverable under any Bid or Contract which may include commodities, services and/or technology. The term "Product" includes Licensed Software.

**PROPRIETARY** Protected by secrecy, patent, copyright or trademark against commercial competition.

**PURCHASE ORDER** The Authorized User's fiscal form or format that is used when making a purchase (e.g., formal written Purchase Order, Procurement Card, electronic Purchase Order, or other authorized instrument).

**REQUEST FOR PROPOSALS (RFP)** A type of Bid Document that is used for procurements where factors in addition to cost are considered and weighted in awarding the contract and where the method of award is "best value," as defined by the State Finance Law.

**REQUEST FOR QUOTATION (RFQ)** A type of Bid Document that can be used when a formal Bid opening is not required (e.g., discretionary, sole source, single source or emergency purchases).

**RESPONSIBLE BIDDER** A Bidder that is determined to have financial and organizational capacity, legal authority, satisfactory previous performance, skill, judgment and integrity, and that is found to be competent, reliable and experienced, as determined by the Commissioner. For purposes of being deemed responsible, a Bidder must also be determined to be in compliance with Sections 139-j and 139-k of the State Finance Law relative to restrictions on contacts during the procurement process and disclosure of contacts and prior findings of non-responsibility under these statutes.

**RESPONSIVE BIDDER** A Bidder meeting the specifications or requirements prescribed in the Bid Document or solicitation, as determined by the OGS Commissioner.

**SINGLE SOURCE** A procurement where two or more Bidders can supply the required Product, and the Commissioner may award the contract to one Bidder over the other.

**SITE** The location (street address) where Product will be executed or services delivered.

**SOLE SOURCE** A procurement where only one Bidder is capable of supplying the required Product.

**SOURCE CODE** The programming statements or instructions written and expressed in any language understandable by a human being skilled in the art which are translated by a language compiler to produce executable machine Object Code.

**STATE** State of New York.

**SUBCONTRACTOR** Any individual or other legal entity, (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) who has entered into a contract, express or implied, for the performance of a portion of a Contract with a Contractor.

**TERMS OF LICENSE** The terms and conditions set forth in the Contract that are in effect and applicable to a Purchase Order at the time of order placement.

**VIRUS** Any computer code, whether or not written or conceived by Contractor, that disrupts, disables, harms, or otherwise impedes in any manner the operation of the Product, or any other associated software,

firmware, hardware, or computer system (such as local area or wide-area networks), including aesthetic disruptions or distortions, but does not include security keys or other such devices installed by Product manufacturer.

## **BID SUBMISSION**

**6. INTERNATIONAL BIDDING** All offers (tenders), and all information and Product required by the solicitation or provided as explanation thereof, shall be submitted in English. All prices shall be expressed, and all payments shall be made, in United States Dollars (\$US). Any offers (tenders) submitted which do not meet the above criteria will be rejected.

**7. BID OPENING** Bids may, as applicable, be opened publicly. The Commissioner reserves the right at any time to postpone or cancel a scheduled Bid opening.

**8. BID SUBMISSION** All Bids are to be packaged, sealed and submitted to the location stated in the Bid Specifications. Bidders are solely responsible for timely delivery of their Bids to the location set forth in the Bid Specifications prior to the stated Bid opening date/time.

A Bid return envelope, if provided with the Bid Specifications, should be used with the Bid sealed inside. If the Bid response does not fit into the envelope, the Bid envelope should be attached to the outside of the sealed box or package with the Bid inside. If using a commercial delivery company that requires use of their shipping package or envelope, Bidder's sealed Bid, labeled as detailed below, should be placed within the shipper's sealed envelope to ensure that the Bid is not prematurely opened.

All Bids must have a label on the outside of the package or shipping container outlining the following information:

**"BID ENCLOSED (bold print, all capitals)**

- Group Number
- IFB or RFP Number
- Bid Submission date and time"

In the event that a Bidder fails to provide such information on the return Bid envelope or shipping material, the receiving entity reserves the right to open the shipping package or envelope to determine the proper Bid number or Product group, and the date and time of Bid opening. Bidder shall have no claim against the receiving entity arising from such opening and such opening shall not affect the validity of the Bid or the procurement.

Notwithstanding the receiving agency's right to open a Bid to ascertain the foregoing information, Bidder assumes all risk of late delivery associated with the Bid not being identified, packaged or labeled in accordance with the foregoing requirements.

All Bids must be signed by a person authorized to commit the Bidder to the terms of the Bid Documents and the content of the Bid (offer).

**9. FACSIMILE SUBMISSIONS** Unless specifically prohibited by the terms of the Bid Specifications, facsimile Bids may be SUBMITTED AT THE SOLE OPTION AND RISK OF THE BIDDER. Only the FAX number(s) indicated in the Bid Specifications may be used. Access to the facsimile machine(s) is on a "first come, first serve" basis, and the Commissioner bears no liability or responsibility and makes no guarantee whatsoever with respect to

the Bidder's access to such equipment at any specific time. Bidders are solely responsible for submission and receipt of the entire facsimile Bid by the Authorized User prior to Bid opening and must include on the first page of the transmission the total number of pages transmitted in the facsimile, including the cover page. Incomplete, ambiguous or unreadable transmissions in whole or in part may be rejected at the sole discretion of the Commissioner. Facsimile Bids are fully governed by all conditions outlined in the Bid Documents and must be submitted on forms or in the format required in the Bid Specifications, including the executed signature page and acknowledgment.

**10. AUTHENTICATION OF FACSIMILE BIDS** The act of submitting a Bid by facsimile transmission, including an executed signature page or as otherwise specified in the Bid Documents, shall be deemed a confirming act by Bidder which authenticates the signing of the Bid.

**11. LATE BIDS** For purposes of Bid openings held and conducted by OGS, a Bid must be received in such place as may be designated in the Bid Documents or if no place is specified in the OGS Mailroom located in the Empire State Plaza, Albany, New York 12242, at or before the date and time established in the Bid Specifications for the Bid opening. For purposes of Bid openings held and conducted by Authorized Users other than OGS, the term late Bid is defined as a Bid not received in the location established in the Bid Specifications at or before the date and time specified for the Bid opening.

Any Bid received at the specified location after the time specified will be considered a late Bid. A late Bid shall not be considered for award unless: (i) no timely Bids meeting the requirements of the Bid Documents are received or, (ii) in the case of a multiple award, an insufficient number of timely Bids were received to satisfy the multiple award; and acceptance of the late Bid is in the best interests of the Authorized Users. Bids submitted for continuous or periodic recruitment contract awards must meet the submission requirements associated with their specifications. Delays in United States mail deliveries or any other means of transmittal, including couriers or agents of the Authorized User shall not excuse late Bid submissions. Similar types of delays, including but not limited to, bad weather, or security procedures for parking and building admittance shall not excuse late Bid submissions. Determinations relative to Bid timeliness shall be at the sole discretion of the Commissioner.

**12. BID CONTENTS** Bids must be complete and legible. All Bids must be signed. All information required by the Bid Specifications must be supplied by the Bidder on the forms or in the format specified. No alteration, erasure or addition is to be made to the Bid Documents. Changes may be ignored by the Commissioner or may be grounds for rejection of the Bid. Changes, corrections and/or use of white-out in the Bid or Bidder's response portion of the Bid Document must be initialed by an authorized representative of the Bidder. Bidders are cautioned to verify their Bids before submission, as amendments to Bids or requests for withdrawal of Bids received by the Commissioner after the time specified for the Bid opening, may not be considered.

**13. EXTRANEOUS TERMS** Bids must conform to the terms set forth in the Bid Documents, as extraneous terms or material deviations (including additional, inconsistent, conflicting or alternative terms) may render the Bid non-responsive and may result in rejection of the Bid.

Extraneous term(s) submitted on standard, pre-printed forms (including but not limited to: product literature, order forms, license agreements, contracts or other documents) that are attached or referenced with submissions shall not be considered part of the Bid or

resulting Contract, but shall be deemed included for informational or promotional purposes only.

Only those extraneous terms that meet all the following requirements may be considered as having been submitted as part of the Bid:

- a. Each proposed extraneous term (addition, deletion, counter-offer, deviation, or modification) must be specifically enumerated in a writing which is not part of a pre-printed form; and
- b. The writing must identify the particular specification requirement (if any) that Bidder rejects or proposes to modify by inclusion of the extraneous term; and
- c. The Bidder shall enumerate the proposed addition, counter offer, modification or deviation from the Bid Document, and the reasons therefore.

No extraneous term(s), whether or not deemed "material," shall be incorporated into a Contract or Purchase Order unless submitted in accordance with the above and the Commissioner or Authorized User expressly accepts each such term(s) in writing. Acceptance and/or processing of the Bid shall not constitute such written acceptance of Extraneous Term(s).

#### **14. CONFIDENTIAL/TRADE SECRET MATERIALS**

**a. Contractor** Confidential, trade secret or proprietary materials as defined by the laws of the State of New York must be clearly marked and identified as such upon submission by the Bidder. Marking the Bid as "confidential" or "proprietary" on its face or in the document header or footer shall not be considered by the Commissioner or Authorized User to be sufficient without specific justification as to why disclosure of particular information in the Bid would cause substantial injury to the competitive position of the Bidder. Bidders/Contractors intending to seek an exemption from disclosure of these materials under the Freedom of Information Law must request the exemption in writing, setting forth the reasons for the claimed exemption. Acceptance of the claimed materials does not constitute a determination on the exemption request, which determination will be made in accordance with statutory procedures. Properly identified information that has been designated confidential, trade secret, or proprietary by the Bidder will not be disclosed except as may be required by the Freedom of Information Law or other applicable State and federal laws.

**b. Commissioner or Authorized User** Contractor further warrants, covenants and represents that any confidential information obtained by Contractor, its agents, Subcontractors, officers, distributors, resellers or employees in the course of performing its obligations, including without limitation, security procedures, business operations information, or commercial proprietary information in the possession of the State or any Authorized User hereunder or received from another third party, will not be divulged to any third parties. Contractor shall not be required to keep confidential any such material that is publicly available through no fault of Contractor, independently developed by Contractor without reliance on confidential information of the Authorized User, or otherwise obtained under the Freedom of Information Act or other applicable New York State laws and regulations. This warranty shall survive termination of this Contract. Contractor further agrees to take appropriate steps as to its agents, Subcontractors, officers, distributors, resellers or employees regarding the obligations arising under this clause to insure such confidentiality.

**15. RELEASE OF BID EVALUATION MATERIALS** Requests concerning the evaluation of Bids may be submitted under the Freedom of Information Law. Information, other than statistical or

factual tabulations or data such as the Bid Tabulation, shall only be released as required by law after Contract award. Bid Tabulations are not maintained for all procurements. Names of Bidders may be disclosed after Bid opening upon request. Written requests should be directed to the Commissioner.

**16. FREEDOM OF INFORMATION LAW** During the evaluation process, the content of each Bid will be held in confidence and details of any Bid will not be revealed (except as may be required under the Freedom of Information Law or other State law). The Freedom of Information Law provides for an exemption from disclosure for trade secrets or information the disclosure of which would cause injury to the competitive position of commercial enterprises. This exception would be effective both during and after the evaluation process. If the Bid contains any such trade secret or other confidential or proprietary information, it must be accompanied in the Bid with a written request to the Commissioner to not disclose such information. Such request must state with particularity the reasons why the information should not be available for disclosure and must be provided at the time of submission of the Bid. Notations in the header, footer or watermark of the Bid Document will not be considered sufficient to constitute a request for non-disclosure of trade secret or other confidential or proprietary information. Where a Freedom of Information request is made for trademark or other confidential or proprietary information, the Commissioner reserves the right to determine upon written notice to the Bidder whether such information qualifies for the exemption for disclosure under the law. Notwithstanding the above, where a Bid tabulation is prepared and Bids publicly opened, such Bid tabulation shall be available upon request.

**17. PREVAILING WAGE RATES - PUBLIC WORKS AND BUILDING SERVICES CONTRACTS** If any portion of work being Bid is subject to the prevailing wage rate provisions of the Labor Law, the following shall apply:

**a. "Public Works" and "Building Services" - Definitions**

**i. Public Works** Labor Law Article 8 applies to contracts for public improvement in which laborers, workers or mechanics are employed on a "public works" project (distinguished from public "procurement" or "service" contracts). The State, a public benefit corporation, a municipal corporation (including a school district), or a commission appointed by law must be a party to the Contract. The wage and hours provision applies to any work performed by Contractor or Subcontractors.

**ii. Building Services** Labor Law Article 9 applies to Contracts for building service work over \$1,500 with a public agency, that: (i) involve the care or maintenance of an existing building, or (ii) involve the transportation of office furniture or equipment to or from such building, or (iii) involve the transportation and delivery of fossil fuel to such building, and (iv) the principal purpose of which is to furnish services through use of building service employees.

**b. Prevailing Wage Rate Applicable to Bid Submissions** A copy of the applicable prevailing wage rates to be paid or provided are annexed to the Bid Documents. Bidders must submit Bids which are based upon the prevailing hourly wages, and supplements in cash or equivalent benefits (i.e., fringe benefits and any cash or non-cash compensation which are not wages, as defined by law) that equal or exceed the applicable prevailing wage rate(s) for the location where the work is to be performed. Bidders may not submit Bids based upon hourly wage rates and supplements below the applicable prevailing wage rates as established by the New York State Department of Labor. Bids that fail to comply with this requirement will be disqualified.

**c. Wage Rate Payments / Changes During Contract Term** The wages to be paid under any resulting Contract shall not be less than the prevailing rate of wages and supplements as set forth by law. It is required that the Contractor keep informed of all changes in the Prevailing Wage Rates during the Contract term that apply to the classes of individuals supplied by the Contractor on any projects resulting from this Contract, subject to the provisions of the Labor Law. Contractor is solely liable for and must pay such required prevailing wage adjustments during the Contract term as required by law.

**d. Public Posting & Certified Payroll Records** In compliance with Article 8, Section 220 of the New York State Labor Law:

**i. Posting** The Contractor must publicly post on the work site, in a prominent and accessible place, a legible schedule of the prevailing wage rates and supplements.

**ii. Payroll Records** Contractors and Subcontractors must keep original payrolls or transcripts subscribed and affirmed as true under the penalties of perjury as required by law. For public works contracts over \$25,000 where the Contractor maintains no regular place of business in New York State, such records must be kept at the work site. For building services contracts, such records must be kept at the work site while work is being performed.

**iii. Submission of Certified Payroll Transcripts for Public Works Contracts Only** Contractors and Subcontractors on public works projects must submit monthly payroll transcripts to the Authorized User that has prepared or directs the preparation of the plans and specifications for a public works project, as set forth in the Bid Specifications. For Mini-Bid solicitations, the payroll records must be submitted to the entity preparing the agency Mini-Bid project specification. For "agency specific" Bids, the payroll records should be submitted to the entity issuing the purchase order. For all other OGS Centralized Contracts, such records should be submitted to the individual agency issuing the purchase order(s) for the work. Upon mutual agreement of the Contractor and the Authorized User, the form of submission may be submitted in a specified disk format acceptable to the Department of Labor provided: 1) the Contractor/Subcontractor retains the original records; and, (2) an original signed letter by a duly authorized individual of the Contractor or Subcontractor attesting to the truth and accuracy of the records accompanies the disk. This provision does not apply to Article 9 of the Labor Law building services contracts.

**iv. Records Retention** Contractors and Subcontractors must preserve such certified transcripts for a period of three years from the date of completion of work on the awarded contract.

**Day's Labor** Eight hours shall constitute a legal day's work for all classes of employees in this state except those engaged in farm and domestic service unless otherwise provided by law.

No laborers, workmen or mechanics in the employ of the Contractor, Subcontractor or other person doing or contracting to do all or part of the work contemplated by the Contract shall be permitted or required to work more than eight hours in any one calendar day or more than five calendar days in any one week except in cases of extraordinary emergency including fire, flood or danger to life or property. "Extraordinary emergency" shall be deemed to include situations in which sufficient laborers, workers and mechanics cannot be employed to carry on public work expeditiously as a result of such restrictions upon the number of hours and days of labor and the immediate commencement or prosecution or completion without undue delay of the public work is necessary in the judgment of the NYS



Commissioner of Labor for the preservation of the Contract site or for the protection of the life and limb of the persons using the Contract site.

### 18. TAXES

- a. Unless otherwise specified in the Bid Specifications or Contract, the quoted Bid price includes all taxes applicable to the transaction.
- b. Purchases made by the State of New York and certain non-State Authorized Users are exempt from New York State and local sales taxes and, with certain exceptions, federal excise taxes. To satisfy the requirements of the New York State Sales tax exemption, either the Purchase Order issued by a State Agency or the invoice forwarded to authorize payment for such purchases will be sufficient evidence that the sale by the Contractor was made to the State, an exempt organization under Section 1116 (a) (1) of the Tax Law. Non-State Authorized Users must offer their own proof of exemption upon request. No person, firm or corporation is, however, exempt from paying the State Truck Mileage and Unemployment Insurance or Federal Social Security taxes, which remain the sole responsibility of the Bidder/Contractor.
- c. Pursuant to Revised Tax Law 5-a, Contractor will be required to furnish sales tax certification on its behalf and for its affiliates, and subcontractors for Contracts with a value greater than \$100,000 in accordance with provisions of the law.
- d. Purchases by Authorized Users other than the State of New York may be subject to certain taxes which were not included in the Bid price, and in those instances the tax should be computed based on the Contract price and added to the invoice submitted to such entity for payment.

**19. EXPENSES PRIOR TO CONTRACT EXECUTION** The Commissioner and any Authorized User(s) are not liable for any costs incurred by a Vendor, Bidder or Contractor in the preparation and production of a Bid, Mini-Bid or best and final offers or for any work performed prior to Contract execution.

**20. ADVERTISING RESULTS** The prior written approval of the Commissioner is required in order for results of the Bid to be used by the Contractor as part of any commercial advertising. The Contractor shall also obtain the prior written approval of the Commissioner relative to the Bid or Contract for press or other media releases.

### 21. PRODUCT REFERENCES

- a. **"Or Equal"** In all Bid Specifications the words "or equal" are understood to apply where a copyrighted, brand name, trade name, catalog reference, or patented Product is referenced. References to such specific Product are intended as descriptive, not restrictive, unless otherwise stated. Comparable Product will be considered if proof of compatibility is provided, including appropriate catalog excerpts, descriptive literature, specifications and test data, etc. The Commissioner's decision as to acceptance of the Product as equal shall be final.
- b. **Discrepancies in References** In the event of a discrepancy between the model number referenced in the Bid Specifications and the written description of the Products which cannot be reconciled, with respect to such discrepancy, then the written description shall prevail.

**22. REMANUFACTURED, RECYCLED, RECYCLABLE OR RECOVERED MATERIALS** Upon the conditions specified in the Bid Specifications and in accordance with the laws of the State of New York, Contractors are encouraged to use recycled, recyclable or

recovered materials in the manufacture of Products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the Product or packaging unless such use is precluded due to health, welfare, safety requirements or in the Bid Specifications. Contractors are further encouraged to offer remanufactured Products to the maximum extent practicable without jeopardizing the performance or intended end use of the Product and unless such use is precluded due to health, welfare, safety requirements or by the Bid Specifications. Where such use is not practical, suitable, or permitted by the Bid Specifications, Contractor shall deliver new materials in accordance with the "Warranties" set forth below.

