



# ONEIDA COUNTY BOARD OF LEGISLATORS

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

## COMMUNICATIONS WITH DOCUMENTATION

January 8, 2020

Gerald J. Fiorini  
Chairman  
(315) 798-5900

Mikale Billard  
Clerk  
(315) 798-5404

George Joseph  
Majority Leader

Philip M. Sacco  
Minority Leader

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

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# ONEIDA COUNTY BOARD OF LEGISLATORS

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

FN 20 20 - 005

**READ & FILED**

We, the undersigned, being members of the Oneida County Board of Legislators 2020-2021 Term of Office, and being members of the Republican Party, hereby designate George Joseph as Majority Leader pursuant to Rule No. 3 of the Rules of the Board of Legislators of the County of Oneida, to serve for a term commencing January 1, 2020 and terminating on December 31, 2021.

Gerald J. Fiorini  
Chairman  
(315) 798-5900

Mikale Billard  
Clerk  
(315) 798-5404

George Joseph  
Majority Leader

Philip M. Sacco  
Minority Leader

*James Joseph*  
*Mark Joseph*  
*Mark Joseph*

*Steve Bough*  
*Eric...*  
*Debbie...*  
*Mark...*

*R. Joseph*  
*John...*  
*CEK...*

*Cynthia...*  
*Brenda...*

*John...*  
*John...*

Dated: 12/11/2019



# ONEIDA COUNTY BOARD OF LEGISLATORS

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

FN 20 20-006  
**READ & FILED**

Gerald J. Fiorini  
Chairman  
(315) 798-5900

Mikale Billard  
Clerk  
(315) 798-5404

George Joseph  
Majority Leader

Philip M. Sacco  
Minority Leader

We, the undersigned, being members of the Oneida County Board of Legislators 2020-2021 Term of Office, and being members of the Democratic Party, hereby designate Philip M. Sacco as Minority Leader pursuant to Rule No. 3 of the Rules of the Board of Legislators of the County of Oneida, to serve for a term commencing January 1, 2020 and terminating on December 31, 2021.

*Evon M. Lewis*  
*John Washburn*  
*Philip M. Sacco*

*John C. Lewis*  
*Chad Deane*  
*George Am. Corbett*

Dated: 12-18-19



**Memorializing petition by the**

**Oneida County**

**Board of Legislators**

FN 20 20 - 029

**READ & FILED**

FN 2019

**A MEMORIALIZING PETITION to Increase State Support for Cornell Cooperative Extension County Associations in the State of New York.**

**SPONSORS: Messers. Joseph, Mandryck, Paparella, Welsh and Schiebel, and Mme. Convertino.**

---

**WHEREAS**, Cornell Cooperative Extension is a formal collaboration between the National Institute of Food and Agriculture at USDA, New York State, County Governments and the Citizens of the State that has served to apply unbiased, research-based knowledge from Cornell, New York's Land Grant University, to the needs of New Yorkers and their communities for over 100 years; and

**WHEREAS**, local extension educators are key community partners in helping to implement state initiatives including maximizing agriculture and local food systems, strengthening the economy, promoting healthier eating habits and access to good nutrition, fighting poverty particularly in rural areas, protecting water quality and stewardship of New York's natural resources, building opportunity through STEM based youth education and leadership skills in 4-H, promoting renewable energy options while protecting farmland resources, and partnering where appropriate in Taste NY initiatives to promote tourism and local food and farm businesses; and

**WHEREAS**, support from Federal, State and County sources is essential to the continued success of locally-governed county cooperative extension associations; and

**WHEREAS**, state appropriations for county cooperative extension associations to match county government appropriations as authorized by Section 224 (8) of the County Law have remained stagnant for twenty years; and

**WHEREAS**, state funding is needed to ensure that the Cornell Cooperative Extension system can equitably work for all New York residents through increased resources to support rural, suburban, and urban community development needs.

**THEREFORE, BE IT RESOLVED**, that the Oneida County Board of Legislators supports increasing the State appropriation for Cornell Cooperative Extension associations to \$8 million, such funds to be distributed directly to the associations through Cornell University as agent for the state as provided by law; and

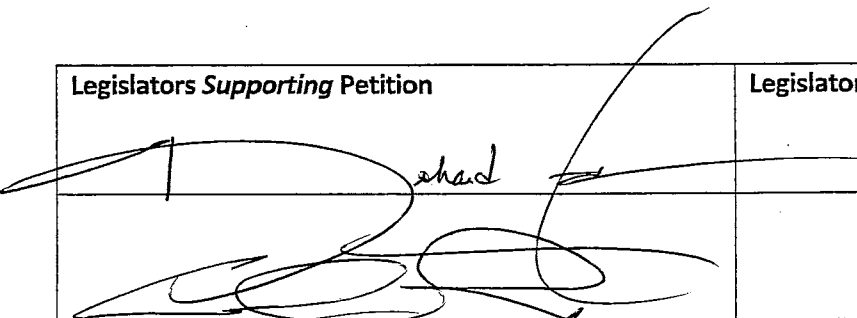
**BE IT FURTHER RESOLVED**, that the Clerk of the Legislature is hereby directed to forward copies of this petition to Governor Andrew M. Cuomo, state Senators Joseph A. Griffo and Rachel May, Assembly members Marianne Buttenschon, Brian D. Miller, Kenneth Blankenbush, Robert Smullen and John Salka, and all others deemed necessary and proper.

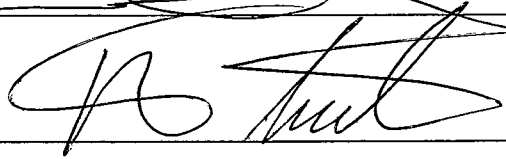
Dec. 18, 2019

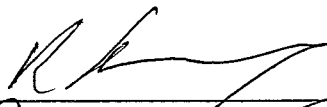
Date

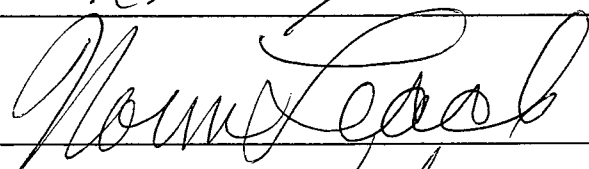
Legislators Supporting Petition

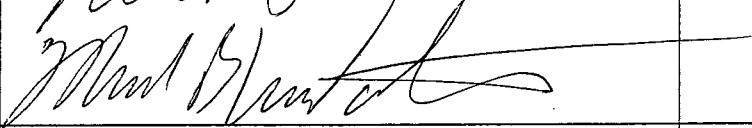
Legislators Opposing Petition

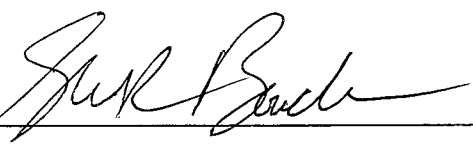
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 A handwritten signature in the third row of the "Supporting" column.


 A handwritten signature in the fourth row of the "Supporting" column.

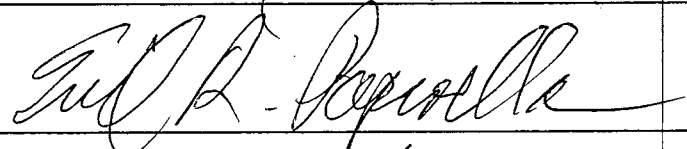
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 A handwritten signature in the sixth row of the "Supporting" column.

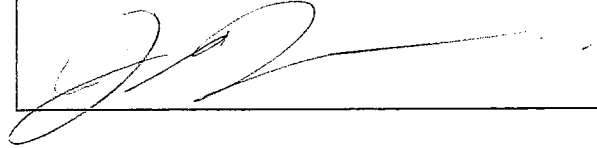
Edward P. Welz

 A handwritten signature in the eighth row of the "Supporting" column.

 A handwritten signature in the ninth row of the "Supporting" column.

 A handwritten signature in the tenth row of the "Supporting" column.

 A handwritten signature in the eleventh row of the "Supporting" column.

 A handwritten signature in the twelfth row of the "Supporting" column.

Legislators Supporting Petition	Legislators Opposing Petition
<i>Leis Washburn</i>	
<i>Richard Cavertina</i>	
<i>William Graham</i>	
<i>Joseph J. J. J.</i>	
<i>Paul K.</i>	
<i>Philip M. Sacco</i>	
<i>Clad D.</i>	

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 23 members of the Oneida County Board of Legislators.



**Memorializing petition by the**

**Oneida County** FN 20 20030

**Board of Legislators**

FN-2019

**READ & FILED**

**A MEMORIALIZING PETITION urging the Governor and Legislature to renew their commitment to fully fund the state share of community college costs and to fully fund the costs of Fashion Institute of Technology chargebacks for students working toward bachelor's and master's degrees.**

**SPONSORS: Messrs. Flisnik, Mandryck, Paparella, Welsh and Schiebel and Mme. Convertino.**

---

**WHEREAS**, under state law, funding for community colleges is to be provided through state aid, a county sponsor contribution and student tuition and fees; and

**WHEREAS**, the establishment and continued operation of a statewide community college system was based on a commitment to ongoing State aid funding of at least one-third of community college operating costs; and

**WHEREAS**, the State funding has declined over the years below the historic one-third commitment; and

**WHEREAS**, Section 6305 of the State education law requires the state to reimburse counties for Fashion Institute of Technology chargebacks, but the state has not provided the necessary appropriations to comply with this state law requirement; and

**WHEREAS**, FIT is the only community college in New York State authorized to offer upper-division courses leading to baccalaureate and graduate degrees.

**WHEREAS**, counties are currently being charged back by unfunded state mandate for students attending FIT for bachelor's and master's degrees, which was not the intent of the community college chargeback funding requirement; and

**WHEREAS**, the FIT chargeback rate is substantially higher than for traditional community colleges across the state; and

**WHEREAS**, .from 2017 to 2019 Oneida County sent an average of 13 students to FIT at a cost of \$558,035 to the local taxpayer; and

**WHEREAS**, the FIT chargeback comes with an exuberant price tag for Oneida County that is fiscally irresponsible and it is long past time that FIT be treated like any other SUNY school that offers bachelor and graduate degrees; and

**WHEREAS**, in 1994, state legislation was passed to reimburse the counties for chargebacks paid to FIT as long as the state Legislature made such funds available. But the state stopped paying the counties in the early 2000s. Since then, county taxpayers have been on the hook.

**NOW, THEREFORE, BE IT RESOLVED**, the Oneida County Board of Legislators calls on the Governor and State Legislature to make continued state investment in community college operating costs a priority; and

**BE IT FURTHER RESOLVED**, the state should restore the full funding of FIT chargebacks to counties related to all educational instruction provided after two years (coursework necessary for a 4-year, and/or master's degree); and

**BE IT FURTHER RESOLVED**, that the Clerk of the Legislature is hereby directed to forward copies of this petition to Governor Andrew M. Cuomo, state Senators Joseph A. Griffo and Rachel May, Assembly members Marianne Buttenschon, Brian D. Miller, Kenneth Blankenbush, Robert Smullen and John Salka, and all others deemed necessary and proper.

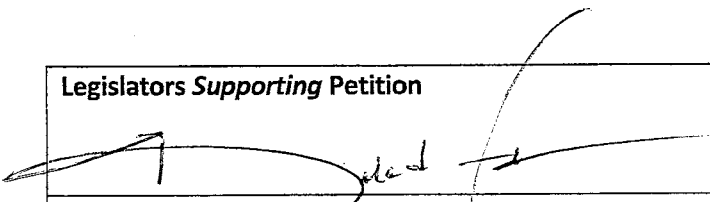
Dec. 18, 2019

Date

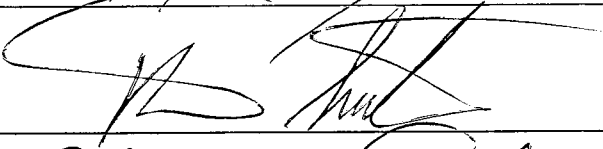


Legislators Supporting Petition

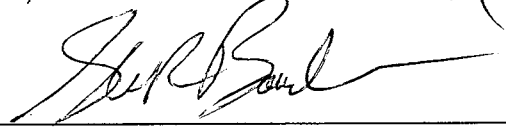
Legislators Opposing Petition

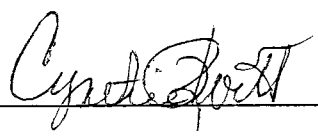




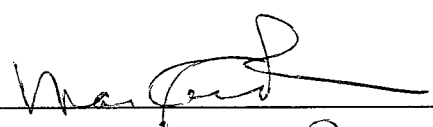


Norm Leahy

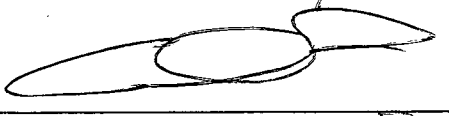
Jim B...  



Cynthia...  


Edward P. Welsch

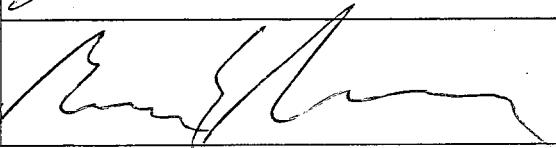



Paul R. Pasarella



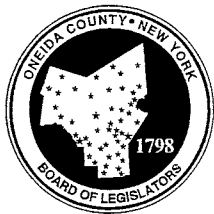


Jim Blawie



Legislators Supporting Petition	Legislators Opposing Petition
	
Lois Washburn	
Joseph Feunyal	
Philip M. Sacco	
Clad Davis	
William Goodman	
Robert Conventino	
J.P. Chy	

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 23 members of the Oneida County Board of Legislators.



# ONEIDA COUNTY BOARD OF LEGISLATORS

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

Gerald J. Fiorini  
Chairman  
(315) 798-5900

Mikale Billard  
Clerk  
(315) 798-5404

George Joseph  
Majority Leader

Philip M. Sacco  
Minority Leader

FN 20 20-031  
**READ & FILED**

We, the undersigned, being members of the Oneida County Board of Legislators 2020-2021 Term of Office, and being members of the Republican Party, hereby designate **Daniel R. Guzewich** as Majority Legislative Analyst pursuant to Rule No. 2 of the Rules of the Board of Legislators of the County of Oneida, to serve for a term commencing January 1, 2020 and terminating on December 31, 2021.

*[Handwritten signatures: James P. ...]*  
*[Handwritten signature: ...]*  
*[Handwritten signature: ...]*  
*[Handwritten signature: R. King]*  
*[Handwritten signature: ...]*  
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*[Handwritten signature: ...]*  
*[Handwritten signature: ...]*

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



# ONEIDA COUNTY BOARD OF LEGISLATORS

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

FN 20 20 032

Gerald J. Fiorini  
Chairman  
(315) 798-5900

Mikale Billard  
Clerk  
(315) 798-5404

George Joseph  
Majority Leader

Philip M. Sacco  
Minority Leader

We, the undersigned, being members of the Oneida County Board of Legislators 2020-2021 Term of Office, and being members of the Democratic Party, hereby designate KELLY HEFFERNAN as Minority Legislative Analyst pursuant to Rule No. 2 of the Rules of the Board of Legislators of the County of Oneida, to serve for the remainder of a term that commenced January 1, 2020 and terminating on December 31, 2021.

**READ & FILED**

*Don M. Ewing*  
*Seni Washburn*  
*Philip M. Sacco*  
*Dog C. Lewis*  
*Chad Dewit*

Dated: 12-18-19

**ONEIDA COUNTY  
OFFICE OF THE DISTRICT ATTORNEY**

**Scott D. McNamara  
District Attorney**

Michael A. Coluzza  
First Assistant

Dawn Catera Lupi  
First Assistant

Laurie Lisi  
Matthew P. Worth  
Joseph A. Saba  
Grant J. Garramone  
Steven G. Cox  
Stacey L. Scotti  
Todd C. Carville  
Michael R. Nolan  
Joshua L. Bauer  
Steven P. Feiner

Sarah F. DeMellier  
Luke C. Davignon  
William J. Barry III  
Stephanie N. Singe  
Paul S. Kelly  
Travis J. Yoxall  
Maria Murad Blais  
Rebecca G. Kelleher  
Kimberly R. Sudakow

December 4, 2019

FN 20 20-033

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

**PUBLIC SAFETY**

**WAYS & MEANS**

Dear Mr. Picente:

The New York State Division of Criminal Justice Services has awarded a Crimes Against Revenue grant to our office in the amount of \$160,878 for 2020. The grant period is to begin on January 1, 2020 and end on December 31, 2020.

By this letter, I am hereby requesting that Crimes Against Revenue grant dollars be used to change one of our part-time investigator positions (position #1165-805) to a full-time investigator position. The salary for this position will increase from approximately \$23,187 per year to \$48,496 (grade 32, step 2), resulting in an expense increase of approximately \$25,309. The fringe benefits will also increase, from approximately \$2,481 per year to \$27,259. This change will be 100% covered by the CARP grant. No county funds are required.

I am hereby requesting your review and approval, as well as that of the Board of Legislators, for the following 2020 appropriation:

To:

A1165.101	
Salaries.....	\$48,496
A1165.810	
Retirement.....	\$8,070
A1165.830	
Social Security.....	\$3,710
A1165.840	
Workers Compensation.....	\$1,358
A1165.850	
Unemployment Insurance.....	\$121

The Honorable Anthony J. Picente  
December 4, 2019  
Page Two

A1165.860  
Health Insurance.....\$14,000  
  
Total: \$75,755

This appropriation will be supported by revenue in:

A3047 Crimes Against Revenue Program Grant..... \$75,755

At your earliest convenience, please forward this information to the Oneida County Board of Legislators for their review and approval. Should you have any questions or concerns, please notify me.

Thank you for your time and assistance in this matter.

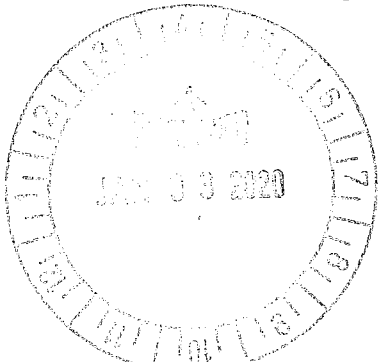
Sincerely,



Scott D. McNamara  
Oneida County District Attorney

SDM/kn  
Enc.

- cc: Hon. Gerald J. Fiorini, Chairman of the Board of Legislators  
Hon. George E. Joseph, Majority Leader  
Hon. Philip M. Sacco, Minority Leader  
Hon. James D'Onofrio, Chairman, Ways and Means Committee  
Hon. Richard A. Flisnik, Chairman, Public Safety  
Thomas Keeler, Budget Director



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



Anthony J. Picente, Jr.  
County Executive

Date 1/3/20



ONEIDA COUNTY  
OFFICE OF THE COUNTY EXECUTIVE

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

January 2, 2019

Hon. Gerald J. Fiorini  
Chairman of the Oneida County Board of Legislators  
Oneida County Office Building  
800 Park Avenue, 10th Floor  
Utica, New York 13501

FN 20 20-034

GOVERNMENT OPERATIONS

WAYS & MEANS

**Re: Transfers of Surplus Vehicles to Local Municipalities**

Dear Chairman Fiorini:

As you are aware, the County recently embarked on a new method of vehicle procurement, providing for the rapid replacement of our aging vehicle fleet. This unique situation provides us with the opportunity to further our objectives of shared services and consolidation, thereby saving the taxpayers money and improving government efficiency.

The Purchasing Department currently has thirty-four (34) vehicles in its surplus inventory that were formerly utilized by the Oneida County Sheriff's Office, District Attorney's Office and Probation Department. In October of 2019, our local municipalities and school districts were offered an opportunity to express their interest in these vehicles, some of whom have responded to our inquiry.

At this time, I request that these vehicles be excepted from the surplus property provisions of the Procurement Policy and the enclosed agreement with the Village of New Hartford regarding a 2016 Ford Taurus, be considered as a template for the following local municipalities and vehicles:

1. Town of Florence: 2013 Ford Explorer
2. Village of Yorkville: 2011 Ford Taurus
3. Village of Yorkville: 2011 Chevr. Tahoe
4. Town of Vernon: 2012 Chevr. Tahoe
5. Town of Whitestown: 2016 Ford Explorer

This agreement provides for a one-time transfer of the vehicle, in 'as is' condition. The vehicle must be used solely for public purposes by the local municipality and any other use is strictly forbidden. Any further disposition of the vehicle by the local municipality within two (2) years is subject to County approval.

Respectfully submitted,

  
Anthony J. Picente, Jr.  
Oneida County Executive

Enclosure





## AGREEMENT

**THIS AGREEMENT** (hereinafter the "Agreement"), by and between the County of Oneida, a municipal corporation organized and existing pursuant to the laws of the State of New York, with its principal office located at 800 Park Avenue, Utica, New York (hereinafter the "County"), and the Village of New Hartford, a municipal corporation organized and existing pursuant to the laws of the State of New York, with its principal office located at 48 Genesee Street, New Hartford, New York (hereinafter the "Municipality").

**WHEREAS**, the County previously purchased vehicles for municipal use, but recently entered into a lease agreement with a third party, resulting in a reduction of expenses of the County, and

**WHEREAS**, as a result of this cost-saving measure, the County now has a significant surplus of vehicles, in a limited niche market wherein supply exceeds demand, and

**WHEREAS**, shared services and consolidation is a priority for the County, and

**WHEREAS**, the repurposed use of these vehicles will result in additional savings for taxpayers in the County by reducing the need of the County's local municipalities to procure vehicles, and

**WHEREAS**, the opportunity to repurpose vehicles has been extended to public corporations located within Oneida County.

**NOW, THEREFORE**, in consideration of the covenants and agreements hereafter set forth, and other valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the parties hereto agree, as follows:

1. The County shall transfer to the Municipality one (1) 2016 Ford Taurus (hereinafter the "Vehicle"), by executing the title document and providing a Bill of Sale. The Municipality expressly acknowledges that the Vehicle is not currently insured, and that it is solely responsible for arranging for the insurance, registration and the inspection of the Vehicle. The Municipality is further solely responsible for the removal and transportation of the Vehicle off County property within fifteen (15) days of this Agreement being executed by the County.

2. The Municipality represents, warrants and covenants, that it is a public corporation and the Vehicle shall be used exclusively for public purposes, as defined by New York State law. Any non-public purpose use by the Municipality is strictly forbidden.

3. The Vehicle shall be transferred in 'as is' condition and 'with all faults', and without warranty, express or implied, including any warranty of fitness for a particular purpose, and/or any manufacturer or third party warranty. From the date the title document and Bill of Sale is transferred to the Municipality, which shall also be the date of when possession is

transferred, the Municipality shall assume and bear the risk of loss. Any and all costs relating to the transfer of the Vehicle shall be borne by the Municipality.

4. Any disposition, or further transfer of ownership or possession of the Vehicle within a two (2) year period, from the date this Agreement is executed by the Municipality, shall be subject to approval by the County.

5. The Municipality shall defend, indemnify and hold harmless, the County and its officers, agents and employees, from any and all liabilities, claims, fines, penalties, losses, damages, demands, costs, causes of action, judgments and/or expenses including, without limitation, reasonable attorney's fees, of any kind or character, that may arise as a result of this Agreement.

6. This Agreement shall be governed by and construed in accordance with, the laws of the State of New York.

7. This Agreement shall not be assigned or sublet by the Municipality without the written consent of the County.

8. The representations, warranties and covenants, contained herein or in any document, instrument, certificate or schedule furnished in connection herewith, shall survive the delivery of the title document and the Bill of Sale, and shall continue in full force and effect after the transfer, except to the extent waived in writing.

9. This Agreement may not be altered, amended, changed, modified, waived or terminated in any respect or particular, unless the same shall be in writing signed by the party to be bound. No waiver by the County of any breach hereunder shall be deemed a waiver of any other or subsequent breach.

10. This Agreement may be executed, in several counterparts, including fax, scan or facsimile transmission, all of which taken together shall constitute one single agreement between the parties hereto.

[SIGNATURE PAGE TO FOLLOW]

**IN WITNESS WHEREOF**, the parties herein have hereunto set their hands and seals the day and year set forth below.

**COUNTY OF ONEIDA**

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

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

**VILLAGE OF NEW HARTFORD**

By: \_\_\_\_\_  
Donald Ryan  
Village Mayor

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

Approved

By: \_\_\_\_\_  
Sarah C. Hughes  
Assistant County Attorney



**ONEIDA COUNTY BOARD OF ELECTIONS**

Union Station ♦ 321 Main St. ♦ 3<sup>rd</sup> Floor  
Utica, New York 13501  
Fax: (315) 798-6412

Anthony J. Picente Jr.  
County Executive

Carolann N. Cardone  
Democratic Commissioner  
(315) 798-5762

Rose M. Grimaldi  
Republican Commissioner  
(315) 798-5763

December 19, 2019

FN 20 20-035

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

GOVERNMENT OPERATIONS

WAYS & MEANS

Dear County Executive Picente:

Attached is an extension agreement with Fort Orange Press, Inc. This is the fifth and final extension of the original 2015 agreement for the printing of ballots and related materials for use in elections across the County. Fort Orange Press, Inc. has consistently provided excellent results for our office, and the terms of this extension provide for them to charge us at 2015 rates, which represents a significant savings for the County. It is anticipated that this agreement will cost approximately one hundred and fifty thousand dollars (\$150,000.00) during the term of this extension, May 18, 2020 through May 17, 2021.

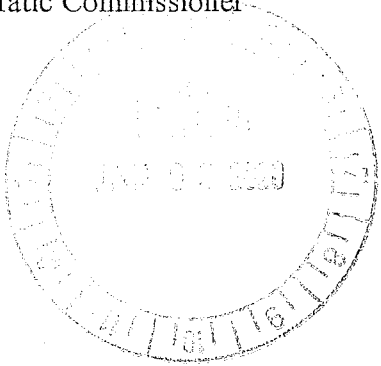
Should you have any questions or concerns, please do not hesitate to contact either of us. If there are no objections, I would ask for your approval by way of endorsement and forwarding this extension to the Board of Legislators for consideration at their next scheduled meeting.

Thank you for your attention to this matter.

Sincerely,

Carolann N. Cardone  
Democratic Commissioner

Rose Marie Grimaldi  
Republican Commissioner



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

Anthony J. Picente, Jr.  
County Executive

Date 1/2/20

Oneida Co. Department: Board of Elections

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

**ONEIDA COUNTY BOARD OF LEGISLATORS**

Name & Address of Vendor: Fort Orange Press, Inc.  
11 Sand Creek Road  
Albany, New York 12205

Title of Activity or Service: Fifth contract extension for printing of election materials

Proposed Dates of Operation: May 18, 2020 through May 17, 2021

Client Population/Number to be served: Oneida County Voters

**Summary Statements**

- 1) Narrative Description of Proposed Services:** Fifth extension of original agreement between the Oneida County Board of Elections and the vendor for the printing of ballots and other election materials for elections in the County.
- 2) Program/Service Objectives and Outcomes:** N/A
- 3) Program Design and Staffing:** N/A

**Total Funding Requested:** \$150,000.00

**Account #A1450.4981**

**Oneida County Dept. Funding Recommendation:** \$150,000.00

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

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

**Past Performance Data:** N/A

**O.C. Department Staff Comment:** This is the fifth contract extension under the terms of the original agreement. There is no increase in rates during this extension; we continue to be billed at 2015 rates.

## EXTENSION OF AGREEMENT

**THIS EXTENSION OF AGREEMENT** (the “Agreement”), by and between the County of Oneida, a municipal corporation organized and existing under the laws of the State of New York, having its office and principal place of business located at 800 Park Avenue, Utica, New York, through its Board of Elections, (hereinafter referred to collectively as the “County”), and Fort Orange Press, Inc., a domestic business corporation organized and existing under the laws of the State of New York, having its principal office located at 11 Sand Creek Road, Albany, New York, (hereinafter referred to as the “Company”).

### WITNESSETH

**WHEREAS**, the parties herein entered into an agreement dated the 18<sup>th</sup> day of May, 2015 (hereinafter referred to as the “Original Agreement”), wherein the Company would provide to the County ballots and other printed materials required for the operation of the optical scan voting systems utilized by the County in its elections, a copy of which is attached hereto as Exhibit “A”; and

**WHEREAS**, the term of the Original Agreement began on May 18, 2015, and terminated on May 17, 2016, and included a provision authorizing a total of five (5) one (1) year extensions thereafter; and

**WHEREAS**, pursuant to the terms of the Original Agreement, the parties entered into four (4) extensions of the Original Agreement, one beginning on May 18, 2016 and terminating on May 17, 2017, a second one beginning on May 18 2017 with a termination date of May 17, 2018, a third beginning on May 18, 2018 with a termination date of May 17, 2019, and a fourth beginning on May 18, 2019 with a termination date of May 17, 2020; and

**WHEREAS**, the parties desire to memorialize, in writing, their mutual agreement to extend the terms and conditions of the Original Agreement for one (1) additional year;

**NOW THEREFORE**, in consideration of the mutual promises made herein, the parties hereby agree as follows:

- A. The Original Agreement between the parties shall be extended for one (1) additional year commencing on May 18, 2020 and terminating on May 17, 2021, unless sooner terminated by the parties pursuant to the provision of Article III of the Original Agreement.
- B. This, the fifth extension of the Original Agreement, shall be under the same terms and conditions as the Original Agreement, with charges by the Company to the County made pursuant to the amounts listed in the chart contained in Article II of the Original Agreement.
- C. All other terms and condition of the Original Agreement between the parties shall continue in full force and effect, and are hereby expressly incorporated herein.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first written below.

County of Oneida

Fort Orange Press, Inc.

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

By: \_\_\_\_\_  
Robert F. Witko  
Chief Executive Officer

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

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

Approved:

By: \_\_\_\_\_  
Robert E. Pronteau  
Assistant County Attorney

STATE OF NEW YORK)

SS:

COUNTY OF ONEIDA )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_, before me, the undersigned, a Notary Public in and for the State, personally appeared ANTHONY J. PICENTE, JR., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public  
Qualified in Oneida County  
My Comm. Expires: \_\_\_\_\_

STATE OF NEW YORK )

SS:

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_, before me, the undersigned, a Notary Public in and for the State, personally appeared ROBERT F. WITKO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public  
Qualified in \_\_\_\_\_ County  
My Comm. Expires: \_\_\_\_\_

**AGREEMENT BETWEEN**  
**THE COUNTY OF ONEIDA**  
**AND**  
**FORT ORANGE PRESS, INC.**

This AGREEMENT, by and between the County of Oneida, a municipal corporation with the principal office located at Union Station, 321 Main Street, Utica, New York, 13501 (hereinafter called the "COUNTY") and Fort Orange Press, Inc., 11 Sand Creek Road, Albany, NY, 12205 (hereinafter called the "CONTRACTOR")

**WITNESSETH:**

**WHEREAS**, the COUNTY, on behalf of the Oneida County Board of Elections, wishes to enter into agreement with the CONTRACTOR, a Certified Dominion Voting System Print Partner, for the purchase of optical scan ballot printing and related services that are included with ballot production, and the CONTRACTOR is willing and able to enter such agreement.

**NOW, THEREFORE**, for good and valuable consideration and in consideration of the term and conditions of this AGREEMENT, the parties hereto do mutually covenant and agree as follows:

**ARTICLE I. SCOPE OF SERVICE TO BE PERFORMED**

The CONTRACTOR shall provide to the COUNTY the required printed materials and all related services, specifically the optical scan ballots used by the Dominion Voting System - Image Cast scanner. All materials provided by the CONTRACTOR shall be in strict accordance with the requirements of the New York State Election Law, New York State Board of Elections Regulations - 6210 and Dominion Voting System - Image Cast scanner requirements. All materials shall be delivered to the Oneida County Board of Elections, Union Station, 321 Main Street, Utica, New York, 13501, (or as directed) in a timely manner so as to insure compliance with mandatory statutory deadlines.

**ARTICLE II. FEES**

The COUNTY agrees to pay, and the CONTRACTOR agrees to accept payment as full compensation for services rendered, fees as hereinafter set forth.



Item	Pricing
Official Election Day Ballots - 14", 17" (per election/per party)	\$0.48 ea.
Official Election Day Ballots - 22" (per election/per party)	\$0.54 ea.
Standard Test Ballots - 14", 17", 22"	\$0.45 ea.
Pre-marked Test Ballots - 14", 17"	\$1.25 ea.
Pre-marked Test Ballots - 22"	\$1.40 ea.
BMD Ballots - 14", 17", 22"	\$.22 ea.
Sample Ballot Posters - 2 Per Poll Site	No Charge
Statement of Canvass - 1 Per Election District	No Charge
Affidavit Envelopes - 5,000	No Charge
Political Party Stickers for Affidavit Envelopes	No Charge
Political Party Stickers for Registration Forms	No Charge

Payment shall be made, subsequent to the election, upon the CONTRACTOR'S submission of an invoice matching the ballot amounts ordered by the COUNTY via COUNTY purchase order. In no event shall compensation be paid by the COUNTY to the CONTRACTOR in an amount which exceeds the fees set forth above.

Upon acceptance of the CONTRACTOR'S invoice for services rendered, and upon full execution of this AGREEMENT, the invoice shall be forwarded to the COUNTY Comptroller, and payment shall be rendered in a timely manner.

### **ARTICLE III. TERM OF AGREEMENT**

Upon receipt of purchase order from the COUNTY, services provided under this AGREEMENT shall commence in a timely manner so as to meet statutory deadlines of the New York State Election Law. The terms of this AGREEMENT shall remain in full force and effect until the completion of services to be provided under this AGREEMENT.

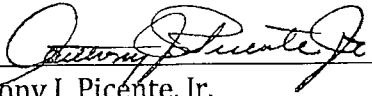
Services and work are for one (1) year with services commencing upon complete execution of this AGREEMENT and shall terminate one (1) year thereafter. The COUNTY shall have the option to extend this AGREEMENT for up to five (5) additional one (1) year terms from the termination date on the same terms and conditions upon 60 days written notice to the CONTRACTOR.

The COUNTY, at any time upon ten (10) days written notice, may terminate this AGREEMENT for convenience and shall pay CONTRACTOR on a prorated basis, for the services actually performed through the date of termination. Once said amount has been paid, the COUNTY shall have no further obligations to the CONTRACTOR.

IN WITNESS WHEREOF, this AGREEMENT has been executed by the duly authorized officers of the respective parties.

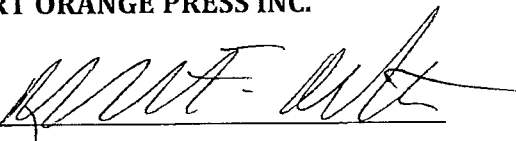
Approved as to Form:

**COUNTY OF ONEIDA**

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

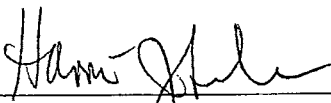
Date: 5/18/15

**FORT ORANGE PRESS INC.**

By:   
Robert F. Witko  
President/CEO

Date: 4/1/15

Approved as to Form

  
Assistant County Attorney



Oneida County

Department of Information Technology

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

ANTHONY J. PICENTE, JR.  
County Executive

ANNEMARIE AMBROSE  
Director

December 5, 2019

FN 20 20-036

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

GOVERNMENT OPERATIONS  
WAYS & MEANS

Subject: Contract Recommendation – Confidential Secure Document Organization -  
Cabral Enterprises, LLC

Dear Mr. Picente:

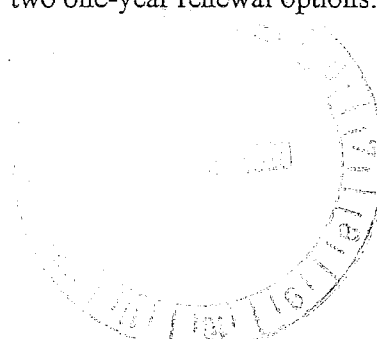
Oneida County Information Technology has been working together with the County Clerk to organize, scan where applicable, and minimize the overall footprint of paper files throughout the County. A further goal of the Enterprise Content Management project is to apply the same logic and eventually empty out the Oneida County Records Center located on Rt. 233 in Westmoreland NY.

Oneida County Information Technology issued a competitive RFP for confidential secure document organization of this records center. A specific requirement of the RFP is to organize, categorize and sort by destruction date the contents of this building. The documents that will be marked to be scanned will be transferred to a scan team on site. The documents that will be marked to be destroyed will be transferred to a secure document destruction site with a chain of custody form to be shredded, followed by a certificate of destruction being returned to the County.

The only respondent to the RFP was Cabral Enterprises, LLC of New Hartford, NY.

This locally owned business will employ a team of 2-4 employees working a minimum of 25 hours per week with one leader for oversight. The quoted cost for this level of service is a maximum of \$221,000 annually. This will be paid through Capital Project H-472.

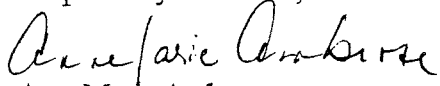
Based on these anticipated positive outcomes, I request your approval of this Enterprise Content Management Services contract with Cabral Enterprises, LLC at a maximum cost of \$221,000 per year for a period of three years (for a maximum total of \$663,000) with two one-year renewal options.



Reviewed and Approved for submittal to the  
Oneida County Board of Legislators by  
  
Anthony J. Picente, Jr.  
County Executive  
Date 1/2/20

If you agree with my recommendation, please indicate so by endorsing this letter and forwarding it with the attached documents to the Board of Legislators for consideration at their next meeting.

Respectfully submitted,



AnneMarie Ambrose

Director, Information Technology

Enc.

Oneida Co. Department: Information Technology

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

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name & Address of Vendor:** Cabral Enterprises, LLC  
23 Oxford Road  
New Hartford, New York 13413

**Title of Activity or Service:** Confidential Secure Document Organization

**Proposed Dates of Operation:** Upon Execution for three (3) years to December 31, 2022

**Client Population/Number to be Served:** Oneida County Departments

**Summary Statements**

- 1) Narrative Description of Proposed Services:** Trained and supervised staff will organize, categorize and sort the contents of the Oneida County Records Center building by destruction date. Documents to be scanned will be transferred to a team onsite for scanning. Once scanned, they will be securely transferred to a facility for destruction. A certificate will be provided for all destroyed documents.
- 2) Program/Service Objectives and Outcomes:** The goal for this service is to empty out and eliminate the need for a separate paper records repository. Cabral Enterprises, LLC will provide and/or facilitate secure document organization, scanning and destruction of documents stored in the Oneida County Records Center located in Westmoreland, NY.
- 3) Program Design and Staffing:** Cabral Enterprises, LLC will employ trained teams of 2-4 persons plus a supervisor to work a minimum of 25 hours per week.

**Total Funding Requested:** \$663,000 (\$221,000 per year) **Account # H-472**

**Oneida County Dept. Funding Recommendation:** \$663,000

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

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

**Past Performance Data:** Cabral Enterprises has been working with Oneida County to provide these services on a temporary basis for several months.

**O.C. Department Staff Comments:** This contract will provide the County with the ability to begin the task of emptying out the Westmoreland records center, thereby reducing expensive storage costs and improving record retention and access efficiency for all county departments. The agreement includes two (2) one-year (1) extensions.

## INFORMATION TECHNOLOGY MASTER SERVICES AGREEMENT

This Information Technology Master Services Agreement (the "Agreement") is by and between **CABRAL ENTERPRISES, LLC**, a domestic limited liability company organized and existing under the laws of the State of New York, whose principal place of business is 23 Oxford Road, New Hartford, New York, 13413, hereinafter called the "Vendor," and **ONEIDA COUNTY**, a municipal corporation existing and organized under the laws of the State of New York, whose principal place of business is 800 Park Avenue, Utica, New York 13501, hereinafter called the "County." This Agreement includes any current or future statement(s) of work (the "SOW") on the form attached hereto as Exhibit "A," and executed by each party, and all such documents are incorporated by this reference.

The Vendor provides information technology Professional Services, as hereinafter defined, related to the Request for Proposal RFP #2019-263, "**Oneida County Confidential Secure Document Organization and County-Wide Media Shredding**," hereto attached as Exhibit "B." The parties have agreed that the Vendor will provide such Professional Services as the parties may agree, now and pursuant to future SOWs. Therefore, in consideration for the commitments set forth below, the adequacy of which consideration the parties hereby acknowledge, the parties agree as follows.

### 1. PROFESSIONAL SERVICES.

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

- (a) *Service Categories.* The services constituting Professional Services within the meaning of this Agreement shall include, but not be limited to, assessments, design, hardware and software (and provisioning of appropriate licensing), implementation, support, maintenance, providing complete documentation, including implementation of plans, testing and training in the categories of:
  - (i) The organization, inventory, shredding and future organization plan of materials at the Oneida County Records Retention Center and records retention areas of the County Offices;
  - (ii) Organize, categorize and sort by destruction date, the contents of the records held by Oneida County; and
  - (iii) Any other needed services agreed to between the parties.
  
- (b) *Multiple Vendors.* The County reserves the right to utilize as many different vendors as it, in its sole discretion, determines to be necessary for the performance of any individual Professional Service. The Vendor hereby acknowledges that it is aware of this, and it understands and acknowledges that the County is not guaranteeing any minimum number of hours the Vendor will be utilized, nor is the County making any promises as to the exclusivity of the assignment of the Vendor to any Professional Service.

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

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

1.3. Deliverables.

- (a) *Acceptance & Rejection*. Any software or other deliverable created pursuant to any Professional Services (the "Deliverables") will be considered accepted (the "Acceptance") (a) when the County provides Vendor written notice of acceptance or (b) thirty (30) days after delivery, if the County has not first provided the Vendor with written notice of rejection. The County may reject a Deliverable only in the event that it materially deviates from its specifications and requirements listed in the applicable SOW and only via written notice setting forth the nature of such deviation. In the event of such rejection, the Vendor will correct the deviation and redeliver the Deliverable within twenty (20) days. After redelivery pursuant to the previous sentence, the parties

will again follow the acceptance procedures set forth in this Subsection 1.3(a).

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

## **2. FEES & REIMBURSEMENT.**

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

**3. CONFIDENTIAL INFORMATION.** "Confidential Information" refers to the following items that one party to this Agreement (the "Discloser") discloses to the other (the "Recipient"): (a) any document the Discloser marks "Confidential;" (b) any information the Discloser orally designates as "Confidential" at the time of disclosure, provided the Discloser confirms such designation in writing within ten (10) business days; (c) any information contained in the County's files that is confidential pursuant to any applicable provisions of federal, state and local laws, rules and regulations, including, but not limited to, the New York State Public Health Law and Regulations, the New York State Social Services Law and Office of Children and Family Services rules and regulations, the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and shall not be disclosed except as authorized by law; and (d) any other nonpublic, sensitive information the Recipient should reasonably consider a trade secret or otherwise confidential. Notwithstanding the foregoing, Confidential Information does not include information that: (i) is in the Recipient's possession at the time of disclosure; (ii) is independently developed by the Recipient without use of or reference to Confidential Information; (iii) becomes known publicly, before or after disclosure, other than as a result of the Recipient's improper action or inaction; or (iv) is approved for release in writing by the Discloser. The Recipient is on notice that the Confidential Information may include the Discloser's valuable trade secrets.

- 3.1. Nondisclosure. The Recipient will not use Confidential Information for any purpose other than to facilitate the Professional Services (the "Purpose"). The Recipient: (a) will not disclose Confidential Information to any employee or contractor of the Recipient unless such person needs access in order to facilitate the Purpose and executes a nondisclosure agreement with the Recipient with terms no less restrictive than those of this Article 3.1;



and (b) will not disclose Confidential Information to any other third party without the Discloser's prior written consent. Without limiting the generality of the foregoing, the Recipient will protect Confidential Information with the same degree of care it uses to protect its own confidential information of similar nature and importance, but with no less than reasonable care. The Recipient will promptly notify the Discloser of any misuse or misappropriation of Confidential Information that comes to the Recipient's attention. Notwithstanding the foregoing, the Recipient may disclose Confidential Information as required by applicable law or by proper legal or governmental authority. The Recipient will give the Discloser prompt notice of any such legal or governmental demand and reasonably cooperate with the Discloser in any effort to seek a protective order or otherwise to contest such required disclosure, at the Discloser's expense.