Items with recycled, recyclable, recovered, refurbished or remanufactured content must be identified in the Bid or Bidder will be deemed to be offering new Product.

**23. PRODUCTS MANUFACTURED IN PUBLIC INSTITUTIONS** Bids offering Products that are manufactured or produced in public institutions will be rejected.

### 24. PRICING

- a. **Unit Pricing** If required by the Bid Specifications, the Bidder should insert the price per unit specified and the price extensions in decimals, not to exceed four places for each item unless otherwise specified, in the Bid. In the event of a discrepancy between the unit price and the extension, the unit price shall govern unless, in the sole judgment of the Commissioner, such unit pricing is obviously erroneous.
- b. **Net Pricing** Unless otherwise required by the Bid Specifications, prices shall be net, including transportation, customs, tariff, delivery and other charges fully prepaid by the Contractor to the destination(s) indicated in the Bid Specifications, subject to the cash discount.
- c. **"No Charge" Bid** When Bids are requested on a number of Products as a Group or Lot, a Bidder desiring to Bid "no charge" on a Product in the Group or Lot must clearly indicate such. Otherwise, such Bid may be considered incomplete and be rejected, in whole or in part, at the discretion of the Commissioner.
- d. **Educational Pricing** All Products to be supplied for educational purposes that are subject to educational discounts shall be identified in the Bid and such discounts shall be made available to qualifying institutions.
- e. **Third Party Financing** If Product acquisitions are financed through any third party financing, Contractor may be required as a condition of Contract Award to agree to the terms and conditions of a "Consent & Acknowledgment Agreement" in a form acceptable to the Commissioner.
- f. **Best Pricing Offer** During the Contract term, if substantially the same or a smaller quantity of a Product is sold by the Contractor outside of this Contract upon the same or similar terms and conditions as that of this Contract at a lower price to a federal, state or local governmental entity, the price under this Contract, at the discretion of the Commissioner, shall be immediately reduced to the lower price.

Price decreases shall take effect automatically during the Contract term and apply to Purchase Orders submitted on or after:

- (i) **GSA Changes:** Where NYS Net Prices are based on an approved GSA Schedule, the date the approved GSA Schedule pricing decreases during the Contract term; or
- (ii) **Commercial Price List Reductions:** Where NYS Net Prices are based on a discount from Contractor's list prices, the date Contractor

lowers its pricing to its customers generally or to similarly situated government customers during the Contract term; or

(iii) **Special Offers/Promotions Generally:** Where Contractor generally offers more advantageous special price promotions or special discount pricing to other customers during the Contract term for a similar quantity, and the maximum price or discount associated with such offer or promotion is better than the discount or Net Price otherwise available under this Contract, such better price or discount shall apply for similar quantity transactions under this Contract for the life of such general offer or promotion; and

(iv) **Special Offers/Promotions to Authorized Users:** Contractor may offer Authorized Users, under either this Contract or any other Contracting vehicle, competitive pricing which is lower than the NYS Net Price set forth herein at any time during the Contract term and such lower pricing shall not be applied as a global price reduction under the Contract pursuant to the foregoing paragraph (iii).

Unless otherwise specified in the Bid Specifications, Contractor may offer lower prices or better terms (see Modification of Contract Terms) on any specific Purchase Order(s) from any Authorized User without being in conflict with, or obligation to comply on a global basis, with the terms of this clause.

g. **Best and Final Prices** As specified in the Bid Documents and Contract, a Contractor may be solicited at the time of issuance of a Purchase Order or Mini-Bid award for best and final pricing for the Product or service to be delivered to the Authorized User. Contractors are encouraged to reduce their pricing upon receipt of such request.

## 25. DRAWINGS

a. **Drawings Submitted With Bid** When the Bid Specifications require the Bidder to furnish drawings and/or plans, such drawings and/or plans shall conform to the mandates of the Bid Documents and shall, when approved by the Commissioner, be considered a part of the Bid and of any resulting Contract. All symbols and other representations appearing on the drawings shall be considered a part of the drawing.

b. **Drawings Submitted During the Contract Term** Where required to develop, maintain and deliver diagrams or other technical schematics regarding the scope of work, Contractor shall do so on an ongoing basis at no additional charge, and must, as a condition of payment, update drawings and plans during the Contract term to reflect additions, alterations, and deletions. Such drawings and diagrams shall be delivered to the Authorized User's representative.

c. **Accuracy of Drawings Submitted** All drawings shall be neat and professional in manner and shall be clearly labeled as to locations and type of product, connections and components. Drawings and diagrams are to be in compliance with accepted drafting standards. Acceptance or approval of such plans shall not relieve the Contractor from responsibility for design or other errors of any sort in the drawings or plans, or from its responsibility for performing as required, furnishing product, services or installation, or carrying out any other requirements of the intended scope of work.

26. **SITE INSPECTION** Where a site inspection is required by the Bid Specifications or Project Definition, Bidder shall be required to inspect the site, including environmental or other conditions for pre-existing deficiencies that may affect the installed Product, equipment, or environment or services to be provided and, which may affect Bidder's ability to properly deliver, install or otherwise provide the required Product. All inquiries regarding such conditions shall be made in writing. Bidder shall be deemed to have knowledge of any deficiencies or conditions which such inspection or inquiry might have disclosed. Bidder must provide a detailed explanation with its Bid if

additional work is required under this clause in order to properly complete the delivery and installation of the required Product or provide the requested service.

27. **PROCUREMENT CARD** The State has entered into an agreement for purchasing card services. The Purchasing Card enables Authorized Users to make authorized purchases directly from a Contractor without processing a Purchase Order or Purchase Authorizations. Purchasing Cards are issued to selected employees authorized to purchase for the Authorized User and having direct contact with Contractors. Cardholders can make purchases directly from any Contractor that accepts the Purchasing Card.

The Contractor shall not process a transaction for payment through the credit card clearinghouse until the purchased products have been shipped or services performed. Unless the cardholder requests correction or replacement of a defective or faulty Product in accordance with other Contract requirements, the Contractor shall immediately credit a cardholder's account for products returned as defective or faulty.

## 28. SAMPLES

a. **Standard Samples** Bid Specifications may indicate that the Product to be purchased must be equal to a standard sample on display in a place designated by the Commissioner and such sample will be made available to the Bidder for examination prior to the opening date. Failure by the Bidder to examine such sample shall not entitle the Bidder to any relief from the conditions imposed by the Bid Specifications.

b. **Bidder Supplied Samples** The Commissioner reserves the right to request from the Bidder/Contractor a representative sample(s) of the Product offered at any time prior to or after award of a contract. Unless otherwise instructed, samples shall be furnished within the time specified in the request. Untimely submission of a sample may constitute grounds for rejection of Bid or cancellation of the Contract. Samples must be submitted free of charge and be accompanied by the Bidder's name and address, any descriptive literature relating to the Product and a statement indicating how and where the sample is to be returned. Where applicable, samples must be properly labeled with the appropriate Bid or Contract reference.

A sample may be held by the Commissioner during the entire term of the Contract and for a reasonable period thereafter for comparison with deliveries. At the conclusion of the holding period the sample, where feasible, will be returned as instructed by the Bidder, at the Bidder's expense and risk. Where the Bidder has failed to fully instruct the Commissioner as to the return of the sample (i.e., mode and place of return, etc.) or refuses to bear the cost of its return, the sample shall become the sole property of the receiving entity at the conclusion of the holding period.

c. **Enhanced Samples** When an approved sample exceeds the minimum specifications, all Product delivered must be of the same enhanced quality and identity as the sample. Thereafter, in the event of a Contractor's default, the Commissioner may procure a Product substantially equal to the enhanced sample from other sources, charging the Contractor for any additional costs incurred.

d. **Conformance with Sample(s)** Submission of a sample (whether or not such sample is tested by, or for, the Commissioner) and approval thereof shall not relieve the Contractor from full compliance with all terms and conditions, performance related and otherwise, specified in the Bid Specifications. If in the judgment of the Commissioner the sample or product submitted is not in accordance with the specifications or testing requirements prescribed in the Bid

Specifications, the Commissioner may reject the Bid. If an award has been made, the Commissioner may cancel the Contract at the expense of the Contractor.

e. **Testing** All samples are subject to tests in the manner and place designated by the Commissioner, either prior to or after Contract award. Unless otherwise stated in the Bid Specifications, Bidder samples consumed or rendered useless by testing will not be returned to the Bidder. Testing costs for samples that fails to meet Contract requirements may be at the expense of the Contractor.

f. **Requests For Samples By Authorized Users** Requests for samples by Authorized Users require the consent of the Contractor. Where Contractor refuses to furnish a sample, Authorized User may, in its sole discretion, make a determination on the performance capability of the Product or on the issue in question.

### **BID EVALUATION**

29. **BID EVALUATION** The Commissioner reserves the right to accept or reject any and all Bids, or separable portions of offers, and waive technicalities, irregularities, and omissions if the Commissioner determines the best interests of the State will be served. The Commissioner, in his/her sole discretion, may accept or reject illegible, incomplete or vague Bids and his/her decision shall be final. A conditional or revocable Bid which clearly communicates the terms or limitations of acceptance may be considered, and Contract award may be made in compliance with the Bidder's conditional or revocable terms in the offer.

30. **CONDITIONAL BID** Unless the Bid Specifications provides otherwise, a Bid is not rendered non-responsive if the Bidder specifies that the award will be accepted only on all or a specified group of items or Product included in the specification. It is understood that nothing herein shall be deemed to change or alter the method of award contained in the Bid Documents.

31. **CLARIFICATIONS / REVISIONS** Prior to award, the Commissioner reserves the right to seek clarifications, request Bid revisions, or to request any information deemed necessary for proper evaluation of Bids from all Bidders deemed to be eligible for Contract award. Failure to provide requested information may result in rejection of the Bid.

32. **PROMPT PAYMENT DISCOUNTS** While prompt payment discounts will not be considered in determining the low Bid, the Commissioner may consider any prompt payment discount in resolving Bids which are otherwise tied. However, any notation indicating that the price is net, (e.g., net 30 days), shall be understood to mean only that no prompt payment discount is offered by the Bidder. The imposition of service, interest, or other charges, except pursuant to the provisions of Article 11-A of the State Finance Law, which are applicable in any case, may render the Bid non-responsive and may be cause for its rejection.

33. **EQUIVALENT OR IDENTICAL BIDS** In the event two offers are found to be substantially equivalent, price shall be the basis for determining the award recipient. If two or more Bidders submit substantially equivalent Bids as to pricing or other factors, the decision of the Commissioner to award a Contract to one or more of such Bidders shall be final.

34. **PERFORMANCE AND RESPONSIBILITY QUALIFICATIONS** The Commissioner reserves the right to investigate or inspect at any time whether or not the Product, services,

qualifications or facilities offered by the Bidder/Contractor meet the requirements set forth in the Bid Specifications/Contract or as set forth during Contract negotiations. Contractor shall at all times during the Contract term remain responsible and responsive. A Bidder/Contractor must be prepared, if requested by the Commissioner, to present evidence of legal authority to do business in New York State, integrity, experience, ability, prior performance, organizational and financial capacity as well as where applicable, a statement as to supply, plant, machinery and capacity of the manufacturer or source for the production, distribution and servicing of the Product offered/Bid. If the Commissioner determines that the conditions and terms of the Bid Documents, Bid Specifications or Contract are not complied with, or that items, services or Product proposed to be furnished do not meet the specified requirements, or that the legal authority, integrity, experience, ability, prior performance, organization and financial capacity or facilities are not satisfactory, the Commissioner may reject such Bid or terminate the Contract.

35. **DISQUALIFICATION FOR PAST PERFORMANCE AND FINDINGS OF NON-RESPONSIBILITY** Bidder may be disqualified from receiving awards if Bidder, or anyone in Bidder's employment, has previously failed to perform satisfactorily in connection with public Bidding or contracts or is deemed non-responsible.

36. **QUANTITY CHANGES PRIOR TO AWARD** The Commissioner reserves the right, at any time prior to the award of a specific quantity Contract, to alter in good faith the quantities listed in the Bid Specifications. In the event such right is exercised, the lowest responsible Bidder meeting Bid Specifications will be advised of the revised quantities and afforded an opportunity to extend or reduce its Bid price in relation to the changed quantities. Refusal by the low Bidder to so extend or reduce its Bid price may result in the rejection of its Bid and the award of such Contract to the lowest responsible Bidder who accepts the revised qualifications.

37. **TIMEFRAME FOR OFFERS** The Commissioner reserves the right to make awards within sixty (60) days after the date of the Bid opening or such other period of time as set forth in the Bid Documents, during which period, Bids must remain firm and cannot be withdrawn. Pursuant to Section 163(9)(e) of the State Finance Law and Section 2-205 of the Uniform Commercial Code when applicable, where an award is not made within the sixty (60) day period or other time specified as set forth in the Bid Documents, the Bids shall remain firm until such later time as either a Contract is awarded or the Bidder delivers to the Commissioner written notice of the withdrawal of its Bid. Any Bid which expressly states therein that acceptance must be made within a shorter specified time, may at the sole discretion of the Commissioner, be accepted or rejected.

### **TERMS & CONDITIONS**

38. **CONTRACT CREATION / EXECUTION** Except for contracts governed by Article 11-B of the State Finance Law, subject to and upon receipt of all required approvals as set forth in the Bid Specifications a Contract shall be deemed executed and created with the successful Bidder(s), upon the Commissioner's mailing or electronic communication to the address on the Bid/Contract of: (i) the final Contract Award Notice; (ii) a fully executed Contract; or (iii) a Purchase Order authorized by the Commissioner.

39. **PARTICIPATION IN CENTRALIZED CONTRACTS** The following shall not limit or inhibit the OGS Commissioner's authority under State Finance Law, Section 163 (10) (e) (Piggybacking):

a. **Agencies** All State Agencies may utilize and purchase under any state Centralized Contract let by the Commissioner, unless the Bid Documents limit purchases to specific State Agencies.

b. **Non-State Agency Authorized Users** Authorized Users other than State Agencies are permitted to make purchases through state Centralized Contracts where permitted by law, the Contract or the Commissioner.

c. **Voluntary Extension** Purchase Orders issued against a State Centralized Contract by any Authorized User not provided for in the Bid Specifications shall be honored by the Contractor at its discretion and only with the approval of the OGS Commissioner and any other approvals required by law. Contractors are encouraged to voluntarily extend service Contracts to those additional entities authorized to utilize commodity Contracts under Section 163 (3) (iv) of the State Finance Law.

d. **Responsibility for Performance** Participation in state Centralized Contracts by Authorized Users is permitted upon the following conditions: (i) the responsibility with regard to performance of any contractual obligation, covenant, condition or term thereunder by any Authorized User other than State Agencies shall be borne and is expressly assumed by such Authorized User and not by the State; (ii) a breach of the Contract by any particular Authorized User shall neither constitute nor be deemed a breach of the Contract as a whole which shall remain in full force and effect, and shall not affect the validity of the Contract nor the obligations of the Contractor thereunder respecting non-breaching Authorized Users, whether State or otherwise; (iii) for a breach by an Authorized User other than a State Agency, the State specifically and expressly disclaims any and all liability for such breach; and (iv) each non-state agency Authorized User and Contractor guarantees to save the State, its officers, agents and employees harmless from any liability that may be or is imposed by their failure to perform in accordance with its obligations under the Contract.

e. **Contract Migration** Authorized Users holding individual Contracts with a Contractor at the time that Contractor is awarded a Centralized Contract for the same Products or services shall be permitted to migrate to that Centralized Contract effective with its commencement date. Such migration shall not operate to diminish, alter or eliminate any right that the Authorized User otherwise had under the terms and conditions of their individual Contract.

**40. MODIFICATION OF CONTRACT TERMS** The terms and conditions set forth in the Contract shall govern all transactions by Authorized User(s) under this Contract. The Contract may only be modified or amended upon mutual written agreement of the Commissioner and Contractor.

The Contractor may, however, offer Authorized User(s) more advantageous pricing, payment, or other terms and conditions than those set forth in the Contract. In such event, a copy of such terms shall be furnished to the Authorized User(s) and Commissioner by the Contractor at the time of such offer.

Other than where such terms are more advantageous for the Authorized User(s) than those set forth in the Contract, no alteration or modification of the terms of the Contract, including substitution of Product, shall be valid or binding against Authorized User(s) unless authorized by the Commissioner or specified in the Contract Award Notification. No such alteration or modification shall be made by unilaterally affixing such terms to Product upon delivery (including, but not limited to, attachment or inclusion of standard pre-printed

order forms, product literature, "shrink wrap" terms accompanying software upon delivery, or other documents) or by incorporating such terms onto order forms, purchase orders or other documents forwarded by the Contractor for payment, notwithstanding Authorized User's subsequent acceptance of Product, or that Authorized User has subsequently processed such document for approval or payment.

**41. SCOPE CHANGES** The Commissioner reserves the right, unilaterally, to require, by written order, changes by altering, adding to or deducting from the Bid Specifications, such changes to be within the general scope of the Contract. The Commissioner may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the consent of the Contractor, which consent shall not be unreasonably withheld.

**42. ESTIMATED / SPECIFIC QUANTITY CONTRACTS** Estimated quantity contracts are expressly agreed and understood to be made for only the quantities, if any, actually ordered during the Contract term. No guarantee of any quantity(s) is implied or given. Purchases by Authorized Users from Contracts for services and technology are voluntary.

With respect to any specific quantity stated in the contract, the Commissioner reserves the right after award to order up to 20% more or less (rounded to the next highest whole number) than the specific quantities called for in the Contract. Notwithstanding the foregoing, the Commissioner may purchase greater or lesser percentages of Contract quantities should the Commissioner and Contractor so agree. Such agreement may include an equitable price adjustment.

**43. EMERGENCY CONTRACTS** In the event that a disaster emergency is declared by Executive Order under Section 28 of Article 2-B of the Executive Law, or the Commissioner determines pursuant to his/her authority under Section 163 (10) (b) of the State Finance Law that an emergency exists requiring the prompt and immediate delivery of Product, the Commissioner reserves the right to obtain such Product from any source, including but not limited to this Contract(s), as the Commissioner in his/her sole discretion determines will meet the needs of such emergency. Contractor shall not be entitled to any claim or lost profits for Product procured from other sources pursuant to this paragraph. The reasons underlying the finding that an emergency exists shall be included in the procurement record.

**44. PURCHASE ORDERS** Unless otherwise authorized in writing by the Commissioner, no Product is to be delivered or furnished by Contractor until transmittal of an official Purchase Order from the Authorized User. Unless terminated or cancelled pursuant to the authority vested in the Commissioner, Purchase Orders shall be effective and binding upon the Contractor when placed in the mail or electronically transmitted prior to the termination of the contract period, addressed to the Contractor at the address for receipt of orders set forth in the Contract or in the Contract Award Notification.

All Purchase Orders issued pursuant to Contracts let by the Commissioner must bear the appropriate Contract number and, if necessary, required State approvals. As deemed necessary, the Authorized User may confirm pricing and other Product information with the Contractor prior to placement of the Purchase Order. The State reserves the right to require any other information from the Contractor which the State deems necessary in order to complete any Purchase Order placed under the Contract. Unless otherwise specified, all Purchase Orders against Centralized Contracts will be placed by Authorized Users directly with the Contractor and any discrepancy between the terms stated on the vendor's order form, confirmation or acknowledgment, and the Contract terms shall be resolved in favor of

the terms most favorable to the Authorized User. Should an Authorized User add written terms and conditions to the Purchase Order that conflict with the terms and conditions of the Contract, the Contractor has the option of rejecting the Purchase Order within five business days of its receipt but shall first attempt to negotiate the additional written terms and conditions in good faith with the Authorized User, or fulfill the Purchase Order. Notwithstanding the above, the Authorized User reserves the right to dispute any discrepancies arising from the presentation of additional terms and conditions with the Contractor.

If, with respect to an Agency Specific Contract let by the OGS Commissioner, a Purchase Order is not received by the Contractor within two weeks after the issuance of a Contract Award Notification, it is the responsibility of the Contractor to request in writing that the appropriate Authorized User forward a Purchase Order. If, thereafter, a Purchase Order is not received within a reasonable period of time, the Contractor shall promptly notify in writing the appropriate purchasing officer in OGS. Failure to timely notify such officer may, in the discretion of the OGS Commissioner and without cost to the State, result in the cancellation of such requirement by the OGS Commissioner with a corresponding reduction in the Contract quantity and price.

**45. PRODUCT DELIVERY** Delivery must be made as ordered to the address specified on the Purchase Order and in accordance with the terms of the Contract or Contract Award Notice. Unless otherwise specified in the Bid Documents, delivery shall be made within thirty calendar days after receipt of a Purchase Order by the Contractor. The decision of the Commissioner as to compliance with delivery terms shall be final. The burden of proof for delay in receipt of Purchase Order shall rest with the Contractor. In all instances of a potential or actual delay in delivery, the Contractor shall immediately notify the Commissioner and the Authorized User, and confirm in writing the explanation of the delay, and take appropriate action to avoid any subsequent late deliveries. Any extension of time for delivery must be requested in writing by the Contractor and approved in writing by the Authorized User. Failure to meet such delivery time schedule may be grounds for cancellation of the order or, in the Commissioner's discretion, the Contract.

**46. WEEKEND AND HOLIDAY DELIVERIES** Unless otherwise specified in the Bid Specifications or by an Authorized User, deliveries will be scheduled for ordinary business hours, Monday through Friday (excluding legal holidays observed by the State of New York). Deliveries may be scheduled by mutual agreement for Saturdays, Sundays or legal holidays observed by the State of New York where the Product is for daily consumption, an emergency exists, the delivery is a replacement, delivery is late, or other reasonable circumstance in which event the convenience of the Authorized User shall govern.

**47. SHIPPING/RECEIPT OF PRODUCT**

**a. Packaging** Tangible Product shall be securely and properly packed for shipment, storage and stocking in appropriate, clearly labeled shipping containers and according to accepted commercial practice, without any extra charges for packing materials, cases or other types of containers. The container shall become and remain the property of the Authorized User unless otherwise specified in the Contract documents.

**b. Shipping Charges** Unless otherwise stated in the Bid Specifications, all deliveries shall be deemed to be freight on board (F.O.B.) destination tailgate delivery at the dock of the Authorized User. Unless otherwise agreed, items purchased at a price F.O.B. Shipping point plus transportation charges shall not relieve the

Contractor from responsibility for safe and proper delivery notwithstanding the Authorized User's payment of transportation charges. Contractor shall be responsible for ensuring that the Bill of Lading states "charges prepaid" for all shipments.

**c. Receipt of Product** The Contractor shall be solely responsible for assuring that deliveries are made to personnel authorized to accept delivery on behalf of the Authorized User. Any losses resulting from the Contractor's failure to deliver Product to authorized personnel shall be borne exclusively by the Contractor.

**48. TITLE AND RISK OF LOSS** Notwithstanding the form of shipment, title or other property interest, risk of loss shall not pass from the Contractor to the Authorized User until the Products have been received, inspected and accepted by the receiving entity. Acceptance shall occur within a reasonable time or in accordance with such other defined acceptance period as may be specified in the Bid Specifications or Purchase Order. Mere acknowledgment by Authorized User personnel of the delivery or receipt of goods (e.g., signed bill of lading) shall not be deemed or construed as acceptance of the Products received. Any delivery of Product that is substandard or does not comply with the Bid Specifications or Contract terms and conditions, may be rejected or accepted on an adjusted price basis, as determined by the Commissioner.

**49. RE-WEIGHING PRODUCT** Deliveries are subject to re-weighing at the point of destination by the Authorized User. If shrinkage occurs which exceeds that normally allowable in the trade, the Authorized User shall have the option to require delivery of the difference in quantity or to reduce the payment accordingly. Such option shall be exercised in writing by the Authorized User.

**50. PRODUCT SUBSTITUTION** In the event a specified manufacturer's Product listed in the Contract becomes unavailable or cannot be supplied by the Contractor for any reason (except as provided for in the Savings/Force Majeure Clause) a Product deemed in writing by the Commissioner to be equal to or better than the specified Product must be substituted by the Contractor at no additional cost or expense to the Authorized User. Unless otherwise specified, any substitution of Product prior to the Commissioner's written approval may be cause for cancellation of Contract.

**51. REJECTED PRODUCT** When Product is rejected, it must be removed by the Contractor from the premises of the Authorized User within ten calendar days of notification of rejection by the Authorized User. Upon notification of rejection, risk of loss of rejected or non-conforming Product shall remain with Contractor. Rejected items not removed by the Contractor within ten calendar days of notification shall be regarded as abandoned by the Contractor, and the Authorized User shall have the right to dispose of Product as its own property. The Contractor shall promptly reimburse the Authorized User for any and all costs and expenses incurred in storage or effecting removal or disposition after the ten-calendar day period.

**52. INSTALLATION** Where installation is required, Contractor shall be responsible for placing and installing the Product in the required locations. All materials used in the installation shall be of good quality and shall be free from any and all defects that would mar the appearance of the Product or render it structurally unsound. Installation includes the furnishing of any equipment, rigging and materials required to install or place the Product in the proper location. The Contractor shall protect the site from damage for all its work and shall repair damages or injury of any kind caused by the Contractor, its employees, officers or agents. If any alteration, dismantling or excavation, etc. is required to effect installation, the Contractor shall thereafter promptly restore the structure or site. Work shall be

performed to cause the least inconvenience to the Authorized User(s) and with proper consideration for the rights of other Contractors or workers. The Contractor shall promptly perform its work and shall coordinate its activities with those of other Contractors. The Contractor shall clean up and remove all debris and rubbish from its work as required or directed. Upon completion of the work, the building and surrounding area of work shall be left clean and in a neat, unobstructed condition, and everything in satisfactory repair and order.

### **53. REPAIRED OR REPLACED PARTS / COMPONENTS**

Where the Contractor is required to repair, replace or substitute Product or parts or components of the Product under the Contract, the repaired, replaced or substituted Products shall be subject to all terms and conditions for new parts and components set forth in the Contract including Warranties, as set forth in the Additional Warranties Clause herein. Replaced or repaired Product or parts and components of such Product shall be new and shall, if available, be replaced by the original manufacturer's component or part. Remanufactured parts or components meeting new Product standards may be permitted by the Commissioner or Authorized User. Before installation, all proposed substitutes for the original manufacturer's installed parts or components must be approved by the Authorized User. The part or component shall be equal to or of better quality than the original part or component being replaced.

**54. ON-SITE STORAGE** With the written approval of the Authorized User, materials, equipment or supplies may be stored at the Authorized User's site at the Contractor's sole risk.

**55. EMPLOYEES, SUBCONTRACTORS & AGENTS** All employees, Subcontractors or agents performing work under the Contract must be trained staff or technicians who meet or exceed the professional, technical and training qualifications set forth in the Bid Specifications or the Bid Documents, whichever is more restrictive, and must comply with all security and administrative requirements of the Authorized User. The Commissioner reserves the right to conduct a security background check or otherwise approve any employee, Subcontractor or agent furnished by Contractor and to refuse access to or require replacement of any personnel for cause based on, including but not limited to, professional, technical or training qualifications, quality of work or change in security status or non-compliance with Authorized User's security or other requirements. Such approval shall not relieve the Contractor of the obligation to perform all work in compliance with the Contract terms. The Commissioner reserves the right to reject and/or bar from the facility for cause any employee, Subcontractor, or agents of the Contractor.

**56. ASSIGNMENT** The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of the contract or its right, title or interest therein, or its power to execute such contract to any other person, company, firm or corporation in performance of the contract without the prior written consent of the Commissioner or Authorized User (as applicable). Failure to obtain consent to assignment from the Authorized User shall revoke and annul such Contract. Notwithstanding the foregoing, the State shall not hinder, prevent or affect assignment of money by a Contractor for the benefit of its creditors. Prior to a consent to assignment of monies becoming effective, the Contractor shall file a written notice of such monies assignment(s) with the Comptroller. Prior to a consent to assignment of a Contract, or portion thereof, becoming effective, the Contractor shall submit the request to assignment to the Commissioner and seek written agreement from the Commissioner which will be filed with the Comptroller. The Commissioner reserves the right to reject any proposed assignee in his/her discretion.

Upon notice to the Contractor, the Contract may be assigned without the consent of the Contractor to another State Agency or subdivision of the State pursuant to a governmental reorganization or assignment

of functions under which the functions are transferred to a successor Agency or to another Agency that assumes OGS responsibilities for the Contract.

**57. SUBCONTRACTORS AND SUPPLIERS** The Commissioner reserves the right to reject any proposed Subcontractor or supplier for bona fide business reasons, which may include, but are not limited to: they are on the Department of Labor's list of companies with which New York State cannot do business; the Commissioner determines that the company is not qualified; the Commissioner determines that the company is not responsible; the company has previously provided unsatisfactory work or services; the company failed to solicit minority and women's business enterprises (M/WBE) Bidders as required by prior Contracts.

**58. PERFORMANCE / BID BOND** The Commissioner reserves the right to require a Bidder or Contractor to furnish without additional cost, a performance, payment or Bid bond or negotiable irrevocable letter of credit or other form of security for the faithful performance of the Contract. Where required, such bond or other security shall be in the form prescribed by the Commissioner.

**59. SUSPENSION OF WORK** The Commissioner, in his/her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, in the best interests of the Authorized User. In the event of such suspension, the Contractor will be given a formal written notice outlining the particulars of such suspension. Examples of the reason for such suspension include, but are not limited to, a budget freeze or reduction on State spending, declaration of emergency, contract compliance issues or other such circumstances. Upon issuance of such notice, the Contractor is not to accept any Purchase Orders, and shall comply with the suspension order. Activity may resume at such time as the Commissioner issues a formal written notice authorizing a resumption of performance under the Contract.

An Authorized User may issue a formal written notice for the suspension of work for which it has engaged the Contractor for reasons specified in the above paragraph. The written notice shall set forth the reason for such suspension and a copy of the written notice shall be provided to the Commissioner.

### **60. TERMINATION**

**a. For Cause:** For a material breach that remains uncured for more than thirty (30) days or other specified period after written notice to the Contractor, the Contract or Purchase Order may be terminated by the Commissioner or Authorized User at the Contractor's expense where Contractor becomes unable or incapable of performing, or meeting any requirements or qualifications set forth in the Contract, or for non-performance, or upon a determination that Contractor is non-responsible. Such termination shall be upon written notice to the Contractor. In such event, the Commissioner or Authorized User may complete the contractual requirements in any manner it may deem advisable and pursue available legal or equitable remedies for breach.

**b. For Convenience:** By written notice, this Contract may be terminated at any time by the State for convenience upon sixty (60) days written notice or other specified period without penalty or other early termination charges due. Such termination of the Contract shall not affect any project or Purchase Order that has been issued under the Contract prior to the date of such termination. If the Contract is terminated pursuant to this subdivision, the Authorized User shall remain liable for all accrued but unpaid charges incurred through the date of the termination. Contractor shall use due diligence and provide any outstanding deliverables.

**c. For Violation of the Sections 139-j and 139-k of the State Finance Law:** The Commissioner reserves the right to terminate the Contract in the event it is found that the certification filed by the Bidder in accordance with Section 139-k of the State Finance Law was intentionally false or intentionally incomplete. Upon such finding, the Commissioner may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of the Contract.

**d. For Violation of Revised Tax Law 5a:** The Commissioner reserves the right to terminate the contract in the event it is found that the certification filed by the Contractor in accordance with §5-a of the Tax Law is not timely filed during the term of the Contract or the certification furnished was intentionally false or intentionally incomplete. Upon such finding, the Commissioner may exercise its termination right by providing written notification to the Contractor.

**61. SAVINGS/FORCE MAJEURE** A force majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled. Force majeure includes, but is not limited to, acts of God, acts of war, acts of public enemies, strikes, fires, explosions, actions of the elements, floods, or other similar causes beyond the control of the Contractor or the Commissioner in the performance of the Contract which non-performance, by exercise of reasonable diligence, cannot be prevented. Contractor shall provide the Commissioner with written notice of any force majeure occurrence as soon as the delay is known.

Neither the Contractor nor the Commissioner shall be liable to the other for any delay in or failure of performance under the Contract due to a force majeure occurrence. Any such delay in or failure of performance shall not constitute default or give rise to any liability for damages. The existence of such causes of such delay or failure shall extend the period for performance to such extent as determined by the Contractor and the Commissioner to be necessary to enable complete performance by the Contractor if reasonable diligence is exercised after the cause of delay or failure has been removed.

Notwithstanding the above, at the discretion of the Commissioner where the delay or failure will significantly impair the value of the Contract to the State or to Authorized Users, the Commissioner may:

- a. Accept allocated performance or deliveries from the Contractor. The Contractor, however, hereby agrees to grant preferential treatment to Authorized Users with respect to Product subjected to allocation; and/or
- b. Purchase from other sources (without recourse to and by the Contractor for the costs and expenses thereof) to replace all or part of the Products which are the subject of the delay, which purchases may be deducted from the Contract quantities without penalty or liability to the State; or
- c. Terminate the Contract or the portion thereof which is subject to delays, and thereby discharge any unexecuted portion of the Contract or the relative part thereof.

In addition, the Commissioner reserves the right, in his/her sole discretion, to make an equitable adjustment in the Contract terms and/or pricing should extreme and unforeseen volatility in the marketplace affect pricing or the availability of supply. "Extreme and unforeseen volatility in the marketplace" is defined as market circumstances which meet the following criteria: (i) the volatility is due to causes outside the control of Contractor; (ii) the volatility affects the marketplace or industry, not just the particular Contract source of supply; (iii) the effect on pricing or availability of supply is substantial; and (iv) the volatility so affects Contractor's performance

that continued performance of the Contract would result in a substantial loss.

**62. CONTRACT BILLINGS** Contractor and the distributors/resellers designated by the Contractor, if any, shall provide complete and accurate billing invoices to each Authorized User in order to receive payment. Billings for Authorized Users must contain all information required by the Contract and the State Comptroller. The State Comptroller shall render payment for Authorized User purchases, and such payment shall be made in accordance with ordinary State procedures and practices. Payment of Contract purchases made by Authorized Users, other than Agencies, shall be billed directly by Contractor on invoices/vouchers, together with complete and accurate supporting documentation as required by the Authorized User.

Submission of an invoice and payment thereof shall not preclude the Commissioner from reimbursement or demanding a price adjustment in any case where the Product delivered is found to deviate from the terms and conditions of the Contract or where the billing was inaccurate.

Contractor shall provide, upon request of the Commissioner, any and all information necessary to verify the accuracy of the billings. Such information shall be provided in the format requested by the Commissioner and in a media commercially available from the Contractor. The Commissioner may direct the Contractor to provide the information to the State Comptroller or to any Authorized User of the Contract.

**63. DEFAULT – AUTHORIZED USER**

**a. Breach of Authorized User Not Breach of Centralized Contract.** An Authorized User's breach shall not be deemed a breach of the Centralized Contract, rather it shall be deemed a breach of the Authorized User's performance under the terms and conditions of the Centralized Contract.

**b. Failure to Make Payment.** In the event a participating Authorized User fails to make payment to the Contractor for Products delivered, accepted and properly invoiced, within 60 days of such delivery and acceptance, the Contractor may, upon 10 days advance written notice to both the Commissioner and the Authorized User's purchasing official, suspend additional shipments of Product or provision of services to such entity until such time as reasonable arrangements have been made and assurances given by such entity for current and future Contract payments.

**c. Notice of Breach.** Notwithstanding the foregoing, the Contractor shall, at least 10 days prior to declaring a breach of Contract by any Authorized User, by certified or registered mail, notify both the Commissioner and the purchasing official of the breaching Authorized User of the specific facts, circumstances and grounds upon which a breach will be declared.

**d.** It is understood, however, that if the Contractor's basis for declaring a breach is insufficient, the Contractor's declaration of breach and failure to service an Authorized User shall constitute a breach of its Contract and the Authorized User may thereafter seek any remedy available at law or equity.

**64. INTEREST ON LATE PAYMENTS**

**a. State Agencies** The payment of interest on certain payments due and owed by Agency may be made in accordance with Article 11-A of the State Finance Law (SFL §179-d et. Seq.) and Title 2 of the New York Code of Rules and Regulations, Part 18 (Implementation of Prompt Payment Legislation -2 NYCRR §18.1 et seq.).

b. **By Non-State Agencies** The terms of Article 11-A apply only to procurements by and the consequent payment obligations of Agencies. Neither expressly nor by any implication is the statute applicable to Non-State Authorized Users. Neither OGS nor the State Comptroller is responsible for payments on any purchases made by a Non-State Agency Authorized User.

c. **By Contractor** Should the Contractor be liable for any payments to the State hereunder, interest, late payment charges and collection fee charges will be determined and assessed pursuant to Section 18 of the State Finance Law.

65. **REMEDIES FOR BREACH** It is understood and agreed that all rights and remedies afforded below shall be in addition to all remedies or actions otherwise authorized or permitted by law:

a. **Cover/Substitute Performance** In the event of Contractor's material breach, the Commissioner may, with or without formally Bidding: (i) Purchase from other sources; or (ii) If the Commissioner is unsuccessful after making reasonable attempts, under the circumstances then existing, to timely obtain acceptable service or acquire replacement Product of equal or comparable quality, the Commissioner may acquire acceptable replacement Product of lesser or greater quality.