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

#### **4. HIPAA DISCLOSURES**

- 4.1. HIPAA Assurances. In the event Vendor creates, receives, maintains, or otherwise is exposed to personally identifiable or aggregate patient or other medical information defined as Protected Health Information ("PHI") in the Health Insurance Portability and Accountability Act of 1996 or its relevant regulations ("HIPAA") and otherwise meets the definition a Business Associate as defined in the HIPAA Privacy Standards (45 CFR Parts 160 and 164), Vendor shall:
- (a) Recognize that HITECH (the Health Information Technology for Economic and Clinical Health Act of 2009) and the regulations thereunder (including 45 C.F.R. Sections 164.308, 164.310, 164.312, and 164.316), apply to a business associate of a covered entity in the same manner that such sections apply to the covered entity;
  - (b) Not use or further disclose the PHI, except as permitted by law;
  - (c) Not use or further disclose the PHI in a manner that had the County done so, would violate the requirements of HIPAA;
  - (d) Use appropriate safeguards (including implementing administrative, physical, and technical safeguards for electronic PHI) to protect the confidentiality, integrity, and availability of and to prevent the use or disclosure of the PHI other than as provided for by this Agreement;
  - (e) Comply with each of the applicable requirements of 45 C.F.R. Part 162 if the Vendor conducts standard transactions for or on behalf of the County;
  - (f) Report promptly to the County any security incident or other use or disclosure of PHI not provided for by this Agreement of which Vendor becomes aware;
  - (g) Ensure that any subcontractors or agents who receive or are exposed to PHI (whether in electronic or other format) are explained the Vendor's obligations under this paragraph and agree to the same restrictions and conditions;
  - (h) Make available PHI in accordance with the individual's rights as required under the HIPAA regulations;
  - (i) Account for PHI disclosures for up to the past six (6) years as requested by the County, which shall include: (i) dates of disclosure, (ii) names of the entities or persons who received the PHI, (iii) a brief description of the PHI disclosed, and (iv) a brief statement of the purpose and basis of such disclosure;
  - (j) Make its internal practices, books, and records that relate to the use and disclosure of PHI available to the U.S. Secretary of Health and Human Services for purposes of determining the County's compliance with HIPAA; and
  - (k) Incorporate any amendments or corrections to PHI when notified by the County or enter into a Business Associate Agreement or other necessary Agreements to comply with HIPAA.

- 4.2. Termination Upon Breach of Provisions. Notwithstanding any other provision of this Agreement, the County may immediately terminate this Agreement if it determines that the Vendor breaches any term in this Section. Alternatively, the County may give written notice to the Vendor in the event of a breach and give the Vendor five (5) business days to cure such breach. The County shall also have the option to immediately stop all further disclosures of PHI to the Vendor if the County reasonably determines that the Vendor has breached its obligations under this Section. In the event that termination of this Agreement is not feasible, the Vendor hereby acknowledges that the County shall be required to report the breach to the Secretary of the U.S. Department of Health and Human Services, notwithstanding any other provision of this Agreement to the contrary.
- 4.3. Return or Destruction of Protected Health Information upon Termination. Upon the termination of this Agreement, unless otherwise directed by the County, the Vendor shall either return or destroy all PHI received from the County or created or received by the Vendor on behalf of the County in which the Vendor maintains in any form. The Vendor shall not retain any copies of such PHI. Notwithstanding the foregoing, in the event that the Vendor determines that returning or destroying the Protected Health Information is infeasible upon termination of this Agreement, the Vendor shall provide to the County notification of the condition that makes return or destruction infeasible. To the extent that it is not feasible for the Vendor to return or destroy such PHI, the terms and provisions of this Agreement shall survive such termination or expiration and such PHI shall be used or disclosed solely as permitted by law for so long as the Vendor maintains such Protected Health Information.
- 4.4. No Third Party Beneficiaries. The parties agree that the terms of this Agreement shall apply only to themselves and are not for the benefit of any third party beneficiaries.
- 4.5. Amendment. The Vendor and the County agree to amend this Agreement to the extent necessary to allow either party to comply with the Privacy Standards, the Standards for Electronic Transactions, the Security Standards, or other relevant state or federal laws or regulations created or amended to protect the privacy of confidential information. All such amendments shall be made in a writing signed by both parties.
- 4.6. Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the County to comply with the then most current version of HIPAA and the HIPAA privacy regulations.
- 4.7. Definitions. Capitalized terms used in this Agreement shall have the meanings assigned to them as outlined in HIPAA and its related regulations.
- 4.8. Survival. The obligations imposed by this Agreement shall survive any expiration or termination of this Agreement.

## **5. REPRESENTATIONS & WARRANTIES.**

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

years following Acceptance (as defined in Subsection 1.3(a) above). In the event of a breach of either warranty in this Section 5.1, the Vendor, at its own expense, will promptly reperform the Professional Services or repair and redeliver the Deliverable in question.

- 5.2. From Each Party. Each party represents and warrants that it has the full right and authority to enter into, execute, and perform its obligations under this Agreement and that no pending or threatened claim or litigation known to it would have a material adverse impact on its ability to perform as required by this Agreement.
- 5.3. Warranty Disclaimers. Except as set forth above in this Article 5, the Vendor PROVIDES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY IMPLIED WARRANTY ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING: (a) VENDOR DOES NOT REPRESENT OR WARRANT THAT THE DELIVERABLES WILL PERFORM WITHOUT INTERRUPTION OR ERROR; AND (b) VENDOR DOES NOT REPRESENT OR WARRANT THAT THE DELIVERABLES WILL BE SECURE FROM HACKING OR OTHER UNAUTHORIZED INTRUSION OR THAT COUNTY DATA WILL REMAIN PRIVATE OR SECURE.

## **6. INDEMNIFICATION.**

- 6.1. From Vendor. The Vendor will defend and indemnify the County and the County's Associates (as defined below in Section 6.3) against any "Indemnified Claim," meaning any third party claim, suit, or proceeding arising out of, related to, or alleging: (a) direct infringement of any patent, copyright, trade secret, or other intellectual property right by any Deliverable; or (b) injury to or death of any individual, or any loss of or damage to real or tangible personal property, caused by the act or omission of the Vendor or of any of its agents, subcontractors, or employees. The Vendor's obligations set forth in Subsection 6.1(a) above do not apply to the extent that an Indemnified Claim arises out of: (i) the County's breach of this Agreement; (ii) revisions to the Deliverable made without the Vendor's written consent; (iii) the County's failure to incorporate updates or upgrades that would have avoided the alleged infringement, provided Vendor offered such updates or upgrades without charges not otherwise required pursuant to this Agreement; (iv) the Vendor's design or modification of the Deliverable in compliance with specifications provided by the County; or (v) use of the Deliverable in combination with hardware or software not provided by the Vendor, unless (A) the SOW, or other documentation provided by the Vendor or agreed between the parties, (collectively, the "Documentation") refers to a combination with such hardware or software, without directing the user not to perform such a combination, or (B) such combination achieves functionality described in the Documentation (and the Documentation does not direct the user not to perform such combination). The Vendor's obligations set forth in Subsection 6.1(b) above do not apply to the extent that an Indemnified Claim arises out of the County's breach of this Agreement.
- 6.2. From County. The County will indemnify and defend the Vendor and the Vendor's Associates (as defined below in Section 6.3) against any "Indemnified Claim," meaning any

third party claim, suit, or proceeding arising out of or related to injury to or death of any individual, or any loss of or damage to real or tangible personal property, caused by the act or omission of the County or of any of its agents, subcontractors, or employees. Indemnified Claims listed in Subsection 6.2 above include, without limitation: (i) claims by any of the County's employees, contractors, or other users (collectively, "Users"); and (ii) claims related to unauthorized disclosure or exposure of personally identifiable information or other private information. Indemnified Claims listed above in Section 6.2 do not include any claim that would constitute an Indemnified Claim pursuant to Section 6.1(a) above.

- 6.3. Litigation & Additional Terms. The obligations of the indemnifying party (the "Indemnitor") pursuant to Section 6.1 or 6.2 above: (a) include retention and payment of attorneys and payment of court costs, as well as settlement at Indemnitor's expense and payment of judgments; and (b) will be excused to the extent that the other contracting party's ("Indemnified Party's") or any of such Indemnified Party's Associates' failure to provide prompt notice of the Indemnified Claim or reasonably to cooperate materially prejudices the defense. Indemnitor will control the defense of any Indemnified Claim, including appeals, negotiations, and any settlement or compromise thereof, provided Indemnified Party will have the right, not to be exercised unreasonably, to reject any settlement or compromise that requires that it admit wrongdoing or liability or subjects it to any ongoing affirmative obligations. (A party's "Associates" are its officers, directors, shareholders, parents, subsidiaries, agents, successors, and assigns.)

## 7. INSURANCE

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

limits).

- (i) The County and any other parties required by the County shall be included as additional insureds. PL coverage for the additional insureds shall apply as primary and non-contributing insurance before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by or provided to the additional insured(s).

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

#### **8. LIMITATION OF LIABILITY.**

- 8.1. Exclusion of Consequential Damages. IN NO EVENT WILL VENDOR BE LIABLE TO COUNTY FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT.
- 8.2. Exclusions. This Article 8.2 does not apply to: (a) claims pursuant to Article 3 (*Confidential Information*), Article 4 (HIPAA) or Article 6 (*Indemnification*) of this Agreement; or (b) claims for attorneys' fees or other litigation costs the County becomes entitled to recover as a prevailing party in any action.

#### **9. TERM & TERMINATION.**

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

Articles and Sections 1.3(c) (*Restrictions on Deliverables Rights*), 3 (*Confidential Information*), 4 (HIPAA), 5.3 (*Warranty Disclaimers*), 6 (*Indemnification*), 8 (*Limitation of Liability*), and 11.1 (*Feedback*); and (c) any other provision of this Agreement that must survive to fulfill its essential purpose.

## **10. INDEPENDENT CONTRACTORS**

- 10.1. It is expressly agreed that the relationship of the Vendor to the County shall be that of an independent contractor. None of the Vendor's officers, agents, directors or employees shall be considered employees of the County for any purpose, including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Vendor, in accordance with the Vendor's status as an independent contractor, covenants and agrees that none of the Vendor's officers, agents, directors and employees will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, officers or employees of the County by reason thereof, and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.
- 10.2. The Vendor warrants and represents it is in the business of offering the same or similar services detailed herein and does offer the same or similar service(s) to other entities and/or the general public as a regular course of business. The Vendor and the County agree that the Vendor is free to undertake other work arrangements during the term of this Agreement, and may continue to make its services available to the public.
- 10.3. None of the Vendor's officers, agents, directors or employees shall be eligible for compensation from the County due to illness, absence due to normal vacation, absence due to attendance at school or special training, or a professional convention or meeting.
- 10.4. The Vendor acknowledges and agrees that none of its officers, agents, directors or employees shall be eligible for any County employee benefits, including retirement membership credits.
- 10.5. The Vendor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to the Vendor under this Agreement, and for compliance with all applicable labor and employment requirements with respect to the Vendor's form of business organization. With respect to the Vendor's officers, agents, directors and employees, this responsibility shall include payroll deductions, workers' compensation insurance, and provision of health insurance, where required. The County shall not be responsible for withholding from the payments provided for services rendered for state or federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). The Vendor shall provide proof of workers' compensation insurance, where applicable, prior to execution of this Agreement.
- 10.6. The Vendor will indemnify and hold the County harmless from all loss or liability incurred by the County as a result of the County not making such payments or withholdings.
- 10.7. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Vendor's independent contractor status, it is agreed that both the

County and the Vendor shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.

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

## **11. MISCELLANEOUS.**

11.1. Feedback. The Vendor has not agreed to and does not agree to treat as confidential any Feedback (as defined below) that the County or any user provides to the Vendor, and nothing in this Agreement or in the parties' dealings arising out of or related to this Agreement will restrict the Vendor's right to use, profit from, disclose, publish, keep secret, or otherwise exploit Feedback, without compensating or crediting the County or the User in question. Notwithstanding the provisions of Article 3 above, Feedback will not be considered Confidential Information, provided that information that the County transmits with Feedback, or is related to Feedback, may be considered Confidential Information. ("Feedback" refers to any suggestion or idea for improving or otherwise modifying any of Vendor's products or services.)

11.2. Notices. Notices pursuant to this Agreement will be sent to the addresses below, or to such others as either party may provide in writing. Such notices will be deemed received at such addresses upon the earlier of (i) actual receipt or (ii) delivery in person, by fax with written confirmation of receipt, or by certified mail return receipt requested.

(a) *For the Vendor:* Cabral Enterprises, LLC, 23 Oxford Road, New Hartford, NY  
13413

(b) *For the County:* Oneida County Information Technology, 800 Park Avenue, Utica,  
NY, 13501 *and*

Oneida County Attorney, 800 Park Avenue, Utica, NY 13501

11.3. Force Majeure. No delay, failure, or default, other than a failure to pay fees when due, will constitute a breach of this Agreement to the extent caused by acts of war, terrorism, hurricanes, earthquakes, other acts of God or of nature, strikes or other labor disputes, riots or other acts of civil disorder, embargoes, or other causes beyond the performing party's reasonable control.

11.4. Subcontractors. The Vendor shall not subcontract any work to be performed under this Agreement without the prior written consent of the County, and any permitted subcontractor shall agree, in writing, to be bound by the terms of this Agreement as if it were the Vendor under this Agreement. The Vendor shall be responsible to the County for any failure by any subcontractor to comply with the terms of this Agreement.

11.5. Assignment & Successors. The Vendor may not assign this Agreement or any of its rights or obligations hereunder without the County's express written consent. Except to the extent forbidden in this Section 11.5, this Agreement will be binding upon and inure to the benefit



of the parties' respective successors and assigns.

- 11.6. Severability. To the extent permitted by applicable law, the parties hereby waive any provision of law that would render any clause of this Agreement invalid or otherwise unenforceable in any respect. In the event that a provision of this Agreement is held to be invalid or otherwise unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement will continue in full force and effect.
- 11.7. No Waiver. Neither party will be deemed to have waived any of its rights under this Agreement by lapse of time or by any statement or representation other than by an authorized representative in an explicit written waiver. No waiver of a breach of this Agreement will constitute a waiver of any other breach of this Agreement.
- 11.8. Choice of Law & Jurisdiction: This Agreement and all claims arising out of or related to this Agreement will be governed solely by the internal laws of the State of New York, including without limitation applicable federal law, without reference to: (a) any conflicts of law principle that would apply the substantive laws of another jurisdiction to the parties' rights or duties; (b) the 1980 United Nations Convention on Contracts for the International Sale of Goods; or (c) other international laws. The parties consent to the personal and exclusive jurisdiction of the federal and state courts of Oneida County, New York. This Section 11.8 governs all claims arising out of or related to this Agreement, including without limitation tort claims.
- 11.9. Conflicts. In the event of any conflict among any of the Exhibits to this Agreement and this main body, the following order of precedence will govern, with lower numbers governing over higher ones: (1) this main body of this Agreement; and (2) any SOW, with more recent SOW's taking precedence over later ones.
- 11.10. Construction. The parties agree that the terms of this Agreement result from negotiations between them. This Agreement will not be construed in favor of or against either party by reason of authorship.
- 11.11. Entire Agreement. The terms of this Agreement, including any attachments, amendments, addendums or appendixes attached hereto, constitute the entire understanding and agreement of the parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Agreement. By signing below, the parties agree and acknowledge that they have read, understood and agreed to all the terms contained in any addenda attached hereto, including, but not limited to, Addendum I (Standard Oneida County Conditions). No waiver, alterations or modifications of any of the provisions of this Agreement shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.
- 11.12. Execution in Counterparts. This Agreement may be executed in one or more counterparts. Each counterpart will be an original, but all such counterparts will constitute a single instrument.

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

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

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

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

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

**COUNTY OF ONEIDA**

**CABRAL ENTERPRISES, LLC**

By: \_\_\_\_\_  
(signature)

By: Deborah J. Cabral  
(signature)

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

Name: **Deborah J. Cabral**

Title: **Oneida County Executive**

Title: **President**

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

Date: 12/5/19

Approved

\_\_\_\_\_  
Robert E. Pronteau  
Assistant County Attorney

**LLC CERTIFICATE OF AUTHORITY**

I, Deborah J Cabral, a President of  
(Name) (Specify Member or Manager)

Cabral Enterprises, LLC LLC, a limited liability company organized  
(Name of Company)

and existing under the laws of the State of New York, (the

“Company”), hereby certify: (i) that Cabral Enterprises LLC is run by  
(Name of Company)

Deborah J Cabral; (ii) that Deborah J Cabral  
(Specify if run by its Members or a Manager) (Name of signer of contract documents)

is a President of Cabral Enterprises LLC; and (iii)  
(Specify Member or Manager) (Name of Company)

that as such, Cabral Enterprises, LLC / Deborah J Cabral, pursuant to the articles of

organization and the operating agreement is empowered and authorized, on behalf of the

Company, to execute and deliver contracts and amendments thereto, and all documents

required therewith and associated with such contracts and amendments.

**IN WITNESS WHEREOF**, the undersigned has affixed his/her signature and the seal of  
the LLC this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[or, if the LLC has no seal]

**IN WITNESS WHEREOF**, the undersigned has affixed his/her signature this 5<sup>th</sup>  
day of December, 2020. The LLC has no seal.

*If the LLC has a seal, place it here*

Deborah J Cabral

Print Name:

Its: Member / Manager

Deborah J Cabral

**EXHIBIT A**

**STATEMENT OF WORK NUMBER \_\_\_\_**

**Project Title:** \_\_\_\_\_

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

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

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

---

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

---

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

---

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

---

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

\_\_\_\_\_  
**CUSTOMER**

\_\_\_\_\_  
**VENDOR**

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

(signature)

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

(signature)

Name:

\_\_\_\_\_

(print)

Name:

\_\_\_\_\_

(print)

Title:

\_\_\_\_\_

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

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

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

# Exhibit B

## INVITATION TO RFP

Sealed RFPs, subject to the conditions contained herein, will be received by ONEIDA COUNTY INFORMATION TECHNOLOGY until 3:00 P.M., local time on Friday March 1, 2019

### **Oneida County Confidential Secure Document Organization and County-Wide Media Shredding RFP - #2019-263**

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

Copies of the described RFP may be examined at no expense at the department of Oneida County Information Technology.

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

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

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

AnneMarie Ambrose  
Director of Information Technology

Dated: February 15, 2019

**Oneida County Confidential Secure Document Organization  
and County-Wide Media Shredding**  
RFP - #2019-263

**GENERAL INFORMATION**

The County of Oneida, New York is requesting proposals from qualified vendors for two basic services to be provided by the same vendor under the same contract.

First, Oneida County seeks a qualified vendor to provide secured (locking) shred containers in each County Department. The location of the container will be coordinated with the Department Head. Those containers are to be picked up on a set schedule to be proposed in the RFP. The pick-up schedule will be a minimum of once per month. The vendor will be responsible for separating material within the shred bin and will properly discard any unauthorized materials. Upon secure pickup, the vendor shall shred the material and securely transport and dispose of all material. This action will be considered complete with the providing to the Oneida County Department of a Certificate of Destruction, which shall certify that the destruction meets or exceeds the National Association for Information Destruction standards.

Accompanying this secured and confidential shredding service, the qualified vendor would also be responsible for the organization, inventory, shredding and future organization plan of materials at The Oneida County Records Retention Center and Records retention areas of the County Offices stated in the Scope of Services below. The goal of this project is to organize, categorize and sort by destruction date the contents of the records held by Oneida County.

The County requires a qualified, bonded vendor to provide service as described in the Scope of Services below.

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

- Experience & References (provided upon request)
- Pricing
- Customer Service Quality & Responsiveness
- Timeliness of Response to the County
- Certifications and Reporting
- Equipment / Capabilities
- Logistics of Transport and Pickup
- Security and Environmental Considerations

RFP responses should include these requirements. Any deviation could lead to disqualification.



1. Vendor shall create one (1) original response (labeled "original") with original signature and one (1) copy of that response. The Vendor shall also include one (1) digital PDF copy for a total of three (3) responses.
2. The submission shall be sent to the contact at the address listed on the RFP, on or before the date shown.
3. The original submission shall be indexed with tabs as follows:
  - a. Section 1: RFP Cover Sheet (1page) & Summary Letter (1 page only)
  - b. Section 2: Detailed Scope of Services
  - c. Section 3: Answers to Questions
  - d. Section 4: Pricing Schedule
  - e. Section 5: Additional Support Materials of Vendor A proposal must be in writing, and must be delivered by mail or in person. Oral, telephonic, facsimile, telegraphic, or electronically transmitted proposals are invalid and the County will not accept or consider them.
  - f. Proposals may be filed in person or by mail, but in any case must be received in the Oneida County Information Technology Office by 3:00 p.m. Friday, March 1, 2019. Late proposals or postmarks will not be accepted. All proposals received will be retained by Oneida County. Proposals should be submitted in a sealed envelope bearing the name "**Oneida County Confidential Secure Document Organization and County-Wide Media Shredding**"-**RFP 2019-263** and be submitted to AnneMarie Ambrose, Director of Information Technology, 800 Park Ave, Utica NY 13501. Oneida County reserves the right to reject all proposals, to request additional information concerning any proposals for purposes of clarifications, to accept or negotiate any modifications to any proposal, following the deadline for receipt of all proposals, and to waive any irregularities, if such would serve the best interest of the County, as determined by the County Council.

## **Scope of Services:**

### **Shredding:**

The County requires a qualified vendor to provide secured (locking) shred containers in each County Department. The location of the container will be coordinated with the Department Head. Those containers are to be picked up on a set schedule to be proposed in the RFP. The pick-up schedule will be a minimum of once per month. The vendor will be responsible for separating material within the shred bin and will properly discard any unauthorized materials. Upon secure pickup, the vendor shall shred the material and securely transport and dispose of all material. This action will be considered complete with the providing to the Oneida County Department of a Certificate of Destruction, which shall certify that the destruction meets or exceeds the National Association for Information Destruction standards.

### **Organization:**

Oneida County is seeking professional services whereby a vendor will evaluate the contents of these locations:

Oneida County Records Retention Center(s):

--300 W. Dominick St. Rome NY

--120 Airline Street, Oriskany, NY

Oneida County Office Building B1 and B2 records areas

NOTE: There are over 70,000 boxes in the scope of this project.

NOTE: There may be other locations added or locations removed from the above list.

The records will need to be identified, organized by area and destruction date and labeled accordingly. The boxes are typically between 20 and 40 lbs. The vendor will need to be able to move heavy boxes. The vendor is required to evaluate the contents of the boxes, organize the boxes by department and category, apply the County's data destruction policy to these documents, facilitate the proper disposal of those documents which can appropriately be destroyed and provide full destruction reports of said documents. All remaining documents need to be organized and stored in County-approved locations. Reports of the remaining locations and contents are to be provided along with a plan for future organization so that the County offices retain logical, controlled retention plans.

All records need to remain at the building of origin and location and destruction audits must be supplied. At the completion of the project, the vendor will need to work with the County to determine the final location of boxes that will need to remain in County possession. Those boxes will need to be categorized and labeled for structured retention.

and staged for permanent storage or future disposal. The goal of this RFP is to empty the Oneida County Records Retention Center and organize and stage the remaining records that will exist that are required to be maintained permanently. This is in addition to providing a clear proposal for periodic program reviews that will be done intermittently in the future to keep the County departments organized.

Proposers located within 50 miles of the Oneida County Records Retention Center in Westmoreland NY will receive a higher weight. The vendor must be bonded and show proof of insurance. The vendor must be detail oriented and have the ability to follow the Oneida County Records Retention rules which will be provided to the selected proposer. Oneida County is requesting a fixed price with estimated number of hours for this proposed project.

## **RFP Evaluation:**

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

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

Oneida County will require all vendors to provide cost estimates for required services covering the next five years.

### **Evaluation Criteria:**

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

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

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

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

### **Acceptance of Proposal Content:**

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

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

**No Obligation to Buy:**

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

**Withdrawal of Proposals:**

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

**Cost of Preparing Proposals:**

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

**Damage Liability:**

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

**Summary of Requirements:**

A contract is desired which will combine 1) document evaluation, organization and scheduled destruction services along with 2) general, County-wide regularly scheduled confidential and secure document and media-shredding services. The proposal should provide a uniform plan for all County buildings and should be expandable at the convenience of Oneida County. The planned service shall be rolled out with 1 to 2 key buildings immediately and the throughout the county's 23 buildings over a 3-year plan. This is subject to change. The plan will need to be fully documented, including estimated timelines. Each department within each building will require instructions on the types of items to be included in each bin complete with phone numbers to report possible issues.

**Needs Assessment:**

The proposer may assess the needs of the County on their own, upon walkthrough, which can be scheduled with Oneida County Information Technology staff and the Oneida County Clerk.

**Single Point of Responsibility:** Oneida County expects to have a single point of contact, i.e. a single point of authority and a single contracting entity for this project.

Oneida County will not enter into any agreement that does not provide a single point of accountability for service and sign off work.

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

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

- An itemized list of services for each site, by department.
- Ongoing records organization plan.

**Transition Plan:** Oneida County Information Technology expects the project to have little or no impact to on-going operations. The proposer is expected to have experience in this area and to provide Oneida County Information Technology with documentation and training to utilize the services contracted for.

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

## CONTRACT CONSIDERATIONS

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

CRITERIA	MAXIMUM POINTS
a. Experience of key personnel	30
b. Completeness of description	20
c. Demonstration of understanding	20
d. Strength of references	10
e. Location	10
f. Cost	10
TOTAL	100

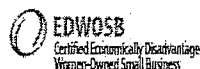
# Exhibit C



# Oneida County Confidential Secure Document Organization and County-Wide Media Shredding RFP #2019-263

## Proposal

Submitted by:  
Deborah J. Cabral  
February 27, 2019



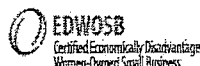
***Oneida County Confidential Secure Document Organization and  
County-Wide Media Shredding RFP #2019-263***

**Summary Letter**

Cabral Enterprises, LLC D/B/A The DeClutter Coach & DC Efficiency Consulting is responding to the above referenced RFP for The County of Oneida, New York for two services. The first is to be responsible for the organization, inventory, shredding and future organization plan of materials at The Oneida County Records Retention Center and Records retention areas of the County Offices. The goal of this project is to organize, categorize and sort by destruction date the contents of the records held by Oneida County.

The second, is to provide secured (locked) shred containers in each County Department for a total of 23 locations on a set pick up schedule that will be begin bi-weekly until usage can be analyze. A Certificate of Destruction will be issued that will certify that the destruction meets or exceeds the National Association for Information Destruction standards.

Cabral Enterprises, LLC D/B/A The DeClutter Coach & DC Efficiency Consulting is qualified, financially stable and has the experience necessary to meet the requirements of this project. It is our intention to exceed the County's expectations by providing effective and efficient service and communication, as well as a strong attention to detail.



## Oneida County Confidential Secure Document Organization and County-Wide Media Shredding RFP #2019-263

### Scope of Services

#### Experience & Referencés:

Cabral Enterprises, LLC D/B/A The DeClutter Coach & DC Efficiency Consulting will celebrate our 9<sup>th</sup> anniversary in business in March 2019. We are a NYS, NYC, Federal (DBE, WOSB, EDWOSB) and National (WBENC) Certified Women Business Enterprise that has worked with a variety of businesses, government agencies, colleges and universities and non-profit organizations providing training, consulting, coaching and organization services. Attached is our current *NYS MWBE Certificate*. Please also see the *attached resume* of President and Founder, Deborah J Cabral as well as our *Partial Client List*.

We recently completed a five-month Workflow Study and Analysis for Oneida County’s Department of Social Services that will result in significant improvements in efficiency, productivity and employee morale. We just recently began a Supervisory Micro-Review of DSS staff to include DiSC assessments and coaching for all leaders as a continuation of the initial study. In addition, Deb has been a Staff and Leadership Development Trainer for the past several years at Oneida County through Mohawk Valley Community College and continues in that capacity to date. She teaches monthly Customer Service Training Classes and Leadership Training Classes to Oneida County employees. Deb is well known at the County as a positive change agent who has formed strong business relationships with County employees at all levels of the organization.

Our team has worked for several organization on projects similar to this RFP. Attached please see *Letters of Recommendation* from Michael Sweeney, CEO of Community Wellness Partners and Paul Pimpinella, Managing Partner, Compson & Pimpinella, PLLC.

#### **Project Plan of Action for Organization Project: (Project #1)**

##### **Phase I- Preparation- (2-3 weeks)**

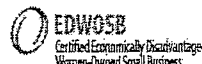
Meet with AnneMarie Ambrose, Director of Information Technology and her team to prepare a project plan of action that will include many components as listed below.

- **Creation of an Oneida County Document Organization Project Team**

We recommend the creation of a Project Team that should include one member from each county department. This person should have the authority to make decisions (or have direct access to those who do) as they will be responsible for answering any questions our team may have regarding items to be retained or shred. This team approach is critical to ensure effective communication and buy-in by all county departments and employees during the life of this project.

- **Determine logical order of locations to be tackled and methodology of work**

Our team in conjunction with County staff will determine the logical order of locations to work on prior to the team beginning the hands-on portion of the project. It is our opinion that we need to



begin by determining the location(s) that will be deemed “permanent storage” and tackle those first, so they are ready to accept files from other locations that will be stored permanently. Based on our

on-site visits to Oneida County properties, it is our opinion the basement at the Rome location (301 W Dominick Street) and B1 & B2 and the Oneida County Office Building (800 Park Ave, Utica) are the best locations for the County’s permanent record retention.

Our team will determine the most efficient and effective method to complete the project and provide written documentation of this methodology. We are sticklers for efficiency and documentation and will bring that drive to this project.

- **Obtain and review current Oneida County Retention Policy**

It will be important for our team and those on the project team to become familiar with the current Oneida County Retention Policy as it will be our primary source of reference during the project.

- **Create standardized procedures for marking boxes and sending them to permanent record retention areas**

Our team will create and share with project team members a standardized process for determining if documents needs to be retained. If boxes meet the criteria for retention, there will be a specific method as to how boxes are to be marked and the information that must be included on the box. Extensive training will need to take place for all county employees. This can be done in a classroom setting or by webinar. Deborah Cabral or members of her team will perform this training.

- **Create awareness of the project and the need to be diligent about only retaining files that meet the criteria as set forth in the Retention Policy**

Our experience has been that people tend to air on the side of saving everything, even when it is not necessary. This is inefficient and costly. Education and awareness for all County employees on the mission of this project will be critical.

- **Determine if this project also includes clutter removal at locations**

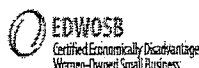
In our experience, we have helped many companies declutter and remove outdated equipment furniture, etc. In some instances, we can actually help the company make money by recycling or holding a sale to area non-profits who could benefit from things no longer used or needed. From visiting the locations in preparation for completing this proposal, we believe this would be a worthwhile endeavor for Oneida County and we can undertake this task, if requested, as part of this project.

**Phase II- Implementation (duration of the project)**

This phase of the project includes:

Review and inventory files, shred necessary files and establishing organization plans for files that require permanent retention. Training of Oneida County staff will also be critical at this stage.

Phase II is the actual hands-on work being done by our team with input from Project Team members to ensure appropriate signoff is provided before documents are prepared for shredding.



It is our intent to subcontract with Confidata located at N Genesee and Lee Streets, Utica, NY. They are a local family owned business that will handle all of the shredding associated with this part of the project and provide Certificate of Destructions. We have enjoyed a long-term business relationship with them. We have worked very well together and will continue to do so on this project.

Our on-site team will consist of 2-4 people (typically 3) working 20 hours per week during the course of the project. The tentative schedule will be Monday and Tuesday 8:30am-4:30pm with a 30 minute lunch and (2) fifteen minute breaks and Wednesday 8:30-2:00pm with a 30 minute lunch and (1) fifteen minute break. The hours may vary due to holidays and vacations. The number of people working on site will vary based on the duties being performed on a specific day.

The team will consist of a “working” Project Manager, movers and sorters. Movers will be responsible for lifting boxes and Sorters will be responsible for reviewing and sorting the contents of the boxes. Some staff will serve in both capacities.

In addition, Deborah Cabral will be overseeing the project with on-site visits, preparing weekly status reports, obtaining and reviewing all documentation including Work Logs and Certifications of Destruction (see below). In addition, she will schedule and attend bi-weekly (at a minimum) meetings with both Oneida County staff and Confidata staff, speak by phone and through email communication on a regular basis to ensure the project is running smoothly and efficiently and the lines of communication are open and clear.

Members of our team and the Confidata team will require Vendor badges to allow us access into all Oneida County building where our teams will be working. It would also be helpful for Deb to have a desk at the Utica Oneida County Office Building during the course of the project.

***Weekly Status Reports:***

It is our practice to provide weekly digital status reports to keep our clients informed. These will be sent every Friday to AnneMarie Ambrose, Director of Information Technology and include Work Logs and Certificates of Destruction as well.

***Work Logs:***

It is also our practice to keep daily logs as to the work being performed. These will be sent digitally as well with the weekly status report. The logs will include the Oneida County Project Team member that signed off on the destruction, if the box is not clearly marked with a destruction date.

***Certificates of Destruction:***

We will obtain the Certificates of Destruction from Confidata and provide them digitally to Oneida County.

Due to the extensive number of files at various locations that need to be reviewed, it is not possible to give a specific time frame as to when the project will be completed. The contract term of 5 years appears to be sufficient to complete the project successfully, but the maintenance and evaluation of the policies and procedures will need to be on-going.



***Project Plan of Action for County-Wide Shredding Project: (Project #2)***

This project is for the creation and implementation of a County-wide shredding policy for all confidential documents. As there is no plan in place at the present time, we will be starting from the ground up to create an effective plan to insure the County's compliance with securing and shredding confidential information in its possession.

It is our intent to subcontract with Confidata located at N Genesee and Lee Streets, Utica, NY. They are a local family owned business that will handle all of the shredding associated with this part of the project and provide Certificate of Destructions. We have enjoyed a long-term business relationship with them. We have worked very well together and will continue to do so on this project.

***Phase I- Preparation- (2-3 weeks; can be done simultaneously with organization project)***

Meet with AnneMarie Ambrose, Director of Information Technology and her team to prepare a project plan of action that will include determining the exact number of locked bins that will be needed at each County location. As there is no historical data from which to glean information, we are providing a "best guess" estimate of the number of locked totes that will be needed by the County to insure compliance for properly securing and shredding confidential documents.

Our initial guestimate is that we will need in the range of 300-600 locked 35 gallon totes throughout the 23 County locations. These are the smallest totes Confidata offers and will be the best size for most locations due to space limitations. To start, we would suggest bi-weekly pick-ups. A detailed schedule by pick up location will be prepared during this stage. We will need to determine the departments and number of people working at each location in order to prepare the schedule efficiently. The schedule should be posted on the County's website and each department notified so everyone is aware of the pick-up dates. We will provide a detailed list of what and what should not be placed in each of the locked bins for shredding.

***Phase II- Analysis of Usage (on-going)***

We will carefully monitor usage during Confidata's bi-weekly pick up of the locked totes. If some totes are not full during the scheduled pick-ups, the schedule will be adjusted to pick up less frequently to save money for the County.

In addition, to accommodate high volume during certain periods of the year, additional pick-ups can be arranged by contacting Deborah Cabral.

The single point of contact for this project from our team will be Deborah J Cabral.

### ***Customer Service Quality & Responsiveness***

As a Customer Service Trainer herself, Deb and her team are committed to providing exceptional customer service to all of our clients. We will respond to all requests within 24 hours or less and will have a dedicated team working on this important project. Deb will oversee the entire project and have a Project Manager on site as well. Our work will not have any impact on on-going work being conducted by Oneida County staff.

### ***Timeliness of Response to the County***

We are committed to responding timely to any requests from county staff as they arise during the course of this project.

### ***Certifications and Reporting***

Cabral Enterprises, LLC D/B/A The DeClutter Coach & DC Efficiency Consulting is a NYS, NYC, Federal (DBE, WOSB, EDWOSB) and National (WBENC) Certified Women Business Enterprise. Attached is our *Certificate of Insurance (COI)* listing Oneida County as an additional insured for the 2018-2019 and 2019-2020 term.

We will provide weekly status reports and be meeting with staff at Oneida County at a bi-weekly minimum during the course of this project.

### ***Equipment and Capabilities***

We request that Oneida County provide appropriate ladders that meet all safety standards for our team to retrieve files that are not at eye level.

### ***Team Capabilities-***

Our Project Manager for this project has experience working on the project we completed for Community Wellness Partners. She is a four + year employee of our company. At least one other member of the team that will work on this project is also a long-term employee and worked on the above mentioned project as well. They are trained in the proper lifting methods and our services are always confidential. We often work with companies that ask us to organize confidential information and we take the responsibility very seriously of keeping all information confidential.

### ***Logistics of Transport and Pick Up***

Our team will coordinate the pick-up schedules of all items to be shred by Confidata on Project # 1 and #2 and will keep County staff informed.

### ***Security and Environmental Considerations***

As requested earlier in the proposal, members of our team as well as the Confidata team will require security badges so that we can enter the county buildings where we will be working without disrupting staff.

We understand the Westmoreland location does not have on on-site working bathroom. We ask that there be some flexibility as it relates to breaks taken by our staff when they work at that location as they will be required to drive to the local gas station to use the facilities. Thank you.



## Questions

All questions we had have been answered by Oneida County staff. Thank you!





## Pricing Schedule

### Pricing/Investment:

This quote is based on our on-site inspections and information obtained from Oneida County staff regarding the 23 properties that will be part of this project.

### Organization Project- Project #1

Team of 2-4 (\$150/hr.) for 20 hours per week = \$3000 weekly/\$156,000 annually

Leadership Oversight of Project \$125/hr.- 4 hours per week= \$500 weekly/\$26,000 annually

Deb will be most likely be working much more than 3 hours per week on this project, but regardless of the number of hours worked, we will bill 3 hours weekly.

Total annual cost: \$182,000

**Cost of Inflation Increase:** At beginning of year three of the project, we respectfully request an increase of 5%. An additional increase of 5% is requested at the beginning of the second renewal (year five).

### Shredding:

After doing some research, we learned from Confidata that they have a Revenue Contract with NYSED that is available to all state and county agencies and municipalities. This requires Confidata to pay a fee to the state based on the amount of paper they receive. Basically, if documents are dropped off at Confidata's location in Utica by Oneida County, the shredding is free. The County is doing this now, on occasion.

For this project, if we can have the County employees that work at Westmoreland drop off the documents that are determined to be ready to shred, there would be no cost. This could save a significant amount of money for the County during the life of this project and beyond. If drop-offs by County employees are not possible, Confidata can pick up for us at a cost of \$100 per pickup. Either way, there is NO cost for the shredding. It is our recommendation that we take advantage of this cost saving opportunity.

**Materials:** During the course of the project, we may recommend the County purchase products such as shelving or signage for file organization. We will provide a separate recommendation for these items when appropriate.

**Additional Costs:** There will be no additional travel costs for our team to travel to any of the 23 locations included in this project.

## *Pricing Schedule, continued*

### ***County-Wide Shredding Project- Project #2***

We are using the guestimate of 300-400 totes, bi-weekly until we can analyze usage and determine the exact number of totes and frequency needed by each department in each location.

We will order Oneida County engraved locks for each tote that will become the property of the County at a cost of \$7.50 per lock.

Pick up of 35-gallon locked totes at all 23 locations, bi weekly- \$55 per tote

Using the low end of the guestimate of 300 totes, bi weekly: 600 totes x \$55 per tote = \$33,000 monthly or \$396,000 annually. Using the high-end number of 400 totes bi-weekly: 800 totes x \$55 per tote = \$44,000 = \$528,000.

*We strongly believe the number will be closer to the low end, however without having historical data, we won't know until we analyze the usage.*

There will be a 5% increase at year three and five of the contract.

### ***Payment Requirements for Project 1 and Project 2:***

We will invoice the first of every month with one invoice for both portions of this project and expect that payment be made 15 days net. Our preference is to be paid by direct deposit to our business account, if at all possible.

As we will be incurring significant costs such as staff salaries and sub-contractor fees (Confidata), we respectfully request that payment be made on a timely basis every month. We reserve the right to stop work on the project if payment is not made timely or if there is any past due balance in arrears.

With the signed contract, we will invoice and request payment for the first 2 months fees as a retainer. We will then invoice on the first of the month at the beginning of the third month that the project is underway and then the first of the month every month thereafter until the completion of the project.

## Supporting Materials

NYS MWBE Certificate

Deborah J Cabral Resume

Partial Client List

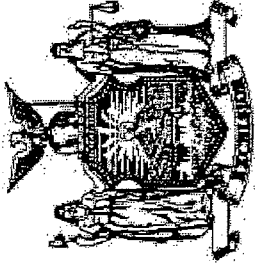
Letter of Recommendation; Michael Sweeney

Letter of Recommendation; Paul Pimpinella, Esq.

Certificate of Insurance 2018-2019

Certificate of Insurance 2019-2020





**NEW YORK STATE  
MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE ("MWBE")  
CERTIFICATION**

Empire State Development's Division of Minority and Women's Business Development grants a

**Women Business Enterprise (WBE)**

pursuant to New York State Executive Law, Article 15-A to:

**Cabral Enterprises, LLC DBA The DeClutter Coach & DC Efficiency Consulting**

Certification Awarded on: August 22, 2017  
Expiration Date: August 22, 2020  
File ID#: 55082 - WBE



**Division of Minority  
and Women's  
Business Development**

A Division of Empire State Development



### Deborah J Cabral, CPO®

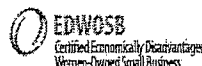
Taking personal tragedy, a 2002 car accident which left her with significant injuries, and turning it into professional success, Productivity & Efficiency Consultant and Trainer, **Deborah J. Cabral, CPO®** launched her company, The DeClutter Coach, in 2010. Growing demand has led to the rapid expansion of the business to include *DC Efficiency Consulting*, the corporate training, consulting and coaching division, *Organization Motivation!* Deb's 30-minute national television show and *Organized in:60 Seconds*, nationally syndicated news/lifestyle segments- all are subsidiary companies under Cabral Enterprises, LLC., a NY State & NY City (WBE) National (WBENC) and Federal (WOSB, EDWOSB & DBE) Certified Women-Owned Business Enterprise.

Deb is a graduate of Long Island University-LIU Post with a Bachelor's Degree in Business and Public Administration. As a member of **ATD**, The Association for Talent Development, **SHRM**, The Society for Human Resource Management- MV Chapter and a Golden Circle member and leadership volunteer of **NAPO**, The National Association of Productivity and Organizing Professionals, Deb lends her knowledge of productivity, efficiency, time management, organization and leadership and staff development to numerous clients through corporate training, consulting, coaching, wellness programs and motivational speaking engagements.

In addition, she is the host of a weekly television show which currently airs in 16 states and news/lifestyle segments which currently air in 20 states. Deb is a regular guest and occasional fill-in co-host on the live morning talk show **Bridge Street** seen on the ABC affiliate in Syracuse, NY. She also writes a weekly column in the Utica Observer Dispatch newspaper, writes for local and national magazines and does many local and national TV and radio interviews.

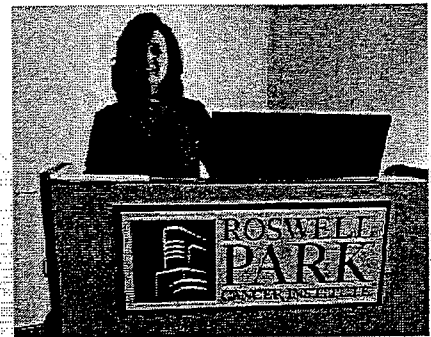
Deb is a wife, mother of three and active community volunteer. In addition, *she's an award-winning entrepreneur* including the recipient of the 2012 SBA Excellence in Small Business Award, 2013 Key4Women Achieve Award, 2016 NYS Women Inc. Entrepreneur of the Year, 2016 YWCA Salute to Outstanding Women in Business & Industry Award, a finalist in the 2016 SBA Small Business Person of the Year and the 2017 Distinguished Entrepreneur of the Year Award presented by Syracuse University's Whitman School of Management and the WISE Women's Business Center.