Such purchases may, in the discretion of the Commissioner, be deducted from the Contract quantity and payments due Contractor.

b. **Withhold Payment** In any case where a question of non-performance by Contractor arises, payment may be withheld in whole or in part at the discretion of the Commissioner. Should the amount withheld be finally paid, a cash discount originally offered may be taken as if no delay in payment had occurred.

c. **Bankruptcy** In the event that the Contractor files a petition under the U.S. Bankruptcy Code during the term of this Centralized Contract, Authorized Users may, at their discretion, make application to exercise its right to set-off against monies due the Debtor or, under the Doctrine of Recoupment, credit the Authorized User the amounts owed by the Contractor arising out of the same transactions.

d. **Reimbursement of Costs Incurred** The Contractor agrees to reimburse the Authorized User promptly for any and all additional costs and expenses incurred for acquiring acceptable services, and/or replacement Product. Should the cost of cover be less than the Contract price, the Contractor shall have no claim to the difference. The Contractor covenants and agrees that in the event suit is successfully prosecuted for any default on the part of the Contractor, all costs and expenses expended or incurred by the Authorized User in connection therewith, including reasonable attorney's fees, shall be paid by the Contractor.

Where the Contractor fails to timely deliver pursuant to the guaranteed delivery terms of the Contract, the ordering Authorized User may rent substitute equipment temporarily. Any sums expended for such rental shall, upon demand, be reimbursed to the Authorized User promptly by the Contractor or deducted by the Authorized User from payments due or to become due the Contractor on the same or another transaction.

e. **Deduction/Credit** Sums due as a result of these remedies may be deducted or offset by the Authorized User from payments due, or to become due, the Contractor on the same or another transaction. If no deduction or only a partial deduction is made in such fashion the Contractor shall pay to the Authorized User the amount of such claim

or portion of the claim still outstanding, on demand. The Commissioner reserves the right to determine the disposition of any rebates, settlements, restitution, liquidated damages, etc., which arise from the administration of the Contract.

66. **ASSIGNMENT OF CLAIM** Contractor hereby assigns to the State any and all its claims for overcharges associated with this Contract which may arise under the antitrust laws of the United States, 15 USC Section 1, et. seq. and the antitrust laws of the State of New York, General Business Law Section 340, et. seq.

67. **TOXIC SUBSTANCES** Each Contractor furnishing a toxic substance as defined by Section 875 of the Labor Law, shall provide such Authorized User with not less than two copies of a material safety data sheet, which sheet shall include for each such substance the information outlined in Section 876 of the Labor Law.

Before any chemical product is used or applied on or in any building, a copy of the product label and Material Safety Data Sheet must be provided to and approved by the Authorized User agency representative.

68. **INDEPENDENT CONTRACTOR** It is understood and agreed that the legal status of the Contractor, its agents, officers and employees under this Contract is that of an independent Contractor, and in no manner shall they be deemed employees of the Authorized User, and therefore are not entitled to any of the benefits associated with such employment. The Contractor agrees, during the term of this Contract, to maintain at Contractor's expense those benefits to which its employees would otherwise be entitled by law, including health benefits, and all necessary insurance for its employees, including worker's compensation, disability and unemployment insurance, and to provide the Authorized User with certification of such insurance upon request. The Contractor remains responsible for all applicable federal, state and local taxes, and all FICA contributions.

69. **SECURITY** Contractor warrants, covenants and represents that it will comply fully with all security procedures of the Authorized User(s) in performance of the Contract including but not limited to physical, facility, documentary and cyber security rules, procedures and protocols.

70. **COOPERATION WITH THIRD PARTIES** The Contractor shall be responsible for fully cooperating with any third party, including but not limited to other Contractors or Subcontractors of the Authorized User, as necessary to ensure delivery of Product or coordination of performance of services.

71. **CONTRACT TERM - RENEWAL** In addition to any stated renewal periods in the Contract, any Contract or unit portion thereof let by the Commissioner may be extended by the Commissioner for an additional period(s) of up to one year with the written concurrence of the Contractor and Comptroller. Such extension may be exercised on a month to month basis or in other stated periods of time during the one year extension.

72. **ADDITIONAL WARRANTIES** Where Contractor, product manufacturer or service provider generally offers additional or more advantageous warranties than set forth below, Contractor shall offer or pass through any such warranties to Authorized Users. Contractor hereby warrants and represents:

a. **Product Performance** Contractor warrants and represents that Products delivered pursuant to this Contract conform to the manufacturer's specifications, performance standards and documentation, and the documentation fully describes the proper procedure for using the Products.



**b. Title and Ownership Warranty** Contractor warrants, represents and conveys (i) full ownership, clear title free of all liens, or (ii) the right to transfer or deliver perpetual license rights to any Products transferred to Authorized User under this Contract. Contractor shall be solely liable for any costs of acquisition associated therewith. Contractor fully indemnifies the Authorized User for any loss, damages or actions arising from a breach of said warranty without limitation.

**c. Contractor Compliance** Contractor represents and warrants to pay, at its sole expense, for all applicable permits, licenses, tariffs, tolls and fees to give all notices and comply with all laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under the Contract. Prior to award and during the Contract term and any renewals thereof, Contractor must establish to the satisfaction of the Commissioner that it meets or exceeds all requirements of the Bid/Contract and any applicable laws, including but not limited to, permits, insurance coverage, licensing, proof of coverage for worker's compensation, and shall provide such proof as required by the Commissioner. Failure to do so may constitute grounds for the Commissioner to cancel or suspend this Contract, in whole or in part, or to take any other action deemed necessary by the Commissioner.

**d. Product Warranty** Unless recycled or recovered materials are available in accordance with the "Recycled or Recovered Materials" clause, Product offered shall be standard new equipment, current model or most recent release of regular stock product with all parts regularly used with the type of equipment offered; and no attachment or part has been substituted or applied contrary to the manufacturer's recommendations and standard practice.

Contractor further warrants and represents that components or deliverables specified and furnished by or through Contractor shall individually, and where specified and furnished as a system, be substantially uninterrupted or error-free in operation and guaranteed against faulty material and workmanship for the warranty period, or for a minimum of one (1) year from the date of acceptance, whichever is longer ("Project warranty period"). During the Project warranty period, defects in the materials or workmanship of components or deliverables specified and furnished by or through Contractor shall be repaired or replaced by Contractor at no cost or expense to the Authorized User. Contractor shall extend the Project warranty period for individual component(s), or for the System as a whole, as applicable, by the cumulative period(s) of time, after notification, during which an individual component or the System requires servicing or replacement (down time) or is in the possession of the Contractor, its agents, officers, Subcontractors, distributors, resellers or employees ("extended warranty").

Where Contractor, the Independent Software Vendor "ISV," or other third party manufacturer markets any Project Deliverable delivered by or through Contractor with a standard commercial warranty, such standard warranty shall be in addition to, and not relieve the Contractor from, Contractor's warranty obligations during the project warranty and extended warranty period(s). Where such standard commercial warranty covers all or some of the Project warranty or extended warranty period(s), Contractor shall be responsible for the coordination during the Project warranty or extended warranty period(s) with ISV or other third party manufacturer(s) for warranty repair or replacement of ISV or other third party manufacturer's Product.

Where Contractor, ISV or other third party manufacturer markets any Project Deliverable with a standard commercial warranty which goes

beyond the Project warranty or extended warranty period(s), Contractor shall notify the Authorized User and pass through the manufacturer's standard commercial warranty to Authorized User at no additional charge; provided, however, that Contractor shall not be responsible for coordinating services under the third party extended warranty after expiration of the Project warranty and extended warranty period(s).

**e. Replacement Parts Warranty** If during the regular or extended warranty period's faults develop, the Contractor shall promptly repair or, upon demand, replace the defective unit or component part affected. All costs for labor and material and transportation incurred to repair or replace defective Product during the warranty period shall be borne solely by the Contractor, and the State or Authorized User shall in no event be liable or responsible therefor.

Any part of component replaced by the Contractor under the Contract warranty shall be replaced at no cost to the Authorized User and guaranteed for the greater of: a) the warranty period under paragraph (d) above; or b) if a separate warranty for that part or component is generally offered by the manufacturer, the standard commercial warranty period offered by the manufacturer for the individual part or component.

**f. Virus Warranty** The Contractor represents and warrants that Licensed Software contains no known viruses. Contractor is not responsible for viruses introduced at Licensee's site.

**g. Date/Time Warranty** Contractor warrants that Product(s) furnished pursuant to this Contract shall, when used in accordance with the Product documentation, be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) transitions, including leap year calculations. Where a Contractor proposes or an acquisition requires that specific Products must perform as a package or system, this warranty shall apply to the Products as a system.

Where Contractor is providing ongoing services, including but not limited to: i) consulting, integration, code or data conversion, ii) maintenance or support services, iii) data entry or processing, or iv) contract administration services (e.g., billing, invoicing, claim processing), Contractor warrants that services shall be provided in an accurate and timely manner without interruption, failure or error due to the inaccuracy of Contractor's business operations in processing date/time data (including, but not limited to, calculating, comparing, and sequencing) various date/time transitions, including leap year calculations. Contractor shall be responsible for damages resulting from any delays, errors or untimely performance resulting therefrom, including but not limited to the failure or untimely performance of such services.

This Date/Time Warranty shall survive beyond termination or expiration of this contract through: a) ninety (90) days or b) the Contractor's or Product manufacturer/developer's stated date/time warranty term, whichever is longer. Nothing in this warranty statement shall be construed to limit any rights or remedies otherwise available under this Contract for breach of warranty.

**h. Workmanship Warranty** Contract warrants that all components or deliverables specified and furnished by or through Contractor under the Project Definition/Work Order meet the completion criteria set forth in the Project Definition/Work Order and any subsequent statement(s) of work, and that services will be provided in a workmanlike manner in accordance with industry standards.

**i. Survival of Warranties** All warranties contained in this Contract shall survive the termination of this Contract.

**73. LEGAL COMPLIANCE** Contractor represents and warrants that it shall secure all notices and comply with all laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under the Contract. Prior to award and during the Contract term and any renewals thereof, Contractor must establish to the satisfaction of the Commissioner that it meets or exceeds all requirements of the Bid and Contract and any applicable laws, including but not limited to, permits, licensing, and shall provide such proof as required by the Commissioner. Failure to comply or failure to provide proof may constitute grounds for the Commissioner to cancel or suspend the Contract, in whole or in part, or to take any other action deemed necessary by the Commissioner. Contractor also agrees to disclose information and provide affirmations and certifications to comply with Sections 139-j and 139-k of the State Finance Law.

**74. INDEMNIFICATION** Contractor shall be fully liable for the actions of its agents, employees, partners or Subcontractors and shall fully indemnify and save harmless the Authorized Users from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by any intentional act or negligence of Contractor, its agents, employees, partners or Subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the Authorized Users.

**75. INDEMNIFICATION RELATING TO THIRD PARTY RIGHTS** The Contractor will also indemnify and hold the Authorized Users harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities and costs that may be finally assessed against the Authorized Users in any action for infringement of a United States Letter Patent, or of any copyright, trademark, trade secret or other third party proprietary right except to the extent such claims arise from the Authorized Users gross negligence or willful misconduct, provided that the State shall give Contractor: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (iii) assistance in the defense of any such action at the expense of Contractor.

If usage shall be enjoined for any reason or if Contractor believes that it may be enjoined, Contractor shall have the right, at its own expense and sole discretion to take action in the following order of precedence: (i) to procure for the Authorized User the right to continue Usage (ii) to modify the service or Product so that Usage becomes non-infringing, and is of at least equal quality and performance; or (iii) to replace said service or Product or part(s) thereof, as applicable, with non-infringing service or Product of at least equal quality and performance. If the above remedies are not available, the parties shall terminate the Contract, in whole or in part as necessary and applicable, provided the Authorized User is given a refund for any amounts paid for the period during which Usage was not feasible.

The foregoing provisions as to protection from third party rights shall not apply to any infringement occasioned by modification by the Authorized User of any Product without Contractor's approval.

In the event that an action at law or in equity is commenced against the Authorized User arising out of a claim that the Authorized User's use of the service or Product under the Contract infringes any patent, copyright or proprietary right, and Contractor is of the opinion that the allegations in such action in whole or in part are not covered by the indemnification and defense provisions set forth in the Contract, Contractor shall immediately notify the Authorized User and the

Office of the Attorney General in writing and shall specify to what extent Contractor believes it is obligated to defend and indemnify under the terms and conditions of the Contract. Contractor shall in such event protect the interests of the Authorized User and secure a continuance to permit the Authorized User to appear and defend its interests in cooperation with Contractor, as is appropriate, including any jurisdictional defenses the Authorized User may have. This constitutes the Authorized User's sole and exclusive remedy for patent infringement, or for infringement of any other third party proprietary right.

**76. LIMITATION OF LIABILITY** Except as otherwise set forth in the Indemnification Paragraphs above, the limit of liability shall be as follows:

a. Contractor's liability for any claim, loss or liability arising out of, or connected with the Products and services provided, and whether based upon default, or other liability such as breach of contract, warranty, negligence, misrepresentation or otherwise, shall in no case exceed direct damages in: (i) an amount equal to two (2) times the charges specified in the Purchase Order for the Products and services, or parts thereof forming the basis of the Authorized User's claim, (said amount not to exceed a total of twelve (12) months charges payable under the applicable Purchase Order) or (ii) one million dollars (\$1,000,000), whichever is greater.

b. The Authorized User may retain such monies from any amount due Contractor as may be necessary to satisfy any claim for damages, costs and the like asserted against the Authorized User unless Contractor at the time of the presentation of claim shall demonstrate to the Authorized User's satisfaction that sufficient monies are set aside by the Contractor in the form of a bond or through insurance coverage to cover associated damages and other costs.

c. Notwithstanding the above, neither the Contractor nor the Authorized User shall be liable for any consequential, indirect or special damages of any kind which may result directly or indirectly from such performance, including, without limitation, damages resulting from loss of use or loss of profit by the Authorized User, the Contractor, or by others.

**77. INSURANCE** Contractor shall secure and maintain insurance coverage as specified in the Bid Documents and shall promptly provide documentation of specified coverages to the Authorized User. If specified, the Contractor may be required to add the Authorized User as an additional insured.

#### **THE FOLLOWING CLAUSES PERTAIN TO TECHNOLOGY & NEGOTIATED CONTRACTS**

**78. SOFTWARE LICENSE GRANT** Where Product is acquired on a licensed basis the following shall constitute the license grant:

a. **License Scope** Licensee is granted a non-exclusive, perpetual license to use, execute, reproduce, display, perform, or merge the Product within its business enterprise in the United States up to the maximum licensed capacity stated on the Purchase Order. Product may be accessed, used, executed, reproduced, displayed or performed up to the capacity measured by the applicable licensing unit stated on the Purchase Order (i.e., payroll size, number of employees, CPU, MIPS, MSU, concurrent user, workstation). Licensee shall have the right to use and distribute modifications or customizations of the Product to and for use by any Authorized Users otherwise licensed to use the Product, provided that any modifications, however extensive, shall not diminish Licensor's proprietary title or interest. No license, right or

interest in any trademark, trade name, or service mark is granted hereunder.

**b. License Term** The license term shall commence upon the License Effective Date, provided, however, that where an acceptance or trial period applies to the Product, the License Term shall be extended by the time period for testing, acceptance or trial.

**c. Licensed Documentation** If commercially available, Licensee shall have the option to require the Contractor to deliver, at Contractor's expense: (i) one (1) hard copy and one (1) master electronic copy of the Documentation in a mutually agreeable format; (ii) based on hard copy instructions for access by downloading from the Internet (iii) hard copies of the Product Documentation by type of license in the following amounts, unless otherwise mutually agreed:

- Individual/Named User License - one (1) copy per License
- Concurrent Users - 10 copies per site
- Processing Capacity - 10 copies per site

Software media must be in a format specified by the Authorized User, without requiring any type of conversion.

Contractor hereby grants to Licensee a perpetual license right to make, reproduce (including downloading electronic copies of the Product) and distribute, either electronically or otherwise, copies of Product Documentation as necessary to enjoy full use of the Product in accordance with the terms of license.

**d. Product Technical Support & Maintenance** Licensee shall have the option of electing the Product technical support and maintenance ("maintenance") set forth in the Contract by giving written notice to Contractor any time during the Centralized Contract term. Maintenance term(s) and any renewal(s) thereof are independent of the expiration of the Centralized Contract term and will not automatically renew.

Maintenance shall include, at a minimum, (i) the provision of error corrections, updates, revisions, fixes, upgrade and new releases to Licensee, and (ii) Help Desk assistance with locally accessible "800" or toll free, local telephone service, or alternatively on-line Help Desk accessibility. Contractor shall maintain the Products so as to provide Licensee with the ability to utilize the Products in accordance with the Product documentation without significant functional downtime to its ongoing business operations during the maintenance term.

Authorized User shall not be required to purchase maintenance for use of Product, and may discontinue maintenance at the end of any current maintenance term upon notice to Contractor. In the event that Authorized User does not initially acquire or discontinues maintenance of licensed Product, it may, at any time thereafter, reinstate maintenance for Product without any additional penalties or other charges, by paying Contractor the amount which would have been due under the Contract for the period of time that such maintenance had lapsed, at then current NYS net maintenance rates.

**e. Permitted License Transfers** As Licensee's business operations may be altered, expanded or diminished, licenses granted hereunder may be transferred or combined for use at an alternative or consolidated site not originally specified in the license, including transfers between Agencies ("permitted license transfers"). Licensee(s) do not have to obtain the approval of Contractor for permitted license transfers, but must give thirty (30) days prior written notice to Contractor of such move(s) and certify in writing that the Product is not in use at the prior site. There shall be no additional license or other transfer fees due Contractor, provided that: i) the

maximum capacity of the consolidated machine is equal to the combined individual license capacity of all licenses running at the consolidated or transferred site (e.g., named users, seats, or MIPS); or ii) if the maximum capacity of the consolidated machine is greater than the individual license capacity being transferred, a logical or physical partition or other means of restricting access will be maintained within the computer system so as to restrict use and access to the Product to that unit of licensed capacity solely dedicated to beneficial use for Licensee. In the event that the maximum capacity of the consolidated machine is greater than the combined individual license capacity of all licenses running at the consolidated or transferred site, and a logical or physical partition or other means of restricting use is not available, the fees due Contractor shall not exceed the fees otherwise payable for a single license for the upgrade capacity.

**f. Restricted Use By Outsourcers / Facilities Management, Service Bureaus / or Other Third Parties** Outsourcers, facilities management or service bureaus retained by Licensee shall have the right to use the Product to maintain Licensee's business operations, including data processing, for the time period that they are engaged in such activities, provided that: 1) Licensee gives notice to Contractor of such party, site of intended use of the Product, and means of access; and 2) such party has executed, or agrees to execute, the Product manufacturer's standard nondisclosure or restricted use agreement which executed agreement shall be accepted by the Contractor ("Non-Disclosure Agreement"); and 3) if such party is engaged in the business of facility management, outsourcing, service bureau or other services, such third party will maintain a logical or physical partition within its computer system so as to restrict use and access to the program to that portion solely dedicated to beneficial use for Licensee. In no event shall Licensee assume any liability for third party's compliance with the terms of the Non-Disclosure Agreement, nor shall the Non-Disclosure Agreement create or impose any liabilities on the State or Licensee.

Any third party with whom a Licensee has a relationship for a state function or business operation, shall have the temporary right to use Product (e.g., JAVA Applets), provided that such use shall be limited to the time period during which the third party is using the Product for the function or business activity.

**g. Archival Back-Up and Disaster Recovery** Licensee may use and copy the Product and related Documentation in connection with: i) reproducing a reasonable number of copies of the Product for archival backup and disaster recovery procedures in the event of destruction or corruption of the Product or disasters or emergencies which require Licensee to restore backup(s) or to initiate disaster recovery procedures for its platform or operating systems; ii) reproducing a reasonable number of copies of the Product and related Documentation for cold site storage. "Cold Site" storage shall be defined as a restorable back-up copy of the Product not to be installed until and after the declaration by the Licensee of a disaster; iii) reproducing a back-up copy of the Product to run for a reasonable period of time in conjunction with a documented consolidation or transfer otherwise allowed herein. "Disaster Recovery" shall be defined as the installation and storage of Product in ready-to-execute, back-up computer systems prior to disaster or breakdown which is not used for active production or development.

**h. Confidentiality Restrictions** The Product is a trade secret, copyrighted and proprietary product. Licensee and its employees will keep the Product strictly confidential, and Licensee will not disclose or otherwise distribute or reproduce any Product to anyone other than as authorized under the terms of Contract. Licensee will not remove or destroy any proprietary markings of Contractor.

i. **Restricted Use by Licensee** Except as expressly authorized by the terms of license, Licensee shall not:

- (i) Copy the Product;
- (ii) Cause or permit reverse compilation or reverse assembly of all or any portion of the Product;
- (iii) Export the Licensed Software in violation of any U.S. Department of Commerce export administration regulations.

**79. PRODUCT ACCEPTANCE** Unless otherwise provided by mutual agreement of the Authorized User and the Contractor, Authorized User(s) shall have thirty (30) days from the date of delivery to accept hardware products and sixty (60) days from the date of delivery to accept all other Product. Where the Contractor is responsible for installation, acceptance shall be from completion of installation. Failure to provide notice of acceptance or rejection or a deficiency statement to the Contractor by the end of the period provided for under this clause constitutes acceptance by the Authorized User(s) as of the expiration of that period. The License Term shall be extended by the time periods allowed for trial use, testing and acceptance unless the Commissioner or Authorized User agrees to accept the Product at completion of trial use.

Unless otherwise provided by mutual agreement of the Authorized User and the Contractor, Authorized User shall have the option to run testing on the Product prior to acceptance, such tests and data sets to be specified by User. Where using its own data or tests, Authorized User must have the tests or representative set of data available upon delivery. This demonstration will take the form of a documented installation test, capable of observation by the Authorized User, and shall be made part of the Contractor's standard documentation. The test data shall remain accessible to the Authorized User after completion of the test.

In the event that the documented installation test cannot be completed successfully within the specified acceptance period, and the Contractor or Product is responsible for the delay, Authorized User shall have the option to cancel the order in whole or in part, or to extend the testing period for an additional thirty (30) day increment. Authorized User shall notify Contractor of acceptance upon successful completion of the documented installation test. Such cancellation shall not give rise to any cause of action against the Authorized User for damages, loss of profits, expenses, or other remuneration of any kind.

If the Authorized User elects to provide a deficiency statement specifying how the Product fails to meet the specifications within the testing period, Contractor shall have thirty (30) days to correct the deficiency, and the Authorized User shall have an additional sixty (60) days to evaluate the Product as provided herein. If the Product does not meet the specifications at the end of the extended testing period, Authorized User, upon prior written notice to Contractor, may then reject the Product and return all defective Product to Contractor, and Contractor shall refund any monies paid by the Authorized User to Contractor therefor. Costs and liabilities associated with a failure of the Product to perform in accordance with the functionality tests or product specifications during the acceptance period shall be borne fully by Contractor to the extent that said costs or liabilities shall not have been caused by negligent or willful acts or omissions of the Authorized User's agents or employees. Said costs shall be limited to the amounts set forth in the Limitation of Liability Clause for any liability for costs incurred at the direction or recommendation of Contractor.

**80. AUDIT OF LICENSED PRODUCT USAGE** Contractor shall have the right to periodically audit, no more than annually, at Contractor's expense, use of licensed Product at any site where a copy

of the Product resides provided that: (i) Contractor gives Licensee(s) at least thirty (30) days advance written notice, (ii) such audit is conducted during such party's normal business hours, (iii) the audit is conducted by an independent auditor chosen on mutual agreement of the parties. Contractor shall recommend a minimum of three (3) auditing/accounting firms from which the Licensee will select one (1). In no case shall the Business Software Alliance (BSA), Software Publishers Association (SPA), Software and Industry Information Association (SIIA) or Federation Against Software Theft (FAST) be used directly or indirectly to conduct audits, or be recommended by Contractor; (iv) Contractor and Licensee are each entitled to designate a representative who shall be entitled to participate, and who shall mutually agree on audit format, and simultaneously review all information obtained by the audit. Such representatives also shall be entitled to copies of all reports, data or information obtained from the audit; and (v) if the audit shows that such party is not in compliance, Licensee shall be required to purchase additional licenses or capacities necessary to bring it into compliance and shall pay for the unlicensed capacity at the NYS Net Price in effect at time of audit, or if none, then at the Contractor's U.S. Commercial list price. Once such additional licenses or capacities are purchased, Licensee shall be deemed to have been in compliance retroactively, and Licensee shall have no further liability of any kind for the unauthorized use of the software.

## **81. OWNERSHIP/TITLE TO PROJECT DELIVERABLES**

### **a. Definitions**

(i) For purposes of this paragraph, "Products." A deliverable furnished under this Contract by or through Contractor, including existing and custom Products, including, but not limited to: a) components of the hardware environment, b) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings), whether printed in hard copy or maintained on diskette, CD, DVD or other electronic media c) third party software, d) modifications, customizations, custom programs, program listings, programming tools, data, modules, components, and e) any properties embodied therein, whether in tangible or intangible form (including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, source code, object code).

(ii) For purposes of this paragraph, "Existing Products." Tangible Products and intangible licensed Products that exist prior to the commencement of work under the Contract. Contractor bears the burden of proving that a particular product was in existence prior to the commencement of the Project.

(iii) For purposes of this paragraph, "Custom Products." Products, preliminary, final or otherwise, which are created or developed by Contractor, its Subcontractors, partners, employees or agents for Authorized User under the Contract.

**b. Title to Project Deliverables** Contractor acknowledges that it is commissioned by the Authorized User to perform the services detailed in the Purchase Order. Unless otherwise specified in writing in the Bid or Purchase Order, the Authorized User shall have ownership and license rights as follows:

#### **(i) Existing Products:**

**1. Hardware** - Title and ownership of Existing Hardware Product shall pass to Authorized User upon Acceptance.

**2. Software** - Title and ownership to Existing Software Product(s) delivered by Contractor under the Contract that is normally commercially distributed on a license basis by the Contractor or other independent software vendor proprietary owner ("Existing Licensed Product"), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall remain with Contractor or the proprietary owner of other independent software

vendor(s) (ISV). Effective upon acceptance, such Product shall be licensed to Authorized User in accordance with the Contractor or ISV owner's standard license agreement, provided, however, that such standard license, must, at a minimum: (a) grant Authorized User a non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt (unless Contractor advises Authorized User as part of Contractor's proposal that adaptation will violate existing agreements or statutes and Contractor demonstrates such to the Authorized User's satisfaction) and distribute Existing Licensed Product to the Authorized User up to the license capacity stated in the Purchase Order or work order with all license rights necessary to fully effect the general business purpose(s) stated in the Bid or Authorized User's Purchase Order or work order, including the financing assignment rights set forth in paragraph (c) below; and (b) recognize the State of New York as the licensee where the Authorized User is a state agency, department, board, commission, office or institution. Where these rights are not otherwise covered by the ISV's owner's standard license agreement, the Contractor shall be responsible for obtaining these rights at its sole cost and expense. The Authorized User shall reproduce all copyright notices and any other legend of ownership on any copies authorized under this paragraph.

(ii) **Custom Products:** Effective upon creation of Custom Products, Contractor hereby conveys, assigns and transfers to Authorized User the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise, including all trademark and copyrights. Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through Contractor, its agents, employees, or Subcontractors. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under a Purchase Order, project definition or work order in the course of Contractor's business. Authorized User may, by providing written notice thereof to the Contractor, elect in the alternative to take a non-exclusive perpetual license to Custom Products in lieu of Authorized User taking exclusive ownership and title to such Products. In such case, Licensee on behalf of all Authorized Users shall be granted a non-exclusive perpetual license to use, execute, reproduce, display, perform, adapt and distribute Custom Product as necessary to fully effect the general business purpose(s) as stated in paragraph (b)(i)(2), above.

c. **Transfers or Assignments to a Third Party Financing Agent** It is understood and agreed by the parties that a condition precedent to the consummation of the purchase (s) under the Contract may be the obtaining of acceptable third party financing by the Authorized User. The Authorized User shall make the sole determination of the acceptability of any financing proposal. The Authorized User will make all reasonable efforts to obtain such financing, but makes no representation that such financing has been obtained as of the date of Bid receipt. Where financing is used, Authorized User may assign or transfer its rights in Licensed Products (existing or custom) to a third party financing entity or trustee ("Trustee") as collateral where required by the terms of the financing agreement. Trustee's sole rights with respect to transferability or use of Licensed Products shall be to exclusively sublicense to Authorized User all of its Licensee's rights under the terms and conditions of the License Agreement; provided, further, however, in the event of any termination or expiration of such sublicense by reason of payment in full, all of Trustee's rights in such Licensed Product shall terminate immediately and Authorized User's prior rights to such Existing Licensed Product shall be revived.

d. **Sale or License of Custom Products Involving Tax-Exempt Financing (i.e., Certificates of Participation - COPS)** The Authorized User's sale or other transfer of Custom Products which were acquired by

the Authorized User using third party, tax-exempt financing may not occur until such Custom Products are, or become, useable. In the event that the Contractor wishes to obtain ownership rights to Custom Product(s), the sale or other transfer shall be at fair market value determined at the time of such sale or other transfer, and must be pursuant to a separate written agreement in a form acceptable to the Authorized User which complies with the terms of this paragraph.

e. **Contractor's Obligation with Regard to ISV (Third Party) Product** Where Contractor furnishes Existing Licensed Product(s) as a Project Deliverable, and sufficient rights necessary to effect the purposes of this section are not otherwise provided in the Contractor or ISV's standard license agreement, Contractor shall be responsible for obtaining from the ISV third party proprietary owner/developer the rights set forth herein to the benefit of the Authorized User at Contractor's sole cost and expense.

82. **PROOF OF LICENSE** The Contractor must provide to each Licensee who places a Purchase Order either: (i) the Product developer's certified License Confirmation Certificates in the name of such Licensee; or (ii) a written confirmation from the Proprietary owner accepting Product invoice as proof of license. Contractor shall submit a sample certificate, or alternatively such written confirmation from the proprietary developer. Such certificates must be in a form acceptable to the Licensee.

83. **PRODUCT VERSION** Purchase Orders shall be deemed to reference Manufacturer's most recently released model or version of the Product at time of order, unless an earlier model or version is specifically requested in writing by Authorized User and Contractor is willing to provide such version.

84. **CHANGES TO PRODUCT OR SERVICE OFFERINGS**

a. **Product or Service Discontinuance** Where Contractor is the Product Manufacturer/Developer, and Contractor publicly announces to all U.S. customers ("date of notice") that a Product is being withdrawn from the U.S. market or that maintenance service or technical support provided by Contractor ("withdrawn support") is no longer going to be offered, Contractor shall be required to: (i) notify the Commissioner, each Licensee and each Authorized User then under contract for maintenance or technical support in writing of the intended discontinuance; and (ii) continue to offer Product or withdrawn support upon the Contract terms previously offered for the greater of: a) the best terms offered by Contractor to any other customer, or b) not less than twelve (12) months from the date of notice; and (iii) at Authorized User's option, provided that the Authorized User is under contract for maintenance on the date of notice, either: provide the Authorized User with a Product replacement or migration path with at least equivalent functionality at no additional charge to enable Authorized User to continue use and maintenance of the Product.

In the event that the Contractor is not the Product Manufacturer, Contractor shall be required to: (i) provide the notice required under the paragraph above, to the entities described within five (5) business days of Contractor receiving notice from the Product Manufacturer, and (ii) include in such notice the period of time from the date of notice that the Product Manufacturer will continue to provide Product or withdraw support.

The provisions of this subdivision (a) shall not apply or eliminate Contractor's obligations where withdrawn support is being provided by an independent Subcontractor. In the event that such Subcontractor ceases to provide service, Contractor shall be responsible for subcontracting such service, subject to state approval, to an alternate Subcontractor.

b. **Product or Service Re-Bundling** In the event that Contractor is the Product manufacturer and publicly announces to all U.S. customers ("date of notice") that a Product or maintenance or technical support offering is being re-bundled in a different manner from the structure or licensing model of the prior U.S. commercial offering, Contractor shall be required to: (i) notify the State and each Authorized User in writing of the intended change; (ii) continue to provide Product or withdrawn support upon the same terms and conditions as previously offered on the then-current NYS Contract for the greater of: a) the best terms offered by Contractor to any other customer, or b) not less than twelve (12) months from the date of notice; and (iii) shall submit the proposed rebundling change to the Commissioner for approval prior to its becoming effective for the remainder of the Contract term. The provisions of this section do not apply if the Contractor is not the Product manufacturer.

#### **85. NO HARDSTOP/PASSIVE LICENSE MONITORING**

Unless an Authorized User is otherwise specifically advised to the contrary in writing at the time of order and prior to purchase, Contractor hereby warrants and represents that the Product and all Upgrades do not and will not contain any computer code that would disable the Product or Upgrades or impair in any way its operation based on the elapsing of a period of time, exceeding an authorized number of copies, advancement to a particular date or other numeral, or other similar self-destruct mechanisms (sometimes referred to as "time bombs," "time locks," or "drop dead" devices) or that would permit Contractor to access the Product to cause such disablement or impairment (sometimes referred to as a "trap door" device). Contractor agrees that in the event of a breach or alleged breach of this provision that Authorized User shall not have an adequate remedy at law, including monetary damages, and that Authorized User shall consequently be entitled to seek a temporary restraining order, injunction, or other form of equitable relief against the continuance of such breach, in addition to any and all remedies to which Authorized User shall be entitled.

#### **86. SOURCE CODE ESCROW FOR LICENSED PRODUCT**

If Source Code or Source Code escrow is offered by either Contractor or Product manufacturer or developer to any other commercial customers, Contractor shall either: (i) provide Licensee with the Source Code for the Product; or (ii) place the Source Code in a third party escrow arrangement with a designated escrow agent who shall be named and identified to the State, and who shall be directed to release the deposited Source Code in accordance with a standard escrow agreement acceptable to the State; or (iii) will certify to the State that the Product manufacturer/developer has named the State, acting by and through the Authorized User, and the Licensee, as a named beneficiary of an established escrow arrangement with its designated escrow agent who shall be named and identified to the State and Licensee, and who shall be directed to release the deposited Source Code in accordance with the terms of escrow. Source Code, as well as any corrections or enhancements to such source code, shall be updated for each new release of the Product in the same manner as provided above and such updating of escrow shall be certified to the State in writing. Contractor shall identify the escrow agent upon commencement of the Contract term and shall certify annually that the escrow remains in effect in compliance with the terms of this paragraph.

The State may release the Source Code to Licensees under this Contract who have licensed Product or obtained services, who may use such copy of the Source Code to maintain the Product.

FOR NEGOTIATED CONTRACTS THE FOLLOWING CLAUSES ARE RESERVED BECAUSE BIDDING DOES NOT APPLY:

Clauses: 7, 8, 9, 10, 11, 12, 13, 16, 15, 21, 25, 26, 28, 29, 30, 31, 32, 33, 36, 49, 50, 52, 54 and 37

## INDEX

	<u>Paragraph</u>		<u>Paragraph</u>
	<u>No.</u>		<u>No.</u>
<u>A</u>		<u>M</u>	
Additional Warranties	72	Modification of Contract Terms	40
Advertising Results	20		
Applicability	1	<u>N</u>	
Assignment	56	No Hardstop/Passive License Monitoring	85
Assignment of Claim	66		
Audit of Licensed Product Usage	80	<u>O</u>	
Authentication of Facsimile Bids	10	On-Site Storage	54
		Ownership/Title to Project Deliverables	81
<u>B</u>		<u>P</u>	
Bid Contents	12	Participation in Centralized Contracts	39
Bid Evaluation	29	Performance and Responsibility Qualifications	34
Bid Opening	7	Performance/Bid Bond	58
Bid Submission	8	Prevailing Wage Rates Public Works & Building Services Contracts	17
		Pricing	24
<u>C</u>		Procurement Card	27
Changes to Product or Service Offerings	84	Product Acceptance	79
Clarification/Revisions	31	Product Delivery	45
Confidential/Trade Secret Materials	14	Product References	21
Conflict of Terms	4	Product Substitution	50
Conditional Bid	30	Product Version	83
Contract Billings	62	Products Manufactured in Public Institutions	23
Contract Creation/Execution	38	Prompt Payment Discounts	32
Contract Term - Renewal	71	Proof of License	82
Cooperation with Third Parties	70	Purchase Orders	44
		<u>Q</u>	
<u>D</u>		Quantity Changes Prior to Award	36
Default - Authorized User	63		
Definitions	5	<u>R</u>	
Disqualification for Past Performance	35	Rejected Product	51
Drawings	25	Release of Bid Evaluation Materials	15
		Re-Weighing Product	49
<u>E</u>		Remanufactured, Recycled, Recyclable or Recovered Materials	22
Emergency Contracts	43	Remedies for Breach	65
Employees/Subcontractors/Agents	55	Repaired or Replaced Product/Components	53
Equivalent or Identical Bids	33		
Estimated/Specific Quantity Contracts	42	<u>S</u>	
Ethics Compliance	3	Samples	28
Expenses Prior to Contract Execution	19	Savings/Force Majeure	61
Extraneous Terms	13	Scope Changes	41
		Security	69
<u>F</u>		Site Inspection	26
Facsimile Submissions	9	Shipping/Receipt of Product	47
Freedom of Information Law	16	Software License Grant	78
		Source Code Escrow for Licensed Product	86
<u>G</u>		Subcontractors and Suppliers	57
Governing Law	2	Suspension of Work	59
		<u>T</u>	
<u>I</u>		Taxes	18
Indemnification	74	Termination	60
Indemnification Relating to Third Party Rights	75	Timeframe for Offers	37
Independent Contractor	68	Title and Risk of Loss	48
Installation	52	Toxic Substances	67
Insurance	77		
Interest on Late Payments	64	<u>W</u>	
International Bidding	6	Weekend and Holiday Deliveries	46
<u>L</u>			
Late Bids	11		
Legal Compliance	73		
Limitation of Liability	76		

# ONEIDA COUNTY HEALTH DEPARTMENT

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

ANTHONY J. PICENTE, JR.  
ONEIDA COUNTY EXECUTIVE

DANIEL W. GILMORE, PH.D.  
DIRECTOR OF ENVIRONMENTAL HEALTH  
SUPERVISOR-IN-CHARGE

## ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

March 25, 2010

FN 20 10 - 207

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

## PUBLIC HEALTH

Dear Mr. Picente:

Re: C-026123

## WAYS & MEANS

ONEIDA COUNTY LEGISLATURE  
2010 APR 12 AM 11:55

Attached are five (5) copies of a contract between Oneida County through its Health Department and the Oneida County Health Department for the provision of screening newly arrived refugees.