Deb is also the author of *DeClutter Your Life NOW! A motivational guide to tackle the clutter in ALL aspect of your life.*



# Partial List of Clients

The Administrators of Volunteer Services	Herkimer College	Paine Library
Alzheimer's Association of CNY	Hillside Work Scholarship Connection	Pioneer Companies
AmeriCU	The Home Show at Turning Stone	Power Performers
Association of Personal Photo Organizers	Inficon	Preswick Glen
Bank of NY Mellon	JAY-K Lumber	Research Foundation for SUNY
Barnes-Hiscock Mansion	Keller Williams	Rome Art & Community Center
Beacon Federal Credit Union	Key Bank	Roswell Park Cancer Institute
Becton Dickinson	Kirkland Library	Schuyler Commons
Bite Cafe and Bakery	Leadership Mohawk Valley	SCORE
Biz Events & The Business Journal News Network	Leatherstocking Abstract Company	Sisters of St. Francis
Boilermaker Road Race	Liberty Tax Service	Staffworks, Inc.
Chobani	Liverpool Library	The Stanley Theater
Christopher Communities	M Griffith Investment Services	SUNY PolyTechnic Institute
Compson & Pimpinella Law Firm	Make a Wish Central New York	SUNY Potsdam
Center State CEO	Medical Societies, Central NY Academy of Medicine	Syracuse Orthopedic Specialists
Cicero Chamber of Commerce	Mohawk Ltd.	Terracai/CXtec
City of Utica	Mohawk Valley Community College	The Neighborhood Center
Confidata	Mohawk Valley SBDC	The Women's Fund of Oneida and Herkimer Counties
Continuing Education Association of NY- CEANY	Mohawk Valley Society for Human Resource Management	The YWCA of the Mohawk Valley
Cornell Cooperative Extension	Morgan Stanley Smith Barney	Turning Stone Casino
Crouse Hospital and Crouse Spirit of Women Program	National Association of Professional Organizers (NAPO), Philadelphia Chapter, PA	State University of New York
CUNY Hunter College	National Association of Professional Organizers (NAPO), Washington, DC Metro Chapter	United Way of the Valley & Greater Utica
Dermody Burke & Brown	NYS Department of Transportation	Utica College
Empire Recycling	New York Power Authority	Utica Police Department
Excellus BlueCross BlueShield	NY Sash	Utica Zoo
Excellus BlueCross BlueShield of Rochester	New Hartford Town Crier	Veraction
Farm Credit East	New York State Fair	View
Financial Management Association	New York State Office of Mental Health	Ward Law Firm
First Source Federal Credit Union	New York State Staff Development Coordinators	WNY Oncology Nursing Society
Forever	New York State United Teachers (NYSUT)	Women's Business Center
Foster Martin	Observer Dispatch	Women's Employment and Resource Center
Fust Charles Chambers CPAs	Oneida County	Women TIES
Getnick, Livingston, Atkinson & Priore	Oneida County Bar Association	
Gilroy, Kernan & Gilroy Insurance	Oneida County Women's Bar Association	
Greater Utica Chamber of Commerce	Onondaga County	
Griffiss Institute		
Hamilton College		
The Hartford		
Hear 2 Learn		



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**DC Efficiency Consulting**  
Reinvent the Way You Work

A Certified New York State Women-Owned Business Enterprise (WBE)



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# COMMUNITY WELLNESS PARTNERS

— Making life about you —

110 Utica Road, Clinton, NY 13323 | P: 315.724.4959 | F: 315.859.1938 | msweeney@cwpcnc.org

[www.communitywellnesspartners.org](http://www.communitywellnesspartners.org)

February 13, 2019

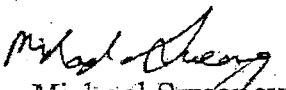
Ms. AnneMarie Ambrose  
Director of Information Technology  
Oneida County Office Building  
800 Park Ave.  
Utica, NY 13501

Dear Ms. Ambrose:

I've used Deb Cabral's services on several occasions to organize and store our critical and confidential financial information. She set clear expectations, timelines and led her team in implementing the project. She maintains a very positive attitude, excels at customer service and exceeds expectations.

She did an excellent job and I wouldn't hesitate to utilize her services again in the future. If you need anything further, please don't hesitate to contact me at 315-724-4959.

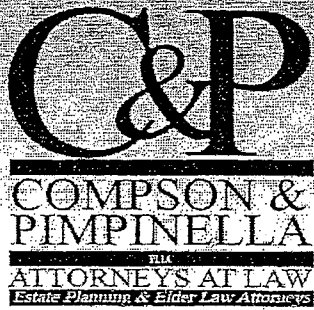
Sincerely,

  
Michael Sweeney  
President/CEO

LutheranCare®  
Katherine Luther Residential  
Health Care & Rehabilitation Center  
Lutheran Home of Central New York  
The Lutheran Homes Foundation

Presbyterian Homes & Services  
Presbyterian Home for Central New York  
Presbyterian Residential Community  
Preswick Glen  
The Meadows at Middle Settlement  
Presbyterian Homes Foundation





2310 Genesee Street  
Utica, NY 13502  
Phone: (315) 724-5147  
Fax: (315) 724-2534  
www.cpestatelaw.com

Attorneys  
Paul J. Pimpinella, Esq.  
Lisa M. Heintz, Esq.  
Of Counsel  
G. Kevin Ludlow, Esq. ♦  
Administrative  
Joanne Pope, Paralegal  
Melissa Acquaviva, Paralegal  
Dana Cangello, Legal Secretary

February 13, 2019

Anne Marie Ambrose  
Director of Information Technology

**RE: DC Efficiency Consulting**

Dear Ms. Ambrose:

Please be advised that I am the owner of the above reference law firm and I am submitting this letter regarding my experience with DC Efficiency Consulting.

In 2013, our office retained DC Efficiency Consulting to perform a file consolidation and organizational project. This project was extremely detailed and cumbersome as a result of over 50 years of our law firm accumulating client files. I can attest that above reference company exceeded my expectations and completed the project in a very timely fashion. This project also involved sensitive client files and I found the above reference company as well as their employees very diligent in keeping this information confidential. As the owner of the law firm, I would highly recommend the services of DC Efficiency Consulting.

Should you have any questions or concerns, please do not hesitate to contact the undersigned.

Very truly yours,

Paul J. Pimpinella, Esq.

Cc:  
Encl/

♦ Also admitted in DC and  
FL



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
10/26/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Insurance Partners Agency 26865 Center Ridge Road Westlake OH 44145	CONTACT NAME: Donna Moats	
	PHONE (A/C, No, Ext): (800) 229-5266 FAX (A/C, No): (866) 620-2007 E-MAIL ADDRESS: dmoats@inspartners.com	
INSURED Cabral Enterprises, DBA: The DeClutter Coach and DC Efficiency Consulting 23 Oxford Rd. Oxford Professional Centre New Hartford NY 13413	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Philadelphia Indemnity Insurance Compar	
	INSURER B: Hartford Property & Casualty	34690
	INSURER C: Western Surety Company	
	INSURER D: INSURER E: INSURER F:	

COVERAGES CERTIFICATE NUMBER: CL1821336888 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADBL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	X		PHBOP014299	3/18/2018	3/18/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000 Professional Liability \$ INCLUDED
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	X		PHBOP014299	3/18/2018	3/18/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	45WECCD4037	3/21/2018	3/21/2019	PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	BOND			62701748	3/18/2018	3/18/2019	LIMIT \$ 10,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 Certificate holder is listed as an additional insured with regards to the general liability coverage with a written contract and is subject to the language of the policy.

CERTIFICATE HOLDER  Oneida County 800 Park Ave. Utica, NY 13501	CANCELLATION  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  G Dadas, CIC CRM/SNYD

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# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
02/18/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Insurance Partners Agency 26865 Center Ridge Rd  Westlake OH 44145	CONTACT NAME: Donna Moats	
	PHONE (A/C, No, Ext): (800) 229-5266 FAX (A/C, No): (866) 620-2007 E-MAIL ADDRESS: dmoats@inspartners.com	
INSURED  Cabral Enterprises, DBA: The DeClutter Coach and DC Efficiency 23 Oxford Rd. Oxford Professional Centre New Hartford NY 13413	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Philadelphia Indemnity Insurance Company	
	INSURER B: Hartford Property & Casualty	34690
	INSURER C: Western Surety Company	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES CERTIFICATE NUMBER: CL1921848384 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDSUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	PHBOP016051	03/18/2019	03/18/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000 Professional Liability \$ INCLUDED	
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	PHBOP016051	03/18/2019	03/18/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$	
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$	
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	N/A	45WECCD4037	03/21/2019	03/21/2020	PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C			62701748	03/18/2019	03/18/2020		

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 Certificate holder is listed as an additional insured with regards to the general liability coverage with a written contract and is subject to the language of the policy.

CERTIFICATE HOLDER  Oneida County 800 Park Ave.  Utica NY 13501	CANCELLATION  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  

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## REVISED Pricing Schedule 9/12/19

### **Pricing/Investment:**

This quote is based on our on-site inspections and information obtained from Oneida County staff regarding the 23 properties that will be part of this project.

### **Organization Project- Project #1**

Team of 2-4 (\$150/hr.) for 20 hours per week = \$3000 weekly/\$156,000 annually

Team of 2-4 (\$150/hr.) for 25 hours per week = \$3750 weekly/\$195,000 annually

Team of 2-4 (\$150/hr.) for 30 hours per week = \$4500 weekly/\$234,000 annually

**Leadership Oversight of Project** \$125/hr.- 4 hours per week= \$500 weekly/\$26,000 annually

Deb will be working much more than 4 hours per week on this project, but regardless of the number of hours worked, we will bill only 4 hours weekly.

### **Total annual cost:**

**20 hours, plus leadership oversight \$182,000**

**25 hours, plus leadership oversight \$221,000**

**30 hours, plus leadership oversight \$260,000**

**Cost of Inflation Increase:** At beginning of year three of the project, we respectfully request an increase of 5%. An additional increase of 5% is requested at the beginning of the second renewal (year five).

### **Shredding:**

After doing some research, we learned from Confidata that they have a Revenue Contract with NYSED that is available to all state and county agencies and municipalities. This requires Confidata to pay a fee to the state based on the amount of paper they receive. Basically, if documents are dropped off at Confidata's location in Utica by Oneida County, the shredding is free. The County is doing this now, on occasion.

For this project, if we can have the County employees that work at Westmoreland drop off the documents that are determined to be ready to shred, there would be no cost. This could save a significant amount of money for the County during the life of this project and beyond. If drop-offs by County employees are not possible, Confidata can pick up for us at a cost of \$100 per pickup. Either way, there is NO cost for the shredding. It is our recommendation that we take advantage of this cost saving opportunity.

**Materials:** During the course of the project, we may recommend the County purchase products such as shelving or signage for file organization. We will provide a separate recommendation for these items when appropriate.



# Exhibit D

November 30, 2019

Page 1 of 1

**Quote for:**  
***Oneida County Confidential Secure Document Organization  
and County-Wide Media Shredding***

**Services Include:** Inventory and Organization of Oneida County files in all 23 locations. We will determine the retention dates for documents/files based on the NYS CO2 Retention Schedule and identify documents to be scanned and/or shred with approval from Oneida County Department staff. We will also maintain records of all inventories and Shred Certificates.

**Organization/Inventory Project:**

Team of 2-4 (\$150/hr.) for 30 hours per week=

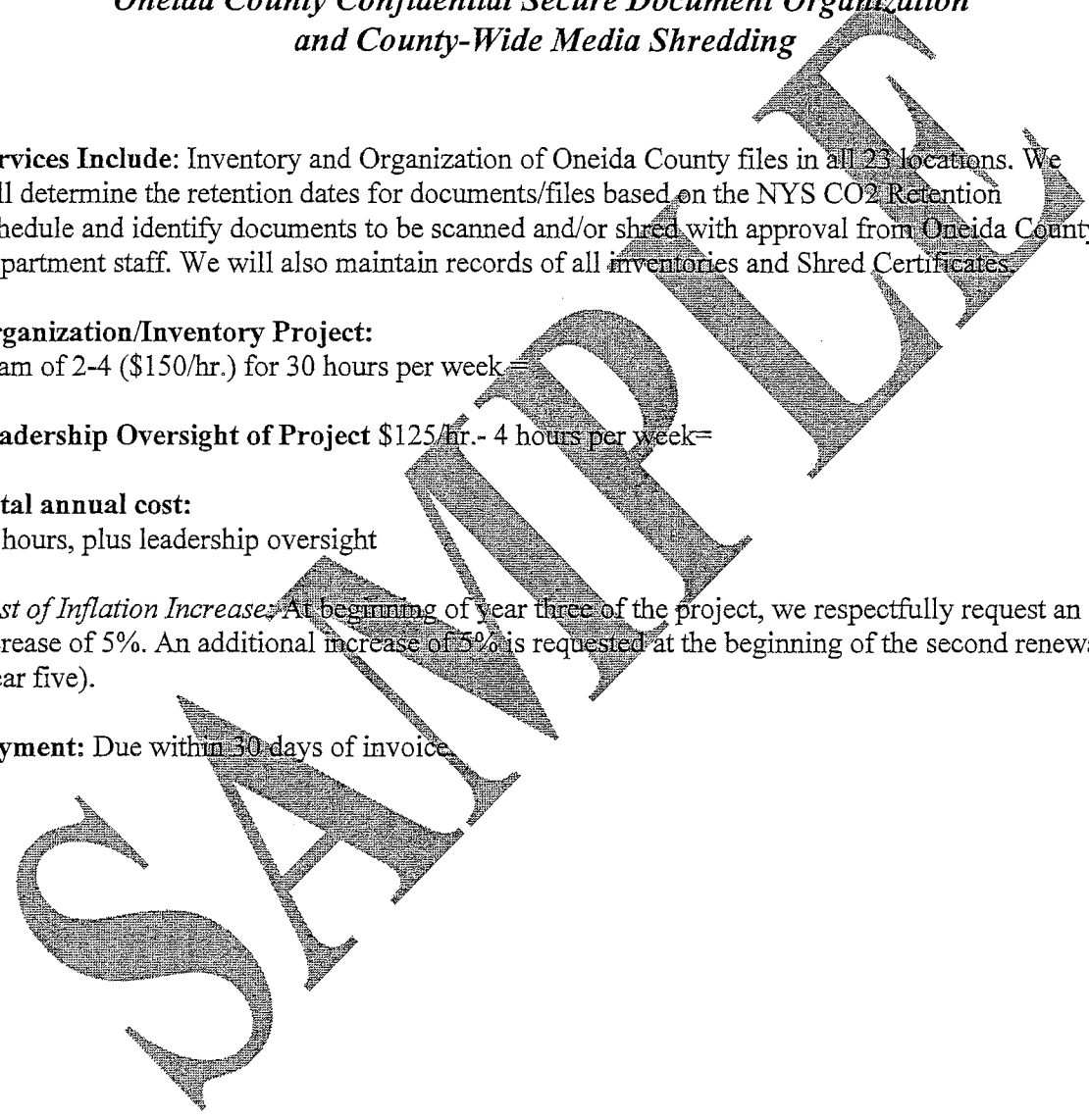
**Leadership Oversight of Project** \$125/hr.- 4 hours per week=

**Total annual cost:**

30 hours, plus leadership oversight

*Cost of Inflation Increase:* At beginning of year three of the project, we respectfully request an increase of 5%. An additional increase of 5% is requested at the beginning of the second renewal (year five).

**Payment:** Due within 30 days of invoice.



# Exhibit E

## WORK COMPLETION CERTIFICATE

This is to certify that **CABRAL ENTERPRISES, LLC D/B/A THE DECLUTTER COACH & DC EFFICIENCY CONSULTING** has successfully completed services within the scope of work as agreed upon with **ONEIDA COUNTY** and detailed below.

Contract Name/Number: \_\_\_\_\_

Project/Tasks: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

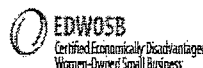
Completion Date: \_\_\_\_\_

Deborah J Cabral, President  
Cabral Enterprises, LLC D/B/A The DeClutter Coach & DC Efficiency Consulting  
DCabral@DCEffConsult.com

Client Representative Name: \_\_\_\_\_

Client Representative Title: \_\_\_\_\_

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





**ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS**

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

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1) The dangers of drug abuse in the workplace;

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

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

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

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

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

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

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

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

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

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

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

---

---

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

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

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

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

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

When applicable to the services provided pursuant to the Contract:

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

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

c. The Contractor shall:

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

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

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

5. NON-ASSIGNMENT CLAUSE.

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



6. WORKER'S COMPENSATION BENEFITS.

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

7. NON-DISCRIMINATION REQUIREMENTS.

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

8. WAGE AND HOURS PROVISIONS.

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

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

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its knowledge and belief: (1) the prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; and (2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) no attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

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

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

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

12. CONFLICTING TERMS.

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

13. GOVERNING LAW.

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

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

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

16. GRATUITIES AND KICKBACKS.

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

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

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

## 17. AUDIT

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

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

## 18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

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

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

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

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

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

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

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

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

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

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

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

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



ONEIDA COUNTY  
DEPARTMENT OF PUBLIC WORKS  
George E. Carle Complex  
5999 Judd Road, Oriskany, NY 13424  
Phone: (315) 793-6235 Fax: (315) 768-6299

ANTHONY J. PICENTE, JR.  
County Executive

DENNIS S. DAVIS  
Commissioner

December 9, 2019

File # 20-037

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

**PUBLIC WORKS**

**WAYS & MEANS**

Dear County Executive Picente,

The attached Change Order No. 2 modifies the Agreement with Lochner Engineering, P.C. concerning the Middle Settlement Road reconstruction project by adding street lighting.

Oneida County will receive financial aid from New York State in the amount of \$4,520,000.00 for reconstruction of Middle Settlement Road in the Town of New Hartford. This amount will allow reconstruction to extend from State Route 5 (Seneca Turnpike) to Clinton Road (Lowes intersection). The Town of New Hartford requested installation of street lighting within the project limits. If installed, the Town of New Hartford has agreed to be responsible for all operation and maintenance costs.

Oneida County contracted with Lochner Engineering, P.C. to prepare plans and specifications for this project. Street lighting was not in the original scope of work or consulting services agreement. On November 6, 2019 the Oneida County Board of Acquisition and Contract approved Change Order No. 2 from Lochner Engineering, P.C. with a fee of \$24,000.00 to prepare plans and specifications for street lighting. Total consulting fee would be increased to \$540,000.00. The term begins upon execution and ends September 30, 2021.

If the enclosed Change Order No. 2 is acceptable, please forward same to the Oneida County Board of Legislators for approval.

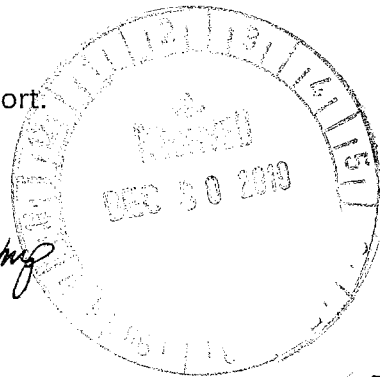
Thank you for your continued support.

Sincerely,

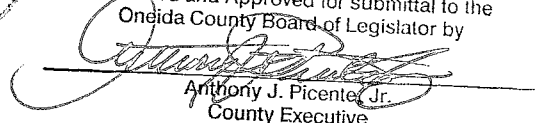


Dennis S. Davis  
Commissioner

cc: Mark E. Laramie, PE, Deputy Commissioner



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



Anthony J. Picente, Jr.  
County Executive

Date 12-30-19



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

## ONEIDA COUNTY BOARD OF LEGISLATORS

**Name & Address of Vendor:** Lochner Engineering, P.C.  
181 Genesee Street  
Utica, NY 13501

**Title of Activity or Service:** Change Order No. 2 to Professional  
Consulting Services Agreement for  
Middle Settlement Road Reconstruction

**Proposed Dates of Operation:** Start on Execution – 9/30/2021

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

### Summary Statements

**1) Narrative Description of Proposed Services:** Oneida County contracted with Lochner Engineering, P.C. to prepare plans and specifications for the Middle Settlement Road project. Change Order No. 2 adds street lighting design for an additional \$24,000. The new total for professional services by Lochner is \$540,000.

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

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

<b>4) Funding</b>	<b>Account #:</b>	H-298
	<b>Total Funding Requested:</b>	\$540,000.00
	<b>Oneida County Dept. Funding Recommendation:</b>	\$540,000.00

<b>Proposed Funding Sources</b>	<b>Federal:</b>	
	<b>New York State:</b>	\$540,000.00
	<b>County:</b>	
	<b>Other:</b>	

**Past Performance Data:** N/A

**O.C. Department Staff Comments:** None

Contract No. 16930/H1647009

Change Order No. Two

Effective Date 11/06/2019

**CHANGE ORDER**

This Change Order modifies the Agreement entered into the 17<sup>th</sup> day of October, 2017, between the County of Oneida ("COUNTY") and Lochner Engineering, P.C. ("CONSULTANT"), as follows:

1. **Change in Services:**

CONSULTANT will develop a street lighting design for the 0.66 mile long project in accordance with Chapter 12 of the NYSDOT Highway Design Manual. Design to include determining the type of luminaire, mounting height, spacing and arrangement to ensure the average maintained horizontal illuminance and uniformity ratio values recommended in "An Informational Guide for Roadway Lighting" will be achieved. Scope of work and fee summary further defined in Exhibit A, attached hereto and incorporated herein.

2. **Change in time of Performance** (attach schedule if appropriate):

No Change

3. **Change in CONSULTANT's Compensation:**

Original Agreement	\$419,000.00
Change Order One	\$97,000.00
Change Order Two	\$24,000.00
<b>Revised MAP Total</b>	<b>\$540,000.00</b>

4. All other terms and conditions, not inconsistent hereto, remain unchanged.

**COUNTY**

**CONSULTANT**

\_\_\_\_\_  
Signature

Anthony J. Picente, Jr.  
Oneida County Executive

\_\_\_\_\_  
Date

Approved

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

\_\_\_\_\_  
Signature

*Allen J. Cowen*  
Allen J. Cowen, P.E.  
Vice President

\_\_\_\_\_  
Date

*12/11/19*

# LOCHNER

**Reconstruct Middle Settlement Road  
PIN 2754.27  
Supplemental No. 2**

## **Scope of Services**

### **6.02.20 Street Lighting**

Lochner will develop a street lighting design for the 0.66 mile long project in accordance with Chapter 12 of the NYSDOT Highway Design Manual. Design to include determining the type of luminaire, mounting height, spacing and arrangement to ensure the average maintained horizontal illuminance and uniformity ratio values recommended in “An Informational Guide for Roadway Lighting” will be achieved.

# **LOCHNER**

**Reconstruct Middle Settlement Road  
PIN 2754.27  
Supplemental No. 2**

## **Technical Assumptions**

1. Lighting will not be provided for the Seneca Turnpike / Middle Settlement Road intersection.
2. NYSDOT specifications and pay items will be utilized.
3. There will be approximately 10 pay items associated with the lighting system.

**Exhibit A, Page 1**  
**Salary Schedule**  
**Lochner Engineering, P.C.**  
**Reconstruction of Middle Settlement Road (County Route 30) in the Town**  
**of New Hartford**  
**Oneida County Department of Public Works**  
**Oneida County**  
**October 1, 2019**

JOB TITLE	ASCE (A)	Average Hourly	
	OR NICET (N)	Present 9/2019	OVERTIME CATEGORY
	GRADE		
Managing Engineer	VII (A)	\$77.25	A
Sr Engr/Scientist II	VI (A)	70.39	B
Sr Engr/Scientist I	V (A)	56.43	B
Project Engineer/Scientist	IV (A)	45.58	B
Engineer/Scientist III	III (A)	39.14	B
Engineer/Scientist	II/I (A)	30.39	B
Senior Technician	IV (N)	39.72	C
Technician III	III (N)	37.60	C
Technician II	II (N)	32.45	C
Technical Typist	NA	26.90	C

**NOTES:**

Hourly rates shall not exceed those shown above or the current NYSDOT Maximum Allowable of the original agreement.

**OVERTIME POLICY:**

Category A - No overtime compensation.

Category B - Overtime compensated at straight time rate.

Category C - Overtime compensated at straight time rate x 1.50.

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

Exhibit A, Page 3  
Staffing Table

Lochner Engineering, P.C.  
Reconstruction of Middle Settlement Road (County Route 30) in the Town of New Hartford  
Oneida County Department of Public Works  
Oneida County  
October 1, 2019

JOB TITLE	ASCE (A) OR NICET (N) GRADE	Section								Total Hours	Present Hourly Rate 2019	Direct Technical Labor
		1	2	3	4	5	6	7	8			
Managing Engineer	VII (A)	0	0	0	0	0	0	0	0	0	\$77.25	\$0.00
Sr Engr/Scientist II	VI (A)	0	0	0	0	0	0	0	10	10	70.39	\$703.90
Sr Engr/Scientist I	V (A)	0	0	0	0	0	0	0	96	96	56.43	\$5,417.64
Project Engineer/Scientist	IV (A)	0	0	0	0	0	0	0	0	0	45.58	\$0.00
Engineer/Scientist III	III (A)	0	0	0	0	0	0	0	0	0	39.14	\$0.00
Engineer/Scientist	III/ (A)	0	0	0	0	0	0	0	69	69	30.39	\$2,096.57
Senior Technician	IV (N)	0	0	0	0	0	0	0	0	0	39.72	\$0.00
Technician III	III (N)	0	0	0	0	0	0	0	0	0	37.60	\$0.00
Technician II	II (N)	0	0	0	0	0	0	0	0	0	32.45	\$0.00
Technical Typist	NA	0	0	0	0	0	0	0	0	0	26.90	\$0.00
		0	0	0	0	0	0	0	175	175		\$8,218.10



SCOPE ITEM	Professional							Technical					Total Manhours
	SE II	SE I	PE	ENG	ENG	ENG	ENG	Tech 4	Tech 3	Tech 2	Tech 1	TT	
	VII	VI	V	IV	III	II/I	IV	III	II	I	N/A		
6.04													0
6.05													0
6.08													0
6.09													0
<b>Detailed Design Totals</b>													
	0	10	96	0	0	69	0	0	0	0	0	0	175
<b>Total</b>	0	10	96	0	0	69	0	0	0	0	0	0	175



Exhibit A, Page 4  
Estimate of Direct Non- Salary Cost  
 Lochner Engineering, P.C.

Reconstruction of Middle Settlement Road (County Route 30) in the Town of New Hartford  
 Oneida County Department of Public Works  
 Oneida County  
 October 1, 2019

**1. Travel, Lodging and Subsistence**

<u>Trips to :</u>							
Site	0	trips with	15.00	miles per trip @	\$0.540	per mile =	\$0.00
Oneida County DPW	0	trips with	20	miles per trip @	\$0.540	per mile =	<u>\$0.00</u>
							\$0.00
Tolls	0	trips @	\$ -	per trip =			\$0.00
<b>TOTAL TRAVEL, LODGING, &amp; SUBSISTENCE</b>							<b>\$0.00</b>

**2. Reproduction, Drawings & Report**

8-1/2 x 11 B/W Copies (Specifications)	0	sets	40	sheets/set	\$0.10	each sheet	\$0.00
11 x 17 B/W Copies (Plans)	0	sets	3	sheets/set	\$0.15	each sheet	\$0.00
8-1/2 x 11 B/W Copies (Reports)	0	sets	50	sheets/set	\$0.10	each sheet	\$0.00
11 x 17 B/W Copies (Report Dwgs)	0	sets	10	sheets/set	\$0.10	each sheet	\$0.00
<b>TOTAL REPRODUCTION, DRAWING &amp; REPORT</b>							<b>\$0.00</b>

---

**TOTAL DIRECT NON - SALARY COST      \$0.00**

**3. Subcontractor Cost**

Asbestos (Estimated)							\$0.00
<b>TOTAL SUBCONTRACTOR COSTS</b>							<b>\$0.00</b>

Exhibit A, Page 5

Summary

Lochner Engineering, P.C.

Reconstruction of Middle Settlement Road (County Route 30) in the Town of New Hartford

Oneida County Department of Public Works

Oneida County

October 1, 2019

Item IA, Direct Technical Salaries (estimated) subject to audit	\$8,218
Item IB, Direct Technical Salaries Premium Portion of overtime (estimated) of overtime subject to audit	\$0
Item II, Direct Non-Salary Cost (estimated) Expenses	\$0
Item II, Direct Non-Salary Cost (estimated) Sub-Consultant Cost (RK Hite)	\$0
Item II, Direct Non-Salary Cost (estimated) Sub-Consultant Cost (OSPA)	\$0
Item II, Direct Non-Salary Cost (estimated) Sub-Consultant Cost (Prudent Engineering)	\$0
Item II, Direct Non-Salary Cost (estimated) Sub-Contractor Cost (Asbestos)	\$0
Item III, Overhead (estimated) subject to audit @ 162%	\$13,313
Item II Fixed Fee - 10%	\$2,153
<hr/>	
Total Estimated Cost	\$23,684
Contingency	\$316
<b>TOTAL FEE</b>	<b>\$24,000</b>



**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

**PETER M. RAYHILL**  
COUNTY ATTORNEY

November 15, 2019

20-038

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

**PUBLIC WORKS**

RE: Jug Sports  
Lease of Murnane Field/Donovan Stadium

**WAYS & MEANS**

Dear County Executive Picente:

Attached please find an agreement between the Oneida County Sports Facility Authority and Jug Sports, LLC for your review. This contract will provide for a lease for the use and operation of Donovan Stadium at Murane Field for Blue Sox baseball games in 2020 and 2021.

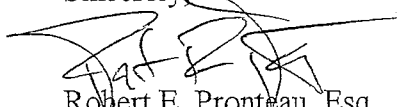
The total revenue associated with this agreement is \$21,000.00. The annual rent will be increasing over the 2019 amounts, up to \$10,000.00 in 2020 and \$11,000.00 in 2021, in an effort to keep pace with rising expense costs.

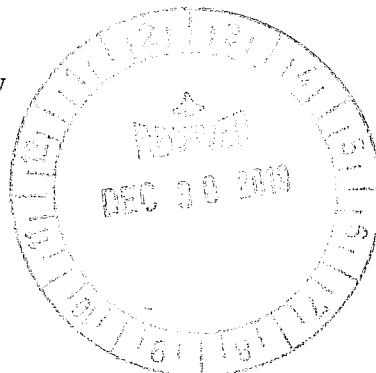
If you approve of this agreement, please indicate so by endorsing this letter and forwarding this lease to the Board of Legislators for consideration at their next scheduled meeting.

Should you have any questions, please contact me.

Thank you for your attention to this matter.


Sincerely,

  
Robert E. Pronteau, Esq.  
Assistant County Attorney



REP  
Enclosures

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

  
Anthony J. Picente, Jr.  
County Executive

Date 12-30-19

Oneida Co. Department: County Attorney  
(Sports Facility Authority)

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

## ONEIDA COUNTY BOARD OF LEGISLATORS CONTRACT SUMMARY

**Name & Address of Vendor:** Jug Sports, LLC  
7179 Count Highway 18  
West Winfield, NY 13491

**Title of Activity or Service:** Lease of Murnane Field/Donovan Stadium for Blue Sox Baseball

**Proposed Dates of Operation:** January 1, 2020 to December 31, 2021

**Client Population/Number to be Served:** Residents and Non-Residents of Oneida County who will attend baseball games.

### Summary Statements

- 1. Narrative Description of Proposed Services:** Lease of Murnane Field/Donovan Stadium for Blue Sox Baseball.
- 2. Program/Service Objectives and Outcomes:**
- 3. Program Design and Staffing:**

**Total Funding Requested: \$ 21,000.00 (Revenue)**

**Account#:**

**Oneida County Dept. of Funding Recommendation: \$21,000.00**

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

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

**Past Performance Data:** N/A

**O.C. Department Staff Comments:**



Oneida County  
Office for the Aging & Continuing Care

Anthony J. Picente, Jr.  
County Executive

Michael J. Romano  
Director

120 Airline Street, Oriskany, NY 13424

Phone 315-798-5456

Fax 315-798-6444

E-mail: ofa@ocgov.net

November 12, 2019

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

FN 20 20.039

HEALTH & HUMAN SERVICES

WAYS & MEANS

Dear Mr. Picente:

I am submitting the following Agreement between Oneida County, through its Office for the Aging and Continuing Care, and The North Utica Senior Citizens Recreation Center, Inc., for your review and approval. If this Agreement meets with your approval, please forward to the Board of Legislators for further consideration.

The purpose of this Agreement is to provide fiscal intermediary services for Oneida County's Aging Programs that include flexible consumer-directed care using budget based care plans provided by program coordinators, consumers and caregivers. This Agreement funds Caregiver Support Program Emergency Respite Services, the Community Living Program, the Alzheimer's Association Respite Grant and Community Based Services Program. The total amount of this Agreement is \$198,500.00.

These programs are supported by \$21,000.00 federal funding, \$86,750.00 state funding and \$20,750.00 in County funds. New York State is also providing an additional \$70,000.00 in the form of an unmet needs grant. This Agreement will commence on January 1, 2020 and will terminate on December 31, 2020.

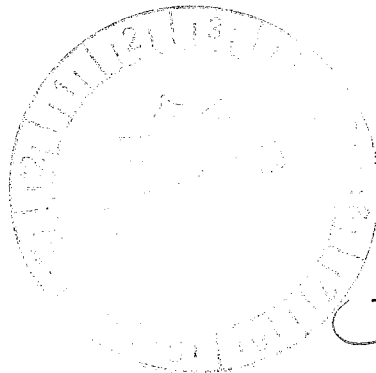
I am available at your convenience to answer to any questions you might have regarding this Agreement.

Sincerely,

Michael J. Romano  
Director

MJR/md

Enclosures



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

Anthony J. Picente, Jr.  
County Executive

Date 11/12/19

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name & Address of Vendor:**           **The North Utica Senior Citizens Recreation Center, Inc.**  
50 Riverside Drive  
Utica, New York 13502

**Title of Activity or Service:**           Fiscal Intermediary Services

**Proposed Dates of Operation:**       January 1, 2020 – December 31, 2020

**Client Population/Number to  
be Served:**                               **Oneida County residents aged 60+**

**(a) Caregiver Support Program Emergency Respite Service:**

Approximately fifty (50) clients are expected to be in need of respite services.

**(b) Community Living Program (CLP):**

Approximately forty (40) elderly and disabled individuals most at risk for Medicaid spend down and Nursing Home Placement.

**(c) Alzheimer's Associations Respite Grant:**

Approximately forty (40) scholarships are available for clients with Alzheimer's or a related disorder in need of respite services.

**Summary Statements**

**1) Narrative Description of Proposed Services**

**(a) Caregiver Support Program Emergency Respite Services** addresses the immediate, intermittent respite needs for a caregiver and care receiver.

**(b) Community Living Program (CLP)** will provide Oneida County with the ability to develop a flexible consumer directed model of service to allow clients to remain in their community.

**(c) Alzheimer's Association Respite Grant** will address the immediate, intermittent respite needs for caregivers and care receivers who suffer from Alzheimer's or related disorder.

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

**(a) Caregiver Support Program Emergency Respite Services** will provide support service activities that are temporary, substitute supports or short-term living arrangements, thus allowing a brief period of relief or rest for caregivers that ultimately assist in keeping the care receiver in the community.

**(b) Community Living Program (CLP)** will link individuals with home and community based services and supports, using a budget based consumer driven plan of care, with services and goods selected by the consumer or primary caregiver.

**(c) Alzheimer's Association Respite Grant** will provide support services activities that are temporary, substitute supports or short-term living arrangements, thus allowing a brief period of relief or rest for caregivers of clients with Alzheimer or another related disease.

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

**Total Funding Requested:** \$198,500.00

**Account #** A6772.495135  
A6774.495.99  
A6772.495149

**Oneida County Dept. Funding Recommendation:** \$198,500.00

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

- **Caregiver Respite Program (IIE) (#A6772.495135) \$63,000.00**  
Federal: 75% (\$21,000.00) State: UMN (\$35,000) County: 25% (\$7,000.00)
- **Community Living Program (CLP) (#A6774.49599) \$90,000.00**  
Federal: 0% (\$0) State: 75% (\$41,250.00) County: 25% (\$13,750.00)  
State UMN: (\$35,000.00)
- **Alzheimer's Association Respite Grant (#A6772.495135) \$45,500.00**  
Federal: 0% (\$0) State: 100% (\$45,500.00) County: 0% (\$0)

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

**Past Performance Data:** The agency has been providing this service since 2016 and the Department is happy with its performance.

**O.C. Department Staff Comments:** BIPP Caregiver was removed for the 2019 contract.

## AGREEMENT

**THIS AGREEMENT**, hereinafter known as "Agreement," by and between **THE NORTH UTICA SENIOR CITIZENS RECREATION CENTER, INC.**, a domestic not-for-profit corporation organized and existing under the laws of the State of New York, located at 50 Riverside Drive, Utica, New York 13502, hereinafter known as the "**CONTRACTOR**," and the **COUNTY OF ONEIDA**, a municipal corporation, organized and existing under the laws of the State of New York, with its principal offices located at 800 Park Avenue, Utica, New York 13501 by and through its **OFFICE FOR THE AGING AND CONTINUING CARE**, located at 120 Airline Street, Suite 201, Oriskany, New York 13424, hereinafter collectively known as the "**COUNTY**," each a "**PARTY**" and collectively the "**PARTIES**."

### WITNESSETH:

**WHEREAS**, the **COUNTY** has the primary responsibility for the overall planning and coordination of **COUNTY** funds including the Federal Administration on Aging (AOA)-Older Americans Act Title III, Title V, New York State Office for the Aging (NYSOFA) – Expanded In-Home Services for the Elderly Program (EISEP), Community Services for the Elderly Program (CSEP), Congregate Services Initiative (CSI), Wellness in Nutrition (WIN), Health Insurance Information Counseling and Assistance Program (HIICAP), Medicare Improvements for Patients and Providers (MIPPA)/ Senior Health Insurance Program (SHIP), and County of Oneida funds; and

**WHEREAS**, the **COUNTY** has the responsibility to formally and informally monitor, assess and evaluate all programs, services and agreements funded through the **COUNTY**; and

**WHEREAS**, the **COUNTY** will provide technical assistance, upon request, to assist the **CONTRACTOR** in more effectively carrying out service delivery and/or complying with federal, state and local statutes, policies, rules and regulations; and

**WHEREAS**, the **CONTRACTOR** is willing and able to perform the services required by this Agreement;

**NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES AS FOLLOWS:**

1. **TERM OF THE AGREEMENT**

A. The term and conditions of this Agreement shall commence **January 1, 2020** and terminate **December 31, 2020**.

B. At the **COUNTY**'s sole discretion, this Agreement may be renewed for three (3) additional one-year agreements. Nothing herein shall be construed to indicate that the **COUNTY** is bound to renew this Agreement with the **CONTRACTOR** on an annual basis and the **COUNTY** reserves the right to seek the same or similar services from third parties.



2. **SCOPE OF SERVICES**

A. The **CONTRACTOR** shall provide flexible consumer-directed care services as part of a consumer's individualized budget-based plan of care created by the **COUNTY**, specifically, the program case coordinator, in collaboration with the consumer or the consumer's primary caregiver.

B. The **CONTRACTOR** shall maintain detailed accounting records for each consumer's care budget, independent financial audits, and funds for the purchase of community services and supports required by this Agreement.

C. The **CONTRACTOR** shall establish a Memorandum of Understanding, consistent with this Agreement, with various community agencies based on consumer selection. The **CONTRACTOR** shall provide goods and services selected by the consumer or their caregiver, to be purchased out of the consumer's individual care budget, and listed in the consumer's self-directed plan of care.

D. The **CONTRACTOR** shall provide flyers, brochures, and family education materials deemed necessary and approved by the **COUNTY**.

E. The **CONTRACTOR** shall provide a monthly accounting of the program's fund balance with copies of invoices and other necessary supporting documents as required by the **COUNTY**.

F. The **COUNTY**, specifically the program case coordinator, will fax an approval form for each authorized service to each provider prior to services starting, and will provide the **CONTRACTOR** with a copy of each faxed approval form.

3. **PERFORMANCE OF SERVICES**

A. The **CONTRACTOR** represents that **CONTRACTOR** is duly licensed (as applicable) and has the qualifications, the specialized skill(s), the experience, and the ability to properly perform the services. The **CONTRACTOR** shall use its best efforts to perform the services such that the results are satisfactory to the **COUNTY**. The **CONTRACTOR** shall be solely responsible for communications with the consumer or consumer's caregiver in order to determine the location, method, details, and means of performing the services, except where federal, state or local laws and regulations impose specific requirements on performance of the same.

B. The **CONTRACTOR** may, at its own expense, employ or engage the services of such employees, subcontractors and/or partners as the **CONTRACTOR** deems necessary to perform the services (collectively, the "Assistants"). The Assistants are not and shall not be deemed employees of the **COUNTY**, and the **COUNTY** shall have no obligation to provide the Assistants with any salary or benefits. The **CONTRACTOR** shall be solely responsible and shall remain liable for the performance of the services by the Assistants in a manner satisfactory to the **COUNTY**, and in compliance with any and all applicable federal, state or local laws and regulations.

C. The **CONTRACTOR** acknowledges and agrees that the **CONTRACTOR** and its Assistants have no authority to enter into contracts that bind the **COUNTY** or create obligations on the part of the **COUNTY** without the prior written authorization of the **COUNTY**.

4. **REIMBURSEMENT FOR SERVICES**

A. It is agreed and understood by all **PARTIES** that the **COUNTY** shall reimburse the **CONTRACTOR** in accordance with the terms and conditions of this Agreement, EISEP regulations, and the Older Americans Act.

B. The **COUNTY** shall reimburse the **CONTRACTOR** for services provided an amount not to exceed **\$198,500.00**, of which a maximum of **\$19,850.00** shall be utilized for program administration. The breakdown of program funding will be as follows:

**PROGRAM**

•Caregiver Support Program Emergency Respite Services (IIE)	\$63,000.00
•Community Living Program (EISEP/CLP)	\$90,000.00
•Alzheimer's Association Respite Grant	\$45,500.00
<b>TOTAL</b>	<b>\$198,500.00</b>

C. Reimbursement shall be made in four (4) installments upon submission of a **COUNTY** voucher in compliance with the Oneida County Office for the Aging Voucher Instructions for Units of Services Contracts, attached hereto as **APPENDIX C**. The reimbursement schedule will be as follows:

<b><u>DATE</u></b>	<b><u>PAYMENT AMOUNT</u></b>
• January 1, 2020	\$49,625.00
• April 1, 2020	\$49,625.00
• July 1, 2020	\$49,625.00
• October 1, 2020	\$49,625.00

D. Unused Caregiver Support Program Emergency Respite Services funds may be carried over from one fiscal year to the next and utilized for the Respite Scholarship Fund Program functions.

E. The **COUNTY** shall not be liable for any late fees or any interest on late payments.

F. The obligations of the **PARTIES** hereunder are conditioned upon the continued availability of New York State, federal and **COUNTY** funds for the purpose set forth in this Agreement. Should funds become unavailable or should appropriate New York State, federal, and/or **COUNTY** officials fail to approve sufficient funds for completion of the services set forth in this Agreement, the **COUNTY** shall have the option to immediately terminate this Agreement upon providing written notice to the **CONTRACTOR** by certified mail. In such an event, the **COUNTY** shall be under no further obligation to the **CONTRACTOR** other than payment for costs actually incurred prior to

termination and in no event will the **COUNTY** be responsible for any actual or consequential damages as a result of termination.

G. The **COUNTY** reserves the right to withhold reimbursement under this Agreement due to the **CONTRACTOR's** failure to properly perform its obligations under this Agreement. The **COUNTY** may withhold reimbursement for including but not limited to:

1. defective services;
2. third party claims;
3. failure of the **CONTRACTOR** to pay its subcontractors, if any;
4. damage to the **COUNTY**; or
5. failure to carry out the services in accordance with this Agreement.

H. It is understood and agreed that the **COUNTY** shall not be responsible for any costs incurred by the **CONTRACTOR** prior to the effective date or following the termination date of this Agreement.

## 5. **TRAINING**

The **CONTRACTOR's** Assistants shall not be required to attend or undergo any training by the **COUNTY**. The **CONTRACTOR** shall be fully responsible for all training necessary to maintain any licenses or certifications to perform the services described herein, and shall be solely responsible for the cost of the same.

## 6. **INDEPENDENT CONTRACTOR STATUS**

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

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

C. The **CONTRACTOR's** Assistants shall not be eligible for compensation from the **COUNTY** due to illness; absence due to normal vacation; or absence due to attendance at school or special training or a professional convention or meeting.

D. The **CONTRACTOR** acknowledges and agrees that the **CONTRACTOR's** Assistants shall be eligible for any **COUNTY** employee benefits, including retirement membership credits.

E. The **CONTRACTOR** shall be solely responsible for applicable taxes for all compensation paid to **CONTRACTOR** or its Assistants under this Agreement, and for compliance with all applicable labor and employment requirements with respect to the **CONTRACTOR'S** form of business organization, and with respect to the Assistants, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The **COUNTY** shall not be responsible for withholding from the payments provided for services rendered for state or federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). The **CONTRACTOR** shall provide proof of workers' compensation insurance, where applicable, prior to execution of this Agreement.

F. The **CONTRACTOR** shall indemnify and hold the **COUNTY** harmless from all loss or liability incurred by the **COUNTY** as a result of the **COUNTY** not making such payments or withholdings.

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

H. The **CONTRACTOR** shall comply with federal and state laws as supplemented in the Department of Labor regulations and any other regulations of federal and state entities relating to such employment and Civil Rights requirements.

## 7. SUBCONTRACTS

A. A subcontractor is a person and/or entity who has an agreement with the **CONTRACTOR** to perform any of the services stated herein.

B. The **CONTRACTOR** shall furnish to the **COUNTY**, prior to the execution of this Agreement, a list of names of subcontractors to whom the **CONTRACTOR** proposes to award any portion of the services. The **COUNTY** shall be provided a copy of any and all agreement(s) between the **CONTRACTOR** and any subcontractors regarding the award of any portion of the services within ten (10) days of their final execution.

C. Any agreements between the **CONTRACTOR** and the subcontractors shall be in accordance with the terms of this Agreement and shall include the conditions of this Agreement including all exhibits, attachments, appendices, and addendums, insofar as applicable.

## 8. NON ASSIGNMENT CLAUSE

The **CONTRACTOR** shall not assign, transfer, convey, sublet or otherwise dispose of this Agreement or of its right, title, or interest therein, or its power to execute this Agreement, to any other corporation or person without the prior written consent of the **COUNTY**.

9. **STANDARD ASSURANCES**

A. The **CONTRACTOR** shall comply with statutes, regulations, and policies set by the following: Federal Department of Health and Human Services, the AOA, the NYSOFA, and the **COUNTY**, more fully described in **APPENDIX A**.

B. The **CONTRACTOR** shall comply with section 504 of the Rehabilitation Act of 1973 (Nondiscrimination) which states "No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service." (29 U.S.C.A. §794)

C. The **CONTRACTOR** shall comply with the Human Rights Law Article 15 of the Executive Law of New York State (N.Y. Exec. Law §290, et seq.), Article 15A of the Executive Law of New York State regarding participation by minority group members and women with respect to state contracts (N.Y. Exec. Law §310, et seq.), and the Governor's Executive Order 28 which prohibits discrimination based on sexual orientation (9 NYCRR 4.28).

D. The **CONTRACTOR** shall comply with Title VI, the Civil Rights Act of 1964 (42 U.S.C.A. §2000-d, et seq.), and any amendment thereto: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

E. The **CONTRACTOR** agrees that any program, public information materials, or other printed or published materials on the work of or funded by CSEP/III-E will give due recognition to the NYSOFA and the Oneida County Office for the Aging. The statement shall be in font which is one of the following: in italics, or at least two font sizes larger than the rest of the text, or in bold font or underlined (i.e., "***This program is supported by Oneida County Office for the Aging and Continuing Care, New York State Office for the Aging, and the Administration on Aging.***"). The **CONTRACTOR** shall forward copies of all materials to the **COUNTY** at the end of each month.

F. The **COUNTY** shall conduct a program review to ensure that the **CONTRACTOR** is in compliance with all standards and regulations as set forth in this Agreement.

10. **NYSOFA TERMS AND CONDITIONS**

A. The **CONTRACTOR** agrees that all its activities under this Agreement shall conform with all applicable federal, state, and local laws, with federal and state regulations, and Program Standards and Program Instructions of the NYSOFA that apply to such activities, including, but not limited to:

1. Rehabilitation Act of 1973, Sec. 504 Nondiscrimination (29 U.S.C. 794)
2. Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.; see 92-PI-32, [8/4/92])
3. Civil Rights Act of 1964, Title VI, as amended (42 U.S.C. 2000-d et. seq.)
4. Older Americans Act (42 U.S.C. 3001, et seq.)
5. Executive Order 13166 Improving Access to Services for Persons with Limited English Proficiency (65 FR 50121)
6. Federal Executive Order 11246 (30 FR 12319), as Amended by Executive Order 11375 (32 FR 14303, Affirmative Action); as Amended by Executive Order 12086 (43 FR 46501, Consolidation of Compliance Functions); and as Amended by Executive Order 13279 (67 FR 77141, Equal Protection for Faith-Based and Community Organizations.)
7. Article 15 of the Executive Law of the State of New York, Human Rights Law: prohibiting discrimination based on age, race, creed, color, national origin, sexual orientation, military status, sex, marital status, or disability (N.Y. Exec. Law §290, et seq.)
8. Article 15A of the Executive Law of New York State regarding participation by minority group members and women with respect to state contracts (N.Y. Exec. Law §310, et seq.),
9. The NYSOFA'S Equal Access to Services and Targeting Policy Program Instruction (12-PI-08)
10. Elder Law

**B.** The **CONTRACTOR**, to the extent it has discretion regarding to whom it will provide services, shall provide services to those unserved and underserved older adults in greatest social or economic need, particularly those who are low-income, low-income minorities, older adults with Limited English Proficiency (LEP), Native Americans, and frail/persons with disabilities and older adults residing in rural areas, in accordance with their need for such services, and to meet specific objectives established by the **COUNTY** for providing services to the above groups within Oneida County. The **CONTRACTOR** shall concentrate the services on older adults in the targeted populations identified by the **COUNTY** following the methods the **COUNTY** has established for complying with the targeting requirements under the Older Americans Act and the Equal Access and Targeting Policy issued by the NYSOFA.

**C.** The **CONTRACTOR** shall inform persons with LEP of the availability of language assistance, free of charge, by providing written notice of such assistance in a manner designed to be understandable by LEP persons at service locations and, at a minimum, have a telephonic interpretation service contract or similar community arrangement with a language interpretation

services provider of their choice. The **CONTRACTOR** shall train Assistants that have contact with the public in the timely and appropriate use of these and other available language services.

**D.** To the extent that this Agreement with the **COUNTY** is for a program or service funded under the Area Plan, the **CONTRACTOR** agrees that it and any subcontractors shall perform such work in accordance with the terms of the Area Plan. The **COUNTY** agrees to make the Area Plan available to the **CONTRACTOR**.

**E.** The **CONTRACTOR** agrees that for programs established and funded in whole or in part pursuant to Title III of the Older Americans Act, the **CONTRACTOR** shall specify how it intends to satisfy the service needs of low-income minority individuals, older adults with LEP, and older adults residing in rural areas in the area served by it; will to the maximum extent feasible, provide services to low-income minority individuals, older individuals with LEP, and older adults residing in rural areas in accordance with their need for such services; and meet specific objectives established by the **COUNTY**, for providing services to low-income minority individuals, older adults with LEP, and older adults residing in rural areas within the planning and service area.

#### 11. GRIEVANCE PROCEDURES

The **CONTRACTOR** shall implement the Oneida County Office for the Aging Grievance Procedures as required by the NYSOFA. The written procedures are attached as **APPENDIX B**.

#### 12. FISCAL REQUIREMENTS/RESPONSIBILITIES

**A.** The **CONTRACTOR** shall keep program funds separate; further, state and federal funds shall not be used as local share (match).

**B.** The **CONTRACTOR** shall comply with all voucher and contribution procedures, and submissions of required reports as described in the Oneida County Office for the Aging Voucher Instructions for Units of Services Contracts, refer to **APPENDIX C**.

**C.** The **CONTRACTOR** shall report to the **COUNTY** any and all additional moneys or program income (contributions, donations) given to the supported programs. "Program income means gross income received by the subcontractor directly generated by a **COUNTY** grant supported activity, or earned as a result of the **COUNTY** grant agreement during the grant period." REF: Department of Health & Human Services, Program Instruction AoA-PI-96-01, October 16, 1995.

**D.** The **CONTRACTOR** shall maintain copies of proper documentation for all program income, including, but not limited to, in-kind support, donations, contributions, reimbursements, and other grants within its program budget.

**F.** The **COUNTY** shall conduct a periodic audit of revenues and expenditures, as well as the required annual on-site review of the program's fiscal status to ensure expenditures are in proportion to the total program budget.

G. The **CONTRACTOR** shall agree to have an independent audit conducted for the contracted program if it has been a **CONTRACTOR** for two (2) years or more; a copy of the audit shall be submitted to the **COUNTY** upon completion of the program/fiscal audit conducted by the outside auditor.

H. The **CONTRACTOR** shall maintain fiscal records for six (6) years and shall make them available for **COUNTY** review upon request.

I. The **CONTRACTOR** shall cooperate with the close-out audit that is required when the Agreement is terminated.

J. The **CONTRACTOR** shall follow close-out procedures administered by the **COUNTY** in accordance with the 45 C.F.R. §75.381

13. **INDEMNIFICATION**

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

B. The **CONTRACTOR** shall defend, indemnify, and hold harmless the **COUNTY** from and against all liability, damages, expenses, costs, including, without limitation, attorneys' fees and expenses, causes of action, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the services of the **CONTRACTOR** and its agents, servants, employees, independent contractors, volunteers or partners and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the **CONTRACTOR** or failure on the part of the **CONTRACTOR** to comply with any of the covenants, terms or conditions of the Agreement.

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

14. **INSURANCE COVERAGE REQUIREMENTS**

A. As part of its obligation to indemnify, defend, and hold harmless the **COUNTY**, its agents, servants, employees, independent contractors, volunteers or partners, as set forth above, the



**CONTRACTOR** shall obtain and maintain in full force and effect, for the term of this Agreement, insurance coverage as described below.

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

**C.** Prior to the start of any work, the **CONTRACTOR** shall provide certificates of insurance to the **COUNTY**. The certificates shall be on forms approved by the **COUNTY**. Acceptance of the certificates shall not relieve the **CONTRACTOR** of any of the insurance requirements, nor decrease the liability of the **CONTRACTOR**. The **COUNTY** reserves the right to require the Contractor to provide insurance policies for review by the **COUNTY**. The **CONTRACTOR** grants **COUNTY** a limited power of attorney to communicate with the **CONTRACTOR'S** insurance provider and/or agent for the express purpose of confirming the coverages required hereunder.

**D.** Certificates of Insurance: Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of the **CONTRACTOR'S** Commercial General Liability Policy, Business Automobile Liability Policy, and Excess/Umbrella Policy. These certificates and the insurance policies required below shall contain a provision that coverage afforded under the policies will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the **COUNTY**. The **COUNTY** must be named as the certificate holder and additional insured.

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

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

**F.** Business Automobile Liability: The **CONTRACTOR** shall at its own expense, at all times during the term of this Agreement, purchase and maintain in force a Business Auto Liability Insurance policy in an amount equal to or greater than One Million Dollars (\$1,000,000.00) for the term of this Agreement. Business Automobile Liability coverage must include coverage for liability arising out of all owned, leased, hired and non-owned automobiles. The **CONTRACTOR** shall have

the COUNTY added to said insurance policies as a named additional insured, on a primary and non-contributory basis.

**G.** Excess/Umbrella Liability Insurance: The **CONTRACTOR** shall, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of Umbrella/Excess Liability Insurance in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence and such insurance shall not be less than One Million Dollars (\$1,000,000.00) annual aggregate. The **CONTRACTOR** shall have the **COUNTY** added to said insurance policies as a named additional insured, on a primary, non-contributory basis. Excess/Umbrella coverage for such additional insured shall apply as primary and non-contributing before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by, or provided to, the additional insured.

**H.** Professional Liability Insurance: The **CONTRACTOR** shall, during the term of this Agreement maintain a professional liability policy and shall provide the **COUNTY** with proof of coverage in the amount of One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) aggregate.

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

**J.** The **CONTRACTOR** shall require any subcontractor(s) to procure and maintain insurance coverage of the same type and in the same amounts with the same endorsements required of the **CONTRACTOR** in the above Insurance Coverage Requirements paragraphs.

**K.** Payment(s) to the **CONTRACTOR** may be suspended in the event that the **CONTRACTOR** and its subcontractors, if any, fail to provide the required insurance documentation in a timely manner.

**L.** Waiver of Subrogation: The **CONTRACTOR** waives all rights against the **COUNTY** and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by CGL, Business Automobile Liability or Workers' Compensation and Employer's Liability Insurance maintained per requirements stated above.

## 15. REPORTING REQUIREMENTS

**A.** The **COUNTY** shall, pursuant to the requirements of CSEP/ III-E funded programs, comply with the Definition of Services, April 2011, as established by the NYSOFA (96-PI-43).

**B.** The **CONTRACTOR** shall provide the **COUNTY** with required information needed to meet planning, coordination, evaluation, and reporting requirements as required by NYSOFA's Consolidated Area Agency Reporting System (CAARS), by the 10<sup>th</sup> of every month. The current and revised CAARS Monthly Report Forms and Monthly Summary Form must be submitted as an attachment to the voucher on a monthly basis.

C. The **CONTRACTOR** shall maintain appropriate consumer records on each consumer who receives services through this program; the **COUNTY** shall have access to the consumer records upon request; the **COUNTY** shall have ownership of all consumer's records and files.

D. The **CONTRACTOR** shall comply with policies ensuring consumer confidentiality, as established by the **COUNTY**, when information sharing between agencies is crucial to a consumer's well-being and is needed to ensure effective service provision; pertinent information shall be shared in accordance with federal and state regulations and statutes.

E. The **CONTRACTOR** shall provide the **COUNTY** with required monthly, periodic, and/or special reports and shall submit all reports to the **COUNTY** by the dates specified.

16. **COORDINATION REQUIREMENTS**

A. The **CONTRACTOR** and the **COUNTY** shall coordinate referrals.

B. The **CONTRACTOR** and the **COUNTY** shall work with older persons, who are not eligible for services under this Agreement, to obtain needed services.

C. The **CONTRACTOR** shall coordinate with other appropriate service providers in obtaining and providing referrals for older residents of Oneida County.

17. **AGREEMENT CANCELLATION**

A. The Agreement may be cancelled by the **COUNTY** for failure by the **CONTRACTOR** to comply with the terms and conditions of this Agreement. The **CONTRACTOR** shall agree to incur no new obligations nor submit a claim for any expenses made after the receipt of written notification of termination.

B. The **COUNTY** reserves the right to cancel the Agreement upon thirty (30) day written notice to the other party.

C. The **CONTRACTOR** agrees that in the event of termination, said party shall make a full and final accounting of all funds received and monies expended under the Agreement within thirty (30) days after the date of termination. Any unexpended funds shall be the property of the **COUNTY**.

D. The **CONTRACTOR** shall coordinate with the **COUNTY** and other providers to ensure that any break in service to consumers shall not be detrimental to the consumers' health or well-being. If available and appropriate, other services shall be substituted and/or coordinated on the consumers' behalf.

18. **ENTIRE AGREEMENT**

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

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

C. By signing below, the **PARTIES** agree and acknowledge that they have read, understood and agreed to all the terms contained in any addenda attached hereto, including, but not limited to, Appendix AA (Caregiver Support Program for Respite Services Policies and Procedures), Appendix A (State and Local Regulations), Appendix B (Oneida County Office for the Aging Grievance Procedures), Appendix C (Oneida County Office for the Aging Voucher Instructions for Units of Services Contracts), and the Standard Oneida County Conditions Addendum.

D. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall be deemed one and the same instrument.

19. **STANDARD ADDENDUM**

The **CONTRACTOR** shall comply with the Standard Oneida County Conditions Addendum which is attached hereto and made a part hereof.

20. **CHOICE OF LAW/FORUM**

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

B. This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

21. **SUCCESSORS AND ASSIGNS**

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

22. **NON WAIVER**

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

23. **SEVERABILITY**

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

24. AUTHORITY TO ACT/SIGN

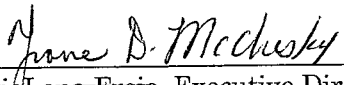
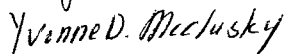
The **CONTRACTOR** hereby represents and certifies that it has the power and authority to execute and deliver this Agreement and to carry out its obligations hereunder. The execution and delivery by **CONTRACTOR** of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by the **CONTRACTOR**; no other action on the part of the **CONTRACTOR** or any other person or entity, whether pursuant to its Articles of Incorporation, Articles of Operation, Operating Agreement or Bylaws, as the case may be, or by law or otherwise are necessary to authorize the **CONTRACTOR** to enter into this Agreement, or to consummate the transactions contemplated herein.

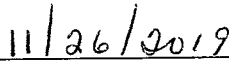
25. ADVICE OF COUNSEL

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

IN WITNESS WHEREOF, the **PARTIES** have here unto set their hand on the date respectively stated.

**THE NORTH UTICA SENIOR CITIZENS RECREATION CENTER, INC.**

  
\_\_\_\_\_  
Maria Elena Froio, Executive Director  


  
\_\_\_\_\_  
Date

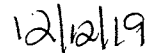
**COUNTY OF ONEIDA**

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

\_\_\_\_\_  
Date

**OFFICE FOR THE AGING AND CONTINUING CARE**

  
\_\_\_\_\_  
Michael J. Romano, Director

  
\_\_\_\_\_  
Date

**Approved:**

By: \_\_\_\_\_  
Maryangela Scalzo, Assistant County Attorney

\_\_\_\_\_ Date

## APPENDIX AA

### Caregiver Support Program for Respite Services Policies and Procedures

**Title:** The Caregiver Support Program Coordination of Respite Services

**Purpose:** To identify caregivers and care receivers who are eligible for funding under the Caregiver Support Program for Respite Services ("Respite Services").

Respite Services is a program of the Oneida County Office for the Aging. The Oneida County Office for the Aging subcontracts the service to provide:

- Respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities through institutional respite services.

To be eligible for Respite Services, there must be:

1. Caregiver as defined below.
2. Care receiver as defined below.
3. A respite need that will help sustain the caregivers efforts to care for an individual who has a chronic illness or disability and will promote the ability of these individuals to remain in their homes and local communities instead of being placed in residential facilities. The respite need can be categorized as either or both of the following:
  - A. An imminent or emergency respite need that enables caregivers to be temporarily relieved from their caregiving responsibilities so that the caregiver can resume caregiving responsibilities once the short term need has been satisfied; **AND/OR**
  - B. A respite need for a caregiver that is attempting to develop a long term plan of care for the care receiver to remain in the community and requires temporary, short term assistance from the Respite Services to accomplish this.

**Caregiver** is defined as "family caregiver means an adult family member, or another individual who is an informal provider of in-home and community care to an older (age 60 and older) individual." <sup>1</sup>

**Care receiver**, for purposes of Respite Services, is defined as an individual that is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision, or due to a cognitive or other mental impairment that requires substantial supervision.

**Respite** is defined as the ability to provide a brief period of relief or rest by providing activities and or services for the care receiver on an intermittent, occasional, or emergency basis such as: temporary, substitute supports, or short-term living arrangements may be in the form of in-home respite, adult care respite, respite guest hours, or institutional respite.

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Oneida County, through its Office for the Aging, hereinafter known as the "**COUNTY**," The North Utica Senior Citizens Recreation Center, Inc., hereinafter known as the "**CONTRACTOR**," and Participating Nursing Home Facilities ("Facility" or "Facilities") will coordinate Respite Services pursuant to the following procedure:

- The **COUNTY** shall receive from the **CONTRACTOR** requests for Respite Services including dates of stay.

---

<sup>1</sup> US Administration on Aging, Title III Part E National Family Caregiver Support Program (from the 2000 Amendments to the Older Americans Act)

- The **COUNTY**, through its Case Manager and/or Caregiver Support Program Coordinator shall complete a home assessment.
- The **COUNTY** shall complete appropriate paperwork to determine need and eligibility including the Caregiver Assessment Form, release of information for Care Receiver, release of information for Caregiver, Compass Assessment Form for Care Receiver, and Medication List for Care Receiver.
- The Caregiver Support Program Coordinator shall contact the designated contact person at a Facility based on client geographic location, need, and request.
- The Caregiver Support Program Coordinator shall provide the chosen Facility with the Care Receiver's name, social security number, date of birth, address, and phone number.
- The Caregiver Support Program Coordinator shall fax the following paperwork to the designated contact person at the Facility: COMPASS, releases of information, and medication list.
- The Caregiver Support Program Coordinator shall contact the Caregiver and/or the Care Receiver to verify the approved Respite Services and inform them of the following steps in the procedure.
- The Facility shall contact Caregiver and Care Receiver to schedule the Facility's own assessment.
- The Facility shall obtain doctor's orders for the Respite Services, if the Facility is having difficulty, the Facility can request the Caregiver Support Program Coordinator facilitate obtaining the doctor's orders by utilizing the Caregiver Support Request Form.
- The Facility shall obtain and complete any other paperwork related to Respite Services as it pertains to any related regulations or individual facility policies.
- The Facility shall provide Respite Services for the prior approved time at the current Medicaid rate.
- The Facility shall submit a **COUNTY** Voucher to the **COUNTY**.
- The Caregiver Support Program Coordinator shall confirm that the Respite Services were rendered by contacting the Caregiver and/or Care Receiver.
- The Caregiver Support Program Coordinator shall authorize the **CONTRACTOR** to submit payment to the Facility.



## APPENDIX A

- 1) The Older Americans Act (OAA) of 1965, as amended (42 U.S.C.A. § 3001 et. seq.)
- 2) 2 CFR part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards)
- 3) 2 CFR Part 230 (Cost Principles for Non-Profit Organizations)
- 4) 2 CFR Part 376 (Nonprocurement Debarment and Suspension)
- 5) 20 CFR Part 614 (Provisions Governing the Senior Community Service Employment Program)
- 6) 29 CFR Part 37 (Implementation of the Nondiscrimination and Equal opportunity Provisions of the Workforce investment Act of 1998)
- 7) 45 CFR Part 75 (Uniform Administration Requirements, Cost Principles, and Audit requirements for HHS Awards)
- 8) 45 CFR Part 80 (Nondiscrimination under programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964)
- 9) 45 CFR Part 84 (Nondiscrimination on the basis of Handicap)
- 10) 45 CFR Part 92 (Uniform Administrative Requirements for Grant and Cooperative Agreements to State and Local Governments)
- 11) 45 CFR Part 93 (New Restrictions on Lobbying)
- 12) 45 CFR Part 1321, Subparts A-D (Grants to State and Community Programs on Aging)
- 13) 45 CFR Part 1321.61 (b)(4) (Support of State Title VII Activities)
- 14) Age Discrimination in Employment Act of 1975, as amended (29 USC §621, et seq.)
- 15) Americans with Disabilities Act of 1990 (42 U.S.C.A. §12101, et seq.)
- 16) Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (42 U.S.C.A. §2000e, et. seq.)
- 17) Equal Pay Act of 1963, as amended (29 U.S.C.A. §206)
- 18) Hatch Act (5 U.S.C.A. §1501, et seq.)
- 19) Low Income Energy Assistance (42 U.S.C.A. § 8621, et seq.)
- 20) Rehabilitation Act of 1973, Sec. 504 (29 U.S.C.A. §794) (Nondiscrimination)
- 21) Single Audit Act of 1984 (31 U.S.C.A. §7501, et. seq.)
- 22) USDA Nutrition Programs for the Elderly (7 C.F.R. § 226, et seq.) and (7 C.F.R. §235, et seq.)
- 23) Office of Management and Budget (OMB):
  - a. OMB Circular A-87 (Cost Principles for State, Local and Indian Tribal Governments)
  - b. OMB Circular A-95 (Clearinghouse Review)
  - c. OMB Circular A-102 (Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments)

- d. OMB Circular A-110 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-profit Organizations)
  - e. OMB Circular A-122 (Cost Principles for Non-profit Organizations)
  - f. OMB Circular A-128 (Audits of State and Local Governments)
  - g. OMB Circular A-133 (Audits of States, Local Governments and Non-Profit Organizations)
- 24) 30 FR 12319- Federal Executive Order 11246, as Amended by 32 FR 14303- Federal Executive Order 11375 (Affirmative Action); as Amended by 43 FR 46501- Federal Executive Order 12086 (Consolidation of Compliance Functions); and as Amended by 67 FR 77141- Federal Executive Order 13279 (Equal Protection for Faith-Based and Community Organizations)
  - 25) New York State Office for the Aging Rules and Regulations (9 NYCRR Parts 6651, 6652, 6653, 654, 6655, and 6656)
  - 26) Executive Law of New York State, Article 15- State Human Rights Law (N.Y. Exec. Law §290, et seq.)
  - 27) Executive Law of New York State, Article 15-a Minority/Women's Business contract Requirements (N.Y. Exec. Law §310, et seq.)
  - 28) Executive Law of New York State, Article 7-a Solicitation and Collection of Funds for Charitable Purposes (N.Y. Exec. Law § 171-a, et seq.)
  - 29) Expanded In-home Services for the Elderly (EISEP) Program Standards (87-PI-66 [10/21/87])
  - 30) NYS Office for the Aging's 1990 Nutrition Program Standards (90-PI-26 [5/17/90])
  - 31) Legal Assistance Standards (94-PI-52 [12/29/94])
  - 32) Weatherization Referral and Packaging Program (WRAP) Handbook
  - 33) Governor's 1960 Code of Fair Practices (9 CRR-NY 1.4)
  - 34) Governor's Executive Order 6 (Affirmative Action Efforts) (9 NYCRR 4.6)
  - 35) Governor's Executive Order 19 (Prevention of Sexual Harassment) (9 NYCRR 4.19)
  - 36) Governor's Executive Order 28 (Prohibiting discrimination based on Sexual Orientation) (9 NYCRR 4.28)

## APPENDIX B

### **ONEIDA COUNTY OFFICE FOR THE AGING Grievance Procedures**

In accordance with the Older Americans Act (OAA), as amended, the Oneida County Office for the Aging has established the following process for resolving complaints from participants who are dissatisfied with or persons denied services funded under the Act.

#### **Right to File a Grievance**

The Office for the Aging and all contracting provider agencies who receive OAA funds shall notify program participants of their right to file a grievance with the provider agency and/or with Oneida County Office for the Aging. Upon request, the Office for the Aging will provide assistance with filing a grievance.

#### **Denial of Service or Client's Dissatisfaction of Service**

A participant or applicant who is denied OAA services must be given the reasons for the denial. Services may be denied because of funding restrictions, ineligibility, hours or locations have changed, and reassessment determined services no longer needed, or client is disruptive to the program. For OAA services for which a written application is made, the denial shall be confirmed in writing and the applicant informed of the right to file a grievance and to whom the grievance shall be made. For OAA services for which verbal application is made by telephone or in person, the person may be denied verbally and verbally informed of the right to file a grievance and to whom.

### **Grievance Process**

#### **Filing a Grievance**

- Individual must submit their grievance in writing to the Director of the Office for the Aging who will forward the Letter to the designated person of the provider agency to conduct the initial review.
- **The grievance must be filed within thirty (30) calendar days of denial, reduction or termination of services, or of the event or circumstances with which the person is dissatisfied.** The Office for the Aging or the provider agency may grant an extension for good cause shown.
- The Letter of Grievance should include a written statement setting forth in detail the date, time and circumstances that are the basis for the complaint.

#### **Investigation and Response to a Grievance**

- The designated reviewer will investigate the complaint. The reviewer will determine whether the action was in accordance to applicable Older Americans Act and State laws and regulation and are supported by facts.
- The reviewer will prepare and send written response to the grievant and to the Office for the Aging Director within fifteen (15) working days after the grievance is filed. The response will set forth the circumstances relating to the grievance, the action requested by the grievant, the findings of the reviewer, a proposed remedial action and, if any, the reason(s) for and facts relied on in the determination.

#### **Appeal of Initial Response/Decision**

If the grievant is not satisfied with the determination, s(he) has the right to further review as follows:

- S(he) may initiate a request for subsequent review by the Office for the Aging Director within ten (10) calendar days following receipt of notification from the provider agency of its decision.
- The Office for the Aging Director will request, and the provider agency shall provide, copies of the initial file on the complaint in question. The Office for the Aging Director will review the materials to ensure that pertinent policies and procedures have been applied and followed.
- If the policies and procedures have been adhered to, the Office for the Aging Director will not overturn the decision of its contracting provider agency. If the proper policies and procedures have not been applied, the director reserves the right to overturn the decision.
- A written notification of the results will be made to the grievant within twenty (20) working days of receipt of the appeal request.

#### **Record Keeping**

The provider agency will keep a file, for six years, of all relevant documents and records of a grievance. The file shall include at a minimum: the initial grievance; any investigative reports; any and all written responses; any documents or other records submitted by any party; and, if applicable, the notice to the grievant of the right to appeal.

#### **Confidentiality**

No information, documents or other records relating to a grievance shall be disclosed by program staff or volunteers in a form that identifies the grievant without the written informed consent of the grievant, unless the disclosure is required by court order or for program monitoring by authorized agencies.

**APPENDIX C**  
Oneida County Office for the Aging  
**Voucher Instructions**  
For Units of Services Contracts

Complete the Oneida County voucher (3-part white, yellow, and pink form) as follows:

1. **Department:** Office for the Aging and Continuing Care
2. **Claimants Name and Address:** Contractor name and address (checks will be payable to the name given and sent to the address listed).
3. **Date:** List month this claim covers.
4. **Vendor's Invoice Number:** leave blank
5. **Quantity/Description of Material or Service/Unit Price/Amount:**
  - ✓ State the number of units of service and the description of services performed during the month.
  - ✓ List the Unit Price as stated in the Contract Budget.
  - ✓ Place the amount (Units X Unit Price) in the Amount column.
  - ✓ Place the amount to be reimbursed in the Total block.
  - ✓ Specify program funds (III-E, EISEP, CSE, III-B etc.) in the space after the Contract Number.
6. **Claimant's Certification:**

Fill out completely, note that Oneida County will not pay a voucher without an original signature, Federal ID Number or Social Security Number.
7. **Voucher Backup**
  - ✓ Attach CAARS monthly report.
  - ✓ Master list of clients billed for on voucher (with individual total monthly amount billed).
  - ✓ Attach appropriate backup:
    - Payroll certification sheets and time sheets signed by Agency employee.
    - Legal Assistance Program – case numbers, DOB, Legal Assistance Referral, Type of Service, Fax Date and Unit of Services.
    - Housekeeper/Chore (PCA Level I) or Homemaker/personal care (PCA Level II), Housekeeper/chore (Level I) – Contract EISEP voucher backup. Copies of PCA daily logs including date and times of service and all must be signed by client.
    - Adult Day Care – OFFICE approved sign-in log sheet with dates and times of service and all must be signed by client.
    - Emergency Response Systems – (Original Invoice)

Have all accounting records, receipts and supporting documentation readily available for review by the County, State and/or Federal personnel authorized to examine and/or audit program accounts. Ref: US Code of Federal Regulations 45-74 amended in 1980. Check numbers, dates paid and amounts paid must be written on each receipt.
8. **Timely Submissions:**
  - ✓ Submit monthly vouchers by the 10<sup>th</sup> day of the month following the reporting month.
  - ✓ Checks are issued by Oneida County Audit and Control only on Fridays - approximately 30 days after submission.
  - ✓ If all documentation is not included, the voucher will be returned unpaid with a request for proper backup and documentation.
9. **Changes To The Budget** (including personnel):
  - ✓ Submit a Budget Revision and a justification for the change.
10. **Technical Assistance:**
  - ✓ If you have fiscal questions regarding your program or require technical assistance, please contact the OFA-OCC Fiscal Unit directly at 315-798-5456.

Susie Perritano, Accounting Supervisor



Oneida County

Anthony J. Picente, Jr.  
County Executive

Office for the Aging & Continuing Care

Michael J. Romano  
Director

120 Airline Street - Suite 201, Oriskany, NY 13424

Phone 315-798-5456

Fax 315-798-6444

E-mail: ofa@oegov.net

November 6, 2019

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

EX 20 20-040

HEALTH & HUMAN SERVICES  
WAYS & MEANS

Dear Mr. Picente:

I am submitting the following Amendment between Oneida County, through its Office for the Aging and Continuing Care, and the Senior Citizens Council of Rome, New York, Inc., located at 305 East Locust Street, Rome, New York, for your review and approval. If this Agreement meets with your approval, please forward it to the Board of Legislators for further consideration.

This Amendment is to add Unmet Needs funding from the New York State Office for the Aging. The total amount for this Amendment is \$15,000.00, making the new total for the agreement \$75,000.00. This Amendment is for the term of January 1, 2019 through December 31, 2019.

I am available at your convenience to answer any questions you may have regarding this Amendment.

Sincerely,

Michael J. Romano  
Director

MJR/md

Enclosures



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

Anthony J. Picente, Jr.  
County Executive

Date

12/19/19

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name & Address of Vendor:** Senior Citizens Council of Rome, New York, Inc.  
305 East Locust Street  
Rome, New York 13440

**Title of Activity or Service:** Amendment for Unmet Needs State Funding

**Proposed Dates of Operation:** January 1, 2019 through December 31, 2019

**Client Population/Number to be Served:** Frail elderly age 60+ with functional impairment

**Summary Statements**

**1) Narrative Description of Proposed Services**

Social Model Adult Day Services is a structured five hour; five day a week adult day care that serves frail elderly individuals in a supervised group setting. The program is in compliance with the New York State Regulations for Social Adult Day Care. Eligible participants must be age 60 or older and functionally impaired, meaning that they need the assistance of another person in at least one of the following activities of daily living: toileting, mobility, transferring, eating or needing supervision due to cognitive and/or psycho-social impairment. Services include a noon meal and transportation to and from the program

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

- To provide 5-hour per weekday adult day care programming
- To provide noon meal and transportation
- To provide services that include socialization, supervision and monitoring, personal care, nutrition, appropriate activities- maintenance and enhancement of daily living skills, caregiver assistance and transportation.
- To provide intergenerational programming to ensure a mutually beneficial social opportunity for program participants and area youth

**3) Program Design and Staffing**

Each adult day service provider will serve OFA authorized participants with a structured 5-hour program that meets the NY State regulations. Each site will have a coordinator and sufficient staff, both paid and volunteer, to supervise participants in a safe environment, and the staff will provide appropriate activities and therapies that will enhance the participant's general wellbeing.

**Total Funding Requested:** \$75,000.00

**Account #:** A6772.495.116

**Oneida County Dept. Funding Recommendation:** \$ 75,000.00

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

|                   |                           |                            |
|-------------------|---------------------------|----------------------------|
| Federal: 0% (\$0) | State: \$ 45,000.00 (75%) | County: \$ 15,000.00 (25%) |
|                   | State UMN: \$15,000.00    |                            |

**Cost Per Client Served:** \$75.00 per client, per five-hour day

**Past Performance Data:** The Ava Dorfman Senior Citizens Civic Center has provided social adult day care since 1992.

## AMENDMENT

**THIS AMENDMENT** is by and between Oneida County, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York, 13501 by and through its Office for the Aging and Continuing Care, with offices at 120 Airline Street, Suite 201, Oriskany, New York 13424, herein collectively referred to as the "County," and Senior Citizens Council of Rome, New York, Inc., a domestic not-for-profit corporation organized and existing under the laws of the State of New York, having its principal office located at 305 East Locust Street, Rome, New York 13440, hereinafter referred to as the "Contractor".

### WITNESSETH

WHEREAS, the County and the Contractor entered into an agreement whereby the Contractor provides Social Adult Day Care Services to Oneida County residents, hereinafter referred to as the "Original Agreement" (County contract number 75225), a copy of which is attached hereto as Exhibit "A." The Original Agreement is in effect from January 1, 2019 through December 31, 2019; and

WHEREAS, since the execution of the Original Agreement, the New York State Office for the Aging and Continuing Care, herein referred to as "NYSOFA," increased funding to the County for Social Adult Day Care Services through an Unmet Needs Grant; and

WHEREAS, the parties are desirous of entering into an Amendment to the Original Agreement regarding the following provisions,

**NOW THEREFORE**, in consideration of the mutual promises made herein, the parties hereto agree as follows:

1. Paragraph 5C of the Original Agreement shall be replaced with the following language:

The total reimbursement paid by the County to the Contractor for Services provided under this Agreement shall not exceed seventy-five thousand dollars (\$75,000.00).

2. All other terms of the Original Agreement remain in effect without change or alteration.

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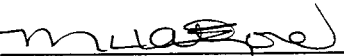
IN WITNESS WHEREOF, the County and the Contractor have signed this Amendment on the day and year written below.

**Senior Citizens Council of Rome, New York, Inc.**

By:   
\_\_\_\_\_  
Susan Streeter, Executive Director  
Executive Director

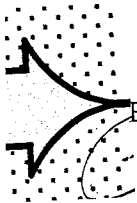
11/18/2019  
Date

**Office for the Aging**

By:   
\_\_\_\_\_  
Michael J. Romano, Director

12/12/19  
Date

**County of Oneida**

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

\_\_\_\_\_  
Date

Approved:

By: \_\_\_\_\_  
Maryangela Scalzo, Asst. County Attorney



AGREEMENT

THIS AGREEMENT ("Agreement") is by and between the SENIOR CITIZENS COUNCIL OF ROME, NEW YORK, INC., a domestic not-for-profit corporation organized and existing under the laws of the State of New York having its principal offices at 305 East Locust Street, Rome, New York 13440 (hereinafter known as the "CONTRACTOR"), and the COUNTY OF ONEIDA, a municipal corporation organized under the laws of the State of New York, with its principal offices located at 800 Park Avenue, Utica, New York 13501, by and through its OFFICE FOR THE AGING AND CONTINUING CARE located at 120 Airline Street, Suite 201, Oriskany, New York 13424 (hereinafter collectively known as the "COUNTY"). All parties to this Agreement shall be collectively known as the "PARTIES."

WITNESSETH:

WHEREAS, the COUNTY has the primary responsibility for the overall planning and coordination of COUNTY funds including the Federal Administration on Aging-Older Americans Act Title III, Title V, New York State Office for the Aging (NYSOFA), Expanded In-Home Services for the Elderly Program (EISEP), Community Services for the Elderly Program (CSEP), Congregate Services Initiative (CSI), Wellness in Nutrition (WIN), Health Insurance Information Counseling and Assistance Program (HIICAP), Medicare Improvements for Patients and Providers Act (MIPPA)/Senior Health Insurance Program (SHIP), and County of Oneida funds; and

WHEREAS, the COUNTY has the responsibility to formally and informally monitor, assess and evaluate all programs, services and contracts funded through the COUNTY; and

WHEREAS, the COUNTY will provide technical assistance, upon request, to assist the CONTRACTOR in more effectively carrying out service delivery and/or complying with federal, state and local statutes, policies, rules and regulations; and

WHEREAS, the CONTRACTOR is willing and able to perform the services required by this Agreement;

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. TERM OF AGREEMENT

The terms and conditions of this Agreement shall commence January 1, 2019 and terminate December 31, 2019.

2. **AGREEMENT RENEWAL**

A. At the **COUNTY'S** sole discretion, this Agreement may be renewed for an additional four (4) one-year terms.

B. Nothing herein shall be construed to indicate that the **COUNTY** is bound to renew this Agreement with the **CONTRACTOR** on an annual basis and the **COUNTY** reserves the right to seek the same or similar services from third parties.

3. **SCOPE OF SERVICES**

A. The **CONTRACTOR** shall, as part of the terms and conditions of this Agreement, comply with the State of New York's Social Adult Day Care Regulations, New York Executive Law, Chapter II Part 6654.20 (9 NYCRR 6654.20).

B. The **CONTRACTOR** shall provide Social Adult Day Care Services ("Services") to frail individuals ("Consumers") as authorized by the **COUNTY** and its designated agents. The target population served by this Agreement are Oneida County residents who are age sixty (60) years or older who are living independently in the community with emphasis on older individuals who are:

1. residing in rural areas,
2. with greatest economic need (with particular attention to low-income minority individuals);
3. with greatest social need (with particular attention to low-income minority individuals);
4. with severe disabilities; or
5. with Alzheimer's disease or related disorder with neurological and organic brain dysfunction (and the caretakers of such individuals).

C. The **CONTRACTOR** shall provide the Services in Oneida County.

D. The **CONTRACTOR** shall provide the Services as defined by the Social Adult Day Care Program Regulations, New York Executive Law, Chapter II Part 6654.20 (9 NYCRR part 6654.20), which include:

1. A structured, comprehensive program which provides functionally impaired individuals with the required components of socialization; supervision and monitoring; personal care; and nutrition in a protective setting during any part of the day, but for less than a 24-hour period.

2. "Functionally impaired" means needing the assistance of another person in at least one of the following activities of daily living: toileting, mobility, transferring, eating; or needing supervision due to cognitive and/or psycho-social impairment.
3. "Nutrition" means providing nutritious meals for Consumers who are attending the program at normal meal times; meals are to be consistent with the standards set forth in the Regulations for a Nutrition Program for the Elderly site and as established by the COUNTY; and offering snacks and liquids for all Consumers at appropriate times.

E. The **CONTRACTOR** agrees that all Consumers shall receive Services only in accordance with an individualized **written** service plan that is based on the Comprehensive Assessment for Aging Network Community-Based Long Term Care Services (COMPASS), and shall specify the individual Consumer outcomes expected from the provision of the Services; the service plans shall be reevaluated at a minimum annually.

F. As specified in State of New York's Social Adult Day Care Program Regulations, all of the **CONTRACTOR'S** Services personnel, both paid and volunteer, shall attend six (6) hours of training annually, and new program employees or volunteers shall receive at least twenty hours of group, individual and/or on-the-job training.

G. The **CONTRACTOR'S** personnel shall keep abreast of new developments in the field of Gerontology and community based social adult day care; attendance at relevant local, state, or national training is encouraged.

H. The **CONTRACTOR** and the **COUNTY** shall hold periodic coordinating meetings as needed.

I. The **CONTRACTOR** and the **COUNTY** shall work cooperatively to develop comprehensive Services for Oneida County.

#### 4. PERFORMANCE OF SERVICES

A. The **CONTRACTOR** represents that the **CONTRACTOR** is duly licensed (as applicable) and has the qualifications, the specialized skill(s), the experience and the ability to properly perform the Services. The **CONTRACTOR** shall use the **CONTRACTOR'S** best efforts to perform the Services such that the results are satisfactory to the **COUNTY**. The **CONTRACTOR** shall be solely responsible for communications with the Consumer or the Consumer's caregiver in order to determine the method, details and means of performing the Services, except where federal, state or local laws and regulations impose specific requirements on performance of the same.

B. The **CONTRACTOR** may, at the **CONTRACTOR'S** own expense, employ or engage the services of such employees, subcontractors and/or partners as the **CONTRACTOR** deems necessary to perform the Services (collectively, the "Assistants"). The Assistants are not and shall not be deemed employees of the **COUNTY**, and the **COUNTY** shall have no obligation to provide the Assistants with any salary or benefits. The **CONTRACTOR** shall be solely responsible and shall remain liable for the performance of the Services by the Assistants in a manner satisfactory to the **COUNTY**, and in compliance with any and all applicable federal, state or local laws and regulations.

C. The **CONTRACTOR** acknowledges and agrees that the **CONTRACTOR** and its Assistants have no authority to enter into contracts that bind the **COUNTY** or create obligations on the part of the **COUNTY** without the prior written authorization of the **COUNTY**.

5. **REIMBURSEMENT FOR SERVICES**

A. It is agreed and understood by all **PARTIES** that the **COUNTY** shall reimburse the **CONTRACTOR** for the Services which are provided in accordance with the terms and conditions of this Agreement, the CSEP, and the Caregiver Support III-E grants.

B. The **COUNTY** shall reimburse the **CONTRACTOR** **fifteen dollars (\$15.00) per hour for each Consumer for a maximum amount of seventy-five dollars (\$75.00) per day**, which shall include program, meals, and transportation. A full day of programming is defined as five (5) hours, but the **CONTRACTOR** may bill in ½ hour increments at **seven dollars fifty cents (\$7.50) per half hour** when the Consumer is attending less than five (5) hours per day.

C. The total reimbursement paid by the **COUNTY** to the **CONTRACTOR** for Services provided under this Agreement shall not exceed **sixty thousand dollars (\$60,000.00)**.

D. The **COUNTY** funds are contingent upon availability of state and County of Oneida funding; reimbursement shall be made in twelve (12) monthly installments upon submission of a **COUNTY** voucher as specified in the Oneida County Office for the Aging Voucher Instructions for Units of Service Contracts attached as **APPENDIX C**.

E. The **COUNTY** shall not be liable for any late fees or for any interest on late payments. The obligations of the **PARTIES** hereunder are conditioned upon the continued availability of New York State and **COUNTY** funds for the purposes set forth in this Agreement. Should funds become unavailable or should appropriate New York State and **COUNTY** officials fail to approve sufficient funds for completion of the Services set forth in this Agreement, the **COUNTY** shall have the option to immediately terminate this

Agreement upon providing written notice to the **CONTRACTOR** by certified mail. In such an event, the **COUNTY** shall be under no further obligation to the **CONTRACTOR** other than payment for costs actually incurred prior to termination and in no event will the **COUNTY** be responsible for any actual or consequential damages as a result of termination.

F. The **COUNTY** reserves the right to withhold payment under this Agreement due to the **CONTRACTOR'S** failure to properly perform its obligations under this Agreement. The **COUNTY** may withhold payment for including but not limited to:

1. defective Services;
2. third party claims;
3. failure of the **CONTRACTOR** to pay its subcontractors, if any;
4. damage to the **COUNTY**; or
5. failure to carry out the Services in accordance with this Agreement.

G. It is understood and agreed that the **COUNTY** shall not be responsible for any costs incurred by the **CONTRACTOR** prior to the effective date or following the termination date of this Agreement.

6. **NO CLAIM FOR DAMAGE**

The **CONTRACTOR** shall make no claim for damages for delay of reimbursement due to an act or omission by the **COUNTY**.

7. **EXPENSES**

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

8. **TRAINING**

The **CONTRACTOR** shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the Services described herein, and shall be solely responsible for the cost of the same.

9. **NON ASSIGNMENT CLAUSE**

The **CONTRACTOR** shall not assign, transfer, convey, sublet or otherwise dispose of the Agreement or of its right, title, or interest therein, or its power to execute this Agreement, to any other corporation or person without the prior written consent of the **COUNTY**.

10. SUBCONTRACTS

A. A subcontractor is a person who has an agreement with the **CONTRACTOR** to perform any of the Services.

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

C. Any agreements between the **CONTRACTOR** and the subcontractors shall be in accordance with the terms of this Agreement and shall include the conditions of this Agreement including all exhibits, attachments, appendices, and addendums, insofar as applicable.

11. INDEPENDENT CONTRACTOR STATUS

A. It is expressly agreed that the relationship of the **CONTRACTOR** and its Assistants to the **COUNTY** shall be that of Independent Contractors. The **CONTRACTOR'S** Assistants shall not be considered employees of the **COUNTY** for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement or health insurance benefits. The **CONTRACTOR**, in accordance with its status as an Independent Contractor, covenants and agrees that its Assistants will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the **COUNTY** by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the **COUNTY**.

B. The **CONTRACTOR** warrants and represents that it is in the business of offering the same or similar Services detailed herein and does offer the same or similar services to other entities and/or the general public as a regular course of business. The **CONTRACTOR** and the **COUNTY** agree that the **CONTRACTOR** is free to undertake other work arrangements during the term of this Agreement, and may continue to make its Services available to the public.