The purpose of this contract is to provide core screening procedures for all newly arrived refugees. Core screening procedures will include obtaining and documenting vital statistic information, review overseas medical examination, interview for history of personal and family medical background and conduct physical examination. These examinations will include chest x-ray, bloodwork, HIV testing, pregnancy testing, as well as many other tests too numerous to list. The term of this contract shall become effective on March 31, 2010 through March 30, 2011. This is a multi-year term terminating in 2015. Reimbursement to Oneida County is in the amount of \$280,085 for the 2010 to 2011 contract year and is 100% state funded.

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

**Due to New York State's current budget cycle, we have been asked by the New York State Department of Health to expedite processing of the above-mentioned contract. Therefore, we respectfully request this contract be placed before the Board of Legislators for review and approval at the April 28<sup>th</sup> board meeting. The New York State Department of Health has requested original signatures on both contracts that are being returned to them.**

Feel free to contact me should you require additional information.

Sincerely,



Daniel W. Gilmore, Ph.D.  
Acting Public Health Director

attachments  
ry

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



Anthony J. Picente, Jr.  
County Executive

Date 4/5/10



**CONTRACT SUMMARY SHEET - ONEIDA COUNTY HEALTH DEPARTMENT**

**DIVISION:** Refugee Medical Assistance Program (Refugee Health Program) C-026123

**NAME AND ADDRESS OF VENDOR:** New York State Department of Health  
Bureau of Tuberculosis Control  
Empire State Plaza  
Corning Tower, Room 840  
Albany, New York 12237-0669

**VENDOR CONTACT PERSON:** Diane Dattorre, RHP Contract Manager

**CONTRACT SUMMARY:** This contract provides for core screening procedures for all newly arrived refugees. Core screening procedures will include obtaining and documenting vital statistic information, review overseas medical examination, interview for history of personal and family medical background and conduct physical examination. These examinations will include chest x-ray, bloodwork, HIV testing, pregnancy testing, as well as several other tests too numerous to list.

**PREVIOUS CONTRACT YEAR:** March 31, 2005 through March 30, 2010

**TOTAL:** \$144,075

**THIS CONTRACT YEAR:** March 31, 2010 through March 30, 2011

**TOTAL:** \$280,085 \* (Multi-Year term is March 31, 2010 through March 30, 2015)

\_\_\_\_\_ **NEW**        X   **RENEWAL**      \_\_\_\_\_ **AMENDMENT**

**FUNDING SOURCE:** A2280    \$280,085

Less Revenues: \_\_\_\_\_

State Funds: 100% State funded

County Dollars – Previous Contract -0-

County Dollars – This Contract -0-

\* In 2005, The New York State Department of Health revised the contract process from an annual to a five year process.

**SIGNATURE:** Daniel W. Gilmore, Acting Public Health Director

**DATE:** March 24, 2010

# GRANT CONTRACT (MULTI YEAR)

STATE AGENCY:  
New York State Department of Health  
Refugee Health Program  
ESP, Corning Tower, Room 840  
Albany, New York 12237-0669

NYS COMPTROLLER'S NUMBER:  
C-026123

ORIGINATING AGENCY CODE:  
12000

CONTRACTOR:  
Oneida County Health Department  
800 Park Avenue  
Utica, New York 13501

TYPE OF PROGRAM(S)  
Refugee Health Assessment Program

FEDERAL TAX IDENTIFICATION NUMBER:  
15-6000460

INITIAL CONTRACT PERIOD

MUNICIPALITY NO. (if applicable):

FROM: March 31, 2010  
TO: March 30, 2011

CHARITIES REGISTRATION NUMBER:  
\_\_\_\_ - \_\_\_\_ - \_\_\_\_ or ( ) EXEMPT:  
(If EXEMPT, indicate basis for exemption):

FUNDING AMOUNT FOR INITIAL PERIOD:  
\$280,085 : Estimated based on per capita  
amount. Determined by the actual number of  
completed health assessments/vaccines – see  
Appendix B

N/A

MULTI-YEAR TERM (if applicable):  
From: March 31, 2010  
To: March 30, 2015

CONTRACTOR HAS( ) HAS NOT( ) TIMELY  
FILED WITH THE ATTORNEY GENERAL'S  
CHARITIES BUREAU ALL REQUIRED PERIODIC  
OR ANNUAL WRITTEN REPORTS

CONTRACTOR IS( ) IS NOT( X ) A  
SECTARIAN ENTITY  
CONTRACTOR IS( ) IS NOT( X ) A  
NOT-FOR-PROFIT ORGANIZATION

## APPENDICES ATTACHED AND PART OF THIS AGREEMENT

<u>X</u>	APPENDIX A	Standard clauses as required by the Attorney General for all State contracts.
<u>X</u>	APPENDIX A-1	Agency-Specific Clauses (Rev 10/08)
<u>X</u>	APPENDIX B	Budget
<u>X</u>	APPENDIX C	Payment and Reporting Schedule
<u>X</u>	APPENDIX D	Program Workplan
<u>X</u>	APPENDIX G	Notices
<u>X</u>	APPENDIX X	Modification Agreement Form (to accompany modified appendices for changes in term or consideration on an existing period or for renewal periods)

## OTHER APPENDICES

X APPENDIX H Federal Health Insurance Portability and Accountability Act  
Business Associate Agreement

IN WITNESS THEREOF, the parties hereto have executed or approved this AGREEMENT on the dates below their signatures.

CONTRACTOR:

Oneida County Health Department  
800 Park Avenue  
Utica, New York 13501

By: Anthony J. Picente, Jr.  
(Print Name)

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

Approved as to Form Only  
Assistant County Attorney

By: \_\_\_\_\_  
Brian M. Miga  
Assistant County Attorney

STATE OF NEW YORK )  
 ) SS:  
County of \_\_\_\_\_ )

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

(Signature and office of the individual taking acknowledgement)

ATTORNEY GENERAL'S SIGNATURE

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

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

Contract No. C-026123

STATE AGENCY:

New York State Department of Health  
Refugee Health Program  
ESP, Corning Tower, Room 840  
Albany, New York 12237-0669

By: Barbara S. Devore  
(Print Name)

Title: Deputy Director  
Date: Center for Community Health

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."

STATE COMPTROLLER'S SIGNATURE

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

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

# STATE OF NEW YORK

## AGREEMENT

This AGREEMENT is hereby made by and between the State of New York agency (STATE) and the public or private agency (CONTRACTOR) identified on the face page hereof.

### WITNESSETH:

WHEREAS, the STATE has the authority to regulate and provide funding for the establishment and operation of program services and desires to contract with skilled parties possessing the necessary resources to provide such services; and

WHEREAS, the CONTRACTOR is ready, willing and able to provide such program services and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services required pursuant to the terms of this AGREEMENT;

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

#### I. Conditions of Agreement

- A. The period of this AGREEMENT shall be as specified on the face page hereof. Should funding become unavailable, this AGREEMENT may be suspended until funding becomes available. In such event the STATE shall notify the CONTRACTOR immediately of learning of such unavailability of funds, however, any such suspension shall not be deemed to extend the term of this AGREEMENT beyond the end date specified on the face page hereof.
- B. Funding for the entire contract period shall not exceed the amount specified as "Funding Amount for Initial Period" on the face page hereof.
- C. This AGREEMENT incorporates the face pages attached and all of the marked appendices identified on the face page hereof.
- D. To modify the AGREEMENT, 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 Office of the State Comptroller. Any other modifications shall be processed in accordance with agency guidelines as stated in Appendix A-1.
- E. The CONTRACTOR shall perform all services to the satisfaction of the STATE. The CONTRACTOR shall provide services and meet the program objectives summarized in the Program Workplan (Appendix D) in accordance with: provisions of the AGREEMENT; relevant laws, rules and regulations, administrative and fiscal guidelines; and where applicable, operating certificates for facilities or licenses for an activity or program.
- F. If the CONTRACTOR enters into subcontracts for the performance of work pursuant to this AGREEMENT, the CONTRACTOR shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights

of the STATE under this AGREEMENT. No contractual relationship shall be deemed to exist between the subcontractor and the STATE.

- G. Appendix A (Standard Clauses as required by the Attorney General for all State contracts) takes precedence over all other parts of the AGREEMENT.

## II. Payment and Reporting

- A. The CONTRACTOR, to be eligible for payment, shall submit to the STATE's designated payment office (identified in Appendix C) any appropriate documentation as required by the Payment and Reporting Schedule (Appendix C) and by agency fiscal guidelines, in a manner acceptable to the STATE.
- B. The STATE shall make payments and any reconciliations in accordance with the Payment and Reporting Schedule (Appendix C). The STATE shall pay the CONTRACTOR, in consideration of contract services for a given PERIOD, a sum not to exceed the amount noted on the face page hereof or in the respective Appendix designating the payment amount for that given PERIOD. This sum shall not duplicate reimbursement from other sources for CONTRACTOR costs and services provided pursuant to this AGREEMENT.
- C. The CONTRACTOR shall meet the audit requirements specified by the STATE.
- D. The CONTRACTOR shall provide complete and accurate billing vouchers to the Agency's designated payment office in order to receive payment. Billing vouchers submitted to the Agency must contain all information and supporting documentation required by the Contract, the Agency and the State Comptroller. Payment for vouchers submitted by the CONTRACTOR shall be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The CONTRACTOR shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at [www.osc.state.ny.us/epay/index.htm](http://www.osc.state.ny.us/epay/index.htm), by email at [epunit@osc.state.ny.us](mailto: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 Commissioner has expressly authorized payment by paper check as set forth above.

In addition to the Electronic Payment Authorization Form, a Substitute Form W-9, must be on file with the Office of the State Comptroller, Bureau of Accounting Operations. Additional information and procedures for enrollment can be found at <http://www.osc.state.ny.us/epay>.

Completed W-9 forms should be submitted to the following address:

NYS Office of the State Comptroller  
Bureau of Accounting Operations  
Warrant & Payment Control Unit  
110 State Street, 9<sup>th</sup> Floor

III. Terminations

- A. This AGREEMENT may be terminated at any time upon mutual written consent of the STATE and the CONTRACTOR.
- B. The STATE may terminate the AGREEMENT immediately, upon written notice of termination to the CONTRACTOR, if the CONTRACTOR fails to comply with the terms and conditions of this AGREEMENT and/or with any laws, rules and regulations, policies or procedures affecting this AGREEMENT.
- C. The STATE may also terminate this AGREEMENT for any reason in accordance with provisions set forth in Appendix A-1.
- D. Written notice of termination, where required, shall be sent by personal messenger service or by certified mail, return receipt requested. The termination shall be effective in accordance with the terms of the notice.
- E. Upon receipt of notice of termination, the CONTRACTOR agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the STATE.
- F. The STATE shall be responsible for payment on claims pursuant to services provided and costs incurred pursuant to terms of the AGREEMENT. In no event shall the STATE be liable for expenses and obligations arising from the program(s) in this AGREEMENT after the termination date.

IV. Indemnification

- A. The CONTRACTOR shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the CONTRACTOR or its subcontractors pursuant to this AGREEMENT. The CONTRACTOR shall indemnify and hold harmless the STATE and its officers and employees from claims, suits, actions, damages and costs of every nature arising out of the provision of services pursuant to this AGREEMENT.
- B. The CONTRACTOR is an independent contractor and may neither hold itself out nor claim to be an officer, employee or subdivision of the STATE nor make any claims, demand or application to or for any right based upon any different status.

V. Property

Any equipment, furniture, supplies or other property purchased pursuant to this AGREEMENT is deemed to be the property of the STATE except as may otherwise be governed by Federal or State laws, rules and regulations, or as stated in Appendix A-2.

VI. Safeguards for Services and Confidentiality

- A. Services performed pursuant to this AGREEMENT are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.
- B. Funds provided pursuant to this AGREEMENT shall not be used for any partisan political activity, or for activities that may influence legislation or the election or defeat of any candidate for public office.
- C. Information relating to individuals who may receive services pursuant to this AGREEMENT shall be maintained and used only for the purposes intended under the contract and in conformity with applicable provisions of laws and regulations, or specified in Appendix A-1.

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 previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.
3. **COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6.a).
4. **WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
5. **NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the

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

6. **WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.
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) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER. All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

(b) PRIVACY NOTIFICATION. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.

(2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of Accounting Operations, 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, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment,

employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

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

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

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

**13. CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

**14. GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

**15. LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 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 State Finance Law §165. (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

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

**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law); and shall permit independent monitoring of compliance with such principles.

**20. OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

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

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

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development  
Division of Minority and Women's Business Development  
30 South Pearl St -- 2nd Floor  
Albany, New York 12245  
Telephone: 518-292-5250  
Fax: 518-292-5803  
<http://www.empire.state.ny.us>

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

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

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

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

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

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

**22. PURCHASES OF APPAREL.** In accordance with State Finance Law 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that: (i) such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized by the bidder.

**THIS PAGE IS INTENTIONALLY LEFT BLANK**

APPENDIX A-1  
(REV 10/08)

AGENCY SPECIFIC CLAUSES FOR ALL  
DEPARTMENT OF HEALTH CONTRACTS

1. If the CONTRACTOR is a charitable organization required to be registered with the New York State Attorney General pursuant to Article 7-A of the New York State Executive Law, the CONTRACTOR shall furnish to the STATE such proof of registration (a copy of Receipt form) at the time of the execution of this AGREEMENT. The annual report form 497 is not required. If the CONTRACTOR is a business corporation or not-for-profit corporation, the CONTRACTOR shall also furnish a copy of its Certificate of Incorporation, as filed with the New York Department of State, to the Department of Health at the time of the execution of this AGREEMENT.
2. 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.
3. Administrative Rules and Audits:
  - a. If this contract is funded in whole or in part from federal funds, the CONTRACTOR shall comply with the following federal grant requirements regarding administration and allowable costs.
    - i. For a local or Indian tribal government, use the principles in the common rule, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," and Office of Management and Budget (OMB) Circular A-87, "Cost Principles for State, Local and Indian Tribal Governments".
    - ii. For a nonprofit organization other than
      - ◆ an institution of higher education,
      - ◆ a hospital, or
      - ◆ an organization named in OMB Circular A-122, "Cost Principles for Non-profit Organizations", as not subject to that circular,use the principles in OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-profit Organizations," and OMB Circular A-122.
    - iii. For an Educational Institution, use the principles in OMB Circular A-110 and OMB Circular A-21, "Cost Principles for Educational Institutions".
    - iv. For a hospital, use the principles in OMB Circular A-110, Department of Health and Human Services, 45 CFR 74, Appendix E, "Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals" and, if not covered for audit purposes by OMB Circular A-133, "Audits of States Local Governments and Non-profit Organizations", then subject to program specific audit requirements following Government Auditing Standards for financial audits.
  - b. 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 "a" above.

- c. The CONTRACTOR shall comply with the following grant requirements regarding audits.
- i. If the contract is funded from federal funds, and the CONTRACTOR spends more than \$500,000 in federal funds in their fiscal year, an audit report must be submitted in accordance with OMB Circular A-133.
  - ii. If this contract is funded from other than federal funds or if the contract is funded from a combination of STATE and federal funds but federal funds are less than \$500,000, and if the CONTRACTOR receives \$300,000 or more in total annual payments from the STATE, the CONTRACTOR shall submit to the STATE after the end of the CONTRACTOR's fiscal year an audit report. The audit report shall be submitted to the STATE within thirty days after its completion but no later than nine months after the end of the audit period. The audit report shall summarize the business and financial transactions of the CONTRACTOR. The report shall be prepared and certified by an independent accounting firm or other accounting entity, which is demonstrably independent of the administration of the program being audited. Audits performed of the CONTRACTOR's records shall be conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States covering financial audits. This audit requirement may be met through entity-wide audits, coincident with the CONTRACTOR's fiscal year, as described in OMB Circular A-133. Reports, disclosures, comments and opinions required under these publications should be so noted in the audit report.
- d. For audit reports due on or after April 1, 2003, that are not received by the dates due, the following steps shall be taken:
- i. If the audit report is one or more days late, voucher payments shall be held until a compliant audit report is received.
  - ii. If the audit report is 91 or more days late, the STATE shall recover payments for all STATE funded contracts for periods for which compliant audit reports are not received.
  - iii. 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.
4. 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.
5. 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.
- a. LOBBYING CERTIFICATION
- 1) 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.

- 2) 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.
- 3) This section shall be applicable to this AGREEMENT only if federal funds allotted exceed \$100,000.
- a) The CONTRACTOR certifies, to the best of his or her knowledge and belief, that:
- ◆ No federal appropriated funds have been paid or will be paid, by or on behalf of the CONTRACTOR, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal amendment or modification of any federal contract, grant, loan, or cooperative agreement.
  - ◆ If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
- b) 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.

- c) 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 Accounts Management at (518) 474-1208. Completed forms should be submitted to the New York State Department of Health, Bureau of Accounts Management, Empire State Plaza, Corning Tower Building, Room 1315, Albany, 12237-0016.
  - d) 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.
- 4) The reporting requirements enumerated in subsection (3) of this paragraph shall not apply to the CONTRACTOR with respect to:
- a) Payments of reasonable compensation made to its regularly employed officers or employees;
  - b) 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
  - c) 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.

b. 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.

**c. CERTIFICATION REGARDING DEBARMENT AND SUSPENSION**

Regulations of the Department of Health and Human Services, located at Part 76 of Title 45 of the Code of Federal Regulations (CFR), implement Executive Orders 12549 and 12689 concerning debarment and suspension of participants in federal programs and activities. Executive Order 12549 provides that, to the extent permitted by law, Executive departments and agencies shall participate in a government-wide system for non-procurement debarment and suspension. Executive Order 12689 extends the debarment and suspension policy to procurement activities of the federal government. A person who is debarred or suspended by a federal agency is excluded from federal financial and non-financial assistance and benefits under federal programs and activities, both directly (primary covered transaction) and indirectly (lower tier covered transactions). Debarment or suspension by one federal agency has government-wide effect.

Pursuant to the above-cited regulations, the New York State Department of Health (as a participant in a primary covered transaction) may not knowingly do business with a person who is debarred, suspended, proposed for debarment, or subject to other government-wide exclusion (including any exclusion from Medicare and State health care program participation on or after August 25, 1995), and the Department of Health must require its prospective contractors, as prospective lower tier participants, to provide the certification in Appendix B to Part 76 of Title 45 CFR, as set forth below:

**1) APPENDIX B TO 45 CFR PART 76-CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION-LOWER TIER COVERED TRANSACTIONS**

**Instructions for Certification**

- a) By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
- b) 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 and 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.
- c) 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.

- d) 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.
- e) 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.
- f) 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.
- g) 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.
- h) 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.
- i) 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.

## 2) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

- a) 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.

- b) 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.
6. 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.
7. The CONTRACTOR will not discriminate in the terms, conditions and privileges of employment, against any employee, or against any applicant for employment because of race, creed, color, sex, national origin, age, disability, sexual orientation or marital status. 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 any of the factors listed above.
8. 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.
9. 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.
10. The STATE may cancel this AGREEMENT at any time by giving the CONTRACTOR not less than thirty (30) days written notice that on or after a date therein specified, this AGREEMENT shall be deemed terminated and cancelled.
11. Where the STATE does not provide notice to the NOT-FOR-PROFIT CONTRACTOR of its intent to not renew this contract by the date by which such notice is required by Section 179-t(1) of the State Finance Law, then this contract shall be deemed continued until the date that the agency provides the notice required by Section 179-t, and the expenses incurred during such extension shall be reimbursable under the terms of this contract.

## 12. Other Modifications

- a. Modifications of this AGREEMENT as specified below may be made within an existing PERIOD by mutual written agreement of both parties:
  - ◆ Appendix B - Budget line interchanges; Any proposed modification to the contract which results in a change of greater than 10 percent to any budget category, must be submitted to OSC for approval;
  - ◆ Appendix C - Section II, Progress and Final Reports;
  - ◆ Appendix D - Program Workplan will require OSC approval.
- b. To make any other modification of this AGREEMENT within an existing PERIOD, the parties shall revise or complete the appropriate appendix form(s), and a

Modification Agreement (Appendix X is the blank form to be used), which shall be effective only upon approval by the Office of the State Comptroller.

13. 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

Workers' Compensation, for which one of the following is incorporated into this contract as **Appendix E-1:**

- **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
- **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
- **SI-12** -- Certificate of Workers' Compensation Self-Insurance, OR **GSI-105.2** -- Certificate of Participation in Workers' Compensation Group Self-Insurance

Disability Benefits coverage, for which one of the following is incorporated into this contract as **Appendix E-2:**

- **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
- **DB-120.1** -- Certificate of Disability Benefits Insurance OR
- **DB-155** -- Certificate of Disability Benefits Self-Insurance

14. 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 such breach if caused by Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of Contractor's agents, officers, employees or subcontractors.

15. 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.

16. Additional clauses as may be required under this AGREEMENT are annexed hereto as appendices and are made a part hereof if so indicated on the face page of this AGREEMENT.

# **APPENDIX B**

## **BUDGET & BUDGET JUSTIFICATION**

**Appendix B: Budget / Budget Justification  
Oneida County Health Department  
Refugee Medical Assistance Program  
March 31, 2010 - March 30, 2011**

**Budget:**

**Oneida County Health Department** will provide health assessments and initial adult vaccinations to newly arriving refugees in New York State based on an estimated number of refugee arrivals. **Oneida County Health Department** must be a licensed health care provider and demonstrate clinical experience and staffing capacity necessary to provide health screenings and administer required vaccines in accordance with established RMA Program protocol. Reimbursement is contingent on provider performance and availability of federal funds.

1. Health assessments completed in accordance to the required protocol will be reimbursed at an all inclusive per-capita rate of:  
    \$338.50 Upstate Rate  
    \$346.39 Downstate Rate (Nassau, Suffolk, Westchester counties)
  
2. Initial adult vaccinations will be reimbursed at a maximum rate, not to exceed \$208 per person. Vaccines must be administered during a reimburseable health assessment. Documentation for the cost of administered vaccines must accompany the voucher submitted for reimbursement.

**Budget Justification:**

**Oneida County Health Department** will provide health assessments to newly arriving refugees in the State. **Oneida County Health Department** will be reimbursed at the rates indicated above for completed health assessments during budget period March 31, 2010 - March 30, 2011.

**Oneida County Health Department** will administer adult vaccinations to newly arriving refugees in the State, as needed, during a reimbursable health assessment. **Oneida County Health Department** will be reimbursed at the rate indicated above for the cost of adult vaccines administered during budget period March 31, 2010 - March 30, 2011.

Should the federally approved health assessment reimbursement rate increase during this contract period, the contractor will be paid at the revised rate.

---

**APPENDIX C**

**PAYMENT**

**&**

**REPORTING**

**SCHEDULE**

---

## APPENDIX C

### PAYMENT AND REPORTING SCHEDULE

#### I. Payment and Reporting Terms and Conditions

A. The STATE may, at its discretion, make an advance payment to the CONTRACTOR, during the initial or any subsequent PERIOD, in an amount to be determined by the STATE but not to exceed 0 percent of the maximum amount indicated in the budget as set forth in the most recently approved Appendix B. If this payment is to be made, it will be due thirty calendar days, excluding legal holidays, after the later of either:

- ① the first day of the contract term specified in the Initial Contract Period identified on the face page of the AGREEMENT or if renewed, in the PERIOD identified in the Appendix X, OR
- ① if this contract is wholly or partially supported by Federal funds, availability of the federal funds;

provided, however, that a STATE has not determined otherwise in a written notification to the CONTRACTOR suspending a Written Directive associated with this AGREEMENT, and that a proper voucher for such advance has been received in the STATE's designated payment office. If no advance payment is to be made, the initial payment under this AGREEMENT shall be due thirty calendar days, excluding legal holidays, after the later of either:

- ① the end of the first quarterly period of this AGREEMENT; or
- ① if this contract is wholly or partially supported by federal funds, availability of the federal funds:

provided, however, that the proper voucher for this payment has been received in the STATE's designated payment office.

B. No payment under this AGREEMENT, other than advances as authorized herein, will be made by the STATE to the CONTRACTOR unless proof of performance of required services or accomplishments is provided. If the CONTRACTOR fails to perform the services required under this AGREEMENT the STATE shall, in addition to any remedies available by law or equity, recoup payments made but not earned, by set-off against any other public funds owed to CONTRACTOR.

- C. Any optional advance payment(s) shall be applied by the STATE to future payments due to the CONTRACTOR for services provided during initial or subsequent PERIODS. Should funds for subsequent PERIODS not be appropriated or budgeted by the STATE for the purpose herein specified, the STATE shall, in accordance with Section 41 of the State Finance Law, have no liability under this AGREEMENT to the CONTRACTOR, and this AGREEMENT shall be considered terminated and cancelled.
- D. The CONTRACTOR will be entitled to receive payments for work, projects, and services rendered as detailed and described in the program workplan, Appendix D. All payments shall be in conformance with the rules and regulations of the Office of the State Comptroller. The CONTRACTOR shall provide complete and accurate billing vouchers to the Agency's designated payment office in order to receive payment. Billing vouchers submitted to the Agency must contain all information and supporting documentation required by the Contract, the Agency and the State Comptroller. Payment for vouchers submitted by the CONTRACTOR shall be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The CONTRACTOR shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at [www.osc.state.ny.us/epay/index.htm](http://www.osc.state.ny.us/epay/index.htm), by email at [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us) or by telephone at 518-474-4032. The 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 Commissioner has expressly authorized payment by paper check as set forth above.

In addition to the Electronic Payment Authorization Form, a Substitute Form W-9, must be on file with the Office of the State Comptroller, Bureau of Accounting Operations. Additional information and procedures for enrollment can be found at <http://www.osc.state.ny.us/epay>.

Completed W-9 forms should be submitted to the following address:

NYS Office of the State Comptroller  
Bureau of Accounting Operations  
Warrant & Payment Control Unit  
110 State Street, 9<sup>th</sup> Floor  
Albany, NY 12236



- E. The CONTRACTOR shall submit to the STATE monthly voucher claims and reports of expenditures on such forms and in such detail as the STATE shall require. The CONTRACTOR shall submit vouchers to the State's designated payment office located in the Bureau of Tuberculosis Control, Rm. 840, E.S.P., Tower Bldg., Albany, NY 12237.

All vouchers submitted by the CONTRACTOR pursuant to this AGREEMENT shall be submitted to the STATE no later than 30 days after the end date of the period for which reimbursement is being claimed. In no event shall the amount received by the CONTRACTOR exceed the budget amount approved by the STATE, and, if actual expenditures by the CONTRACTOR are less than such sum, the amount payable by the STATE to the CONTRACTOR shall not exceed the amount of actual expenditures. All contract advances in excess of actual expenditures will be recouped by the STATE prior to the end of the applicable budget period.

## II. Progress and Final Reports

Organization Name: Oneida County Health Department

Budget Period: 3/31/10 – 3/30/11

Report Type:

**Oneida County Health Department** will submit on a monthly basis, along with the vouchers, not later than 30 days following the month in which the service was performed, a list of refugees (Alien registration number and name) who receive health assessments and adult immunizations. Vouchers must be submitted with supporting documentation including a completed health assessment and a receipt confirming actual cost of vaccines.

---

**APPENDIX D**

**WORKPLAN**

---

**APPENDIX D**  
**Work Plan**

**Refugee Health Assessment Protocol**

**I. Core Screening Procedures for All Refugees:**

Obtain and Document:

- \* Name, sex, date of birth
- \* Address, telephone number
- \* Primary language
- \* Country of origin
- \* Date of arrival in U.S.
- \* Country of last residence/length of time there
- \* Alien registration number
- \* VOLAG

Review:

- \* "Medical Examination for Immigrant or Refugee" (Form DS-2053 or DS-2054), also called the overseas medical exam. Note Class A and B health conditions, including Class B1, B2, or B3 Tuberculosis
- \* Chest X-ray film(s) and "Chest X-Ray and Classification Worksheet" (Form DS-3024 or DS-3030)
- \* Immunization records, including "Vaccination Documentation" (Form DS-3025)
- \* "Medical History and Physical Examination Worksheet" (Form DS-3026) and any other available medical records

Interview for History of:

- \* Personal and family medical history, medications, allergies
- \* Recent fever, cough, weight loss, night sweats, hemoptysis, diarrhea
- \* Other recent illnesses or conditions in self or family
- \* History of drug use, including alcohol and tobacco
- \* Social history (including immigration, refugee camp experiences, etc.)

Conduct Physical Examination:

- \* Vital signs, including: height, weight, head circumference (less than 3 years old), blood pressure (5 years and older), temperature and pulse
- \* General physical examination: review of systems, including heart, lungs, abdomen, ENT, neurological, and skin evaluation
- \* Gross evaluation of vision and hearing
- \* Gross dental evaluation
- \* General assessment of mental status/developmental level

Provide:

- \* Evaluation, treatment, and/or referral for Class A and B conditions reported on the DS-2053/DS-2054, including sexually transmitted disease follow-up, mental health follow-up, and initial tuberculosis (TB) assessment. The provider must ensure immediate referral for further TB evaluation and treatment when indicated.
- \* Initial immunizations and referral for continuation, as indicated.
- \* Health education and counseling.

**II. Provide Screening as Indicated Below:**

- \* Hematocrit (all)
- \* Hepatitis B screening or vaccine (all)
- \* Stool for ova and parasites (all). Specify parasites identified and treatment prescribed.
- \* Tuberculin skin test (TST) (6 months and older, regardless of BCG history).
- \* Chest x-ray, if TST result is positive.

Note: If signs or symptoms suggestive of TB are present (including, but not limited to, a positive TST with an abnormal chest X-ray), the provider must obtain a sputum smear and culture at the time of exam or initiate an immediate referral to the local health department or other appropriate specialist.

- \* Lead screening (children 6 months to 16 years of age, and pregnant women)
- \* Pap smear (females 18 years and older)
- \* Stool exam for blood (46 years and older)

**III. Additional Screening To Be Provided if Indicated:**

- \* VDRL (if indicated by history or exam)
- \* HIV test (if indicated by history or exam)
- \* Pregnancy test (if indicated)

**III. Following the initial health assessment, refugees should be referred for indicated services, including but not limited to:**

- \* Routine, ongoing medical care
- \* Additional screening and follow up, based on age and results of physical exam and initial screening
- \* Routine dental care
- \* Evaluation for hypertension (if BP elevated)
- \* Fasting glucose and cholesterol (46 years and older)
- \* CBC or RBC indices, sickle cell prep, malaria smear (if hematocrit <30%)
- \* Testing for sickle cell, thalassemia or Tay Sachs (if indicated)
- \* Nutritional evaluation if height, weight <5th percentile (less than 16 years old)
- \* Further evaluation if weight >10% under, or >40% over normal range (16 years and older)
- \* Social services evaluation if vision, hearing, self care capability or mobility is significantly decreased and/or the ability of the family to provide care is questionable

- \* Further mental health evaluation if indicated by mental health symptoms (e.g. depression, anxiety, or evidence of post-traumatic stress disorder or other conditions that may adversely impact on effective resettlement)

**Comments:**

1. There may be exceptions to these screening guidelines based on country of origin (i.e., malaria smear if from endemic area), culture and family/social/medical history.
2. Age-specific recommendations may need to be adjusted based on patient history, prior laboratory results, cultural knowledge and professional judgment.
3. Reasons for not conducting core-screening procedures must be documented on the Refugee Health Assessment form.
4. Screening results must be discussed at a second office/clinic visit, and all appropriate referrals made.
5. "Referral" means setting up a specified appointment with a designated provider.
6. Providers must provide immunizations, if any are indicated at the time of the visit. Providers will be reimbursed for initial approved vaccines given to adults (age 19 and older) during the health assessment per contract, and are encouraged to use the Vaccines for Children Program to offset the costs of providing childhood immunizations.

Providers must also refer refugees for completion of the series of immunizations required for them to adjust status to become permanent residents, and eventually U.S. citizens. (A Civil Surgeon, designated by the US Citizenship and Immigration Services [USCIS], must certify the record of immunizations. USCIS has authorized local health departments to act as Civil Surgeons for the limited purpose of certifying refugee immunizations for adjustment of status.)

7. Providers must ensure only eligible individuals receive a refugee health assessment. Those persons given one of the following designations assigned by the US Department of State, allowable by federal statute and documented by the Program, are eligible to receive a refugee health assessment:

**Refugee** - Any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. Includes Unaccompanied Refugee Minors.

**Asylee** - Individuals, who, on their own, travel to the United States, apply for and receive a grant of asylum. This status acknowledges the person meets the definition of a refugee (as above) and allows them to remain in the United States.

**Entrant or Parolee** - Any individual granted parole status or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti. In contrast to refugees, Cuban and Haitian entrants continue to reside in their country of origin while their application for parole is evaluated.

**Victim of Trafficking** - Any individual certified as someone (child or adult) subjected to a severe form of trafficking, which includes: Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

# APPENDIX G

## Appendix G

### NOTICES

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 Health

Name: Eric Cleghorn

Title: Refugee Health Coordinator

Address: Bureau of Tuberculosis Control, Corning Tower, Rm. 840, E.S.P.

Telephone Number: (518) 474-4845

Facsimile Number: (518) 473-6164

E-Mail Address: ejc01@health.state.ny.us

#### Oneida County Health Department

Name: Patrice B. Bogan

Title: Director of Clinical Services

Address: 185 Genesee Street  
Utica, NY 13501

Telephone Number: 315-798-5747

Facsimile Number: 315-798-1057

E-Mail Address: pbogan@ocgov.net

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 representative 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.



---

# APPENDIX X

---

**APPENDIX H**

**HIPPA**

## Appendix H

for CONTRACTOR that uses or discloses individually identifiable health information on behalf of a New York State Department of Health HIPAA-Covered Program

- I. Definitions. For purposes of this Appendix H of this AGREEMENT:
- A. "Business Associate" shall mean CONTRACTOR.
  - B. "Covered Program" shall mean the STATE.
  - C. Other terms used, but not otherwise defined, in this AGREEMENT shall have the same meaning as those terms in the federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act ("HITECH") and implementing regulations, including those at 45 CFR Parts 160 and 164.
- II. Obligations and Activities of Business Associate:
- A. Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by this AGREEMENT or as Required By Law.
  - B. Business Associate agrees to use the appropriate administrative, physical and technical safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this AGREEMENT.
  - C. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this AGREEMENT.
  - D. Business Associate agrees to report to Covered Program as soon as reasonably practicable any use or disclosure of the Protected Health Information not provided for by this AGREEMENT of which it becomes aware. Business Associate also agrees to report to Covered Program any Breach of Unsecured Protected Health Information of which it becomes aware. Such report shall include, to the extent possible:
    - 1. A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
    - 2. A description of the types of Unsecured Protected Health Information that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
    - 3. Any steps individuals should take to protect themselves from potential harm resulting from the breach;
    - 4. A description of what Business Associate is doing to investigate the Breach, to mitigate harm to individuals, and to protect against any further Breaches; and
    - 5. Contact procedures for Covered Program to ask questions or learn additional information.
  - E. Business Associate agrees to ensure that any agent, including a subcontractor, to

whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Program agrees to the same restrictions and conditions that apply through this AGREEMENT to Business Associate with respect to such information.

- F. Business Associate agrees to provide access, at the request of Covered Program, and in the time and manner designated by Covered Program, to Protected Health Information in a Designated Record Set, to Covered Program in order for Covered Program to comply with 45 CFR § 164.524.
- G. Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that Covered Program directs in order for Covered Program to comply with 45 CFR § 164.526.
- H. Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Program available to Covered Program, or to the Secretary of the federal Department of Health and Human Services, in a time and manner designated by Covered Program or the Secretary, for purposes of the Secretary determining Covered Program's compliance with HIPAA, HITECH and 45 CFR Parts 160 and 164.
- I. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Program to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.
- J. Business Associate agrees to provide to Covered Program, in time and manner designated by Covered Program, information collected in accordance with this AGREEMENT, to permit Covered Program to comply with 45 CFR § 164.528.
- K. Business Associate agrees to comply with the security standards for the protection of electronic protected health information in 45 CFR § 164.308, 45 CFR § 164.310, 45 CFR § 164.312 and 45 CFR § 164.316.

III. Permitted Uses and Disclosures by Business Associate

- A. Except as otherwise limited in this AGREEMENT, Business Associate may only use or disclose Protected Health Information as necessary to perform functions, activities, or services for, or on behalf of, Covered Program as specified in this AGREEMENT.
- B. Business Associate may use Protected Health Information for the proper management and administration of Business Associate.
- C. Business Associate may disclose Protected Health Information as Required By Law.

IV. Term and Termination

- A. This AGREEMENT shall be effective for the term as specified on the cover page of this AGREEMENT, after which time all of the Protected Health Information provided by Covered Program to Business Associate, or created or received by

Business Associate on behalf of Covered Program, shall be destroyed or returned to Covered Program; provided that, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Appendix H of this AGREEMENT.

B. Termination for Cause. Upon Covered Program's knowledge of a material breach by Business Associate, Covered Program may provide an opportunity for Business Associate to cure the breach and end the violation or may terminate this AGREEMENT if Business Associate does not cure the breach and end the violation within the time specified by Covered Program, or Covered Program may immediately terminate this AGREEMENT if Business Associate has breached a material term of this AGREEMENT and cure is not possible.

C. Effect of Termination.

1. Except as provided in paragraph (c)(2) below, upon termination of this AGREEMENT, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Program, or created or received by Business Associate on behalf of Covered Program. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
2. In the event that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Program notification of the conditions that make return or destruction infeasible. Upon mutual agreement of Business Associate and Covered Program that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this AGREEMENT to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

V. Violations

A. Any violation of this AGREEMENT may cause irreparable harm to the STATE. Therefore, the STATE may seek any legal remedy, including an injunction or specific performance for such harm, without bond, security or necessity of demonstrating actual damages.