C. The **CONTRACTOR'S** Assistants shall not be eligible for compensation from the **COUNTY** due to

1. illness;
2. absence due to normal vacation;

3. absence due to attendance at school or special training or a professional convention; or meeting.

D. The **CONTRACTOR** shall be solely responsible for applicable taxes for all compensation paid to the **CONTRACTOR** or its Assistants under this Agreement, and for compliance with all applicable labor and employment requirements with respect to the **CONTRACTOR'S** form of business organization, and with respect to the Assistants, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The **COUNTY** shall not be responsible for withholding from the payments provided for Services rendered for state or federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). The **CONTRACTOR** shall provide proof of workers' compensation insurance, where applicable, prior to the execution of this Agreement.

E. The **CONTRACTOR** shall indemnify and hold the **COUNTY** harmless from all loss or liability incurred by the **COUNTY** as a result of the **COUNTY** not making such payments or withholdings.

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

G. The **CONTRACTOR** shall comply with federal and state laws as supplemented in the Department of Labor Regulations and any other regulations of federal and state entities relating to such employment and Civil Rights requirements.

## 12. STANDARD ASSURANCES

A. The **CONTRACTOR** shall comply with statutes, regulations, and policies set by the following: Federal Department of Health and Human Services, AOA, the NYSOFA, and the **COUNTY**, more fully described in **APPENDIX A**.

B. The **CONTRACTOR** shall comply with section 504 of the Rehabilitation Act of 1973 (Nondiscrimination) which states "No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service." (29 U.S.C.A. §794)

C. The **CONTRACTOR** shall comply with the Human Rights Law Article 15 of the Executive Law of New York State (N.Y. Exec. Law §290, et seq.), Article 15A of the Executive Law of New York State regarding participation by minority group members and women with respect to state contracts (N.Y. Exec. Law §310, et seq.), and the Governor's Executive Order 28 which prohibits discrimination based on sexual orientation (9 NYCRR 4.28).

D. The **CONTRACTOR** shall comply with Title VI, the Civil Rights Act of 1964 (42 U.S.C.A. §2000-d, et seq.), and any amendment thereto: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

E. The **CONTRACTOR** agrees that any program, public information materials, or other printed or published materials on the work of or funded by CSEP/III-E will give due recognition to the NYSOFA and the Oneida County Office for the Aging. The statement shall be in font which is one of the following: in italics, or at least two font sizes larger than the rest of the text, or in bold font or underlined (i.e., "*This program is supported by Oneida County Office for the Aging and Continuing Care, New York State Office for the Aging, and the Administration on Aging.*"). The **CONTRACTOR** shall forward copies of all materials to the **COUNTY** at the end of each month.

F. The **COUNTY** shall conduct a program review to ensure that the **CONTRACTOR** is in compliance with all standards and regulations as set forth in this Agreement.

### 13. NYSOFA TERMS AND CONDITIONS

A. The **CONTRACTOR** agrees that all its activities under this Agreement shall conform with all applicable federal, state, and local laws, with federal and state regulations, and Program Standards and Program Instructions of the NYSOFA that apply to such activities, including, but not limited to:

1. Rehabilitation Act of 1973, Sec. 504 Nondiscrimination (29 U.S.C. 794)
2. Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.; see 92-PI-32, [8/4/92])
3. Civil Rights Act of 1964, Title VI, as amended (42 U.S.C. 2000-d et. seq.)
4. Older Americans Act (42 U.S.C. 3001, et seq.)
5. Executive Order 13166 Improving Access to Services for Persons with Limited English Proficiency (65 FR 50121)



6. Federal Executive Order 11246 (30 FR 12319), as Amended by Executive Order 11375 (32 FR 14303, Affirmative Action); as Amended by Executive Order 12086 (43 FR 46501, Consolidation of Compliance Functions); and as Amended by Executive Order 13279 (67 FR 77141, Equal Protection for Faith-Based and Community Organizations.)
7. Article 15 of the Executive Law of the State of New York, Human Rights Law: prohibiting discrimination based on age, race, creed, color, national origin, sexual orientation, military status, sex, marital status, or disability (N.Y. Exec. Law §290, et seq.)
8. Article 15A of the Executive Law of New York State regarding participation by minority group members and women with respect to state contracts (N.Y. Exec. Law §310, et seq.),
9. The NYSOFA'S Equal Access to Services and Targeting Policy Program Instruction (12-PI-08)
10. Elder Law

B. The **CONTRACTOR**, to the extent it has discretion regarding to whom it will provide Services, shall provide Services to those unserved and underserved older adults in greatest social or economic need, particularly those who are low-income, low-income minorities, older adults with Limited English Proficiency (LEP), Native Americans, and frail/persons with disabilities and older adults residing in rural areas, in accordance with their need for such Services, and to meet specific objectives established by the **COUNTY** for providing Services to the above groups within Oneida County. The **CONTRACTOR** shall concentrate the Services on older adults in the targeted populations identified by the **COUNTY** following the methods the **COUNTY** has established for complying with the targeting requirements under the Older Americans Act and the Equal Access and Targeting Policy issued by the NYSOFA.

C. The **CONTRACTOR** shall inform persons with LEP of the availability of language assistance, free of charge, by providing written notice of such assistance in a manner designed to be understandable by LEP persons at Service locations and, at a minimum, have a telephonic interpretation service contract or similar community arrangement with a language interpretation service provider of their choice. The **CONTRACTOR** shall train staff that have contact with the public in the timely and appropriate use of these and other available language services.

D. To the extent that the Agreement with the **COUNTY** is for a program or service funded under the **COUNTY'S** Area Plan, the **CONTRACTOR** agrees that it and any

subcontractors shall perform such Services in accordance with the terms of the Area Plan. The COUNTY agrees to make the Area Plan available to the CONTRACTOR.

E. The CONTRACTOR agrees that for programs established and funded in whole or in part pursuant to Title III of the Older Americans Act, the CONTRACTOR shall specify how it intends to satisfy the service needs of low-income minority individuals, older adults with LEP, and older adults residing in rural areas in the area served by it; will to the maximum extent feasible, provide Services to low-income minority individuals, older individuals with LEP, and older adults residing in rural areas in accordance with their need for such Services; and meet specific objectives established by the COUNTY, for providing Services to low-income minority individuals, older adults with LEP, and older adults residing in rural areas within the planning and service area.

14. GRIEVANCE PROCEDURES

The CONTRACTOR shall implement the Oneida County Office for the Aging Grievance Procedures as required by the NYSOFA. The written procedures are attached in APPENDIX B.

15. FISCAL REQUIREMENTS/RESPONSIBILITIES

A. The CONTRACTOR shall keep CSEP/III-E funds separate; further, state and federal funds shall not be used as local share (match).

B. The CONTRACTOR shall comply with all voucher and contribution procedures, and submissions of required reports as described in the Oneida County Office for the Aging Voucher Instructions for Units of Service Contracts, attached as APPENDIX C.

C. The COUNTY shall be responsible for sending monthly donation letters and collecting Consumer contributions for all Consumers who attend Office for the Aging and Continuing Care funded Services. Any contributions received by the CONTRACTOR for Office for the Aging and Continuing Care funded Consumer, directly, will be reported and deducted on monthly vouchers by the CONTRACTOR.

D. The CONTRACTOR shall report to the COUNTY any and all additional moneys or program income (contributions, donations) given to the CSEP/III-E supported programs. "Program income means gross income received by the subcontractor directly generated by a COUNTY grant supported activity, or earned as a result of the COUNTY grant agreement during the grant period." REF: Department of Health & Human Services, Program Instruction AoA-PI-96-01, October 16, 1995.

E. The **CONTRACTOR** shall maintain copies of proper documentation for all program income, including, but not limited to, in-kind support, donations, contributions, reimbursements, and other grants within its program budget.

F. The **COUNTY** shall conduct a periodic audit of revenues and expenditures, as well as the required annual on-site review of the program's fiscal status to ensure expenditures are in proportion to the total program budget.

G. The **CONTRACTOR** shall agree to have an independent audit conducted for the contracted program if it has provided the Services to the **COUNTY** for two (2) years or more. A copy of the audit shall be submitted to the **COUNTY** upon completion of the program/fiscal audit conducted by the outside auditor.

H. The **CONTRACTOR** shall maintain fiscal records for six (6) years and shall make them available for **COUNTY** review upon request.

I. The **CONTRACTOR** shall cooperate with the close-out audit that is required when this Agreement is terminated.

J. The **CONTRACTOR** shall follow close-out procedures administered by the **COUNTY** in accordance with the 45 C.F.R. §75, et seq.

16. **INDEMNIFICATION**

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

B. The **CONTRACTOR** shall defend, indemnify, and hold harmless the **COUNTY** from and against all liability, damages, expenses, costs, including, without limitation, attorneys' fees and expenses, causes of action, suits, claims or judgments arising, occurring or resulting from or out of the Services of the **CONTRACTOR** and its agents, servants, employees or Assistants, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the **CONTRACTOR** or failure on the part of the **CONTRACTOR** to comply with any of the covenants, terms or conditions of the Agreement.

C. The **CONTRACTOR** shall be solely responsible for all physical injuries or death to its Assistants, agents, servants, volunteers or employees, or to any other person or damage to any property sustained during its operations and work under this Agreement resulting from any act of omission or commission or error in judgment of any of its Assistants, officers, trustees, servants, independent subcontractors, and shall hold harmless and indemnify the **COUNTY** from liability upon any and all claims for injuries to persons or damages to

property on account of any neglect, fault or default of the **CONTRACTOR**, its Assistants, officers, trustees, agents, servants, volunteers or independent subcontractors. The **CONTRACTOR** shall be solely responsible for the safety and protection of all of its Assistants, employees, volunteers or other agents whether due to the negligence, fault or default of the **CONTRACTOR** or not.

17. **INSURANCE COVERAGE REQUIREMENTS**

A. As part of its obligation to indemnify, defend, and hold harmless the **COUNTY**, its officers, agents, employees, as set forth above, the **CONTRACTOR** shall obtain and maintain in full force and effect, for the term of this Agreement, insurance coverage as described below.

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

C. Prior to the start of any Services, the **CONTRACTOR** shall provide certificates of insurance to the **COUNTY**. The certificates shall be on forms approved by the **COUNTY**. Acceptance of the certificates shall not relieve the **CONTRACTOR** of any of the insurance requirements, nor decrease the liability of the **CONTRACTOR**. The **COUNTY** reserves the right to require the **CONTRACTOR** to provide insurance policies for review by the **COUNTY**. The **CONTRACTOR** grants the **COUNTY** a limited power of attorney to communicate with the **CONTRACTOR'S** insurance provider and/or agent for the express purpose of confirming the coverages required hereunder.

D. Certificates of Insurance: Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of the **CONTRACTOR'S** Commercial General Liability Policy, Auto Liability Policy, and Excess/Umbrella Policy. These certificates and the insurance policies required below shall contain a provision that coverage afforded under the policies will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the **COUNTY**.

E. Commercial General Liability Insurance (CGL): The **CONTRACTOR** shall, at its own expense, at all times during the term of this Agreement, maintain in force a policy of insurance which will insure against liability for property damage and/or injury or death with regard to any property or persons. The liability and property damage coverage of such insurance shall not be less than One Million Dollars (\$1,000,000.00) per occurrence and such insurance shall not be less than Three Million Dollars (\$3,000,000.00) annual aggregate. The

**CONTRACTOR** shall have Oneida County added to said insurance policy and/or policies as a named additional insured, on a primary, non-contributory basis. Coverage for the additional insured shall apply as primary and non-contributory insurance before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by or provided to the additional insured.

1. Coverage for the additional insured shall include completed operations,
2. The CGL coverage shall include a General Aggregate Limit and such General Aggregate Limit shall apply separately to each project,
3. The CGL coverage shall be written on ISO Occurrence form CG 00 01 1001 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contracts, products, completed operations, and personal and advertising injury,
4. There shall be no exclusions to contractual liability for Employee Injuries (i.e. Labor Law Exclusions),
5. The **CONTRACTOR** shall maintain CGL coverage for itself and all additional insureds for the duration of this Agreement and maintain completed operations coverage for itself and each additional insured for at least three (3) years after completion of the Services.

F. Business Automobile Liability Insurance: The **CONTRACTOR** shall, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of Business Automobile Liability Insurance in an amount equal to or greater than One Million Dollars (\$1,000,000.00) for the term of this Agreement. Business Automobile Liability coverage must include coverage for liability arising out of all owned, leased, hired, and non-owned automobiles. The **CONTRACTOR** shall have Oneida County added to said insurance policies as a named additional insured, on a primary, non-contributory basis.

G. Excess/Umbrella Liability Insurance: The **CONTRACTOR** shall, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of Excess/Umbrella Liability Insurance in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence and such insurance shall not be less than Three Million Dollars (\$3,000,000.00) annual aggregate. The **CONTRACTOR** shall have Oneida County added to said insurance policies as a named additional insured, on a primary, non-contributory basis. Umbrella coverage for such additional insured shall apply as primary and non-contributory before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by or provided to the additional insured.

H. Professional Liability Insurance: The **CONTRACTOR** shall, during the term of this Agreement maintain a professional liability policy and will provide the **COUNTY** with proof of coverage in the amount of One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) annual aggregate.

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

J. The **CONTRACTOR** shall require any subcontractors to procure and maintain insurance coverage of the same type and in the same amounts with the same endorsements required of the **CONTRACTOR** in the above Insurance Coverage Requirement paragraphs.

K. Payment(s) to the **CONTRACTOR** may be suspended in the event that the **CONTRACTOR** or its subcontractors, if any, fail to provide the required insurance documentation in a timely manner.

L. Waiver of Subrogation: The **CONTRACTOR** waives all rights against the **COUNTY** and its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by CGL, Business Auto Liability, Excess/Umbrella Liability, Professional Liability or Workers' Compensation and Employer's Liability Insurance maintained per requirements stated above.

## 18. REPORTING REQUIREMENTS

A. The **COUNTY** shall, pursuant to the requirements of CSEP/III-E funded programs, comply with the definition of Services, April 2011, as established by the NYSOFA (96-PI-43).

B. The **CONTRACTOR** shall provide the **COUNTY** with required information needed to meet planning, coordination, evaluation, and reporting requirements as required by the NYSOFA's Consolidated Area Agency Reporting System (CAARS), by the 10<sup>th</sup> of every month. The current and revised CAARS Monthly Report Forms and Monthly Summary Form must be submitted as an attachment to the voucher on a monthly basis.

C. The **CONTRACTOR** shall maintain appropriate Consumer records on each EISEP Consumer who receives Services through this program; the **COUNTY** shall have access to the Consumer records upon request; the **COUNTY** shall have ownership of all Consumer's records and files.

D. The **CONTRACTOR** shall comply with policies ensuring Consumer confidentiality, as established by the **COUNTY**, when information sharing between agencies is crucial to the Consumer's well-being and is needed to ensure effective Service provision; pertinent information shall be shared in accordance with federal and state regulations and statutes.

E. The **CONTRACTOR** shall provide the **COUNTY** with required monthly, periodic, and/or special reports and shall submit all reports to the **COUNTY** by the dates specified.

19. **COORDINATION REQUIREMENTS**

A. The **CONTRACTOR** and the **COUNTY** shall coordinate referrals.

B. The **CONTRACTOR** and the **COUNTY** shall work with older persons, who are not eligible for Services under this Agreement, to obtain needed Services.

C. The **CONTRACTOR** shall coordinate with other appropriate service providers in obtaining and providing referrals for older residents of Oneida County.

20. **AGREEMENT CANCELLATION**

A. This Agreement may be cancelled by the **COUNTY** for failure by the **CONTRACTOR** to comply with the terms and conditions of this Agreement. The **CONTRACTOR** shall agree to incur no new obligations nor submit a claim for any expenses made after the receipt of written notification of termination.

B. The **CONTRACTOR** and the **COUNTY** reserve the right to cancel the Agreement upon thirty (30) day written notice to the other party.

C. The **CONTRACTOR** agrees that in the event of termination, said party shall make a full and final accounting of all funds received and monies expended under the Agreement within thirty (30) days after the date of termination. Any unexpended funds shall be the property of the **COUNTY**.

D. The **CONTRACTOR** shall coordinate with the **COUNTY** and other providers to ensure that any break in service to Consumers shall not be detrimental to the Consumers' health or well-being. If available and appropriate, other services shall be substituted and/or coordinated on the Consumers' behalf.

21. **ENTIRE AGREEMENT**

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

B. Oral statements and understandings are not valid or binding, and this Agreement shall not be changed or modified except by a writing signed by all **PARTIES**.

C. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall be deemed the same instrument.

22. **INCORPORATION BY REFERENCE**

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

23. **STANDARD ADDENDUM**

The **CONTRACTOR** shall comply with the Standard Oneida County Conditions Addendum which is attached hereto and made a part hereof as **APPENDIX D**.

24. **CHOICE OF LAW/FORUM**

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

B. This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

25. **SUCCESSORS AND ASSIGNS**

This Agreement shall be binding on and inure to the benefit of the **PARTIES** hereto and their respective heirs, legal or personal representation, successors and assigns.

26. **NON WAIVER**

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

27. **SEVERABILITY**

If any provision of this Agreement or any part thereof is or becomes void or unenforceable by force or operation of law, the **PARTIES** agree that the Agreement shall be reformed to replace the stricken provision or part thereof with a valid and enforceable provision that



comes as close as possible to expressing the intention of the stricken provision. Further, the **PARTIES** agree that all other provisions shall remain valid and enforceable.

28. **AUTHORITY TO ACT/SIGN**

The **CONTRACTOR** hereby represents and certifies that it has the power and authority to execute and deliver this Agreement and to carry out its obligations hereunder. The execution and delivery by the **CONTRACTOR** of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by the **CONTRACTOR**; no other action on the part of the **CONTRACTOR** or any other person or entity, whether pursuant to its Articles of Incorporation, Articles of Operation, Operating Agreement or Bylaws, as the case may be, or by law or otherwise, are necessary to authorize the **CONTRACTOR** to enter into this Agreement, or to consummate the transactions contemplated herein.

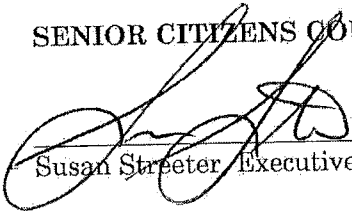
29. **ADVICE OF COUNSEL**

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

*[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK]*

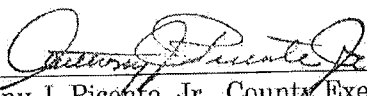
IN WITNESS THEREOF, the PARTIES have here unto set their hand on the date respectively stated.

SENIOR CITIZENS COUNCIL OF ROME, NEW YORK, INC.

  
\_\_\_\_\_  
Susan Streeter, Executive Director

1/29/2019  
Date

COUNTY OF ONEIDA

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

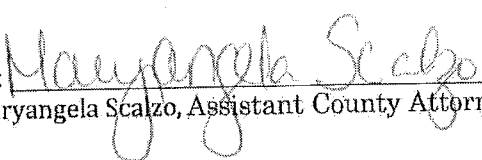
~~4/2/19~~ 3/21/19  
Date

OFFICE FOR THE AGING AND CONTINUING CARE

  
\_\_\_\_\_  
Michael J. Romano, Director

2/1/19  
Date

Approved:

By:   
\_\_\_\_\_  
Maryangela Scalzo, Assistant County Attorney

3/21/19  
Date

## APPENDIX A

- 1) The Older Americans Act (OAA) of 1965, as amended (42 U.S.C.A. § 3001 et. seq.)
- 2) 2 CFR part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards)
- 3) 2 CFR Part 230 (Cost Principles for Non-Profit Organizations)
- 4) 2 CFR Part 376 (Nonprocurement Debarment and Suspension)
- 5) 20 CFR Part 614 (Provisions Governing the Senior Community Service Employment Program)
- 6) 29 CFR Part 37 (Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998)
- 7) 45 CFR Part 75 (Uniform Administration Requirements, Cost Principles, and Audit requirements for HHS Awards)
- 8) 45 CFR Part 80 (Nondiscrimination under programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964)
- 9) 45 CFR Part 84 (Nondiscrimination on the basis of Handicap)
- 10) 45 CFR Part 92 (Uniform Administrative Requirements for Grant and Cooperative Agreements to State and Local Governments)
- 11) 45 CFR Part 93 (New Restrictions on Lobbying)
- 12) 45 CFR Part 1321, Subparts A-D (Grants to State and Community Programs on Aging)
- 13) 45 CFR Part 1321.61 (b)(4) (Support of State Title VII Activities)
- 14) Age Discrimination in Employment Act of 1975, as amended (29 USC §621, et seq.)
- 15) Americans with Disabilities Act of 1990 (42 U.S.C.A. §12101, et seq.)
- 16) Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (42 U.S.C.A. §2000e, et. seq.)
- 17) Equal Pay Act of 1963, as amended (29 U.S.C.A. §206)
- 18) Hatch Act (5 U.S.C.A. §1501, et seq.)
- 19) Low Income Energy Assistance (42 U.S.C.A. § 8621, et-seq.)
- 20) Rehabilitation Act of 1973, Sec. 504 (29 U.S.C.A. §794) (Nondiscrimination)
- 21) Single Audit Act of 1984 (31 U.S.C.A. §7501, et. seq.)
- 22) USDA Nutrition Programs for the Elderly (7 C.F.R. § 226, et seq.) and (7 C.F.R. §235, et seq.)
- 23) Office of Management and Budget (OMB):

- a. OMB Circular A-87 (Cost Principles for State, Local and Indian Tribal Governments)
  - b. OMB Circular A-95 (Clearinghouse Review)
  - c. OMB Circular A-102 (Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments)
  - d. OMB Circular A-110 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-profit Organizations)
  - e. OMB Circular A-122 (Cost Principles for Non-profit Organizations)
  - f. OMB Circular A-128 (Audits of State and Local Governments)
  - g. OMB Circular A-133 (Audits of States, Local Governments and Non-Profit Organizations)
- 24) 30 FR 12319- Federal Executive Order 11246, as Amended by 32 FR 14303- Federal Executive Order 11375 (Affirmative Action); as Amended by 43 FR 46501- Federal Executive Order 12086 (Consolidation of Compliance Functions); and as Amended by 67 FR 77141- Federal Executive Order 13279 (Equal Protection for Faith-Based and Community Organizations)
  - 25) New York State Office for the Aging Rules and Regulations (9 NYCRR Parts 6651, 6652, 6653, 6654, 6655, and 6656)
  - 26) Executive Law of New York State, Article 15- State Human Rights Law (N.Y. Exec. Law §290, et seq.)
  - 27) Executive Law of New York State, Article 15-a Minority/Women's Business contract Requirements (N.Y. Exec. Law §310, et seq.)
  - 28) Executive Law of New York State, Article 7-a Solicitation and Collection of Funds for Charitable Purposes (N.Y. Exec. Law § 171-a, et seq.)
  - 29) Expanded In-home Services for the Elderly (EISEP) Program Standards (87-PI-66 [10/21/87])
  - 30) NYS Office for the Aging's 1990 Nutrition Program Standards (90-PI-26 [5/17/90])
  - 31) Legal Assistance Standards (94-PI-52 [12/29/94])
  - 32) Weatherization Referral and Packaging Program (WRAP) Handbook
  - 33) Governor's 1960 Code of Fair Practices (9 CRR-NY 1.4)
  - 34) Governor's Executive Order 6 (Affirmative Action Efforts) (9 NYCRR 4.6)
  - 35) Governor's Executive Order 19 (Prevention of Sexual Harassment) (9 NYCRR 4.19)
  - 36) Governor's Executive Order 28 (Prohibiting discrimination based on Sexual Orientation) (9 NYCRR 4.28)

**APPENDIX B**  
Oneida County Office for the Aging  
**Grievance Procedures**

In accordance with the Older Americans Act (OAA), as amended, the Oneida County Office for the Aging has established the following process for resolving complaints from participants who are dissatisfied with or persons denied services funded under the Act.

**Right to File a Grievance**

The Office for the Aging and all contracting provider agencies who receive OAA funds shall notify program participants of their right to file a grievance with the provider agency and/or with Oneida County Office for the Aging. Upon request, the Office for the Aging will provide assistance with filing a grievance.

**Denial of Service or Client's Dissatisfaction of Service**

A participant or applicant who is denied OAA services must be given the reasons for the denial. Services may be denied because of funding restrictions, ineligibility, hours or locations have changed, reassessment determined services no longer needed, or client is disruptive to the program. For OAA services for which a written application is made, the denial shall be confirmed in writing and the applicant informed of the right to file a grievance and to whom the grievance shall be made. For OAA services for which verbal application is made by telephone or in person, the person may be denied verbally and verbally informed of the right to file a grievance and to whom.

**Grievance Process**

**Filing a Grievance**

- Individual must submit their grievance in writing to the Director of the Office for the Aging who will forward the Letter to the designated person of the provider agency to conduct the initial review.
- The grievance must be filed within thirty (30) calendar days of denial, reduction or termination of services, or of the event or circumstances with which the person is dissatisfied. The Office for the Aging or the provider agency may grant an extension for good cause shown.
- The Letter of Grievance should include a written statement setting forth in detail the date, time and circumstances that are the basis for the complaint.

**Investigation and Response to a Grievance**

- The designated reviewer will investigate the complaint. The reviewer will determine whether the action was in accordance to applicable Older Americans Act and State laws and regulation and are supported by facts.
- The reviewer will prepare and send written response to the grievant and to the Office for the Aging Director within fifteen (15) working days after the grievance is filed. The response will set forth the circumstances relating to the grievance, the action requested by the grievant, the findings of the reviewer, a proposed remedial action and, if any, the reason(s) for and facts relied on in the determination.

**Appeal of Initial Response/Decision**

If the grievant is not satisfied with the determination, s(he) has the right to further review as follows:

- S(he) may initiate a request for subsequent review by the Office for the Aging Director within ten (10) calendar days following receipt of notification from the provider agency of its decision.
- The Office for the Aging Director will request, and the provider agency shall provide, copies of the initial file on the complaint in question. The Office for the Aging Director will review the materials to ensure that pertinent policies and procedures have been applied and followed.
- If the policies and procedures have been adhered to, the Office for the Aging Director will not overturn the decision of its contracting provider agency. If the proper policies and procedures have not been applied, the director reserves the right to overturn the decision.
- A written notification of the results will be made to the grievant within twenty (20) working days of receipt of the appeal request.

**Record Keeping**

The provider agency will keep a file, for six years, of all relevant documents and records of a grievance. The file shall include at a minimum: the initial grievance; any investigative reports; any and all written responses; any documents or other records submitted by any party; and, if applicable, the notice to the grievant of the right to appeal.

**Confidentiality**

No information, documents or other records relating to a grievance shall be disclosed by program staff or volunteers in a form that identifies the grievant without the written informed consent of the grievant, unless the disclosure is required by court order or for program monitoring by authorized agencies.

**APPENDIX C**  
Oneida County Office for the Aging  
**Voucher Instructions**  
for Units of Service Contracts

Complete the Oneida County voucher (3-part white, yellow, and pink form) as follows:

1. **Department:** Office for the Aging and Continuing Care
2. **Claimants Name and Address:** Contractor name and address (checks will be payable to the name given and sent to the address listed).
3. **Date:** List month this claim covers.
4. **Vendor's Invoice Number:** leave blank
5. **Quantity/Description of Material or Service/Unit Price/Amount:**
  - ✓ State the number of units of service and the description of services performed during the month.
  - ✓ List the Unit Price as stated in the Contract Budget.
  - ✓ Place the amount (Units X Unit Price) in the Amount column.
  - ✓ Place the amount to be reimbursed in the Total block.
  - ✓ Specify program funds (III-E, EISEP, CSE, III-B etc.) in the space after the Contract Number.
6. **Claimant's Certification:**

Fill out completely, Note that Oneida County will not pay a voucher without an original signature, Federal ID Number or Social Security Number.
7. **Voucher Backup**
  - ✓ Attach CAARS monthly report.
  - ✓ Master list of clients billed for on voucher (with individual total monthly amount billed).
  - ✓ Attach appropriate backup:
    - Payroll certification sheets and time sheets signed by Agency employee.
    - Legal Assistance Program – case numbers, DOB, Legal Assistance Referral, Type of Service, Fax Date and Unit of Services.
    - Housekeeper/Chore (PCA Level I) or Homemaker/personal care (PCA Level II), Housekeeper/chore (Level I) – Contract EISEP voucher backup. Copies of PCA daily logs including date and times of service and all must be signed by client.
    - Adult Day Care – OFFICE approved sign-in log sheet with dates and times of service and all must be signed by client.
    - Emergency Response Systems – (Original Invoice)

Have all accounting records, receipts and supporting documentation readily available for review by the County, State and/or Federal personnel authorized to examine and/or audit program accounts. Ref: US Code of Federal Regulations 45-74 amended in 1980. Check numbers, dates paid and amounts paid must be written on each receipt.
8. **Timely Submissions:**
  - ✓ Submit monthly vouchers by the 10<sup>th</sup> day of the month following the reporting month.
  - ✓ Checks are issued by Oneida County Audit and Control only on Fridays - approximately 30 days after submission.
  - ✓ If all documentation is not included, the voucher will be returned unpaid with a request for proper backup and documentation.

**9. Changes To The Budget (including personnel):**

- ✓ Submit a Budget Revision and a justification for the change.

**10. Technical Assistance:**

- ✓ If you have fiscal questions regarding your program or require technical assistance, please contact the OFA-OCC Fiscal Unit directly at 315-798-5456.

Susie Perritano, Accounting Supervisor



APPENDIX D

STANDARD ONEIDA COUNTY CONDITIONS ADDENDUM

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

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

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

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

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

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

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

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

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

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

1) The dangers of drug abuse in the workplace;

2) The Contractor's policy of maintaining a drug-free workplace;

3) Any available drug counseling, rehabilitation, and employee assistance program; and

4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;

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

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

1) Abide by the terms of the statement; and

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

E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction.

Employers of convicted employees must provide notice, including position and title, to:

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

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

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

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

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

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

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

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

i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

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

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

When applicable to the services provided pursuant to the Contract:

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

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

iii. There is a material change in the business practices and procedures of the County.

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

5. NON-ASSIGNMENT CLAUSE.

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

6. WORKER'S COMPENSATION BENEFITS.

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

7. NON-DISCRIMINATION REQUIREMENTS.

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

8. WAGE AND HOURS PROVISIONS.

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

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

9. NON-COLLUSIVE BIDDING CERTIFICATION.

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

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

10. RECORDS.

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

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number.



This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.

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

12. CONFLICTING TERMS.

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

13. GOVERNING LAW.

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

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

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

16. GRATUITIES AND KICKBACKS.

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

17. AUDIT

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

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

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

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

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

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

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

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

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

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

- a. For the purposes of this provision, the "use of tobacco" shall include:
  - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
  - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.
- b. For the purposes of this provision, "e-cigarette" shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.
- c. For the purposes of this provision, "on Oneida County property" shall be defined as:
  - i. Upon all real property owned or leased by the County of Oneida; and
  - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.

- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

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

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

Updated: 11/8/2018



Oneida County  
Anthony J. Picente, Jr.  
County Executive

Office for the Aging & Continuing Care

Michael J. Romano  
Director

120 Airline Street – Suite 201, Oriskany, NY 13424

Phone 315-798-5456

Fax 315-798-6444

E-mail: ofa@ocgov.net

November 6, 2019

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

FN 20 20-041

HEALTH & HUMAN SERVICES

WAYS & MEANS

Dear Mr. Picente:

I am submitting the following Amendment between Oneida County, through its Office for the Aging and Continuing Care, and the Presbyterian Residential Community, Inc., located at 4300 Middle Settlement Road New Hartford, New York 13413 for your review and approval. If this Amendment meets with your approval, please forward it to the Board of Legislators for further consideration.

This Amendment is to provide additional funding from the New York State Office for the Aging through an Unmet Needs grant. . The total amount for this Amendment is \$4,995.00, making the new total for the contract \$84,495.00. This funding shall apply for the term of January 1, 2019 through December 31, 2019.

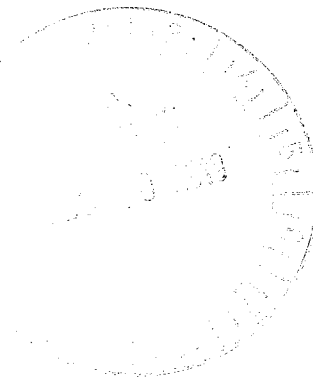
I am available at your convenience to answer any questions you may have regarding this Amendment.

Sincerely,

Michael J. Romano  
Director

MJR/md

Enclosures



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

Anthony J. Picente, Jr.  
County Executive

Date 12/19/19

Oneida Co. Department: Office for the Aging

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

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name & Address of Vendor:**

Presbyterian Residential Community, Inc.  
4300 Middle Settlement Road  
New Hartford, New York 13413

**Title of Activity or Service:**

Amendment to add Unmet Needs Funding

**Proposed Dates of Operation:**

January 1, 2019 through December 31, 2019

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

Frail elderly age 60+ with functional impairment

**Summary Statements**

**1) Narrative Description of Proposed Services**

Social Model Adult Day Care Services is a structured five hour; five day a week adult day care that serves frail elderly individuals in a supervised group setting. The program is in compliance with the New York State Regulations for Social Adult Day Care. Eligible participants must be age 60 or older and functionally impaired, defined as needing assistance of another person in at least one of the following activities of daily living: toileting, mobility, transferring and eating; or needing supervision due to cognitive and/or psycho-social impairment. Services include a noon meal and transportation to and from the program.

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

- To provide 5-hours per week adult day care programming
- To provide noon meal and transportation
- To provide services that include socialization, supervision and monitoring, personal care, nutrition, appropriate activities – maintenance and enhancement of daily living skills, caregiver assistance and transportation
- To provide intergenerational programming to ensure a mutual beneficial social opportunity for program participants and area youth

**3) Program Design and Staffing**

Each adult day service provider will serve OFA authorized participants with a structured 5-hour program that meets the NY State regulations. Each site will have a coordinator and sufficient staff; both paid and volunteer. The staff will supervise participants in a safe environment and provide appropriate activities and therapies that will enhance the participants' general wellbeing.

**Total Funding Requested:** \$84,495.00 **Account #** A6772.495.116

**Oneida County Dept. Funding Recommendation:** \$84,495.00

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

Federal: \$0 State: 75% (\$59,625.00) County: 25% (\$19,875.00)  
State UMN: (\$4,995.00)

**Cost Per Client Served:** \$75.00 per client per five hour day

**Past Performance Data:** The Presbyterian Residential Community, Inc. has been operating a successful Adult Day Care program for the residents of Oneida County for a number of years.

## AMENDMENT

**THIS AMENDMENT** is by and between Oneida County, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York, 13501 by and through its Office for the Aging and Continuing Care, with offices at 120 Airline Street, Suite 201, Oriskany, New York 13424, herein collectively referred to as the "County," and Presbyterian Residential Community, Inc., a domestic not-for-profit corporation organized and existing under the laws of the State of New York, having its principal office located at 4300 Middle Settlement Road, New Hartford New York 13413, hereinafter referred to as the "Contractor."

### WITNESSETH

**WHEREAS**, the County and the Contractor entered into an agreement whereby the Contractor provides Social Adult Day Care Services and PCA Level II Services to eligible Oneida County residents, hereinafter referred to as the "Original Agreement," (County contract number 75226), a copy of which is attached hereto as Exhibit "A." The Original Agreement is in effect from January 1, 2019 through December 31, 2019; and

**WHEREAS**, since the execution of the Original Agreement, the New York State Office for the Aging/Continuing Care, herein referred to as "NYSOFA," increased funding to the County for Social Adult Day Care Services and PCA Level II Services through an Unmet Needs grant; and

**WHEREAS**, the parties are desirous of entering into an Amendment to the Original Agreement regarding the following provisions,

**NOW THEREFORE**, in consideration of the mutual promises made herein, the parties hereto agree as follows:

1. Paragraph 5D of the Original Agreement shall be replaced with the following language:

The total reimbursement paid by the County to the Contractor for services provided under this Agreement shall not exceed eighty-four thousand four hundred ninety-five dollars (\$84,495.00).

2. All other terms of the Original Agreement remain in effect without change or alteration.

(SIGNATURES APPEAR ON THE NEXT PAGE)

IN WITNESS THEREOF, the County and the Contractor have signed this Amendment on the day and year written below.

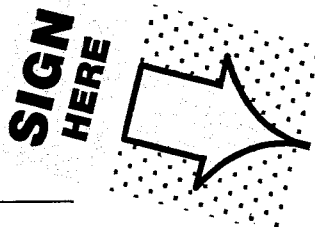
Presbyterian Residential Community, Inc.

By: Michael Sweeney  
Michael Sweeney, CEO

11/26/19  
Date

Office for the Aging

By: \_\_\_\_\_  
Michael J. Romano, Director



\_\_\_\_\_  
Date

County of Oneida

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

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Maryangela Scalzo, Asst. County Attorney

\_\_\_\_\_  
Date



## AGREEMENT

**THIS AGREEMENT** (hereinafter known as Agreement) is by and between **COMMUNITY WELLNESS PARTNERS, INC.** through its affiliate **PRESBYTERIAN RESIDENTIAL COMMUNITY, INC.**, a subsidiary of **PRESBYTERIAN HOMES & SERVICES, INC.** with each being a domestic not-for-profit corporation organized and existing under the laws of the State of New York and located at 4300 Middle Settlement Road, New Hartford, New York 13413, hereinafter collectively known as the "**CONTRACTOR,**" and the **COUNTY OF ONEIDA,** a municipal corporation organized and existing under the laws of the State of New York with its principal place of business and offices located at 800 Park Avenue Utica, New York 13501, by and through its **OFFICE FOR THE AGING AND CONTINUING CARE** located at 120 Airline Street, Suite 201, Oriskany, New York 13424, hereinafter collectively known as the "**COUNTY;**" all parties to the Agreement shall be collectively known as the "**PARTIES.**"

### **WITNESSETH:**

**WHEREAS,** the **COUNTY** has the primary responsibility for the overall planning and coordination of **COUNTY** funds including the Federal Administration on Aging -Older Americans Act Title III, Title V, New York State Office for the Aging (NYSOFA) – Expanded In-Home Services for the Elderly Program (EISEP), Community Services for the Elderly Program (CSEP), Congregate Services Initiative (CSI), Wellnes in Nutrition (WIN), Health Insurance Information Counseling and Assistance Program (HIICAP), Medicare Improvements for Patients and providers Act (MIPPA)/ Senior Health Insurance Program (SHIP), and County of Oneida funds; and

**WHEREAS,** the **COUNTY** has the responsibility to formally and informally monitor, assess and evaluate all programs, services and contracts funded through the **COUNTY;** and

**WHEREAS,** the **COUNTY** will provide technical assistance, upon request, to assist the **CONTRACTOR** in more effectively carrying out service delivery and/or complying with federal, state and local statutes, policies, rules and regulations; and

**WHEREAS,** the **CONTRACTOR** is willing and able to perform the services required by this Agreement;

**NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES AS FOLLOWS:**

1. **TERM OF AGREEMENT**

The term and conditions of this Agreement shall commence **January 1, 2019** and terminate **December 31, 2019**.

2. **AGREEMENT RENEWAL**

A. At the **COUNTY'S** sole discretion, this Agreement may be renewed for an additional four (4) one-year terms.

B. Nothing herein shall be construed to indicate that the **COUNTY** is bound to renew this Agreement with the **CONTRACTOR** on an annual basis and the **COUNTY** reserves the right to seek the same or similar services from third parties.

3. **SCOPE OF SERVICES**

A. The **CONTRACTOR** shall, as part of the terms and conditions of this Agreement, comply with the State of New York's Social Adult Day Care Regulations, New York Executive Law, Chapter 11 Part 6654.20 (9 NYCRR 6654.20).

B. The **CONTRACTOR** shall provide Social Adult Day Care Services and PCA Level II Services (collectively, the "Services") to frail individuals ("Consumers") as authorized by the **COUNTY** and its designated agents. The target population served by this Agreement is Oneida County residents who are age sixty (60) years or older who are living independently in the community with emphasis on older individuals who are:

1. residing in rural areas,
2. with greatest economic need (with particular attention to low-income minority individuals);
3. with greatest social need (with particular attention to low-income minority individuals);
4. with severe disabilities; or
5. with Alzheimer's disease or related disorder with neurological and organic brain dysfunction (and the caretakers of such individuals).

C. The **CONTRACTOR** shall provide the Services in Oneida County.

D. The **CONTRACTOR** shall provide the Services pursuant to New York State laws, rules and regulations, including:

1. The Social Adult Day Care Program Regulations, New York Executive Law, Chapter II Part 6654.20 (9 NYCRR part 6654.20), which include:
  - i. A structured, comprehensive program which provides functionally impaired individuals with the required components of socialization; supervision and

monitoring; personal care; and nutrition in a protective setting during any part of the day, but for less than a 24-hour period.

- ii. "Functionally impaired" means needing the assistance of another person in at least one of the following activities of daily living: toileting, mobility, transferring, eating; or needing supervision due to cognitive and/or psychosocial impairment.
- iii. "Nutrition" means providing nutritious meals for Consumers who are attending the program at normal meal times; meals are to be consistent with the standards set forth in the Regulations for a Nutrition Program for the Elderly site and as established by the COUNTY; and offering snacks and liquids for all Consumers at appropriate times.

2. 18 NYCRR § 505.14 and any New York state Department of Health regulations promulgated thereunder for PCA Level II Services.

E. The **CONTRACTOR** agrees that all Consumers shall receive Services only in accordance with an individualized written service plan that is based on the Comprehensive Assessment for Aging Network Community-Based Long Term Care Services (COMPASS), and shall specify the individual Consumer outcomes expected from the provision of the Services; the service plans shall be reevaluated at a minimum annually.

F. The **CONTRACTOR** upon approval from the **COUNTY** shall provide Personal Care Services Level 2 (PCAI) to Consumers when indicated in their care plan.

G. As specified in State of New York's Social Adult Day Care Program Regulations, all of the **CONTRACTOR'S** Services personnel, both paid and volunteer, shall attend six (6) hours of training annually, and new program employees or volunteers shall receive at least twenty hours of group, individual and/or on-the-job training.

G. The **CONTRACTOR'S** personnel shall keep abreast of new developments in the field of Gerontology and community based social adult day care; attendance at relevant local, state, or national training is encouraged.

H. The **CONTRACTOR** and the **COUNTY** shall hold periodic coordinating meetings as needed.

I. The **CONTRACTOR** and the **COUNTY** shall work cooperatively to develop comprehensive Services for Oneida County.

#### 4. PERFORMANCE OF SERVICES

A. The **CONTRACTOR** represents that the **CONTRACTOR** is duly licensed (as applicable) and has the qualifications, the specialized skill(s), the experience and the ability to

properly perform the Services. The **CONTRACTOR** shall use the **CONTRACTOR'S** best efforts to perform the Services such that the results are satisfactory to the **COUNTY**. The **CONTRACTOR** shall be solely responsible for communications with the Consumer or the Consumer's caregiver in order to determine the method, details and means of performing the Services, except where federal, state or local laws and regulations impose specific requirements on performance of the same.

B. The **CONTRACTOR** may, at the **CONTRACTOR'S** own expense, employ or engage the services of such employees, subcontractors and/or partners as the **CONTRACTOR** deems necessary to perform the Services (collectively, the "Assistants"). The Assistants are not and shall not be deemed employees of the **COUNTY**, and the **COUNTY** shall have no obligation to provide the Assistants with any salary or benefits. The **CONTRACTOR** shall be solely responsible and shall remain liable for the performance of the Services by the Assistants in a manner satisfactory to the **COUNTY**, and in compliance with any and all applicable federal, state or local laws and regulations.

C. The **CONTRACTOR** acknowledges and agrees that the **CONTRACTOR** and its Assistants have no authority to enter into contracts that bind the **COUNTY** or create obligations on the part of the **COUNTY** without the prior written authorization of the **COUNTY**.

##### 5. REIMBURSEMENT FOR SERVICES

A. It is agreed and understood by all **PARTIES** that the **COUNTY** shall reimburse the **CONTRACTOR** for the Services which are provided in accordance with the terms and conditions of this Agreement, the CSEP, and the Caregiver Support III-E grants.

B The **COUNTY** shall reimburse the **CONTRACTOR** fifteen dollars (\$15.00) per hour for each Consumer receiving Day Care Services which shall include program, meals, and transportation. A full day of programming is defined as five (5) hours, but the **CONTRACTOR** may bill in ½ hour increments at seven dollars fifty cents (\$7.50) per half hour when the Consumer is attending less than five (5) hours per day. Reimbursement for Adult Day Care Services shall not exceed seventy-five dollars (\$75.00) per Consumer, per day.

C. The **COUNTY** shall reimburse the **CONTRACTOR** twenty dollars (\$20.00) per hour for each Consumer that receives PCAII services pursuant to this Agreement.

D. The total reimbursement paid by the **COUNTY** to the **CONTRACTOR** for services provided under this Agreement shall not exceed seventy-nine thousand five hundred dollars (\$79,500.00).

E. The **COUNTY** funds are contingent upon availability of state and County of Oneida funding; reimbursement shall be made in twelve (12) monthly installments upon submission of a **COUNTY** voucher as specified in the Oneida County Office for the Aging Voucher Instructions for Units of Service Contracts attached as **APPENDIX C**.

F. The **COUNTY** shall not be liable for any late fees or for any interest on late payments. The obligations of the **PARTIES** hereunder are conditioned upon the continued availability of New York State and **COUNTY** funds for the purposes set forth in this Agreement. Should funds become unavailable or should appropriate New York State and **COUNTY** officials fail to approve sufficient funds for completion of the Services set forth in this Agreement, the **COUNTY** shall have the option to immediately terminate this Agreement upon providing written notice to the **CONTRACTOR** by certified mail. In such an event, the **COUNTY** shall be under no further obligation to the **CONTRACTOR** other than payment for costs actually incurred prior to termination and in no event will the **COUNTY** be responsible for any actual or consequential damages as a result of termination.

G. The **COUNTY** reserves the right to withhold payment under this Agreement due to the **CONTRACTOR'S** failure to properly perform its obligations under this Agreement. The **COUNTY** may withhold payment for including but not limited to:

1. defective Services;
2. third party claims;
3. failure of the **CONTRACTOR** to pay its subcontractors, if any;
4. damage to the **COUNTY**; or
5. failure to carry out the Services in accordance with this Agreement.

H. It is understood and agreed that the **COUNTY** shall not be responsible for any costs incurred by the **CONTRACTOR** prior to the effective date or following the termination date of this Agreement.

6. **NO CLAIM FOR DAMAGE**

The **CONTRACTOR** shall make no claim for damages for delay of reimbursement due to an act or omission by the **COUNTY**.

7. **EXPENSES**

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

8. **TRAINING**

The **CONTRACTOR** shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the Services described herein, and shall be solely responsible for the cost of the same.

9. **NON ASSIGNMENT CLAUSE**

The **CONTRACTOR** shall not assign, transfer, convey, sublet or otherwise dispose of the Agreement or of its right, title, or interest therein, or its power to execute this Agreement, to any other corporation or person without the prior written consent of the **COUNTY**.

10. **SUBCONTRACTS**

A. A subcontractor is a person who has an agreement with the **CONTRACTOR** to perform any of the Services.

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

C. Any agreements between the **CONTRACTOR** and the subcontractors shall be in accordance with the terms of this Agreement and shall include the conditions of this Agreement including all exhibits, attachments, appendices, and addendums, insofar as applicable.

11. **INDEPENDENT CONTRACTOR STATUS**

A. It is expressly agreed that the relationship of the **CONTRACTOR** and its Assistants to the **COUNTY** shall be that of Independent Contractors. The **CONTRACTOR'S** Assistants shall not be considered employees of the **COUNTY** for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement or health insurance benefits. The **CONTRACTOR**, in accordance with its status as an Independent Contractor, covenants and agrees that its Assistants will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the **COUNTY** by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the **COUNTY**.

B. The **CONTRACTOR** warrants and represents that it is in the business of offering the same or similar Services detailed herein and does offer the same or similar services to other entities and/or the general public as a regular course of business. The **CONTRACTOR** and the **COUNTY** agree that the **CONTRACTOR** is free to undertake other work arrangements during the term of this Agreement, and may continue to make its Services available to the public.

C. The **CONTRACTOR'S** Assistants shall not be eligible for compensation from the **COUNTY** due to

1. illness;
2. absence due to normal vacation;
3. absence due to attendance at school or special training or a professional convention; or meeting.

D. The **CONTRACTOR** shall be solely responsible for applicable taxes for all compensation paid to the **CONTRACTOR** or its Assistants under this Agreement, and for compliance with all applicable labor and employment requirements with respect to the **CONTRACTOR'S** form of business organization, and with respect to the Assistants, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The **COUNTY** shall not be responsible for withholding from the payments provided for Services rendered for state or federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). The **CONTRACTOR** shall provide proof of workers' compensation insurance, where applicable, prior to the execution of this Agreement.

E. The **CONTRACTOR** shall indemnify and hold the **COUNTY** harmless from all loss or liability incurred by the **COUNTY** as a result of the **COUNTY** not making such payments or withholdings.

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

G. The **CONTRACTOR** shall comply with federal and state laws as supplemented in the Department of Labor Regulations and any other regulations of federal and state entities relating to such employment and Civil Rights requirements.

12. **STANDARD ASSURANCES**

A. The **CONTRACTOR** shall comply with statutes, regulations, and policies set by the following: Federal Department of Health and Human Services, Federal Administration on Aging, the NYSOFA, and the **COUNTY**, more fully described in **APPENDIX A**.

B. The **CONTRACTOR** shall comply with section 504 of the Rehabilitation Act of 1973 (Nondiscrimination) which states "No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service." (29 U.S.C.A. §794)

C. The **CONTRACTOR** shall comply with the Human Rights Law Article 15 of the Executive Law of New York State (N.Y. Exec. Law §290, et seq.), Article 15A of the Executive Law of New York State regarding participation by minority group members and women with respect to state contracts (N.Y. Exec. Law §310, et seq.), and the Governor's Executive Order 28 which prohibits discrimination based on sexual orientation (9 NYCRR 4.28).

D. The **CONTRACTOR** shall comply with Title VI, the Civil Rights Act of 1964 (42 U.S.C.A. §2000-d, et seq.), and any amendment thereto: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

E. The **CONTRACTOR** agrees that any program, public information materials, or other printed or published materials on the work of or funded by CSEP/III-E will give due recognition to the NYSOFA and the Oneida County Office for the Aging. The statement shall be in font which is one of the following: in italics, or at least two font sizes larger than the rest of the text, or in bold font or underlined (i.e., "***This program is supported by Oneida County Office for the Aging and Continuing Care, New York State Office for the Aging, and the Administration on Aging.***"). The **CONTRACTOR** shall forward copies of all materials to the **COUNTY** at the end of each month.

F. The **COUNTY** shall conduct a program review to ensure that the **CONTRACTOR** is in compliance with all standards and regulations as set forth in this Agreement.



13. **NYSOFA TERMS AND CONDITIONS**

A. The **CONTRACTOR** agrees that all its activities under this Agreement shall conform with all applicable federal, state, and local laws, with federal and state regulations, and Program Standards and Program Instructions of the NYSOFA that apply to such activities, including, but not limited to:

1. Rehabilitation Act of 1973, Sec. 504 Nondiscrimination (29 U.S.C. 794)
2. Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.; see 92-PI-32, [8/4/92])
3. Civil Rights Act of 1964, Title VI, as amended (42 U.S.C. 2000-d et. seq.)
4. Older Americans Act (42 U.S.C. 3001, et seq.)
5. Executive Order 13166 Improving Access to Services for Persons with Limited English Proficiency (65 FR 50121)
6. Federal Executive Order 11246 (30 FR 12319), as Amended by Executive Order 11375 (32 FR 14303, Affirmative Action); as Amended by Executive Order 12086 (43 FR 46501, Consolidation of Compliance Functions); and as Amended by Executive Order 13279 (67 FR 77141, Equal Protection for Faith-Based and Community Organizations.)
7. Article 15 of the Executive Law of the State of New York, Human Rights Law: prohibiting discrimination based on age, race, creed, color, national origin, sexual orientation, military status, sex, marital status, or disability (N.Y. Exec. Law §290, et seq.)
8. Article 15A of the Executive Law of New York State regarding participation by minority group members and women with respect to state contracts (N.Y. Exec. Law §310, et seq.),
9. The NYSOFA'S Equal Access to Services and Targeting Policy Program Instruction (12-PI-08)
10. Elder Law

B. The **CONTRACTOR**, to the extent it has discretion regarding to whom it will provide Services, shall provide Services to those unserved and underserved older adults in greatest social or economic need, particularly those who are low-income, low-income minorities, older adults with Limited English Proficiency (LEP), Native Americans, and frail/persons with disabilities and older adults residing in rural areas, in accordance with their need for such Services, and to meet specific objectives established by the **COUNTY** for providing Services to the above groups within Oneida County. The **CONTRACTOR** shall concentrate the Services on older adults in the targeted populations identified by the **COUNTY** following the

methods the COUNTY has established for complying with the targeting requirements under the Older Americans Act and the Equal Access and Targeting Policy issued by the NYSOFA.

C. The CONTRACTOR shall inform persons with LEP of the availability of language assistance, free of charge, by providing written notice of such assistance in a manner designed to be understandable by LEP persons at Service locations and, at a minimum, have a telephonic interpretation service contract or similar community arrangement with a language interpretation service provider of their choice. The CONTRACTOR shall train staff that have contact with the public in the timely and appropriate use of these and other available language services.

D. To the extent that the Agreement with the COUNTY is for a program or service funded under the COUNTY'S Area Plan, the CONTRACTOR agrees that it and any subcontractors shall perform such Services in accordance with the terms of the Area Plan. The COUNTY agrees to make the Area Plan available to the CONTRACTOR.

E. The CONTRACTOR agrees that for programs established and funded in whole or in part pursuant to Title III of the Older Americans Act, the CONTRACTOR shall specify how it intends to satisfy the service needs of low-income minority individuals, older adults with LEP, and older adults residing in rural areas in the area served by it; will to the maximum extent feasible, provide Services to low-income minority individuals, older individuals with LEP, and older adults residing in rural areas in accordance with their need for such Services; and meet specific objectives established by the COUNTY, for providing Services to low-income minority individuals, older adults with LEP, and older adults residing in rural areas within the planning and service area.

14. **GRIEVANCE PROCEDURES**

The CONTRACTOR shall implement the Oneida County Office for the Aging Grievance Procedures as required by the NYSOFA. The written procedures are attached in APPENDIX B.

15. **FISCAL REQUIREMENTS/RESPONSIBILITIES**

A. The CONTRACTOR shall keep CSEP/III-E funds separate; further, state and federal funds shall not be used as local share (match).

B. The CONTRACTOR shall comply with all voucher and contribution procedures, and submissions of required reports as described in the Oneida County Office for the Aging Voucher Instructions for Units of Service Contracts, attached as APPENDIX C.

C. The **COUNTY** shall be responsible for sending monthly donation letters and collecting Consumer contributions for all Consumers who attend Office for the Aging and Continuing Care funded Services. Any contributions received by the **CONTRACTOR** for Office for the Aging and Continuing Care funded Consumer, directly, will be reported and deducted on monthly vouchers by the **CONTRACTOR**.

D. The **CONTRACTOR** shall report to the **COUNTY** any and all additional moneys or program income (contributions, donations) given to the CSEP/III-E supported programs. "Program income means gross income received by the subcontractor directly generated by a **COUNTY** grant supported activity, or earned as a result of the **COUNTY** grant agreement during the grant period." REF: Department of Health & Human Services, Program Instruction AoA-PI-96-01, October 16, 1995.

E. The **CONTRACTOR** shall maintain copies of proper documentation for all program income, including, but not limited to, in-kind support, donations, contributions, reimbursements, and other grants within its program budget.

F. The **COUNTY** shall conduct a periodic audit of revenues and expenditures, as well as the required annual on-site review of the program's fiscal status to ensure expenditures are in proportion to the total program budget.

G. The **CONTRACTOR** shall agree to have an independent audit conducted for the contracted program if it has provided the Services to the **COUNTY** for two (2) years or more. A copy of the audit shall be submitted to the **COUNTY** upon completion of the program/fiscal audit conducted by the outside auditor.

H. The **CONTRACTOR** shall maintain fiscal records for six (6) years and shall make them available for **COUNTY** review upon request.

I. The **CONTRACTOR** shall cooperate with the close-out audit that is required when this Agreement is terminated.

J. The **CONTRACTOR** shall follow close-out procedures administered by the **COUNTY** in accordance with the 45 C.F.R. §75, et seq.

16. **INDEMNIFICATION**

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

B. The **CONTRACTOR** shall defend, indemnify, and hold harmless the **COUNTY** from and against all liability, damages, expenses, costs, including, without limitation, attorneys' fees and expenses, causes of action, suits, claims or judgments arising, occurring or resulting

form or out of the Services of the **CONTRACTOR** and its agents, servants, employees or Assistants, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the **CONTRACTOR** or failure on the part of the **CONTRACTOR** to comply with any of the covenants, terms or conditions of the Agreement.

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

17. **INSURANCE COVERAGE REQUIREMENTS**

A. As part of its obligation to indemnify, defend, and hold harmless the **COUNTY**, its officers, agents, employees, as set forth above, the **CONTRACTOR** shall obtain and maintain in full force and effect, for the term of this Agreement, insurance coverage as described below.

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

C. Prior to the start of any Services, the **CONTRACTOR** shall provide certificates of insurance to the **COUNTY**. The certificates shall be on forms approved by the **COUNTY**. Acceptance of the certificates shall not relieve the **CONTRACTOR** of any of the insurance requirements, nor decrease the liability of the **CONTRACTOR**. The **COUNTY** reserves the right to require the **CONTRACTOR** to provide insurance policies for review by the **COUNTY**. The **CONTRACTOR** grants the **COUNTY** a limited power of attorney to communicate with the **CONTRACTOR'S** insurance provider and/or agent for the express purpose of confirming the coverages required hereunder.

D. Certificates of Insurance: Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of the **CONTRACTOR'S** Commercial General Liability Policy, Auto Liability Policy, and Excess/Umbrella Policy. These certificates and the insurance policies required below shall contain a provision that coverage afforded under the policies will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the **COUNTY**.

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

1. Coverage for the additional insured shall include completed operations,
2. The CGL coverage shall include a General Aggregate Limit and such General Aggregate Limit shall apply separately to each project,
3. The CGL coverage shall be written on ISO Occurrence form CG 00 01 1001 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contracts, products, completed operations, and personal and advertising injury,
4. There shall be no exclusions to contractual liability for Employee Injuries (i.e. Labor Law Exclusions),
5. The **CONTRACTOR** shall maintain CGL coverage for itself and all additional insureds for the duration of this Agreement and maintain completed operations coverage for itself and each additional insured for at least three (3) years after completion of the Services.

F. Business Automobile Liability Insurance: The **CONTRACTOR** shall, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of Business Automobile Liability Insurance in an amount equal to or greater than One Million Dollars (\$1,000,000.00) for the term of this Agreement. Business Automobile Coverage must include coverage for liability arising out of all owned, leased, hired, and non-

owned automobiles. The **CONTRACTOR** shall have Oneida County added to said insurance policies as a named additional insured, on a primary, non-contributory basis.

G. Excess/Umbrella Liability Insurance: The **CONTRACTOR** shall, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of Excess/Umbrella Liability Insurance in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence and such insurance shall not be less than One Million Dollars (\$1,000,000.00) annual aggregate. The **CONTRACTOR** shall have Oneida County added to said insurance policies as a named additional insured, on a primary, non-contributory basis. Umbrella coverage for such additional insured shall apply as primary and non-contributory before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by or provided to the additional insured.

H. Professional Liability Insurance: The **CONTRACTOR** shall, during the term of this Agreement maintain a professional liability policy and will provide the **COUNTY** with proof of coverage in the amount of One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) annual aggregate.

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

J. The **CONTRACTOR** shall require any subcontractors to procure and maintain insurance coverage of the same type and in the same amounts with the same endorsements required of the **CONTRACTOR** in the above Insurance Coverage Requirement paragraphs.

K. Payment(s) to the **CONTRACTOR** may be suspended in the event that the **CONTRACTOR** or its subcontractors, if any, fail to provide the required insurance documentation in a timely manner.

L. Waiver of Subrogation: The **CONTRACTOR** waives all rights against the **COUNTY** and its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by CGL, Business Auto Liability, Excess/Umbrella Liability, Professional Liability or Workers' Compensation and Employer's Liability Insurance maintained per requirements stated above.

18. **REPORTING REQUIREMENTS**

A. The **COUNTY** shall, pursuant to the requirements of CSEP/III-E funded programs, comply with the definition of Services, April 2011, as established by the NYSOFA (96-PI-43).

B. The **CONTRACTOR** shall provide the **COUNTY** with required information needed to meet planning, coordination, evaluation, and reporting requirements as required by the NYSOFA's Consolidated Area Agency Reporting System (CAARS), by the 10<sup>th</sup> of every month. The current and revised CAARS Monthly Report Forms and Monthly Summary Form must be submitted as an attachment to the voucher on a monthly basis.

C. The **CONTRACTOR** shall maintain appropriate Consumer records on each EISEP Consumer who receives Services through this program; the **COUNTY** shall have access to the Consumer records upon request; the **COUNTY** shall have ownership of all Consumer's records and files.

D. The **CONTRACTOR** shall comply with policies ensuring Consumer confidentiality, as established by the **COUNTY**, when information sharing between agencies is crucial to the Consumer's well-being and is needed to ensure effective Service provision; pertinent information shall be shared in accordance with federal and state regulations and statutes.

E. The **CONTRACTOR** shall provide the **COUNTY** with required monthly, periodic, and/or special reports and shall submit all reports to the **COUNTY** by the dates specified.

19. **COORDINATION REQUIREMENTS**

A. The **CONTRACTOR** and the **COUNTY** shall coordinate referrals.

B. The **CONTRACTOR** and the **COUNTY** shall work with older persons, who are not eligible for Services under this Agreement, to obtain needed Services.

C. The **CONTRACTOR** shall coordinate with other appropriate service providers in obtaining and providing referrals for older residents of Oneida County.

20. **AGREEMENT CANCELLATION**

A. This Agreement may be cancelled by the **COUNTY** for failure by the **CONTRACTOR** to comply with the terms and conditions of this Agreement. The **CONTRACTOR** shall agree to incur no new obligations nor submit a claim for any expenses made after the receipt of written notification of termination.

B. The **CONTRACTOR** and the **COUNTY** reserve the right to cancel the Agreement upon thirty (30) day written notice to the other party.

C. The **CONTRACTOR** agrees that in the event of termination, said party shall make a full and final accounting of all funds received and monies expended under the Agreement

within thirty (30) days after the date of termination. Any unexpended funds shall be the property of the COUNTY.

D. The CONTRACTOR shall coordinate with the COUNTY and other providers to ensure that any break in service to Consumers shall not be detrimental to the Consumers' health or well-being. If available and appropriate, other services shall be substituted and/or coordinated on the Consumers' behalf.

21. **ENTIRE AGREEMENT**

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

B. Oral statements and understandings are not valid or binding, and this Agreement shall not be changed or modified except by a writing signed by all PARTIES.

C. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall be deemed the same instrument.

22. **INCORPORATION BY REFERENCE**

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

23. **STANDARD ADDENDUM**

The CONTRACTOR shall comply with the Standard Oneida County Conditions Addendum which is attached hereto and made a part hereof as APPENDIX D.

24. **CHOICE OF LAW/FORUM**

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

B. This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

25. **SUCCESSORS AND ASSIGNS**

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



26. **NON WAIVER**

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

27. **SEVERABILITY**

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

28. **AUTHORITY TO ACT/SIGN**

The **CONTRACTOR** hereby represents and certifies that it has the power and authority to execute and deliver this Agreement and to carry out its obligations hereunder. The execution and delivery by the **CONTRACTOR** of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by the **CONTRACTOR**; no other action on the part of the **CONTRACTOR** or any other person or entity, whether pursuant to its Articles of Incorporation, Articles of Operation, Operating Agreement or Bylaws, as the case may be, or by law or otherwise, are necessary to authorize the **CONTRACTOR** to enter into this Agreement, or to consummate the transactions contemplated herein.

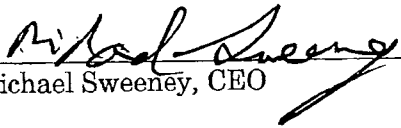
29. **ADVICE OF COUNSEL**

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

*[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK]*

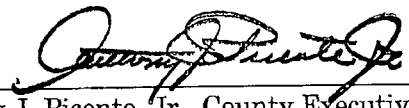
IN WITNESS THEREOF, the PARTIES have here unto set their hand on the date respectively stated.

COMMUNITY WELLNESS PARTNERS, INC.

  
\_\_\_\_\_  
Michael Sweeney, CEO

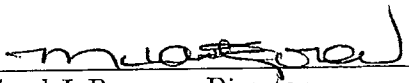
2/18/19  
Date

COUNTY OF ONEIDA

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

5/3/19  
Date

OFFICE FOR THE AGING AND CONTINUING CARE

  
\_\_\_\_\_  
Michael J. Romano, Director

2/26/19  
Date

Approved:

By:   
\_\_\_\_\_  
Maryangela Scalzo, Assistant County Attorney

5/3/19  
Date

## APPENDIX A

- 1) The Older Americans Act (OAA) of 1965, as amended (42 U.S.C.A. § 3001 et. seq.)
- 2) 2 CFR part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards)
- 3) 2 CFR Part 230 (Cost Principles for Non-Profit Organizations)
- 4) 2 CFR Part 376 (Nonprocurement Debarment and Suspension)
- 5) 20 CFR Part 614 (Provisions Governing the Senior Community Service Employment Program)
- 6) 29 CFR Part 37 (Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998)
- 7) 45 CFR Part 75 (Uniform Administration Requirements, Cost Principles, and Audit requirements for HHS Awards)
- 8) 45 CFR Part 80 (Nondiscrimination under programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964)
- 9) 45 CFR Part 84 (Nondiscrimination on the basis of Handicap)
- 10) 45 CFR Part 92 (Uniform Administrative Requirements for Grant and Cooperative Agreements to State and Local Governments)
- 11) 45 CFR Part 93 (New Restrictions on Lobbying)
- 12) 45 CFR Part 1321, Subparts A-D (Grants to State and Community Programs on Aging)
- 13) 45 CFR Part 1321.61 (b)(4) (Support of State Title VII Activities)
- 14) Age Discrimination in Employment Act of 1975, as amended (29 USC §621, et seq.)
- 15) Americans with Disabilities Act of 1990 (42 U.S.C.A. §12101, et seq.)
- 16) Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (42 U.S.C.A. §2000e, et. seq.)
- 17) Equal Pay Act of 1963, as amended (29 U.S.C.A. §206)
- 18) Hatch Act (5 U.S.C.A. §1501, et seq.)
- 19) Low Income Energy Assistance (42 U.S.C.A. § 8621, et seq.)
- 20) Rehabilitation Act of 1973, Sec. 504 (29 U.S.C.A. §794) (Nondiscrimination)
- 21) Single Audit Act of 1984 (31 U.S.C.A. §7501, et. seq.)
- 22) USDA Nutrition Programs for the Elderly (7 C.F.R. § 226, et seq.) and (7 C.F.R. §235, et seq.)
- 23) Office of Management and Budget (OMB):

- a. OMB Circular A-87 (Cost Principles for State, Local and Indian Tribal Governments)
  - b. OMB Circular A-95 (Clearinghouse Review)
  - c. OMB Circular A-102 (Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments)
  - d. OMB Circular A-110 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-profit Organizations)
  - e. OMB Circular A-122 (Cost Principles for Non-profit Organizations)
  - f. OMB Circular A-128 (Audits of State and Local Governments)
  - g. OMB Circular A-133 (Audits of States, Local Governments and Non-Profit Organizations)
- 24) 30 FR 12319- Federal Executive Order 11246, as Amended by 32 FR 14303- Federal Executive Order 11375 (Affirmative Action); as Amended by 43 FR 46501- Federal Executive Order 12086 (Consolidation of Compliance Functions); and as Amended by 67 FR 77141- Federal Executive Order 13279 (Equal Protection for Faith-Based and Community Organizations)
  - 25) New York State Office for the Aging Rules and Regulations (9 NYCRR Parts 6651, 6652, 6653, 654, 6655, and 6656)
  - 26) Executive Law of New York State, Article 15- State Human Rights Law (N.Y. Exec. Law §290, et seq.)
  - 27) Executive Law of New York State, Article 15-a Minority/Women's Business contract Requirements (N.Y. Exec. Law §310, et seq.)
  - 28) Executive Law of New York State, Article 7-a Solicitation and Collection of Funds for Charitable Purposes (N.Y. Exec. Law § 171-a, et seq.)
  - 29) Expanded In-home Services for the Elderly (EISEP) Program Standards (87-PI-66 [10/21/87])
  - 30) NYS Office for the Aging's 1990 Nutrition Program Standards (90-PI-26 [5/17/90])
  - 31) Legal Assistance Standards (94-PI-52 [12/29/94])
  - 32) Weatherization Referral and Packaging Program (WRAP) Handbook
  - 33) Governor's 1960 Code of Fair Practices (9 CRR-NY 1.4)
  - 34) Governor's Executive Order 6 (Affirmative Action Efforts) (9 NYCRR 4.6)
  - 35) Governor's Executive Order 19 (Prevention of Sexual Harassment) (9 NYCRR 4.19)
  - 36) Governor's Executive Order 28 (Prohibiting discrimination based on Sexual Orientation) (9 NYCRR 4.28)

**APPENDIX B**  
Oneida County Office for the Aging  
**Grievance Procedures**

In accordance with the Older Americans Act (OAA), as amended, the Oneida County Office for the Aging has established the following process for resolving complaints from participants who are dissatisfied with or persons denied services funded under the Act.

**Right to File a Grievance**

The Office for the Aging and all contracting provider agencies who receive OAA funds shall notify program participants of their right to file a grievance with the provider agency and/or with Oneida County Office for the Aging. Upon request, the Office for the Aging will provide assistance with filing a grievance.

**Denial of Service or Client's Dissatisfaction of Service**

A participant or applicant who is denied OAA services must be given the reasons for the denial. Services may be denied because of funding restrictions, ineligibility, hours or locations have changed, reassessment determined services no longer needed, or client is disruptive to the program. For OAA services for which a written application is made, the denial shall be confirmed in writing and the applicant informed of the right to file a grievance and to whom the grievance shall be made. For OAA services for which verbal application is made by telephone or in person, the person may be denied verbally and verbally informed of the right to file a grievance and to whom.

**Grievance Process**

**Filing a Grievance**

- Individual must submit their grievance in writing to the Director of the Office for the Aging who will forward the Letter to the designated person of the provider agency to conduct the initial review.
- **The grievance must be filed within thirty (30) calendar days of denial, reduction or termination of services, or of the event or circumstances with which the person is dissatisfied.** The Office for the Aging or the provider agency may grant an extension for good cause shown.
- The Letter of Grievance should include a written statement setting forth in detail the date, time and circumstances that are the basis for the complaint.

**Investigation and Response to a Grievance**

- The designated reviewer will investigate the complaint. The reviewer will determine whether the action was in accordance to applicable Older Americans Act and State laws and regulation and are supported by facts.
- The reviewer will prepare and send written response to the grievant and to the Office for the Aging Director within fifteen (15) working days after the grievance is filed. The response will set forth the circumstances relating to the grievance, the action requested by the grievant, the findings of the reviewer, a proposed remedial action and, if any, the reason(s) for and facts relied on in the determination.

**Appeal of Initial Response/Decision**

If the grievant is not satisfied with the determination, s(he) has the right to further review as follows:

- S(he) may initiate a request for subsequent review by the Office for the Aging Director within ten (10) calendar days following receipt of notification from the provider agency of its decision.
- The Office for the Aging Director will request, and the provider agency shall provide, copies of the initial file on the complaint in question. The Office for the Aging Director will review the materials to ensure that pertinent policies and procedures have been applied and followed.
- If the policies and procedures have been adhered to, the Office for the Aging Director will not overturn the decision of its contracting provider agency. If the proper policies and procedures have not been applied, the director reserves the right to overturn the decision.
- A written notification of the results will be made to the grievant within twenty (20) working days of receipt of the appeal request.

**Record Keeping**

The provider agency will keep a file, for six years, of all relevant documents and records of a grievance. The file shall include at a minimum: the initial grievance; any investigative reports; any and all written responses; any documents or other records submitted by any party; and, if applicable, the notice to the grievant of the right to appeal.

**Confidentiality**

No information, documents or other records relating to a grievance shall be disclosed by program staff or volunteers in a form that identifies the grievant without the written informed consent of the grievant, unless the disclosure is required by court order or for program monitoring by authorized agencies.

**APPENDIX C**  
Oneida County Office for the Aging  
**Voucher Instructions**  
for Units of Service Contracts

Complete the Oneida County voucher (3-part white, yellow, and pink form) as follows:

1. **Department:** Office for the Aging and Continuing Care
2. **Claimants Name and Address:** Contractor name and address (checks will be payable to the name given and sent to the address listed).
3. **Date:** List month this claim covers.
4. **Vendor's Invoice Number:** leave blank
5. **Quantity/Description of Material or Service/Unit Price/Amount:**
  - ✓ State the number of units of service and the description of services performed during the month.
  - ✓ List the Unit Price as stated in the Contract Budget.
  - ✓ Place the amount (Units X Unit Price) in the Amount column.
  - ✓ Place the amount to be reimbursed in the Total block.
  - ✓ Specify program funds (III-E, EISEP, CSE, III-B etc.) in the space after the Contract Number.
6. **Claimant's Certification:**

Fill out completely, Note that Oneida County will not pay a voucher without an original signature, Federal ID Number or Social Security Number.
7. **Voucher Backup**
  - ✓ Attach CAARS monthly report.
  - ✓ Master list of clients billed for on voucher (with individual total monthly amount billed).
  - ✓ Attach appropriate backup:
    - Payroll certification sheets and time sheets signed by Agency employee.
    - Legal Assistance Program – case numbers, DOB, Legal Assistance Referral, Type of Service, Fax Date and Unit of Services.
    - Housekeeper/Chore (PCA Level I) or Homemaker/personal care (PCA Level II), Housekeeper/chore (Level I) – Contract EISEP voucher backup. Copies of PCA daily logs including date and times of service and all must be signed by client.
    - Adult Day Care – OFFICE approved sign-in log sheet with dates and times of service and all must be signed by client.
    - Emergency Response Systems – (Original Invoice)

Have all accounting records, receipts and supporting documentation readily available for review by the County, State and/or Federal personnel authorized to examine and/or audit program accounts. Ref: US Code of Federal Regulations 45-74 amended in 1980. Check numbers, dates paid and amounts paid must be written on each receipt.
8. **Timely Submissions:**
  - ✓ Submit monthly vouchers by the 10<sup>th</sup> day of the month following the reporting month.
  - ✓ Checks are issued by Oneida County Audit and Control only on Fridays - approximately 30 days after submission.
  - ✓ If all documentation is not included, the voucher will be returned unpaid with a request for proper backup and documentation.

**9. Changes To The Budget** (including personnel):

- ✓ Submit a Budget Revision and a justification for the change.

**10. Technical Assistance:**

- ✓ If you have fiscal questions regarding your program or require technical assistance, please contact the OFA-OCC Fiscal Unit directly at 315-798-5456.

Susie Perritano, Accounting Supervisor



## APPENDIX D

### STANDARD ONEIDA COUNTY CONDITIONS ADDENDUM

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

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

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

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

- D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;
- ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
  - i. The Contractor will or will continue to provide a drug-free workplace by:
    - A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
    - B. Establishing an ongoing drug-free awareness program to inform employees about:
      - 1) The dangers of drug abuse in the workplace;
      - 2) The Contractor's policy of maintaining a drug-free workplace;
      - 3) Any available drug counseling, rehabilitation, and employee assistance program; and
      - 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
    - C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;
    - D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:
      - 1) Abide by the terms of the statement; and
      - 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;

E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction.

Employers of convicted employees must provide notice, including position and title, to:

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

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

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

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

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

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

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

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

i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

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

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

When applicable to the services provided pursuant to the Contract:

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

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

iii. There is a material change in the business practices and procedures of the County.

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

5. NON-ASSIGNMENT CLAUSE.

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

6. WORKER'S COMPENSATION BENEFITS.

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

7. NON-DISCRIMINATION REQUIREMENTS.

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

8. WAGE AND HOURS PROVISIONS.

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

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

9. NON-COLLUSIVE BIDDING CERTIFICATION.

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

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

10. RECORDS.

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

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number.



This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.

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

12. CONFLICTING TERMS.

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

13. GOVERNING LAW.

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

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

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

16. GRATUITIES AND KICKBACKS.

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

17. AUDIT

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

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

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

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

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

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

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

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

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

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

- a. For the purposes of this provision, the "use of tobacco" shall include:
  - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
  - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.
- b. For the purposes of this provision, "e-cigarette" shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.
- c. For the purposes of this provision, "on Oneida County property" shall be defined as:
  - i. Upon all real property owned or leased by the County of Oneida; and
  - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.

- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

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

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

Updated: 11/8/2018



Oneida County

Anthony J. Picente, Jr.  
County Executive

Office for the Aging & Continuing Care

Michael J. Romano  
Director

120 Airline Street - Suite 201, Oriskany, NY 13424

Phone 315-798-5456

Fax 315-798-6444

E-mail: ofa@ocgov.net

November 6, 2019

FN 20-20-042

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

HEALTH & HUMAN SERVICES  
WAYS & MEANS

Dear Mr. Picente:

I am submitting the following Agreement between Oneida County, through its Office for the Aging and Continuing Care, and the Senior Citizens Council of Rome, New York, Inc., located at 305 East Locust Street, Rome, NY 13440, for your review and approval. If this Agreement meets with your approval, please forward it to the Board of Legislators for further consideration.

This Agreement is for the provision of Social Model Adult Day Services. This Agreement will continue to provide community based long term care services to the frail and elderly, and assist older consumers to delay or divert nursing home placement. The total amount of this Agreement is \$60,000.00. This consists of 75% (\$45,000.00) State funds and 25% (\$15,000.00) County dollars. This Agreement commences January 1, 2020 and terminates December 31, 2020.

I am available at your convenience to answer any questions you may have regarding this Agreement.

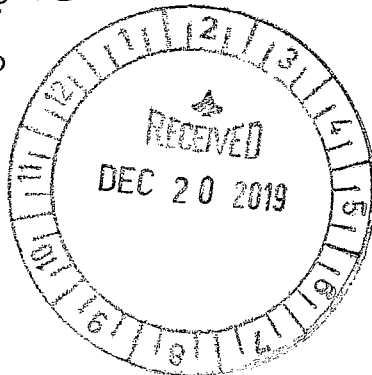
Sincerely,

*Michael J. Romano*

Michael J. Romano  
Director

MJR/md

Enclosures



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

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

Date 12/19/19

**ONEIDA COUNTY BOARD OF LEGISLATORS**

**Name & Address of Vendor:**

Senior Citizens Council of Rome, New York, Inc.  
305 East Locust Street  
Rome, New York 13440

**Title of Activity or Service:**

Social Model Adult Day Services

**Proposed Dates of Operation:**

January 1, 2020 through December 31, 2020

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

Frail elderly age 60+ with functional impairment

**Summary Statements**

**1) Narrative Description of Proposed Services**

Social Model Adult Day Services is a structured five hour; five day a week adult day services program that serves frail elderly individuals in a supervised group setting. The program is in compliance with the New York State Regulations for Social Adult Day Services. Eligible participants must be age 60 or older and functionally impaired, meaning that they need the assistance of another person in at least one of the following activities of daily living: toileting, mobility, transferring, eating, or needing supervision due to cognitive and/or psycho-social impairment. Services include a noon meal and transportation to and from the program

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

- To provide 5-hour per weekday adult day services programming
- To provide noon meal and transportation
- To provide socialization, supervision and monitoring, personal care, nutrition, appropriate activities- maintenance and enhancement of daily living skills, caregiver assistance and transportation.
- To provide intergenerational programming to ensure a mutually beneficial social opportunity for program participants and area youth

**3) Program Design and Staffing**

Each adult day service provider will serve OFA authorized participants with a structured 5-hour program that meets the NY State regulations. Each site will have a coordinator and sufficient staff, both paid and volunteer, to supervise participants in a safe environment, and the staff will provide appropriate activities and therapies that will enhance the participant's general wellbeing.

**Total Funding Requested:** \$60,000.00

**Account #:** A6772.495.116

**Oneida County Dept. Funding Recommendation:** \$75.00 /day total

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

Federal: 0% (\$0)

State: \$ 45,000.00 (75%)

County: \$ 15,000.00 (25%)

**Cost Per Client Served:** \$75.00 per client per five hour day

**Past Performance Data:**

Copper City Community Connection, formerly known as the Ava Dorfman Senior Citizens Civic Center has provided social adult day services since 1992.

**O.C. Department Staff Comments:** N/A

## AGREEMENT

**THIS AGREEMENT** (“Agreement”) is by and between the **SENIOR CITIZENS COUNCIL OF ROME, NEW YORK, INC.**, a domestic not-for-profit corporation organized and existing under the laws of the State of New York having its principal offices at 305 East Locust Street, Rome, New York (hereinafter known as the “**CONTRACTOR**”), and the **COUNTY OF ONEIDA**, a municipal corporation organized under the laws of the State of New York, with its principal offices located at 800 Park Avenue, Utica, New York, by and through its **OFFICE FOR THE AGING AND CONTINUING CARE** located at 120 Airline Street, Suite 201, Oriskany, New York (hereinafter collectively known as the “**COUNTY**”); each a “**PARTY**” and collectively the “**PARTIES.**”

### **WITNESSETH:**

**WHEREAS**, the **COUNTY** has the primary responsibility for the overall planning and coordination of **COUNTY** funds including the Federal Administration on Aging-Older Americans Act Title III, Title V, New York State Office for the Aging (NYSOFA), Expanded In-Home Services for the Elderly Program (EISEP), Community Services for the Elderly Program (CSEP), Congregate Services Initiative (CSI), Wellness in Nutrition (WIN), Health Insurance Information Counseling and Assistance Program (HIICAP), Medicare Improvements for Patients and Providers Act (MIPPA)/Senior Health Insurance Program(SHIP), and County of Oneida funds; and

**WHEREAS**, the **COUNTY** has the responsibility to formally and informally monitor, assess and evaluate all programs, services and contracts funded through the **COUNTY**; and

**WHEREAS**, the **COUNTY** will provide technical assistance, upon request, to assist the **CONTRACTOR** in more effectively carrying out service delivery and/or complying with federal, state and local statutes, policies, rules and regulations; and

**WHEREAS**, the **CONTRACTOR** is willing and able to perform the services required by this Agreement;

**NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES AS FOLLOWS:**

1. **TERM OF AGREEMENT**

The terms and conditions of this Agreement shall **commence January 1, 2020** and **terminate December 31, 2020.**

2. **AGREEMENT RENEWAL**

- A. At the **COUNTY'S** sole discretion, this Agreement may be renewed for an additional three (3) one-year terms.
- B. Nothing herein shall be construed to indicate that the **COUNTY** is bound to renew this Agreement with the **CONTRACTOR** on an annual basis and the **COUNTY** reserves the right to seek the same or similar services from third parties.

3. **SCOPE OF SERVICES**

A. The **CONTRACTOR** shall provide a Social Adult Day Care Program ("Program") to frail individuals as authorized by the **COUNTY** and its designated agents ("Consumers"). The Consumers served by this Agreement are Oneida County residents who are age sixty (60) years or older who are living independently in the community with emphasis on older individuals who are:

1. residing in rural areas,
2. with greatest economic need (with particular attention to low-income minority individuals);
3. with greatest social need (with particular attention to low-income minority individuals);
4. with severe disabilities; or
5. with Alzheimer's disease or related disorder with neurological and organic brain dysfunction (and the caretakers of such individuals).

C. The **CONTRACTOR** shall provide the Program in Oneida County.

D. The **CONTRACTOR** shall provide the Program as defined by the Social Adult Day Care Program Regulations, New York Executive Law, Chapter II Part 6654.20 (9 NYCRR part 6654.20), which include:

1. A structured, comprehensive Program which provides functionally impaired Consumers with the required components of socialization; supervision and monitoring; personal care; and nutrition in a protective setting during any part of the day, but for less than a 24-hour period.
2. "Functionally impaired" means needing the assistance of another person in at least one of the following activities of daily living: toileting, mobility, transferring, eating; or needing supervision due to cognitive and/or psycho-social impairment.
3. "Nutrition" means providing nutritious meals for Consumers who are attending the Program at normal meal times; meals are to be consistent with the standards set forth in the Regulations for a Nutrition Program for the Elderly site and as



established by the **COUNTY**; and offering snacks and liquids for all Consumers at appropriate times.

E. The **CONTRACTOR** agrees that all Consumers shall receive Program services only in accordance with an individualized **written** service plan that is based on the Comprehensive Assessment for Aging Network Community-Based Long Term Care Services (COMPASS), and shall specify the individual Consumer outcomes expected from the provision of the Program; the service plans shall be reevaluated at a minimum annually.

F. As specified in State of New York's Social Adult Day Care Program Regulations, all of the **CONTRACTOR'S** Program personnel, both paid and volunteer, shall attend six (6) hours of training annually, and new Program employees or volunteers shall receive at least twenty hours of group, individual and/or on-the-job training.

G. The **CONTRACTOR'S** personnel shall keep abreast of new developments in the field of Gerontology and community based social adult day care; attendance at relevant local, state, or national training is encouraged.

H. The **CONTRACTOR** and the **COUNTY** shall hold periodic coordinating meetings as needed.

I. The **CONTRACTOR** and the **COUNTY** shall work cooperatively to develop comprehensive services for Oneida County.

#### 4. PERFORMANCE OF SERVICES

A. The **CONTRACTOR** represents that the **CONTRACTOR** is duly licensed (as applicable) and has the qualifications, the specialized skill(s), the experience and the ability to properly perform the Program. The **CONTRACTOR** shall use the **CONTRACTOR'S** best efforts to perform the Program such that the results are satisfactory to the **COUNTY**. The **CONTRACTOR** shall be solely responsible for communications with the Consumer or the Consumer's caregiver in order to determine the method, details and means of performing the Program, except where federal, state or local laws and regulations impose specific requirements on performance of the same.

B. The **CONTRACTOR** may, at the **CONTRACTOR'S** own expense, employ or engage the services of such employees, subcontractors and/or partners as the **CONTRACTOR** deems necessary to perform the Program (collectively, the "Assistants"). The Assistants are not and shall not be deemed employees of the **COUNTY**, and the **COUNTY** shall have no obligation to provide the Assistants with any salary or benefits. The **CONTRACTOR** shall be solely responsible and shall remain liable for the performance of the Program by the Assistants in a

manner satisfactory to the **COUNTY**, and in compliance with any and all applicable federal, state or local laws and regulations.

C. The **CONTRACTOR** acknowledges and agrees that the **CONTRACTOR** and its Assistants have no authority to enter into contracts that bind the **COUNTY** or create obligations on the part of the **COUNTY** without the prior written authorization of the **COUNTY**.

5. **REIMBURSEMENT FOR SERVICES**

A. It is agreed and understood by all **PARTIES** that the **COUNTY** shall reimburse the **CONTRACTOR** for the Program that shall be provided in accordance with the terms and conditions of this Agreement, the CSEP, and the Caregiver Support III-E grants.

B The **COUNTY** shall reimburse the **CONTRACTOR** fifteen dollars (\$15.00) per hour for each Consumer for a maximum amount of seventy-five dollars (\$75.00) per day, which shall include the Program, meals, and transportation. A full day of the Program is defined as five (5) hours, but the **CONTRACTOR** may bill in ½ hour increments at seven dollars fifty cents (\$7.50) per half hour when the Consumer is attending less than five (5) hours per day.

C. The total reimbursement paid by the **COUNTY** to the **CONTRACTOR** for the performance of the Program described in this Agreement shall not exceed sixty thousand dollars (\$60,000.00).

D. The **COUNTY** funds are contingent upon availability of state and **COUNTY** funding; reimbursement shall be made in twelve (12) monthly installments upon submission of a **COUNTY** voucher as specified in the Oneida County Office for the Aging Voucher Instructions for Units of Service Contracts attached as **APPENDIX C**.

E. The **COUNTY** shall not be liable for any late fees or for any interest on late payments. The obligations of the **PARTIES** hereunder are conditioned upon the continued availability of New York State and **COUNTY** funds for the purposes set forth in this Agreement. Should funds become unavailable or should appropriate New York State and **COUNTY** officials fail to approve sufficient funds for completion of the Program detailed in this Agreement, the **COUNTY** shall have the option to immediately terminate this Agreement upon providing written notice to the **CONTRACTOR** by certified mail. In such an event, the **COUNTY** shall be under no further obligation to the **CONTRACTOR** other than payment for costs actually incurred prior to termination and in no event will the **COUNTY** be responsible for any actual or consequential damages as a result of termination.

F. The **COUNTY** reserves the right to withhold reimbursement under this Agreement due to the **CONTRACTOR'S** failure to properly perform its obligations under this Agreement. The **COUNTY** may withhold payment for including but not limited to:

1. defective services;
2. third party claims;
3. failure of the **CONTRACTOR** to pay its subcontractors, if any;
4. damage to the **COUNTY**; or
5. failure to carry out the Program in accordance with this Agreement.

G. It is understood and agreed that the **COUNTY** shall not be responsible for any costs incurred by the **CONTRACTOR** prior to the effective date or following the termination date of this Agreement.

6. **NO CLAIM FOR DAMAGE**

The **CONTRACTOR** shall make no claim for damages for delay of reimbursement due to an act or omission by the **COUNTY**.

7. **EXPENSES**

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

8. **TRAINING**

The **CONTRACTOR** shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the Program described herein, and shall be solely responsible for the cost of the same.