B. Business Associate shall indemnify and hold the STATE harmless against all claims and costs resulting from acts/omissions of Business Associate in connection with Business Associate's obligations under this AGREEMENT. Business Associate shall be fully liable for the actions of its agents, employees, partners or subcontractors and shall fully indemnify and save harmless the STATE from suits, actions, damages and costs, of every name and description relating to breach notification required by 45 CFR Part 164 Subpart D, or State Technology Law § 208, caused by any intentional act or negligence of Business Associate, its agents, employees, partners or subcontractors, without limitation; provided,

however, that Business Associate shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the STATE.

VI. Miscellaneous

- A. Regulatory References. A reference in this AGREEMENT to a section in the Code of Federal Regulations means the section as in effect or as amended, and for which compliance is required.
- B. Amendment. Business Associate and Covered Program agree to take such action as is necessary to amend this AGREEMENT from time to time as is necessary for Covered Program to comply with the requirements of HIPAA, HITECH and 45 CFR Parts 160 and 164.
- C. Survival. The respective rights and obligations of Business Associate under (IV)(C) of this Appendix H of this AGREEMENT shall survive the termination of this AGREEMENT.
- D. Interpretation. Any ambiguity in this AGREEMENT shall be resolved in favor of a meaning that permits Covered Program to comply with HIPAA, HITECH and 45 CFR Parts 160 and 164.
- E. HIV/AIDS. If HIV/AIDS information is to be disclosed under this AGREEMENT, Business Associate acknowledges that it has been informed of the confidentiality requirements of Public Health Law Article 27-F.

# ONEIDA COUNTY HEALTH DEPARTMENT

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

ANTHONY J. PICENTE, JR.  
ONEIDA COUNTY EXECUTIVE

DANIEL W. GILMORE, PH.D.  
DIRECTOR OF ENVIRONMENTAL HEALTH  
SUPERVISOR-IN-CHARGE

## ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

March 19, 2010

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

Dear Mr. Picente:

**PUBLIC HEALTH**

**WAYS & MEANS**

Re: Healthy Neighborhoods Program  
C-021674

FN 20 10 - 208

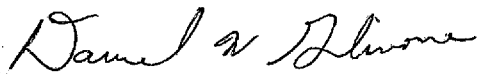
ONEIDA COUNTY BOARD OF LEGISLATORS  
2010 APR 12 AM 11:58

Attached are three (3) copies of an amendment between Oneida County through its Health Department and the New York State Department of Health – Environmental Health.

This amendment is for state fiscal year April 1, 2009 through March 31, 2010 in the amount of \$6,451. Cost of Living Adjustment Funds must be used to promote the recruitment and retention of staff or respond to other critical non-personal service costs during this fiscal year. All expenditures of the funds must occur between April 1, 2009 and March 31, 2010.

If this agreement meets with your approval, please forward to the Board of Legislators. Feel free to contact me should you require further information.

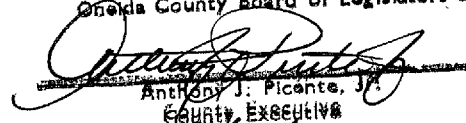
Sincerely,



Daniel W. Gilmore, Ph.D.  
Acting Public Health Director

attachments  
ry

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



Anthony J. Picente, Jr.  
County Executive

Date: 4/7/10

**CONTRACT SUMMARY SHEET - ONEIDA COUNTY HEALTH DEPARTMENT**

**DIVISION:** Environmental Health – Healthy Neighborhoods Program

**NAME AND ADDRESS OF VENDOR:** New York State Department of Health  
Bureau of Community Environmental Health  
Flanigan Square, 547 River Street  
Troy, New York 12180-2216

**VENDOR CONTACT PERSON:** Michael J. Cambridge, Director

**SUMMARY STATEMENTS:** The Healthy Neighborhoods Program has six workplan objectives to provide educational and outreach services associated with environmental, safety and healthy conditions of the at-risk populations of the Cornhill and West Utica area of Utica and Southwest area of Rome; provide asthma educational and outreach services; provide indoor air educational and outreach services; provide residential fire safety educational and outreach services; provide childhood lead poisoning educational and outreach services and provide educational and outreach services on health risk associated with tobacco use.

**FISCAL YEAR:** State fiscal year 2009 through 2010

**TOTAL:** \$6,451 This is a cost of living adjustment only to be used for expenditures associated with the recruitment and retention of staff or other critical non-personal service costs. All expenditures of the funds must occur between April 1, 2009 and March 31, 2010.

\_\_\_\_\_ **NEW**      \_\_\_\_\_ **RENEWAL**        X   **AMENDMENT**

**FUNDING SOURCE:** A4018.3418 Award for Cost of Living Adjustment (COLA)

Less Revenues: \_\_\_\_\_  
State Funds:     \$6,451  
County Dollars – Previous Contract     \$-0-  
County Dollars – This Contract         \$-0-

**SIGNATURE:** Daniel W. Gilmore, Acting Public Health Director

**DATE:** March 19, 2010





# STATE OF NEW YORK DEPARTMENT OF HEALTH

Flanigan Square 547 River Street Troy, New York 12180-2216

Richard F. Daines, M.D.  
Commissioner

James W. Clyne, Jr.  
Executive Deputy Commissioner

March 9, 2010



Daniel W. Gilmore, Ph.D.  
Interim Public Health Director  
Oneida County Health Department  
Adirondack Bank Building, 5<sup>th</sup> Floor  
185 Genesee Street  
Utica, New York 13501

Contractor Name: Oneida County Health Department  
Contract Number: C-021674  
COLA Amount: \$6,451  
Contract Initiative: Healthy Neighborhoods Program

Dear Dr. Gilmore:

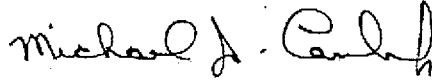
Chapter 57, Laws of 2006 provide for the Commissioner of Health to establish an annual cost of living adjustment (COLA) for programs outlined in the statute. This COLA is based on a Congressional Budget Office calculation for state fiscal year 2009-10, and has been established at 8.53% less a reduction of 6% pursuant to Chapter 496 of the Laws of 2008.

The COLA amount for this contract is noted above. You must certify that these funds have been or will be used for expenditures associated with the recruitment and retention of staff or other critical non-personal service costs. All expenditures of the funds must occur between April 1, 2009 and March 31, 2010.

Payment of the COLA amount associated with this contract will be made separately from authorized contract payments. The COLA amount will not be applied toward nor amend amounts payable under Appendix B of your contract.

Please sign the following certification, complete the enclosed standard voucher and return both to this office in order for payment of the COLA amount to be processed for your organization. **The certification and standard voucher should be returned to this office no later than August 1, 2010.**

Sincerely,



Michael J. Cambridge, Director  
Bureau of Community Environmental Health  
and Food Protection

This is to certify that cost of living funds, as described above and in Part C.1.5 of Chapter 57 of the Laws of 2006, will be used to promote the recruitment and retention of staff or respond to other critical non-personal service costs during the 2009-10 State fiscal year.

Signed: \_\_\_\_\_

Title: Oneida County Executive

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

Attachment - Standard Voucher

Approved as to Form Only  
Assistant County Attorney

By: \_\_\_\_\_  
Brian M. Miga  
Assistant County Attorney

# ONEIDA COUNTY HEALTH DEPARTMENT

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

ANTHONY J. PICENTE, JR.  
ONEIDA COUNTY EXECUTIVE

DANIEL W. GILMORE, Ph.D.  
DIRECTOR OF ENVIRONMENTAL HEALTH  
SUPERVISOR-IN-CHARGE

## ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

FN 20 10 - 209

PUBLIC HEALTH

WAYS & MEANS

2010 APR 12 PM 12:00  
ONEIDA COUNTY LEGISLATURE

March 23, 2010

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

Dear Mr. Picente:

C-021373 Cost of Living Adjustment

Attached are four (4) copies of an amendment between Oneida County through its Health Department and the New York State Department of Health – Community Health Worker Program.

This amendment is for contract year April 1, 2009 through March 31, 2010 in the amount of \$14,565. The cost of living adjustment funds must be used to promote the recruitment and retention of staff or respond to other critical non-personal service costs during this fiscal year.

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

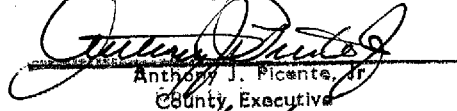
Sincerely,



Daniel W. Gilmore, Ph.D.  
Acting Public Health Director

attachments  
ry

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



Anthony J. Picente, Jr.  
County Executive

Date 4/7/10

**CONTRACT SUMMARY SHEET - ONEIDA COUNTY HEALTH DEPARTMENT**

**DIVISION:** Community Wellness – Beatrice Allison, Director

**NAME AND ADDRESS OF VENDOR:** New York State Department of Health  
Corning Tower  
The Gov. Nelson A. Rockefeller  
Empire State Plaza  
Albany, New York 12237

**VENDOR CONTACT PERSON:** Amy B. Hauptli, Health Program Administrator  
Division of Family Health Fiscal Unit

**SUMMARY STATEMENTS:** The Community Health Worker Program (CHWP) is a free, voluntary program designed to encourage pregnant women and families with young children to use primary health care, to have healthy pregnancies and healthy babies, and for children to be up-to-date on immunizations, lead testing and well child visits. Our focus is to assist underserved and hard to reach families to get the best level of health care, self-sufficiency and optimal family functioning.

**FISCAL YEAR:** State fiscal year 2009 through 2010

**TOTAL:** \$14,565 This is a cost of living adjustment only to be used for expenditures associated with the recruitment and retention of staff or other critical non-personal service costs. Expenditures must occur in this contract year.

       **NEW**                             **RENEWAL**                             **X** **AMENDMENT**

**FUNDING SOURCE:** A43419 Cost of Living Adjustment (COLA)

Less Revenues	_____
State Funds	\$14,565
County Dollars – Previous Grant	\$-0-
County Dollars – This Grant	\$-0-

**SIGNATURE:** Daniel W. Gilmore, Acting Public Health Director

**DATE:** March 23, 2010



# STATE OF NEW YORK DEPARTMENT OF HEALTH

Coming Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.  
Commissioner

James W. Clyne, Jr.  
Executive Deputy Commissioner

March 9, 2010

Contractor Name: Oneida Co. Health Department  
Contract Number: C-021373  
COLA Amount Paid within Contract: \$695  
Balance of COLA: **\$14,565**  
Contract Initiative: Community Health Worker Program

Dear Contractor:

Chapter 57, Laws of 2006 provide for the Commissioner of Health to establish an annual cost of living adjustment (COLA) for programs outlined in the statute. This COLA is based on a Congressional Budget Office calculation for state fiscal year 2009-10, and has been established at 8.53% less a reduction of 6% pursuant to Chapter 496 of the Laws of 2008.

A number of appropriations were reduced as a result of the 2009-10 Deficit Reduction Plan (DRP). Those contracts affected by the DRP retained their original contract value by allowing the application of 2009-10 COLA within the contract. Payment of COLA funds above the contract value is being paid via standard voucher.

The COLA amount for this contract is noted above. You must certify that these funds have been or will be used for expenditures associated with the recruitment and retention of staff or other critical non-personal service costs. All expenditures of the funds must occur between April 1, 2009 and March 31, 2010.

Please sign the following certification, complete the enclosed standard voucher and return both to the payment office designated in the contract in order for payment of the COLA amount be processed for your organization. **The certification and standard voucher should be returned to this office no later than August 1, 2010.**

Sincerely,

Amy B. Hauptli  
Health Program Administrator  
Division of Family Health Fiscal Unit

This is to certify that cost of living funds, as described above and in Part C.1.5 of Chapter 57 of the Laws of 2006, will be used to promote the recruitment and retention of staff or respond to other critical non-personal service costs during the 2009-10 State fiscal year.

Signed: \_\_\_\_\_

Title: Oneida County Executive

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

Attachment - Standard Voucher

Approved as to Form Only  
Assistant County Attorney

By: \_\_\_\_\_  
Brian M. Miga  
Assistant County Attorney



# STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.  
Commissioner

James W. Clyne, Jr.  
Executive Deputy Commissioner

March 9, 2010

Contractor Name: Oneida Co. Health Department  
Contract Number: C-021373  
COLA Amount Paid within Contract: \$695  
Balance of COLA: **\$14,565**  
Contract Initiative: Community Health Worker Program

Dear Contractor:

Chapter 57, Laws of 2006 provide for the Commissioner of Health to establish an annual cost of living adjustment (COLA) for programs outlined in the statute. This COLA is based on a Congressional Budget Office calculation for state fiscal year 2009-10, and has been established at 8.53% less a reduction of 6% pursuant to Chapter 496 of the Laws of 2008.

A number of appropriations were reduced as a result of the 2009-10 Deficit Reduction Plan (DRP). Those contracts affected by the DRP retained their original contract value by allowing the application of 2009-10 COLA within the contract. Payment of COLA funds above the contract value is being paid via standard voucher.

The COLA amount for this contract is noted above. You must certify that these funds have been or will be used for expenditures associated with the recruitment and retention of staff or other critical non-personal service costs. All expenditures of the funds must occur between April 1, 2009 and March 31, 2010.

Please sign the following certification, complete the enclosed standard voucher and return both to the payment office designated in the contract in order for payment of the COLA amount be processed for your organization. **The certification and standard voucher should be returned to this office no later than August 1, 2010.**

Sincerely,

Amy B. Hauptli  
Health Program Administrator  
Division of Family Health Fiscal Unit

This is to certify that cost of living funds, as described above and in Part C.1.5 of Chapter 57 of the Laws of 2006, will be used to promote the recruitment and retention of staff or respond to other critical non-personal service costs during the 2009-10 State fiscal year.

Signed: \_\_\_\_\_

Title: Oneida County Executive

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

Approved as to Form Only  
Assistant County Attorney

By: \_\_\_\_\_  
Brian M. Miga  
Assistant County Attorney

# ONEIDA COUNTY HEALTH DEPARTMENT

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

ANTHONY J. PICENTE, JR.  
ONEIDA COUNTY EXECUTIVE

DANIEL W. GILMORE, PH.D.  
DIRECTOR OF ENVIRONMENTAL HEALTH  
SUPERVISOR-IN-CHARGE

## ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

FN 20 10 - 210

March 19, 2010

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

**PUBLIC HEALTH**

**WAYS & MEANS**

2010 APR 12 PM 12:01  
RECEIVED  
ONEIDA COUNTY LEGISLATURE

Dear Mr. Picente:

Re: C-025043

Attached are three (3) copies of an amendment between Oneida County through its Health Department and the New York State Department of Health – Tobacco Enforcement Program.

This amendment is for state fiscal year 2009 through 2010 in the amount of \$5,720. Cost of Living Adjustment Funds must be used to promote the recruitment and retention of staff or respond to other critical non-personal service costs during this fiscal year. All expenditures of funds must occur between April 1, 2009 and March 31, 2010.

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

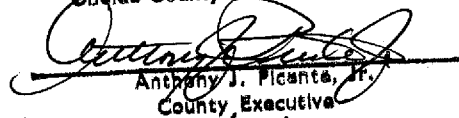
Sincerely,



Daniel W. Gilmore, Ph.D.  
Acting Public Health Director

attachments  
ry

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



Anthony J. Picente, Jr.  
County Executive

Date 4/2/10

**CONTRACT SUMMARY SHEET - ONEIDA COUNTY HEALTH DEPARTMENT**

**DIVISION:** Environmental Health – Adolescent Tobacco Enforcement Program

**NAME AND ADDRESS OF VENDOR:** New York State Department of Health  
Bureau of Community Environmental Health  
Flanigan Square, 547 River Street  
Troy, New York 12180-2216

**VENDOR CONTACT PERSON:** Michael J. Cambridge, Director

**SUMMARY STATEMENTS:** This grant provides for compliance checks with underage youth (15, 16, or 17 years old) for all facilities where tobacco is sold. Complete at least one compliance check during the contract year; a minimum of two re-inspection checks within the contract year; report tobacco dealers and vendors without a valid registration to the Bureau of Community Environmental Health and Food Protection within five business days of inspection; issue formal enforcement against the operator by confirmed delivery of a written Notice of Violation within seven business days; coordinate program education for new tobacco vendors and those who fail compliance checks.

**FISCAL YEAR:** State fiscal year 2009 through 2010

**TOTAL:** \$5,720 This is a cost of living adjustment only to be used for expenditures associated with the recruitment and retention of staff or other critical non-personal service costs. Expenditures of funds must occur between April 1, 2009 and March 31, 2010.

       **NEW**                             **RENEWAL**                        X   **AMENDMENT**

**FUNDING SOURCE:** A3401.05 Grant Award for Cost of Living Adjustment (COLA)

Less Revenues: \_\_\_\_\_

State Funds:     \$5,720

County Dollars – Previous Contract     \$-0-

County Dollars – This Contract         \$-0-

**SIGNATURE:** Daniel W. Gilmore, Acting Public Health Director

**DATE:** March 19, 2010





STATE OF NEW YORK  
DEPARTMENT OF HEALTH

Flanigan Square 547 River Street Troy, New York 12180-2216

Richard F. Daines, M.D.  
Commissioner

James W. Clyne, Jr.  
Executive Deputy Commissioner

March 12, 2010



Daniel Gilmore, Ph.D.  
Interim Public Health Director  
Oneida County Department of Health  
800 Park Avenue  
Utica, NY 13501

Contractor Name: Oneida County Health Department  
Contract Number: C-025043  
COLA Amount: \$5,720  
Contract Initiative: Tobacco Enforcement Program

Dear Dr. Gilmore:

Chapter 57, Laws of 2006 provide for the Commissioner of Health to establish an annual cost of living adjustment (COLA) for programs outlined in the statute. This COLA is based on a Congressional Budget Office calculation for state fiscal year 2009-10, and has been established at 8.53% less a reduction of 6% pursuant to Chapter 496 of the Laws of 2008.

The COLA amount for this contract is noted above. You must certify that these funds have been or will be used for expenditures associated with the recruitment and retention of staff or other critical non-personal service costs. All expenditures of the funds must occur between April 1, 2009 and March 31, 2010.

Payment of the COLA amount associated with this contract will be made separately from authorized contract payments. The COLA amount will not be applied toward nor amend amounts payable under Appendix B of your contract.

Please sign the following certification, complete the enclosed standard voucher and return both to this office in order for payment of the COLA amount to be processed for your organization. **The certification and standard voucher should be returned to this office no later than August 1, 2010.**

Sincerely,



Michael J. Cambridge, Director  
Bureau of Community Environmental Health  
and Food Protection

This is to certify that cost of living funds, as described above and in Part C.1.5 of Chapter 57 of the Laws of 2006, will be used to promote the recruitment and retention of staff or respond to other critical non-personal service costs during the 2009-10 State fiscal year.

Signed: \_\_\_\_\_

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

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

Attachment - Standard Voucher

Approved as to Form Only  
Assistant County Attorney

By: \_\_\_\_\_  
Brian M. Miga  
Assistant County Attorney