9. **NON ASSIGNMENT CLAUSE**

The **CONTRACTOR** shall not assign, transfer, convey, sublet or otherwise dispose of the Agreement or of its right, title, or interest therein, or its power to execute this Agreement, to any other corporation or person without the prior written consent of the **COUNTY**.

10. **SUBCONTRACTS**

A. A subcontractor is a person who has an agreement with the **CONTRACTOR** to perform any of the Program.

B. The **CONTRACTOR** shall furnish to the **COUNTY**, prior to the execution of this Agreement, a list of names of subcontractors to whom the **CONTRACTOR** proposes to award any portion of the Program. The **COUNTY** shall be provided a copy of any and all agreement(s) between the **CONTRACTOR** and any subcontractors regarding the award of any portion of the Program within ten (10) days of their final execution.

C. Any agreements between the **CONTRACTOR** and the subcontractors shall be in accordance with the terms of this Agreement and shall include the conditions of this Agreement including all exhibits, attachments, appendices, and addendums, insofar as applicable.

#### 11. INDEPENDENT CONTRACTOR STATUS

A. It is expressly agreed that the relationship of the **CONTRACTOR** and its Assistants to the **COUNTY** shall be that of Independent Contractors. The **CONTRACTOR'S** Assistants shall not be considered employees of the **COUNTY** for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement or health insurance benefits. The **CONTRACTOR**, in accordance with its status as an Independent Contractor, covenants and agrees that its Assistants will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the **COUNTY** by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the **COUNTY**.

B. The **CONTRACTOR** warrants and represents that it is in the business of offering the same or similar services detailed herein and does offer the same or similar services to other entities and/or the general public as a regular course of business. The **CONTRACTOR** and the **COUNTY** agree that the **CONTRACTOR** is free to undertake other work arrangements during the term of this Agreement, and may continue to make its Program available to the public.

C. The **CONTRACTOR'S** Assistants shall not be eligible for compensation from the **COUNTY** due to

1. illness;
2. absence due to normal vacation;
3. absence due to attendance at school or special training or a professional convention; or meeting.

D. The **CONTRACTOR** shall be solely responsible for applicable taxes for all compensation paid to the **CONTRACTOR** or its Assistants under this Agreement, and for

compliance with all applicable labor and employment requirements with respect to the **CONTRACTOR'S** form of business organization, and with respect to the Assistants, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The **COUNTY** shall not be responsible for withholding from the payments provided for services rendered for state or federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). The **CONTRACTOR** shall provide proof of workers' compensation insurance, where applicable, prior to the execution of this Agreement.

E. The **CONTRACTOR** shall indemnify and hold the **COUNTY** harmless from all loss or liability incurred by the **COUNTY** as a result of the **COUNTY** not making such payments or withholdings.

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

G. The **CONTRACTOR** shall comply with federal and state laws as supplemented in the Department of Labor Regulations and any other regulations of federal and state entities relating to such employment and Civil Rights requirements.

12. **STANDARD ASSURANCES**

A. The **CONTRACTOR** shall comply with statutes, regulations, and policies set by the following: Federal Department of Health and Human Services, AOA, the NYSOFA, and the **COUNTY**, more fully described in **APPENDIX A**.

B. The **CONTRACTOR** shall comply with section 504 of the Rehabilitation Act of 1973 (Nondiscrimination) which states "No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service." (29 U.S.C.A. §794)

C. The **CONTRACTOR** shall comply with the Human Rights Law Article 15 of the Executive Law of New York State (N.Y. Exec. Law §290, et seq.), Article 15A of the Executive Law of New York State regarding participation by minority group members and women with respect to state contracts (N.Y. Exec. Law §310, et seq.), and the Governor's

Executive Order 28 which prohibits discrimination based on sexual orientation (9 NYCRR 4.28).

D. The **CONTRACTOR** shall comply with Title VI, the Civil Rights Act of 1964 (42 U.S.C.A. §2000-d, et seq.), and any amendment thereto: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

E. The **CONTRACTOR** agrees that any program, public information materials, or other printed or published materials on the work of or funded by CSEP/III-E will give due recognition to the NYSOFA and the Oneida County Office for the Aging. The statement shall be in font which is one of the following: in italics, or at least two font sizes larger than the rest of the text, or in bold font or underlined (i.e., "***This program is supported by Oneida County Office for the Aging and Continuing Care, New York State Office for the Aging, and the Administration on Aging.***"). The **CONTRACTOR** shall forward copies of all materials to the **COUNTY** at the end of each month.

F. The **COUNTY** shall conduct a Program review to ensure that the **CONTRACTOR** is in compliance with all standards and regulations as set forth in this Agreement.

### 13. NYSOFA TERMS AND CONDITIONS

A. The **CONTRACTOR** agrees that all its activities under this Agreement shall conform with all applicable federal, state, and local laws, with federal and state regulations, and Program Standards and Program Instructions of the NYSOFA that apply to such activities, including, but not limited to:

1. Rehabilitation Act of 1973, Sec. 504 Nondiscrimination (29 U.S.C. 794)
2. Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.; see 92-PI-32, [8/4/92])
3. Civil Rights Act of 1964, Title VI, as amended (42 U.S.C. 2000-d et. seq.)
4. Older Americans Act (42 U.S.C. 3001, et seq.)
5. Executive Order 13166 Improving Access to Services for Persons with Limited English Proficiency (65 FR 50121)
6. Federal Executive Order 11246 (30 FR 12319), as Amended by Executive Order 11375 (32 FR 14303, Affirmative Action); as Amended by Executive Order 12086 (43 FR 46501, Consolidation of Compliance Functions); and as Amended by Executive Order 13279 (67 FR 77141, Equal Protection for Faith-Based and Community Organizations.)

7. Article 15 of the Executive Law of the State of New York, Human Rights Law: prohibiting discrimination based on age, race, creed, color, national origin, sexual orientation, military status, sex, marital status, or disability (N.Y. Exec. Law §290, et seq.)
8. Article 15A of the Executive Law of New York State regarding participation by minority group members and women with respect to state contracts (N.Y. Exec. Law §310, et seq.),
9. The NYSOFA'S Equal Access to Services and Targeting Policy Program Instruction (12-PI-08)
10. Elder Law

B. The **CONTRACTOR**, to the extent it has discretion regarding to whom it will provide the Program, shall provide the Program to those unserved and underserved older adults in greatest social or economic need, particularly those who are low-income, low-income minorities, older adults with Limited English Proficiency (LEP), Native Americans, and frail/persons with disabilities and older adults residing in rural areas, in accordance with their need for such Program, and to meet specific objectives established by the **COUNTY** for providing the Program to the above groups within Oneida County. The **CONTRACTOR** shall concentrate the Program on older adults in the targeted populations identified by the **COUNTY** following the methods the **COUNTY** has established for complying with the targeting requirements under the Older Americans Act and the Equal Access and Targeting Policy issued by the NYSOFA.

C. The **CONTRACTOR** shall inform persons with LEP of the availability of language assistance, free of charge, by providing written notice of such assistance in a manner designed to be understandable by LEP persons at Program locations and, at a minimum, have a telephonic interpretation service contract or similar community arrangement with a language interpretation service provider of their choice. The **CONTRACTOR** shall train staff that have contact with the public in the timely and appropriate use of these and other available language services.

D. To the extent that the Agreement with the **COUNTY** is for a program or service funded under the **COUNTY'S** Area Plan, the **CONTRACTOR** agrees that it and any subcontractors shall perform such services in accordance with the terms of the Area Plan. The **COUNTY** agrees to make the Area Plan available to the **CONTRACTOR**.

E. The **CONTRACTOR** agrees that for programs established and funded in whole or in part pursuant to Title III of the Older Americans Act, the **CONTRACTOR** shall specify how it intends to satisfy the service needs of low-income minority individuals, older adults with

LEP, and older adults residing in rural areas in the area served by it; will to the maximum extent feasible, provide the Program to low-income minority individuals, older individuals with LEP, and older adults residing in rural areas in accordance with their need for such Program; and meet specific objectives established by the **COUNTY**, for providing the Program to low-income minority individuals, older adults with LEP, and older adults residing in rural areas within the planning and service area.

14. **GRIEVANCE PROCEDURES**

The **CONTRACTOR** shall implement the Oneida County Office for the Aging Grievance Procedures as required by the NYSOFA. The written procedures are attached in **APPENDIX B**.

15. **FISCAL REQUIREMENTS/RESPONSIBILITIES**

A. The **CONTRACTOR** shall keep CSEP/III-E funds separate; further, state and federal funds shall not be used as local share (match).

B. The **CONTRACTOR** shall comply with all voucher and contribution procedures, and submissions of required reports as described in the Oneida County Office for the Aging Voucher Instructions for Units of Service Contracts, attached as **APPENDIX C**.

C. The **COUNTY** shall be responsible for sending donation letters and collecting Consumer contributions for all Consumers who attend **COUNTY** funded services. Any contributions received by the **CONTRACTOR** for **COUNTY** funded Consumer directly will be reported and deducted on monthly vouchers by the **CONTRACTOR**.

D. The **CONTRACTOR** shall report to the **COUNTY** any and all additional moneys or program income (contributions, donations) given to the CSEP/III-E supported programs. "Program income means gross income received by the subcontractor directly generated by a **COUNTY** grant supported activity, or earned as a result of the **COUNTY** grant agreement during the grant period." REF: Department of Health & Human Services, Program Instruction AoA-PI-96-01, October 16, 1995.

E. The **CONTRACTOR** shall maintain copies of proper documentation for all program income, including, but not limited to, in-kind support, donations, contributions, reimbursements, and other grants within its program budget.

F. The **COUNTY** shall conduct a periodic audit of revenues and expenditures, as well as the required annual on-site review of the Program's fiscal status to ensure expenditures are in proportion to the total Program budget.



G. The **CONTRACTOR** shall agree to have an independent audit conducted for the contracted Program if it has provided the Program to the **COUNTY** for two (2) years or more. A copy of the audit shall be submitted to the **COUNTY** upon completion of the program/fiscal audit conducted by the outside auditor.

H. The **CONTRACTOR** shall maintain fiscal records for six (6) years and shall make them available for **COUNTY** review upon request.

I. The **CONTRACTOR** shall cooperate with the close-out audit that is required when this Agreement is terminated.

J. The **CONTRACTOR** shall follow close-out procedures administered by the **COUNTY** in accordance with the 45 C.F.R. §75, et seq.

16. **INDEMNIFICATION**

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

B. The **CONTRACTOR** shall defend, indemnify, and hold harmless the **COUNTY** from and against all liability, damages, expenses, costs, including, without limitation, attorneys' fees and expenses, causes of action, suits, claims or judgments arising, occurring or resulting from or out of the performance of the Program by the **CONTRACTOR** and its agents, servants, employees or Assistants, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the **CONTRACTOR** or failure on the part of the **CONTRACTOR** to comply with any of the covenants, terms or conditions of the Agreement.

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

17. **INSURANCE COVERAGE REQUIREMENTS**

A. As part of its obligation to indemnify, defend, and hold harmless the **COUNTY**, its officers, agents, employees, as set forth above, the **CONTRACTOR** shall obtain and maintain in full force and effect, for the term of this Agreement, insurance coverage as described below.

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

C. Prior to the start of any services, the **CONTRACTOR** shall provide certificates of insurance to the **COUNTY**. The certificates shall be on forms approved by the **COUNTY**. Acceptance of the certificates shall not relieve the **CONTRACTOR** of any of the insurance requirements, nor decrease the liability of the **CONTRACTOR**. The **COUNTY** reserves the right to require the **CONTRACTOR** to provide insurance policies for review by the **COUNTY**. The **CONTRACTOR** grants the **COUNTY** a limited power of attorney to communicate with the **CONTRACTOR'S** insurance provider and/or agent for the express purpose of confirming the coverages required hereunder.

D. Certificates of Insurance: Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of the **CONTRACTOR'S** Commercial General Liability Policy. These certificates and the insurance policies required below shall contain a provision that coverage afforded under the policies will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the **COUNTY**.

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

1. Coverage for the additional insured shall include completed operations,

2. The CGL coverage shall include a General Aggregate Limit and such General Aggregate Limit shall apply separately to each project,
3. The CGL coverage shall be written on ISO Occurrence form CG 00 01 1001 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contracts, products, completed operations, and personal and advertising injury,
4. There shall be no exclusions to contractual liability for Employee Injuries (i.e. Labor Law Exclusions),
5. The **CONTRACTOR** shall maintain CGL coverage for itself and all additional insureds for the duration of this Agreement and maintain completed operations coverage for itself and each additional insured for at least three (3) years after completion of the Program.

F. Business Automobile Liability Insurance: The **CONTRACTOR** shall, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of Business Automobile Liability Insurance in an amount equal to or greater than One Million Dollars (\$1,000,000.00) for the term of this Agreement. Business Automobile Liability coverage must include coverage for liability arising out of all owned, leased, hired, and non-owned automobiles. The **CONTRACTOR** shall have the **COUNTY** added to said insurance policies as a named additional insured, on a primary, non-contributory basis.

G. Excess/Umbrella Liability Insurance: The **CONTRACTOR** shall, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of Excess/Umbrella Liability Insurance in an amount not less than Two Million Dollars (\$2,000,000.00) per occurrence and such insurance shall not be less than Two Million Dollars (\$2,000,000.00) annual aggregate. The **CONTRACTOR** shall have the **COUNTY** added to said insurance policies as a named additional insured, on a primary, non-contributory basis. Umbrella coverage for such additional insured shall apply as primary and non-contributory before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by or provided to the additional insured.

H. Professional Liability Insurance: The **CONTRACTOR** shall, during the term of this Agreement maintain a professional liability policy and will provide the **COUNTY** with proof of coverage in the amount of One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) annual aggregate.

I. Workers' Compensation and Employer's Liability Insurance: The **CONTRACTOR** shall, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of insurance, written by one or more insurance carriers licensed to

do business in the State of New York, and having offices within the State of New York, which will insure against all claims under New York State Workers' Compensation Law at statutory New York limits.

J. The **CONTRACTOR** shall require any subcontractors to procure and maintain insurance coverage of the same type and in the same amounts with the same endorsements required of the **CONTRACTOR** in the above Insurance Coverage Requirement paragraphs.

K. Reimbursement to the **CONTRACTOR** may be suspended in the event that the **CONTRACTOR** or its subcontractors, if any, fail to provide the required insurance documentation in a timely manner.

L. Waiver of Subrogation: The **CONTRACTOR** waives all rights against the **COUNTY** and its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by CGL, Business Automobile Liability, Excess/Umbrella Liability, Professional Liability or Workers' Compensation and Employer's Liability Insurance maintained per requirements stated above.

18. **REPORTING REQUIREMENTS**

A. The **COUNTY** shall, pursuant to the requirements of CSEP/III-E funded programs, comply with the definition of services, April 2011, as established by the NYSOFA (96-PI-43).

B. The **CONTRACTOR** shall provide the **COUNTY** with required information needed to meet planning, coordination, evaluation, and reporting requirements as required by the NYSOFA's Consolidated Area Agency Reporting System (CAARS), by the 10<sup>th</sup> of every month. The current and revised CAARS Monthly Report Forms and Monthly Summary Form must be submitted as an attachment to the voucher on a monthly basis.

C. The **CONTRACTOR** shall maintain appropriate Consumer records on each EISEP Consumer who receives services through this Program; the **COUNTY** shall have access to the Consumer records upon request; the **COUNTY** shall have ownership of all Consumer's records and files.

D. The **CONTRACTOR** shall comply with policies ensuring Consumer confidentiality, as established by the **COUNTY**, when information sharing between agencies is crucial to the Consumer's well-being and is needed to ensure effective service provision; pertinent information shall be shared in accordance with federal and state regulations and statutes.

E. The **CONTRACTOR** shall provide the **COUNTY** with required monthly, periodic, and/or special reports and shall submit all reports to the **COUNTY** by the dates specified.

19. **COORDINATION REQUIREMENTS**

- A. The **CONTRACTOR** and the **COUNTY** shall coordinate referrals.
- B. The **CONTRACTOR** and the **COUNTY** shall work with older persons, who are not eligible for services under this Agreement, to obtain needed services.
- C. The **CONTRACTOR** shall coordinate with other appropriate service providers in obtaining and providing referrals for older residents of Oneida County.

20. **AGREEMENT CANCELLATION**

- A. This Agreement may be cancelled by the **COUNTY** for failure by the **CONTRACTOR** to comply with the terms and conditions of this Agreement. The **CONTRACTOR** shall agree to incur no new obligations nor submit a claim for any expenses made after the receipt of written notification of termination.
- B. The **CONTRACTOR** and the **COUNTY** reserve the right to cancel the Agreement upon thirty (30) day written notice to the other **PARTY**.
- C. The **CONTRACTOR** agrees that in the event of termination, said **PARTY** shall make a full and final accounting of all funds received and monies expended under the Agreement within thirty (30) days after the date of termination. Any unexpended funds shall be the property of the **COUNTY**.
- D. The **CONTRACTOR** shall coordinate with the **COUNTY** and other providers to ensure that any break in service to Consumers shall not be detrimental to the Consumers' health or well-being. If available and appropriate, other services shall be substituted and/or coordinated on the Consumers' behalf.

21. **ENTIRE AGREEMENT**

- A. This Agreement contains the binding Agreement between the **PARTIES** and supersedes all other agreements and representations, written or oral, on the subject matter of this Agreement.
- B. Oral statements and understandings are not valid or binding, and this Agreement shall not be changed or modified except by a writing signed by all **PARTIES**.
- C. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall be deemed the same instrument.

22. **INCORPORATION BY REFERENCE**

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

23. **STANDARD ADDENDUM**

The **CONTRACTOR** shall comply with the Standard Oneida County Conditions Addendum which is attached hereto and made a part hereof as **APPENDIX D**.

24. **CHOICE OF LAW/FORUM**

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

B. This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

25. **SUCCESSORS AND ASSIGNS**

This Agreement shall be binding on and inure to the benefit of the **PARTIES** hereto and their respective heirs, legal or personal representation, successors and assigns.

26. **NON WAIVER**

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

27. **SEVERABILITY**

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

28. **AUTHORITY TO ACT/SIGN**

The **CONTRACTOR** hereby represents and certifies that it has the power and authority to execute and deliver this Agreement and to carry out its obligations hereunder. The execution and delivery by the **CONTRACTOR** of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by the **CONTRACTOR**; no

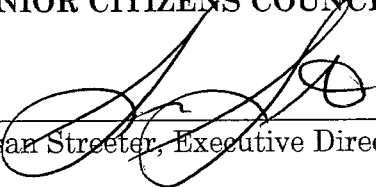
other action on the part of the **CONTRACTOR** or any other person or entity, whether pursuant to its Articles of Incorporation, Articles of Operation, Operating Agreement or Bylaws, as the case may be, or by law or otherwise, are necessary to authorize the **CONTRACTOR** to enter into this Agreement, or to consummate the transactions contemplated herein.

29. **ADVICE OF COUNSEL**

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


**IN WITNESS THEREOF**, the **PARTIES** have here unto set their hand on the date respectively stated.

**SENIOR CITIZENS COUNCIL OF ROME, NEW YORK, INC.**

  
\_\_\_\_\_  
Susan Streeter, Executive Director


12/3/2019  
Date

**COUNTY OF ONEIDA**

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

\_\_\_\_\_  
Date

**OFFICE FOR THE AGING AND CONTINUING CARE**

  
\_\_\_\_\_  
Michael J. Romano, Director

12/12/19  
Date

**Approved:**

By: \_\_\_\_\_  
Maryangela Scalzo, Assistant County Attorney

\_\_\_\_\_  
Date

## APPENDIX A

- 1) The Older Americans Act (OAA) of 1965, as amended (42 U.S.C.A. § 3001 et. seq.)
- 2) 2 CFR part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards)
- 3) 2 CFR Part 230 (Cost Principles for Non-Profit Organizations)
- 4) 2 CFR Part 376 (Nonprocurement Debarment and Suspension)
- 5) 20 CFR Part 614 (Provisions Governing the Senior Community Service Employment Program)
- 6) 29 CFR Part 37 (Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998)
- 7) 45 CFR Part 75 (Uniform Administration Requirements, Cost Principles, and Audit requirements for HHS Awards)
- 8) 45 CFR Part 80 (Nondiscrimination under programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964)
- 9) 45 CFR Part 84 (Nondiscrimination on the basis of Handicap)
- 10) 45 CFR Part 92 (Uniform Administrative Requirements for Grant and Cooperative Agreements to State and Local Governments)
- 11) 45 CFR Part 93 (New Restrictions on Lobbying)
- 12) 45 CFR Part 1321, Subparts A-D (Grants to State and Community Programs on Aging)
- 13) 45 CFR Part 1321.61 (b)(4) (Support of State Title VII Activities)
- 14) Age Discrimination in Employment Act of 1975, as amended (29 USC §621, et seq.)
- 15) Americans with Disabilities Act of 1990 (42 U.S.C.A. §12101, et seq.)
- 16) Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (42 U.S.C.A. §2000e, et. seq.)
- 17) Equal Pay Act of 1963, as amended (29 U.S.C.A. §206)
- 18) Hatch Act (5 U.S.C.A. §1501, et seq.)
- 19) Low Income Energy Assistance (42 U.S.C.A. § 8621, et seq.)
- 20) Rehabilitation Act of 1973, Sec. 504 (29 U.S.C.A. §794) (Nondiscrimination)
- 21) Single Audit Act of 1984 (31 U.S.C.A. §7501, et. seq.)
- 22) USDA Nutrition Programs for the Elderly (7 C.F.R. § 226, et seq.) and (7 C.F.R. §235, et seq.)
- 23) Office of Management and Budget (OMB):



- a. OMB Circular A-87 (Cost Principles for State, Local and Indian Tribal Governments)
  - b. OMB Circular A-95 (Clearinghouse Review)
  - c. OMB Circular A-102 (Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments)
  - d. OMB Circular A-110 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-profit Organizations)
  - e. OMB Circular A-122 (Cost Principles for Non-profit Organizations)
  - f. OMB Circular A-128 (Audits of State and Local Governments)
  - g. OMB Circular A-133 (Audits of States, Local Governments and Non-Profit Organizations)
- 24) 30 FR 12319- Federal Executive Order 11246, as Amended by 32 FR 14303- Federal Executive Order 11375 (Affirmative Action); as Amended by 43 FR 46501- Federal Executive Order 12086 (Consolidation of Compliance Functions); and as Amended by 67 FR 77141- Federal Executive Order 13279 (Equal Protection for Faith-Based and Community Organizations)
  - 25) New York State Office for the Aging Rules and Regulations (9 NYCRR Parts 6651, 6652, 6653, 654, 6655, and 6656)
  - 26) Executive Law of New York State, Article 15- State Human Rights Law (N.Y. Exec. Law §290, et seq.)
  - 27) Executive Law of New York State, Article 15-a Minority/Women's Business contract Requirements (N.Y. Exec. Law §310, et seq.)
  - 28) Executive Law of New York State, Article 7-a Solicitation and Collection of Funds for Charitable Purposes (N.Y. Exec. Law § 171-a, et seq.)
  - 29) Expanded In-home Services for the Elderly (EISEP) Program Standards (87-PI-66 [10/21/87])
  - 30) NYS Office for the Aging's 1990 Nutrition Program Standards (90-PI-26 [5/17/90])
  - 31) Legal Assistance Standards (94-PI-52 [12/29/94])
  - 32) Weatherization Referral and Packaging Program (WRAP) Handbook
  - 33) Governor's 1960 Code of Fair Practices (9 CRR-NY 1.4)
  - 34) Governor's Executive Order 6 (Affirmative Action Efforts) (9 NYCRR 4.6)
  - 35) Governor's Executive Order 19 (Prevention of Sexual Harassment) (9 NYCRR 4.19)
  - 36) Governor's Executive Order 28 (Prohibiting discrimination based on Sexual Orientation) (9 NYCRR 4.28)

**APPENDIX B**  
Oneida County Office for the Aging  
**Grievance Procedures**

In accordance with the Older Americans Act (OAA), as amended, the Oneida County Office for the Aging has established the following process for resolving complaints from participants who are dissatisfied with or persons denied services funded under the Act.

**Right to File a Grievance**

The Office for the Aging and all contracting provider agencies who receive OAA funds shall notify program participants of their right to file a grievance with the provider agency and/or with Oneida County Office for the Aging. Upon request, the Office for the Aging will provide assistance with filing a grievance.

**Denial of Service or Client's Dissatisfaction of Service**

A participant or applicant who is denied OAA services must be given the reasons for the denial. Services may be denied because of funding restrictions, ineligibility, hours or locations have changed, reassessment determined services no longer needed, or client is disruptive to the program. For OAA services for which a written application is made, the denial shall be confirmed in writing and the applicant informed of the right to file a grievance and to whom the grievance shall be made. For OAA services for which verbal application is made by telephone or in person, the person may be denied verbally and verbally informed of the right to file a grievance and to whom.

**Grievance Process**

**Filing a Grievance**

- Individual must submit their grievance in writing to the Director of the Office for the Aging who will forward the Letter to the designated person of the provider agency to conduct the initial review.
- **The grievance must be filed within thirty (30) calendar days of denial, reduction or termination of services, or of the event or circumstances with which the person is dissatisfied.** The Office for the Aging or the provider agency may grant an extension for good cause shown.
- The Letter of Grievance should include a written statement setting forth in detail the date, time and circumstances that are the basis for the complaint.

**Investigation and Response to a Grievance**

- The designated reviewer will investigate the complaint. The reviewer will determine whether the action was in accordance to applicable Older Americans Act and State laws and regulation and are supported by facts.
- The reviewer will prepare and send written response to the grievant and to the Office for the Aging Director within fifteen (15) working days after the grievance is filed. The response will set forth the circumstances relating to the grievance, the action requested by the grievant, the findings of the reviewer, a proposed remedial action and, if any, the reason(s) for and facts relied on in the determination.

**Appeal of Initial Response/Decision**

If the grievant is not satisfied with the determination, s(he) has the right to further review as follows:

- S(he) may initiate a request for subsequent review by the Office for the Aging Director within ten (10) calendar days following receipt of notification from the provider agency of its decision.
- The Office for the Aging Director will request, and the provider agency shall provide, copies of the initial file on the complaint in question. The Office for the Aging Director will review the materials to ensure that pertinent policies and procedures have been applied and followed.
- If the policies and procedures have been adhered to, the Office for the Aging Director will not overturn the decision of its contracting provider agency. If the proper policies and procedures have not been applied, the director reserves the right to overturn the decision.
- A written notification of the results will be made to the grievant within twenty (20) working days of receipt of the appeal request.

**Record Keeping**

The provider agency will keep a file, for six years, of all relevant documents and records of a grievance. The file shall include at a minimum: the initial grievance; any investigative reports; any and all written responses; any documents or other records submitted by any party; and, if applicable, the notice to the grievant of the right to appeal.

**Confidentiality**

No information, documents or other records relating to a grievance shall be disclosed by program staff or volunteers in a form that identifies the grievant without the written informed consent of the grievant, unless the disclosure is required by court order or for program monitoring by authorized agencies.

**APPENDIX C**  
Oneida County Office for the Aging  
**Voucher Instructions**  
**for Units of Service Contracts**

Complete the Oneida County voucher (3-part white, yellow, and pink form) as follows:

1. **Department:** Office for the Aging and Continuing Care
2. **Claimants Name and Address:** Contractor name and address (checks will be payable to the name given and sent to the address listed).
3. **Date:** List month this claim covers.
4. **Vendor's Invoice Number:** leave blank
5. **Quantity/Description of Material or Service/Unit Price/Amount:**
  - ✓ State the number of units of service and the description of services performed during the month.
  - ✓ List the Unit Price as stated in the Contract Budget.
  - ✓ Place the amount (Units X Unit Price) in the Amount column.
  - ✓ Place the amount to be reimbursed in the Total block.
  - ✓ Specify program funds (III-E, EISEP, CSE, III-B etc.) in the space after the Contract Number.
6. **Claimant's Certification:**

Fill out completely, Note that Oneida County will not pay a voucher without an original signature, Federal ID Number or Social Security Number.
7. **Voucher Backup**
  - ✓ Attach CAARS monthly report.
  - ✓ Master list of clients billed for on voucher (with individual total monthly amount billed).
  - ✓ Attach appropriate backup:
    - Payroll certification sheets and time sheets signed by Agency employee.
    - Legal Assistance Program – case numbers, DOB, Legal Assistance Referral, Type of Service, Fax Date and Unit of Services.
    - Housekeeper/Chore (PCA Level I) or Homemaker/personal care (PCA Level II), Housekeeper/chore (Level I) – Contract EISEP voucher backup. Copies of PCA daily logs including date and times of service and all must be signed by client.
    - Adult Day Care – OFFICE approved sign-in log sheet with dates and times of service and all must be signed by client.
    - Emergency Response Systems – (Original Invoice)

Have all accounting records, receipts and supporting documentation readily available for review by the County, State and/or Federal personnel authorized to examine and/or audit program accounts. Ref: US Code of Federal Regulations 45-74 amended in 1980. Check numbers, dates paid and amounts paid must be written on each receipt.
8. **Timely Submissions:**
  - ✓ Submit monthly vouchers by the 10<sup>th</sup> day of the month following the reporting month.
  - ✓ Checks are issued by Oneida County Audit and Control only on Fridays - approximately 30 days after submission.
  - ✓ If all documentation is not included, the voucher will be returned unpaid with a request for proper backup and documentation.

**9. Changes To The Budget** (including personnel):

- ✓ Submit a Budget Revision and a justification for the change.

**10. Technical Assistance:**

- ✓ If you have fiscal questions regarding your program or require technical assistance, please contact the OFA-OCC Fiscal Unit directly at 315-798-5456.

Susie Perritano, Accounting Supervisor

APPENDIX D

STANDARD ONEIDA COUNTY CONDITIONS ADDENDUM

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

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

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

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

- D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;
- ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
  - i. The Contractor will or will continue to provide a drug-free workplace by:
    - A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
    - B. Establishing an ongoing drug-free awareness program to inform employees about:
      - 1) The dangers of drug abuse in the workplace;
      - 2) The Contractor's policy of maintaining a drug-free workplace;
      - 3) Any available drug counseling, rehabilitation, and employee assistance program; and
      - 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
    - C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;
    - D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:
      - 1) Abide by the terms of the statement; and
      - 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;



E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction.

Employers of convicted employees must provide notice, including position and title, to:

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

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

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

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

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

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

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

\_\_\_\_\_  
\_\_\_\_\_

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

i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

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

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

When applicable to the services provided pursuant to the Contract:

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

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

iii. There is a material change in the business practices and procedures of the County.

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

5. NON-ASSIGNMENT CLAUSE.

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

6. WORKER'S COMPENSATION BENEFITS.

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

7. NON-DISCRIMINATION REQUIREMENTS.

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

8. WAGE AND HOURS PROVISIONS.

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

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

9. NON-COLLUSIVE BIDDING CERTIFICATION.

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

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

10. RECORDS.

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

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number.

This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.

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

12. CONFLICTING TERMS.

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

13. GOVERNING LAW.

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

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

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

16. GRATUITIES AND KICKBACKS.

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

17. AUDIT

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

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

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

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

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

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

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

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

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

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

- a. For the purposes of this provision, the "use of tobacco" shall include:
  - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
  - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.
- b. For the purposes of this provision, "e-cigarette" shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.
- c. For the purposes of this provision, "on Oneida County property" shall be defined as:
  - i. Upon all real property owned or leased by the County of Oneida; and
  - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.



- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

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

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

Updated: 11/8/2018



Oneida County

Anthony J. Picente, Jr.  
County Executive

Office for the Aging & Continuing Care

Michael J. Romano  
Director

120 Airline Street - Suite 201, Oriskany, NY 13424

Phone 315-798-5456

Fax 315-798-6444

E-mail: ofa@ocgov.net

November 6, 2019

FN 20 20043

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

HEALTH & HUMAN SERVICES  
WAYS & MEANS

Dear Mr. Picente:

I am submitting the following Amendment between Oneida County, through its Office for the Aging and Continuing Care, and The Lutheran Home of Central New York, Inc., located at 108 Utica Road, Clinton, New York 13323 for your review and approval. If this Amendment meets with your approval, please forward it to the Board of Legislators for further consideration.

This Amendment is to provide additional funding from the New York State Office for the Aging through an Unmet Needs grant. The total amount for this Amendment is \$24,975.00, making the new total for the contract \$94,475.00. This funding shall apply for the term of January 1, 2019 through December 31, 2019.

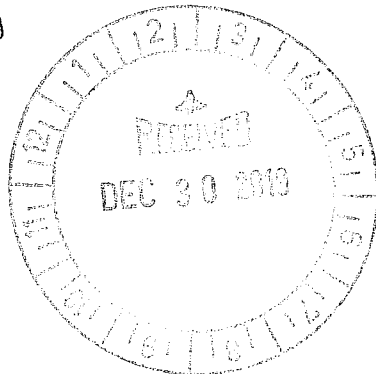
I am available at your convenience to answer any questions you may have regarding this Amendment.

Sincerely,

Michael J. Romano  
Director

MJR/md

Enclosures



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

Anthony J. Picente, Jr.  
County Executive

Date 12-30-19

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name & Address of Vendor:** The Lutheran Homes of Central New York, Inc.  
108 Utica Road  
Clinton, New York 13323

**Title of Activity or Service:** Amendment to add Unmet Needs funding

**Proposed Dates of Operation:** January 1, 2019 through December 31, 2019

**Client Population/Number to be Served:** Frail elderly age 60+ with functional impairment.

**Summary Statements:**

**1) Narrative Description of Proposed Services**

Social Model Adult Day Services is a structured five-hour, five-day a week adult day care that serves frail elderly individuals in a supervised group setting. The program is in compliance with the New York State Regulations for Social Adult Day Care. Eligible participants must be age 60 or older and functionally impaired, needing assistance in at least one of the following activities of daily living: toileting, mobility, transferring and eating; or needing supervision due to cognitive and /or psycho-social impairment. Services include a noon meal and transportation to and from the program

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

- To provide 5-hour per weekday adult day care programming
- To provide noon meal and transportation
- To provide services that include socialization, supervision and monitoring, personal care, nutrition, and other appropriate activities
- To provide maintenance and enhancement of daily living skills, caregiver assistance, and transportation.

**3) Program Design and Staffing**

Each adult day service provider will serve OFA authorized participants with a structured 5-hour program that meets the NY State regulations. Each site will have a coordinator and sufficient staff, both paid and volunteer, to supervise participants in a safe environment, and the staff will provide appropriate activities and therapies that will enhance the participant's general wellbeing.

**Total Funding Requested:** \$ 94,475.00                      **Account #:** A6772.495.116

**Oneida County Dept. Funding Recommendation:** \$94,475.00

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

|                   |                          |                           |
|-------------------|--------------------------|---------------------------|
| Federal: 0% (\$0) | State: 75% (\$52,125.00) | County: 25% (\$17,375.00) |
|                   | State UMN: (\$24,975.00) |                           |

**Cost Per Client Served:** \$75.00 per client per five hour day

**Past Performance Data:** Lutheran Homes of Central New York has been providing services to Oneida County for several years.

**O.C. Department Staff Comments:** Contractor monitored regularly for compliance. All Federal, State, and local program standards set forth by NYSOFA and Oneida County OFA/OCC are met.

## AMENDMENT

**THIS AMENDMENT** is by and between Oneida County, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York, 13501 by and through its Office for the Aging and Continuing Care, with offices at 120 Airline Street, Suite 201, Oriskany, New York 13424, herein collectively referred to as the "County," and The Lutheran Home of Central New York, Inc., a domestic not-for-profit corporation organized and existing under the laws of the State of New York, having its principal office located at 108 Utica Road, Clinton, New York 13323 hereinafter referred to as the "Contractor."

### WITNESSETH

WHEREAS, the County and the Contractor entered into an agreement whereby the Contractor provides Social Adult Day Care Services to Oneida County residents, hereinafter referred to as the "Original Agreement" (County contract number 75228), a copy of which is attached hereto as Exhibit "A." The Original Agreement is in effect from January 1, 2019 through December 31, 2019; and

WHEREAS, since the execution of the Original Agreement, the New York State Office for the Aging and Continuing Care, herein referred to as "NYSOFA," increased funding to the County for Social Adult Day Care Services through an Unmet Needs Grant; and

WHEREAS, the parties are desirous of entering into an Amendment to the Original Agreement regarding the following provisions,

**NOW THEREFORE**, in consideration of the mutual promises made herein, the parties hereto agree as follows:

1. Paragraph 5D of the Original Agreement shall be replaced with the following language:

The total reimbursement paid by the County to the Contractor for Services provided under this Agreement shall not exceed ninety-four thousand four hundred seventy-five dollars (\$94,475.00).

2. All other terms of the Original Agreement remain in effect without change or alteration.

(THE REMAINDER OF THIS PAGE HAS BEEN LEFT INTENTIONALLY BLANK)

IN WITNESS WHEREOF, the County and the Contractor have signed this Amendment on the day and year written below.

**The Lutheran Home of Central New York, Inc.**

By: Michael Sweeney  
Michael Sweeney, CEO

11/26/19  
Date

**Office for the Aging**

By: \_\_\_\_\_  
Michael J. Romano, Director

\_\_\_\_\_  
Date

**County of Oneida**

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

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Maryangela Scalzo, Asst. County Attorney

\_\_\_\_\_  
Date

## AGREEMENT

This **AGREEMENT** ("Agreement"), by and between **COMMUNITY WELLNESS PARTNERS, INC.** through its affiliate **THE LUTHERAN HOME OF CENTRAL NEW YORK, INC.**, a subsidiary of **LUTHERAN CARE CHARITABLE NETWORK, INC.**, each being a domestic not-for-profit corporation located at 108 Utica Road, Clinton, New York 13323 (hereinafter collectively known as the "**CONTRACTOR**"), and the **COUNTY OF ONEIDA**, a municipal corporation organized and existing under the laws of the State of New York with its principle place of business and offices located at 800 Park Avenue, Utica, New York 13501 by and through its **OFFICE FOR THE AGING AND CONTINUING CARE** located at 120 Airline Street, Suite 201, Oriskany, New York 13424 (hereinafter collectively known as the "**COUNTY**").

### **WITNESSETH:**

**WHEREAS**, the **COUNTY** has the primary responsibility for the overall planning and coordination of **COUNTY** funds including the Federal Administration on Aging (AOA)-Older Americans Act Title III, Title V, New York State Office for the Aging (NYSOFA) – Expanded In-Home Services for the Elderly Program (EISEP), Community Services for the Elderly Program (CSEP), Congregate Services Initiative (CSI), Wellness in Nutrition (WIN), Health Insurance Information Counseling and Assistance Program (HIICAP), Medicare Improvements for Patients and Providers (MIPPA)/Senior Health Insurance Program (SHIP), and County of Oneida funds; and

**WHEREAS**, the **COUNTY** has the responsibility to formally and informally monitor, assess and evaluate all programs, services and contracts funded through the **COUNTY**; and

**WHEREAS**, the **COUNTY** will provide technical assistance, upon request, to assist the **CONTRACTOR** in more effectively carrying out service delivery and/or complying with federal, state and local statutes, policies, rules and regulations; and

**WHEREAS**, the **CONTRACTOR** is willing and able to perform the services required by this Agreement;

**NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES AS FOLLOWS:**

1. **TERM OF AGREEMENT**

The term and conditions of this Agreement shall commence **January 1, 2019** and terminate **December 31, 2019**.

2. **AGREEMENT RENEWAL**

A. At the **COUNTY'S** sole discretion, this Agreement may be renewed for an additional four (4) one-year terms.

B. Nothing herein shall be construed to indicate that the **COUNTY** is bound to renew this Agreement with the **CONTRACTOR** on an annual basis and the **COUNTY** reserves the right to seek the same or similar services from third parties.

3. **SCOPE OF SERVICES**

A. The **CONTRACTOR** shall, as part of the terms and conditions of this Agreement, comply with the State of New York's Social Adult Day Care Regulations, New York Executive Law, Chapter II Part 6654.20 (9 NYCRR 6654.20).

B. The **CONTRACTOR** shall provide Social Adult Day Care Services and PCA Level II Services (collectively, the "Services") to frail individuals ("Consumers") as authorized by the **COUNTY** and its designated agents. The target population served by this Agreement are Oneida County residents who are age sixty (60) years or older who are living independently in the community with emphasis on older individuals who are:

1. residing in rural areas,
2. with greatest economic need (with particular attention to low-income minority individuals);
3. with greatest social need (with particular attention to low-income minority individuals);
4. with severe disabilities; or
5. with Alzheimer's disease or related disorder with neurological and organic brain dysfunction (and the caretakers of such individuals).

C. The **CONTRACTOR** shall provide the Services in Oneida County.

D. The **CONTRACTOR** shall provide the Services pursuant to New York State laws, rules and regulations, including

1. The Social Adult Day Care Program Regulations, New York Executive Law, Chapter II Part 6654.20 (9 NYCRR part 6654.20), which include:
  - i. A structured, comprehensive program which provides functionally impaired individuals with the required components of socialization; supervision and monitoring; personal care; and nutrition in a protective setting during any part of the day, but for less than a 24-hour period.

ii. "Functionally impaired" means needing the assistance of another person in at least one of the following activities of daily living: toileting, mobility, transferring, eating; or needing supervision due to cognitive and/or psychosocial impairment.

iii. "Nutrition" means providing nutritious meals for Consumers who are attending the program at normal meal times; meals are to be consistent with the standards set forth in the Regulations for a Nutrition Program for the Elderly site and as established by the COUNTY; and offering snacks and liquids for all Consumers at appropriate times.

2. 18 NYCRR §505.14 and any New York State Department of Health regulations promulgated thereunder for PCA Level II Services (PCAIL).

E. The **CONTRACTOR** agrees that all Consumers shall receive Services only in accordance with an individualized **written** service plan that is based on the Comprehensive Assessment for Aging Network Community-Based Long Term Care Services (COMPASS), and shall specify the individual Consumer outcomes expected from the provision of the Services; the service plans shall be reevaluated at a minimum annually.

F. The **CONTRACTOR**, upon approval of the **COUNTY**, shall provide PCAIL services to Consumers when indicated in their care plan.

G. As specified in State of New York's Social Adult Day Care Program Regulations, all of the **CONTRACTOR'S** Services personnel, both paid and volunteer, shall attend six (6) hours of training annually, and new program employees or volunteers shall receive at least twenty hours of group, individual and/or on-the-job training.

G. The **CONTRACTOR'S** personnel shall keep abreast of new developments in the field of Gerontology and community based social adult day care; attendance at relevant local, state, or national training is encouraged.

H. The **CONTRACTOR** and the **COUNTY** shall hold periodic coordinating meetings as needed.

I. The **CONTRACTOR** and the **COUNTY** shall work cooperatively to develop comprehensive Services for Oneida County.

#### 4. **PERFORMANCE OF SERVICES**

A. The **CONTRACTOR** represents that the **CONTRACTOR** is duly licensed (as applicable) and has the qualifications, the specialized skill(s), the experience and the ability to properly perform the Services. The **CONTRACTOR** shall use the **CONTRACTOR'S** best efforts to perform the Services such that the results are satisfactory to the **COUNTY**. The



**CONTRACTOR** shall be solely responsible for communications with the Consumer or the Consumer's caregiver in order to determine the method, details and means of performing the Services, except where federal, state or local laws and regulations impose specific requirements on performance of the same.

B. The **CONTRACTOR** may, at the **CONTRACTOR'S** own expense, employ or engage the services of such employees, subcontractors and/or partners as the **CONTRACTOR** deems necessary to perform the Services (collectively, the "Assistants"). The Assistants are not and shall not be deemed employees of the **COUNTY**, and the **COUNTY** shall have no obligation to provide the Assistants with any salary or benefits. The **CONTRACTOR** shall be solely responsible and shall remain liable for the performance of the Services by the Assistants in a manner satisfactory to the **COUNTY**, and in compliance with any and all applicable federal, state or local laws and regulations.

C. The **CONTRACTOR** acknowledges and agrees that the **CONTRACTOR** and its Assistants have no authority to enter into contracts that bind the **COUNTY** or create obligations on the part of the **COUNTY** without the prior written authorization of the **COUNTY**.

5. **REIMBURSEMENT FOR SERVICES**

A. It is agreed and understood by all **PARTIES** that the **COUNTY** shall reimburse the **CONTRACTOR** for the Services which are provided in accordance with the terms and conditions of this Agreement, CSEP, and the Caregiver Support III-E grants.

B. The **COUNTY** shall reimburse the **CONTRACTOR** fifteen dollars (\$15.00) per hour for each Consumer for each Consumer receiving Adult Day Care Services which shall include program, meals, and transportation. A full day of programming is defined as five (5) hours, but the **CONTRACTOR** may bill in ½ hour increments at seven dollars fifty cents (\$7.50) per half hour when the Consumer is attending less than five (5) hours per day. Reimbursement for Adult Day Care Services shall not exceed seventy-five dollars (\$75.00) per Consumer, per day.

C. The **COUNTY** shall reimburse the **CONTRACTOR** twenty dollars (\$20.00) per hour for each Consumer that received PCAII services pursuant to this Agreement.

D. The total reimbursement paid by the **COUNTY** to the **CONTRACTOR** for Services provided under this Agreement shall not exceed sixty-nine thousand five hundred dollars (\$69,500.00).

E. The **COUNTY** funds are contingent upon availability of state and County of Oneida funding; reimbursement shall be made in twelve (12) monthly installments upon submission

of a **COUNTY** voucher as specified in the Oneida County Office for the Aging Voucher Instructions for Units of Service Contracts attached as **APPENDIX C**.

F. The **COUNTY** shall not be liable for any late fees or for any interest on late payments. The obligations of the **PARTIES** hereunder are conditioned upon the continued availability of New York State and **COUNTY** funds for the purposes set forth in this Agreement. Should funds become unavailable or should appropriate New York State and **COUNTY** officials fail to approve sufficient funds for completion of the Services set forth in this Agreement, the **COUNTY** shall have the option to immediately terminate this Agreement upon providing written notice to the **CONTRACTOR** by certified mail. In such an event, the **COUNTY** shall be under no further obligation to the **CONTRACTOR** other than payment for costs actually incurred prior to termination and in no event will the **COUNTY** be responsible for any actual or consequential damages as a result of termination.

G. The **COUNTY** reserves the right to withhold payment under this Agreement due to the **CONTRACTOR'S** failure to properly perform its obligations under this Agreement. The **COUNTY** may withhold payment for including but not limited to:

1. defective Services;
2. third party claims;
3. failure of the **CONTRACTOR** to pay its subcontractors, if any;
4. damage to the **COUNTY**; or
5. failure to carry out the Services in accordance with this Agreement.

H. It is understood and agreed that the **COUNTY** shall not be responsible for any costs incurred by the **CONTRACTOR** prior to the effective date or following the termination date of this Agreement.

6. **NO CLAIM FOR DAMAGE**

The **CONTRACTOR** shall make no claim for damages for delay of reimbursement due to an act or omission by the **COUNTY**.

7. **EXPENSES**

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

8. **TRAINING**

The **CONTRACTOR** shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the Services described herein, and shall be solely responsible for the cost of the same.

9. **NON ASSIGNMENT CLAUSE**

The **CONTRACTOR** shall not assign, transfer, convey, sublet or otherwise dispose of the Agreement or of its right, title, or interest therein, or its power to execute this Agreement, to any other corporation or person without the prior written consent of the **COUNTY**.

10. **SUBCONTRACTS**

A. A subcontractor is a person who has an agreement with the **CONTRACTOR** to perform any of the Services.

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

C. Any agreements between the **CONTRACTOR** and the subcontractors shall be in accordance with the terms of this Agreement and shall include the conditions of this Agreement including all exhibits, attachments, appendices, and addendums, insofar as applicable.

11. **INDEPENDENT CONTRACTOR STATUS**

A. It is expressly agreed that the relationship of the **CONTRACTOR** and its Assistants to the **COUNTY** shall be that of Independent Contractors. The **CONTRACTOR'S** Assistants shall not be considered employees of the **COUNTY** for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement or health insurance benefits. The **CONTRACTOR**, in accordance with its status as an Independent Contractor, covenants and agrees that its Assistants will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the **COUNTY** by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the **COUNTY**.

B. The **CONTRACTOR** warrants and represents that it is in the business of offering the same or similar Services detailed herein and does offer the same or similar services to other entities and/or the general public as a regular course of business. The **CONTRACTOR** and the **COUNTY** agree that the **CONTRACTOR** is free to undertake other work arrangements during the term of this Agreement, and may continue to make its Services available to the public.

C. The **CONTRACTOR'S** Assistants shall not be eligible for compensation from the **COUNTY** due to

1. illness;
2. absence due to normal vacation;
3. absence due to attendance at school or special training or a professional convention or meeting.

D. The **CONTRACTOR** shall be solely responsible for applicable taxes for all compensation paid to the **CONTRACTOR** or its Assistants under this Agreement, and for compliance with all applicable labor and employment requirements with respect to the **CONTRACTOR'S** form of business organization, and with respect to the Assistants, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The **COUNTY** shall not be responsible for withholding from the payments provided for Services rendered for state or federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). The **CONTRACTOR** shall provide proof of workers' compensation insurance, where applicable, prior to the execution of this Agreement.

E. The **CONTRACTOR** shall indemnify and hold the **COUNTY** harmless from all loss or liability incurred by the **COUNTY** as a result of the **COUNTY** not making such payments or withholdings.

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

G. The **CONTRACTOR** shall comply with federal and state laws as supplemented in the Department of Labor Regulations and any other regulations of federal and state entities relating to such employment and Civil Rights requirements.

12. STANDARD ASSURANCES

A. The **CONTRACTOR** shall comply with statutes, regulations, and policies set by the following: Federal Department of Health and Human Services, AOA, the NYSOFA, and the **COUNTY**, more fully described in **APPENDIX A**.

B. The **CONTRACTOR** shall comply with section 504 of the Rehabilitation Act of 1973 (Nondiscrimination) which states "No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service." (29 U.S.C.A. §794)

C. The **CONTRACTOR** shall comply with the Human Rights Law Article 15 of the Executive Law of New York State (N.Y. Exec. Law §290, et seq.), Article 15A of the Executive Law of New York State regarding participation by minority group members and women with respect to state contracts (N.Y. Exec. Law §310, et seq.), and the Governor's Executive Order 28 which prohibits discrimination based on sexual orientation (9 NYCRR 4.28).

D. The **CONTRACTOR** shall comply with Title VI, the Civil Rights Act of 1964 (42 U.S.C.A. §2000-d, et seq.), and any amendment thereto: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

E. The **CONTRACTOR** agrees that any program, public information materials, or other printed or published materials on the work of or funded by CSEP/III-E will give due recognition to the NYSOFA and the Oneida County Office for the Aging. The statement shall be in font which is one of the following: in italics, or at least two font sizes larger than the rest of the text, or in bold font or underlined (i.e., "***This program is supported by Oneida County Office for the Aging and Continuing Care, New York State Office for the Aging, and the Administration on Aging.***"). The **CONTRACTOR** shall forward copies of all materials to the **COUNTY** at the end of each month.

F. The **COUNTY** shall conduct a program review to ensure that the **CONTRACTOR** is in compliance with all standards and regulations as set forth in this Agreement.

13. **NYSOFA TERMS AND CONDITIONS**

A. The **CONTRACTOR** agrees that all its activities under this Agreement shall conform with all applicable federal, state, and local laws, with federal and state regulations, and Program Standards and Program Instructions of the NYSOFA that apply to such activities, including, but not limited to:

1. Rehabilitation Act of 1973, Sec. 504 Nondiscrimination (29 U.S.C. 794)
2. Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.; see 92-PI-32, [8/4/92])
3. Civil Rights Act of 1964, Title VI, as amended (42 U.S.C. 2000-d et. seq.)
4. Older Americans Act (42 U.S.C. 3001, et seq.)
5. Executive Order 13166 Improving Access to Services for Persons with Limited English Proficiency (65 FR 50121)
6. Federal Executive Order 11246 (30 FR 12319), as Amended by Executive Order 11375 (32 FR 14303, Affirmative Action); as Amended by Executive Order 12086 (43 FR 46501, Consolidation of Compliance Functions); and as Amended by Executive Order 13279 (67 FR 77141, Equal Protection for Faith-Based and Community Organizations.)
7. Article 15 of the Executive Law of the State of New York, Human Rights Law: prohibiting discrimination based on age, race, creed, color, national origin, sexual orientation, military status, sex, marital status, or disability (N.Y. Exec. Law §290, et seq.)
8. Article 15A of the Executive Law of New York State regarding participation by minority group members and women with respect to state contracts (N.Y. Exec. Law §310, et seq.),
9. The NYSOFA'S Equal Access to Services and Targeting Policy Program Instruction (12-PI-08)
10. Elder Law

B. The **CONTRACTOR**, to the extent it has discretion regarding to whom it will provide Services, shall provide Services to those unserved and underserved older adults in greatest social or economic need, particularly those who are low-income, low-income minorities, older adults with Limited English Proficiency (LEP), Native Americans, and frail/persons with disabilities and older adults residing in rural areas, in accordance with their need for such Services, and to meet specific objectives established by the **COUNTY** for providing Services to the above groups within Oneida County. The **CONTRACTOR** shall concentrate the Services on older adults in the targeted populations identified by the **COUNTY** following the

methods the **COUNTY** has established for complying with the targeting requirements under the Older Americans Act and the Equal Access and Targeting Policy issued by the NYSOFA.

C. The **CONTRACTOR** shall inform persons with LEP of the availability of language assistance, free of charge, by providing written notice of such assistance in a manner designed to be understandable by LEP persons at Service locations and, at a minimum, have a telephonic interpretation service contract or similar community arrangement with a language interpretation service provider of their choice. The **CONTRACTOR** shall train staff that have contact with the public in the timely and appropriate use of these and other available language services.

D. To the extent that the Agreement with the **COUNTY** is for a program or service funded under the **COUNTY'S** Area Plan, the **CONTRACTOR** agrees that it and any subcontractors shall perform such Services in accordance with the terms of the Area Plan. The **COUNTY** agrees to make the Area Plan available to the **CONTRACTOR**.

E. The **CONTRACTOR** agrees that for programs established and funded in whole or in part pursuant to Title III of the Older Americans Act, the **CONTRACTOR** shall specify how it intends to satisfy the service needs of low-income minority individuals, older adults with LEP, and older adults residing in rural areas in the area served by it; will to the maximum extent feasible, provide Services to low-income minority individuals, older individuals with LEP, and older adults residing in rural areas in accordance with their need for such Services; and meet specific objectives established by the **COUNTY**, for providing Services to low-income minority individuals, older adults with LEP, and older adults residing in rural areas within the planning and service area.

14. **GRIEVANCE PROCEDURES**

The **CONTRACTOR** shall implement the Oneida County Office for the Aging Grievance Procedures as required by the NYSOFA. The written procedures are attached in **APPENDIX B**.

15. **FISCAL REQUIREMENTS/RESPONSIBILITIES**

A. The **CONTRACTOR** shall keep CSEP/III-E funds separate; further, state and federal funds shall not be used as local share (match).

B. The **CONTRACTOR** shall comply with all voucher and contribution procedures, and submissions of required reports as described in the Oneida County Office for the Aging Voucher Instructions for Units of Service Contracts, attached as **APPENDIX C**.

C. The **COUNTY** shall be responsible for sending monthly donation letters and collecting Consumer contributions for all Consumers who attend Office for the Aging and Continuing Care funded Services. Any contributions received by the **CONTRACTOR** for Office for the Aging and Continuing Care funded Consumer, directly, will be reported and deducted on monthly vouchers by the **CONTRACTOR**.

D. The **CONTRACTOR** shall report to the **COUNTY** any and all additional moneys or program income (contributions, donations) given to the CSEP/III-E supported programs. "Program income means gross income received by the subcontractor directly generated by a **COUNTY** grant supported activity, or earned as a result of the **COUNTY** grant agreement during the grant period." REF: Department of Health & Human Services, Program Instruction AoA-PI-96-01, October 16, 1995.

E. The **CONTRACTOR** shall maintain copies of proper documentation for all program income, including, but not limited to, in-kind support, donations, contributions, reimbursements, and other grants within its program budget.

F. The **COUNTY** shall conduct a periodic audit of revenues and expenditures, as well as the required annual on-site review of the program's fiscal status to ensure expenditures are in proportion to the total program budget.

G. The **CONTRACTOR** shall agree to have an independent audit conducted for the contracted program if it has provided the Services to the **COUNTY** for two (2) years or more. A copy of the audit shall be submitted to the **COUNTY** upon completion of the program/fiscal audit conducted by the outside auditor.

H. The **CONTRACTOR** shall maintain fiscal records for six (6) years and shall make them available for **COUNTY** review upon request.

I. The **CONTRACTOR** shall cooperate with the close-out audit that is required when the Agreement is terminated.

J. The **CONTRACTOR** shall follow close-out procedures administered by the **COUNTY** in accordance with the 45 C.F.R. §75, et seq.

16. **INDEMNIFICATION**

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

B. The **CONTRACTOR** shall defend, indemnify, and hold harmless the **COUNTY** from and against all liability, damages, expenses, costs, including, without limitation, attorneys' fees and expenses, causes of action, suits, claims or judgments arising, occurring or resulting



form or out of the Services of the **CONTRACTOR** and its agents, servants, employees or Assistants, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the **CONTRACTOR** or failure on the part of the **CONTRACTOR** to comply with any of the covenants, terms or conditions of the Agreement.

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

17. **INSURANCE COVERAGE REQUIREMENTS**

A. As part of its obligation to indemnify, defend, and hold harmless the **COUNTY**, its officers, agents, employees, as set forth above, the **CONTRACTOR** shall obtain and maintain in full force and effect, for the term of this Agreement, insurance coverage as described below.

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

C. Prior to the start of any Services, the **CONTRACTOR** shall provide certificates of insurance to the **COUNTY**. The certificates shall be on forms approved by the **COUNTY**. Acceptance of the certificates shall not relieve the **CONTRACTOR** of any of the insurance requirements, nor decrease the liability of the **CONTRACTOR**. The **COUNTY** reserves the right to require the **CONTRACTOR** to provide insurance policies for review by the **COUNTY**. The **CONTRACTOR** grants the **COUNTY** a limited power of attorney to communicate with the **CONTRACTOR'S** insurance provider and/or agent for the express purpose of confirming the coverages required hereunder.

D. Certificates of Insurance: Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of the **CONTRACTOR'S** Commercial General Liability Policy, Auto Liability Policy, and Excess/Umbrella Policy. These certificates and the insurance policies required below shall contain a provision that coverage afforded under the policies will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the **COUNTY**.

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

1. Coverage for the additional insured shall include completed operations,
2. The CGL coverage shall include a General Aggregate Limit and such General Aggregate Limit shall apply separately to each project,
3. The CGL coverage shall be written on ISO Occurrence form CG 00 01 1001 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contracts, products, completed operations, and personal and advertising injury,
4. There shall be no exclusions to contractual liability for Employee Injuries (i.e. Labor Law Exclusions),
5. The **CONTRACTOR** shall maintain CGL coverage for itself and all additional insureds for the duration of this Agreement and maintain completed operations coverage for itself and each additional insured for at least three (3) years after completion of the Services.

F. Business Automobile Liability Insurance: The **CONTRACTOR** shall, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of Business Automobile Liability Insurance in an amount equal to or greater than One Million Dollars (\$1,000,000.00) for the term of this Agreement. Business Automobile Liability coverage must include coverage for liability arising out of all owned, leased, hired,

and non-owned automobiles. The **CONTRACTOR** shall have Oneida County added to said insurance policies as a named additional insured, on a primary, non-contributory basis.

G. Excess/Umbrella Liability Insurance: The **CONTRACTOR** shall, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of Excess/Umbrella Liability Insurance in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence and such insurance shall not be less than One Million Dollars (\$1,000,000.00) annual aggregate. The **CONTRACTOR** shall have Oneida County added to said insurance policies as a named additional insured, on a primary, non-contributory basis. Umbrella coverage for such additional insured shall apply as primary and non-contributory before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by or provided to the additional insured.

H. Professional Liability Insurance: The **CONTRACTOR** shall, during the term of this Agreement maintain a professional liability policy and will provide the **COUNTY** with proof of coverage in the amount of One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) annual aggregate.

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

J. The **CONTRACTOR** shall require any subcontractors to procure and maintain insurance coverage of the same type and in the same amounts with the same endorsements required of the **CONTRACTOR** in the above Insurance Coverage Requirement paragraphs.

K. Payment(s) to the **CONTRACTOR** may be suspended in the event that the **CONTRACTOR** or its subcontractors, if any, fail to provide the required insurance documentation in a timely manner.

L. Waiver of Subrogation: The **CONTRACTOR** waives all rights against the **COUNTY** and its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by CGL, Business Auto Liability, Excess/Umbrella Liability, Professional Liability or Workers' Compensation and Employer's Liability Insurance maintained per requirements stated above.

18. **REPORTING REQUIREMENTS**

A. The **COUNTY** shall, pursuant to the requirements of CSEP/III-E funded programs, comply with the definition of Services, April 2011, as established by the NYSOFA (96-PI-43).

B. The **CONTRACTOR** shall provide the **COUNTY** with required information needed to meet planning, coordination, evaluation, and reporting requirements as required by the NYSOFA's Consolidated Area Agency Reporting System (CAARS), by the 10<sup>th</sup> of every month. The current and revised CAARS Monthly Report Forms and Monthly Summary Form must be submitted as an attachment to the voucher on a monthly basis.

C. The **CONTRACTOR** shall maintain appropriate Consumer records on each EISEP Consumer who receives Services through this program; the **COUNTY** shall have access to the Consumer records upon request; the **COUNTY** shall have ownership of all Consumer's records and files.

D. The **CONTRACTOR** shall comply with policies ensuring Consumer confidentiality, as established by the **COUNTY**, when information sharing between agencies is crucial to the Consumer's well-being and is needed to ensure effective Service provision; pertinent information shall be shared in accordance with federal and state regulations and statutes.

E. The **CONTRACTOR** shall provide the **COUNTY** with required monthly, periodic, and/or special reports and shall submit all reports to the **COUNTY** by the dates specified.

19. **COORDINATION REQUIREMENTS**

A. The **CONTRACTOR** and the **COUNTY** shall coordinate referrals.

B. The **CONTRACTOR** and the **COUNTY** shall work with older persons, who are not eligible for Services under this Agreement, to obtain needed Services.

C. The **CONTRACTOR** shall coordinate with other appropriate service providers in obtaining and providing referrals for older residents of Oneida County.

20. **AGREEMENT CANCELLATION**

A. This Agreement may be cancelled by the **COUNTY** for failure by the **CONTRACTOR** to comply with the terms and conditions of this Agreement. The **CONTRACTOR** shall agree to incur no new obligations nor submit a claim for any expenses made after the receipt of written notification of termination.

B. The **CONTRACTOR** and the **COUNTY** reserve the right to cancel the Agreement upon thirty (30) day written notice to the other party.

C. The **CONTRACTOR** agrees that in the event of termination, said party shall make a full and final accounting of all funds received and monies expended under the Agreement

within thirty (30) days after the date of termination. Any unexpended funds shall be the property of the COUNTY.

D. The CONTRACTOR shall coordinate with the COUNTY and other providers to ensure that any break in service to Consumers shall not be detrimental to the Consumers' health or well-being. If available and appropriate, other services shall be substituted and/or coordinated on the Consumers' behalf.

21. **ENTIRE AGREEMENT**

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

B. Oral statements and understandings are not valid or binding, and this Agreement shall not be changed or modified except by a writing signed by all PARTIES.

C. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall be deemed the same instrument.

22. **INCORPORATION BY REFERENCE**

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

23. **STANDARD ADDENDUM**

The CONTRACTOR shall comply with the Standard Oneida County Conditions Addendum which is attached hereto and made a part hereof as APPENDIX D.

24. **CHOICE OF LAW/FORUM**

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

B. This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

25. **SUCCESSORS AND ASSIGNS**

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

26. **NON WAIVER**

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

27. **SEVERABILITY**

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

28. **AUTHORITY TO ACT/SIGN**

The **CONTRACTOR** hereby represents and certifies that it has the power and authority to execute and deliver this Agreement and to carry out its obligations hereunder. The execution and delivery by the **CONTRACTOR** of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by the **CONTRACTOR**; no other action on the part of the **CONTRACTOR** or any other person or entity, whether pursuant to its Articles of Incorporation, Articles of Operation, Operating Agreement or Bylaws, as the case may be, or by law or otherwise, are necessary to authorize the **CONTRACTOR** to enter into this Agreement, or to consummate the transactions contemplated herein.

29. **ADVICE OF COUNSEL**

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

[SIGNATURES APPEAR ON THE NEXT PAGE]


IN WITNESS THEREOF, the parties have here unto set their hand on the date respectively stated.

COMMUNITY WELLNESS PARTNERS, INC.

  
Michael Sweeney, CEO

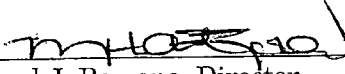
2/1/19  
Date

COUNTY OF ONEIDA

  
Anthony J. Picente, Jr., County Executive

3/18/19  
Date

OFFICE FOR THE AGING AND CONTINUING CARE

  
Michael J. Romano, Director

2/7/19  
Date

Approved:

By:   
Maryangela Scalzo, Assistant County Attorney

2/11/19  
Date

## APPENDIX A

- 1) The Older Americans Act (OAA) of 1965, as amended (42 U.S.C.A. § 3001 et. seq.)
- 2) 2 CFR part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards)
- 3) 2 CFR Part 230 (Cost Principles for Non-Profit Organizations)
- 4) 2 CFR Part 376 (Nonprocurement Debarment and Suspension)
- 5) 20 CFR Part 614 (Provisions Governing the Senior Community Service Employment Program)
- 6) 29 CFR Part 37 (Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998)
- 7) 45 CFR Part 75 (Uniform Administration Requirements, Cost Principles, and Audit requirements for HHS Awards)
- 8) 45 CFR Part 80 (Nondiscrimination under programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964)
- 9) 45 CFR Part 84 (Nondiscrimination on the basis of Handicap)
- 10) 45 CFR Part 92 (Uniform Administrative Requirements for Grant and Cooperative Agreements to State and Local Governments)
- 11) 45 CFR Part 93 (New Restrictions on Lobbying)
- 12) 45 CFR Part 1321, Subparts A-D (Grants to State and Community Programs on Aging)
- 13) 45 CFR Part 1321.61 (b)(4) (Support of State Title VII Activities)
- 14) Age Discrimination in Employment Act of 1975, as amended (29 USC §621, et seq.)
- 15) Americans with Disabilities Act of 1990 (42 U.S.C.A. §12101, et seq.)
- 16) Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (42 U.S.C.A. §2000e, et. seq.)
- 17) Equal Pay Act of 1963, as amended (29 U.S.C.A. §206)
- 18) Hatch Act (5 U.S.C.A. §1501, et seq.)
- 19) Low Income Energy Assistance (42 U.S.C.A. § 8621, et seq.)
- 20) Rehabilitation Act of 1973, Sec. 504 (29 U.S.C.A. §794) (Nondiscrimination)
- 21) Single Audit Act of 1984 (31 U.S.C.A. §7501, et. seq.)
- 22) USDA Nutrition Programs for the Elderly (7 C.F.R. § 226, et seq.) and (7 C.F.R. §235, et seq.)
- 23) Office of Management and Budget (OMB):



- a. OMB Circular A-87 (Cost Principles for State, Local and Indian Tribal Governments)
  - b. OMB Circular A-95 (Clearinghouse Review)
  - c. OMB Circular A-102 (Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments)
  - d. OMB Circular A-110 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-profit Organizations)
  - e. OMB Circular A-122 (Cost Principles for Non-profit Organizations)
  - f. OMB Circular A-128 (Audits of State and Local Governments)
  - g. OMB Circular A-133 (Audits of States, Local Governments and Non-Profit Organizations)
- 24) 30 FR 12319- Federal Executive Order 11246, as Amended by 32 FR 14303- Federal Executive Order 11375 (Affirmative Action); as Amended by 43 FR 46501- Federal Executive Order 12086 (Consolidation of Compliance Functions); and as Amended by 67 FR 77141- Federal Executive Order 13279 (Equal Protection for Faith-Based and Community Organizations)
  - 25) New York State Office for the Aging Rules and Regulations (9 NYCRR Parts 6651, 6652, 6653, 654, 6655, and 6656)
  - 26) Executive Law of New York State, Article 15- State Human Rights Law (N.Y. Exec. Law §290, et seq.)
  - 27) Executive Law of New York State, Article 15-a Minority/Women's Business contract Requirements (N.Y. Exec. Law §310, et seq.)
  - 28) Executive Law of New York State, Article 7-a Solicitation and Collection of Funds for Charitable Purposes (N.Y. Exec. Law § 171-a, et seq.)
  - 29) Expanded In-home Services for the Elderly (EISEP) Program Standards (87-PI-66 [10/21/87])
  - 30) NYS Office for the Aging's 1990 Nutrition Program Standards (90-PI-26 [5/17/90])
  - 31) Legal Assistance Standards (94-PI-52 [12/29/94])
  - 32) Weatherization Referral and Packaging Program (WRAP) Handbook
  - 33) Governor's 1960 Code of Fair Practices (9 CRR-NY 1.4)
  - 34) Governor's Executive Order 6 (Affirmative Action Efforts) (9 NYCRR 4.6)
  - 35) Governor's Executive Order 19 (Prevention of Sexual Harassment) (9 NYCRR 4.19)
  - 36) Governor's Executive Order 28 (Prohibiting discrimination based on Sexual Orientation) (9 NYCRR 4.28)

**APPENDIX B**  
**Oneida County Office for the Aging**  
**Grievance Procedures**

In accordance with the Older Americans Act (OAA), as amended, the Oneida County Office for the Aging has established the following process for resolving complaints from participants who are dissatisfied with or persons denied services funded under the Act.

**Right to File a Grievance**

The Office for the Aging and all contracting provider agencies who receive OAA funds shall notify program participants of their right to file a grievance with the provider agency and/or with Oneida County Office for the Aging. Upon request, the Office for the Aging will provide assistance with filing a grievance.

**Denial of Service or Client's Dissatisfaction of Service**

A participant or applicant who is denied OAA services must be given the reasons for the denial. Services may be denied because of funding restrictions, ineligibility, hours or locations have changed, reassessment determined services no longer needed, or client is disruptive to the program.

For OAA services for which a written application is made, the denial shall be confirmed in writing and the applicant informed of the right to file a grievance and to whom the grievance shall be made.

For OAA services for which verbal application is made by telephone or in person, the person may be denied verbally and verbally informed of the right to file a grievance and to whom.

**Grievance Process**

**Filing a Grievance**

- Individual must submit their grievance in writing to the Director of the Office for the Aging who will forward the Letter to the designated person of the provider agency to conduct the initial review.
- **The grievance must be filed within thirty (30) calendar days of denial, reduction or termination of services, or of the event or circumstances with which the person is dissatisfied.** The Office for the Aging or the provider agency may grant an extension for good cause shown.
- The Letter of Grievance should include a written statement setting forth in detail the date, time and circumstances that are the basis for the complaint.

**Investigation and Response to a Grievance**

- The designated reviewer will investigate the complaint. The reviewer will determine whether the action was in accordance to applicable Older Americans Act and State laws and regulation and are supported by facts.
- The reviewer will prepare and send written response to the grievant and to the Office for the Aging Director within fifteen (15) working days after the grievance is filed. The response will set forth the circumstances relating to the grievance, the action requested by the grievant, the findings of the reviewer, a proposed remedial action and, if any, the reason(s) for and facts relied on in the determination.

**Appeal of Initial Response/Decision**

If the grievant is not satisfied with the determination, s(he) has the right to further review as follows:

- S(he) may initiate a request for subsequent review by the Office for the Aging Director within ten (10) calendar days following receipt of notification from the provider agency of its decision.
- The Office for the Aging Director will request, and the provider agency shall provide, copies of the initial file on the complaint in question. The Office for the Aging Director will review the materials to ensure that pertinent policies and procedures have been applied and followed.
- If the policies and procedures have been adhered to, the Office for the Aging Director will not overturn the decision of its contracting provider agency. If the proper policies and procedures have not been applied, the director reserves the right to overturn the decision.
- A written notification of the results will be made to the grievant within twenty (20) working days of receipt of the appeal request.

**Record Keeping**

The provider agency will keep a file, for six years, of all relevant documents and records of a grievance. The file shall include at a minimum: the initial grievance; any investigative reports; any and all written responses; any documents or other records submitted by any party; and, if applicable, the notice to the grievant of the right to appeal.

**Confidentiality**

No information, documents or other records relating to a grievance shall be disclosed by program staff or volunteers in a form that identifies the grievant without the written informed consent of the grievant, unless the disclosure is required by court order or for program monitoring by authorized agencies.

**APPENDIX C**

Oneida County Office for the Aging

**Voucher Instructions  
for Units of Service Contracts**

Complete the Oneida County voucher (3-part white, yellow, and pink form) as follows:

1. **Department:** Office for the Aging and Continuing Care
2. **Claimants Name and Address:** Contractor name and address (checks will be payable to the name given and sent to the address listed).
3. **Date:** List month this claim covers.
4. **Vendor's Invoice Number:** leave blank
5. **Quantity/Description of Material or Service/Unit Price/Amount:**
  - ✓ State the number of units of service and the description of services performed during the month.
  - ✓ List the Unit Price as stated in the Contract Budget.
  - ✓ Place the amount (Units X Unit Price) in the Amount column.
  - ✓ Place the amount to be reimbursed in the Total block.
  - ✓ Specify program funds (III-E, EISEP, CSE, III-B etc.) in the space after the Contract Number.
6. **Claimant's Certification:**

Fill out completely, Note that Oneida County will not pay a voucher without an original signature, Federal ID Number or Social Security Number.
7. **Voucher Backup**
  - ✓ Attach CAARS monthly report.
  - ✓ Master list of clients billed for on voucher (with individual total monthly amount billed).
  - ✓ Attach appropriate backup:
    - Payroll certification sheets and time sheets signed by Agency employee.
    - Legal Assistance Program – case numbers, DOB, Legal Assistance Referral, Type of Service, Fax Date and Unit of Services.
    - Housekeeper/Chore (PCA Level I) or Homemaker/personal care (PCA Level II), Housekeeper/chore (Level I) – Contract EISEP voucher backup. Copies of PCA daily logs including date and times of service and all must be signed by client.
    - Adult Day Care – OFFICE approved sign-in log sheet with dates and times of service and all must be signed by client.
    - Emergency Response Systems – (Original Invoice)

Have all accounting records, receipts and supporting documentation readily available for review by the County, State and/or Federal personnel authorized to examine and/or audit program accounts. Ref: US Code of Federal Regulations 45-74 amended in 1980. Check numbers, dates paid and amounts paid must be written on each receipt.
8. **Timely Submissions:**
  - ✓ Submit monthly vouchers by the 10<sup>th</sup> day of the month following the reporting month.
  - ✓ Checks are issued by Oneida County Audit and Control only on Fridays - approximately 30 days after submission.
  - ✓ If all documentation is not included, the voucher will be returned unpaid with a request for proper backup and documentation.
9. **Changes To The Budget** (including personnel):
  - ✓ Submit a Budget Revision and a justification for the change.

**10. Technical Assistance:**

- ✓ If you have fiscal questions regarding your program or require technical assistance, please contact the OFA-OCC Fiscal Unit directly at 315-798-5456.

Susie Perritano, Accounting Supervisor

APPENDIX D

STANDARD ONEIDA COUNTY CONDITIONS ADDENDUM

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

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

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

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

with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and

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



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

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

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

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

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

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

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

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

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

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

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

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

When applicable to the services provided pursuant to the Contract:

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

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

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

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and

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

5. NON-ASSIGNMENT CLAUSE.

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

6. WORKER'S COMPENSATION BENEFITS.

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

7. NON-DISCRIMINATION REQUIREMENTS.

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

#### 8. WAGE AND HOURS PROVISIONS.

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

#### 9. NON-COLLUSIVE BIDDING CERTIFICATION.

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

(1) the prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; and (2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) no attempt has been made or will be made by the bidder

to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

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

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The

principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

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

13. GOVERNING LAW.

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

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

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

16. GRATUITIES AND KICKBACKS.

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

## 17. AUDIT

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

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

## 18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

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



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

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

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

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

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

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

a. For the purposes of this provision, the “use of tobacco” shall include:

- ~~i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;~~
  - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.
- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.
- c. For the purposes of this provision, “on Oneida County property” shall be defined as:

- i. Upon all real property owned or leased by the County of Oneida; and
- ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver

may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.

- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

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

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

Updated: 11/8/2018



Oneida County

Office for the Aging & Continuing Care

Anthony J. Picente, Jr.  
County Executive

Michael J. Romano  
Director

120 Airline Street-Suite 201 Oriskany, NY 13424

Phone 315-798-5456

Fax 315-768-8658

E-mail. ofa@ocgov.net

November 5, 2019

FN 20 20-044

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

HEALTH & HUMAN SERVICES

WAYS & MEANS

Dear Mr. Picente:

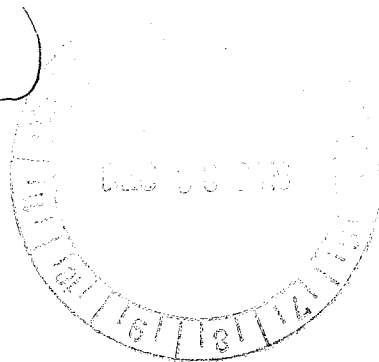
I am submitting the following Agreement between Oneida County, through its Office for the Aging and Continuing Care, and The Lutheran Home of Central New York, Inc., for your review and approval. If this Agreement meets with your approval, please forward to the Board of Legislators for further consideration.

This Agreement is for the provision of Social Adult Day Care Services. This Agreement will continue to provide community based long term care services to the frail and elderly, and assist older consumers to delay or divert nursing home placement. The total amount of this Agreement is \$86,500.00, with 75% State (\$57,375.00) and 25% County (\$19,125.00) funds, and additional funding from a New York State Unmet Needs Grant (\$10,000.00). This Agreement commences January 1, 2020 and terminates December 31, 2020.

I am available at your convenience to answer any questions you may have regarding this Agreement.

Sincerely,

Michael J. Romano  
Director



MJR/md

Enclosure

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

Anthony J. Picente, Jr.  
County Executive

Date 12-30-19

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name & Address of Vendor:** The Lutheran Home of Central New York, Inc.  
108 Utica Road  
Clinton, New York 13323

**Title of Activity or Service:** Social Adult Day Care

**Proposed Dates of Operation:** January 1, 2020 through December 31, 2020

**Client Population/Number to be Served:** Frail elderly age 60+ with functional impairment.

**Summary Statements:**

**1) Narrative Description of Proposed Services**

Social Model Adult Day Services is a structured five-hour, five-day a week adult day care that serves frail elderly individuals in a supervised group setting. The program is in compliance with the New York State Regulations for Social Adult Day Care. Eligible participants must be age 60 or older and functionally impaired, needing assistance in at least one of the following activities of daily living: toileting, mobility, transferring and eating; or needing supervision due to cognitive and /or psycho-social impairment. Services include a noon meal and transportation to and from the program

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

- To provide 5-hour per weekday adult day care programming
- To provide noon meal and transportation
- To provide services that include socialization, supervision and monitoring, personal care, nutrition, and other appropriate activities
- To provide maintenance and enhancement of daily living skills, caregiver assistance, and transportation.

**3) Program Design and Staffing**

Each adult day service provider will serve OFA authorized participants with a structured 5-hour program that meets the NY State regulations. Each site will have a coordinator and sufficient staff, both paid and volunteer, to supervise participants in a safe environment, and the staff will provide appropriate activities and therapies that will enhance the participant's general wellbeing.

**Total Funding Requested:** \$86,500.00      **Account #:** A6772.495.116

**Oneida County Dept. Funding Recommendation:** \$86,500.00

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

|                   |                          |                           |
|-------------------|--------------------------|---------------------------|
| Federal: 0% (\$0) | State: 75% (\$57,375.00) | County: 25% (\$19,125.00) |
|                   | State UMN: (\$10,000.00) |                           |

**Cost Per Client Served:** \$75.00 per client per five-hour day

**Past Performance Data:** Lutheran Homes of Central New York has been providing services to Oneida County for several years.

**O.C. Department Staff Comments:** Contractor monitored regularly for compliance. All federal, state, and local program standards set forth by NYSOFA and Oneida County OFA/OCC are met.

## AGREEMENT

**THIS AGREEMENT** ("Agreement") is by and between **THE LUTHERAN HOME OF CENTRAL NEW YORK, INC.**, a domestic not-for-profit corporation organized and existing under the laws of the State of New York having its principal offices at 108 Utica Road, Clinton, New York (hereinafter known as the "**CONTRACTOR**"), and the **COUNTY OF ONEIDA**, a municipal corporation organized under the laws of the State of New York, with its principal offices located at 800 Park Avenue, Utica, New York, by and through its **OFFICE FOR THE AGING AND CONTINUING CARE** located at 120 Airline Street, Suite 201, Oriskany, New York (hereinafter collectively known as the "**COUNTY**"); each a "**PARTY**" and collectively the "**PARTIES**."

### **WITNESSETH:**

**WHEREAS**, the **COUNTY** has the primary responsibility for the overall planning and coordination of **COUNTY** funds including the Federal Administration on Aging-Older Americans Act Title III, Title V, New York State Office for the Aging (NYSOFA), Expanded In-Home Services for the Elderly Program (EISEP), Community Services for the Elderly Program (CSEP), Congregate Services Initiative (CSI), Wellness in Nutrition (WIN), Health Insurance Information Counseling and Assistance Program (HIICAP), Medicare Improvements for Patients and Providers Act (MIPPA)/Senior Health Insurance Program (SHIP), and County of Oneida funds; and

**WHEREAS**, the **COUNTY** has the responsibility to formally and informally monitor, assess and evaluate all programs, services and contracts funded through the **COUNTY**; and

**WHEREAS**, the **COUNTY** will provide technical assistance, upon request, to assist the **CONTRACTOR** in more effectively carrying out service delivery and/or complying with federal, state and local statutes, policies, rules and regulations; and

**WHEREAS**, the **CONTRACTOR** is willing and able to perform the services required by this Agreement;

**NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES AS FOLLOWS:**

1. **TERM OF AGREEMENT**

The terms and conditions of this Agreement shall **commence January 1, 2020** and **terminate December 31, 2020**.

2. **AGREEMENT RENEWAL**

A. At the **COUNTY'S** sole discretion, this Agreement may be renewed for three (3) additional one-year terms.

B. Nothing herein shall be construed to indicate that the **COUNTY** is bound to renew this Agreement with the **CONTRACTOR** on an annual basis and the **COUNTY** reserves the right to seek the same or similar services from third parties.

3. **SCOPE OF SERVICES**

A. The **CONTRACTOR** shall provide a Social Adult Day Care Services and Personal Care Assistance Level II Services (collectively, the "Services") to frail individuals ("Consumers") as authorized by the **COUNTY** or its designated agents. The Consumers served by this Agreement are Oneida County residents who are age sixty (60) years or older who are living independently in the community with emphasis on older individuals who are:

1. residing in rural areas,
2. with greatest economic need (with particular attention to low-income minority individuals);
3. with greatest social need (with particular attention to low-income minority individuals);
4. with severe disabilities; or
5. with Alzheimer's disease or related disorder with neurological and organic brain dysfunction (and the caretakers of such individuals).

C. The **CONTRACTOR** shall provide the Services in Oneida County.

D. The **CONTRACTOR** shall provide the Services in accordance with all state, federal and local laws and regulations that govern such Services.

E. The **CONTRACTOR** agrees that all Consumers shall receive the Services only in accordance with an individualized **written** service plan that is based on the Comprehensive Assessment for Aging Network Community-Based Long Term Care Services (COMPASS), and shall specify the individual Consumer outcomes expected from the provision of the Services; the service plans shall be reevaluated at a minimum annually.

F. As specified in State of New York's regulations, all of the **CONTRACTOR'S** personnel, both paid and volunteer, shall attend all training necessary to perform the Services.

G. The **CONTRACTOR'S** personnel shall keep abreast of new developments in the field of Gerontology and community based services; attendance at relevant local, state, or national training is encouraged.

H. The **CONTRACTOR** and the **COUNTY** shall hold periodic coordinating meetings as needed.

I. The **CONTRACTOR** and the **COUNTY** shall work cooperatively to develop comprehensive Services for Oneida County.

4. **PERFORMANCE OF SERVICES**

A. The **CONTRACTOR** represents that the **CONTRACTOR** is duly licensed (as applicable) and has the qualifications, the specialized skill(s), the experience and the ability to properly perform the Services. The **CONTRACTOR** shall use the **CONTRACTOR'S** best efforts to perform the Services such that the results are satisfactory to the **COUNTY**. The **CONTRACTOR** shall be solely responsible for communications with the Consumer or the Consumer's caregiver in order to determine the method, details and means of performing the Services, except where federal, state or local laws and regulations impose specific requirements on performance of the same.

B. The **CONTRACTOR** may, at the **CONTRACTOR'S** own expense, employ or engage the services of such employees, subcontractors and/or partners as the **CONTRACTOR** deems necessary to perform the Services (collectively, the "Assistants"). The Assistants are not and shall not be deemed employees of the **COUNTY**, and the **COUNTY** shall have no obligation to provide the Assistants with any salary or benefits. The **CONTRACTOR** shall be solely responsible and shall remain liable for the performance of the Services by the Assistants in a manner satisfactory to the **COUNTY**, and in compliance with any and all applicable federal, state or local laws and regulations.

C. The **CONTRACTOR** acknowledges and agrees that the **CONTRACTOR** and its Assistants have no authority to enter into contracts that bind the **COUNTY** or create obligations on the part of the **COUNTY** without the prior written authorization of the **COUNTY**.

5. **REIMBURSEMENT FOR SERVICES**

A. It is agreed and understood by all **PARTIES** that the **COUNTY** shall reimburse the **CONTRACTOR** for the Services that shall be provided in accordance with the terms and conditions of this Agreement, the CSEP, and the Caregiver Support III-E grants.

B. The **COUNTY** shall reimburse the **CONTRACTOR** fifteen dollars (\$15.00) per hour for each Consumer for a maximum amount of seventy-five dollars (\$75.00) per day, which shall include the Services, meals, and transportation. A full day of the Services is defined as five (5) hours, but the **CONTRACTOR** may bill in ½ hour increments at seven dollars fifty



cents (\$7.50) per half hour when the Consumer is attending less than five (5) hours per day.

C. The total reimbursement paid by the **COUNTY** to the **CONTRACTOR** for the performance of the Services described in this Agreement shall not exceed eighty-six thousand five hundred dollars (\$86,500.00).

D. Reimbursement shall be made in twelve (12) monthly installments upon submission of a **COUNTY** voucher as specified in the Oneida County Office for the Aging Voucher Instructions for Units of Service Contracts attached as **APPENDIX C**.

E. The **COUNTY** shall not be liable for any late fees or for any interest on late payments. The obligations of the **PARTIES** hereunder are conditioned upon the continued availability of New York State and **COUNTY** funds for the purposes set forth in this Agreement. Should funds become unavailable or should appropriate New York State and **COUNTY** officials fail to approve sufficient funds for completion of the Services detailed in this Agreement, the **COUNTY** shall have the option to immediately terminate this Agreement upon providing written notice to the **CONTRACTOR** by certified mail. In such an event, the **COUNTY** shall be under no further obligation to the **CONTRACTOR** other than payment for costs actually incurred prior to termination and in no event will the **COUNTY** be responsible for any actual or consequential damages as a result of termination.

F. The **COUNTY** reserves the right to withhold reimbursement under this Agreement due to the **CONTRACTOR'S** failure to properly perform its obligations under this Agreement. The **COUNTY** may withhold payment for including but not limited to:

1. defective Services;
2. third party claims;
3. failure of the **CONTRACTOR** to pay its subcontractors, if any;
4. damage to the **COUNTY**; or
5. failure to carry out the Services in accordance with this Agreement.

G. It is understood and agreed that the **COUNTY** shall not be responsible for any costs incurred by the **CONTRACTOR** prior to the effective date or following the termination date of this Agreement.

6. **NO CLAIM FOR DAMAGE**

The **CONTRACTOR** shall make no claim for damages for delay of reimbursement due to an act or omission by the **COUNTY**.

7. **EXPENSES**

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

8. **TRAINING**

The **CONTRACTOR** shall be fully responsible for any training necessary to maintain any licenses or certifications to perform the Services described herein, and shall be solely responsible for the cost of the same.

9. **NON ASSIGNMENT CLAUSE**

The **CONTRACTOR** shall not assign, transfer, convey, sublet or otherwise dispose of the Agreement or of its right, title, or interest therein, or its power to execute this Agreement, to any other corporation or person without the prior written consent of the **COUNTY**.

10. **SUBCONTRACTS**

A. A subcontractor is a person who has an agreement with the **CONTRACTOR** to perform any of the Services.

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

C. Any agreements between the **CONTRACTOR** and the subcontractors shall be in accordance with the terms of this Agreement and shall include the conditions of this Agreement including all exhibits, attachments, appendices, and addendums, insofar as applicable.

11. **INDEPENDENT CONTRACTOR STATUS**

A. It is expressly agreed that the relationship of the **CONTRACTOR** and its Assistants to the **COUNTY** shall be that of Independent Contractors. The **CONTRACTOR'S** Assistants shall not be considered employees of the **COUNTY** for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement or health insurance benefits. The **CONTRACTOR**, in accordance with its status as an Independent Contractor, covenants and agrees that its Assistants will conduct themselves in

accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the **COUNTY** by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the **COUNTY**.

B. The **CONTRACTOR** warrants and represents that it is in the business of offering the same or similar Services detailed herein and does offer the same or similar Services to other entities and/or the general public as a regular course of business. The **CONTRACTOR** and the **COUNTY** agree that the **CONTRACTOR** is free to undertake other work arrangements during the term of this Agreement, and may continue to make its Services available to the public.

C. The **CONTRACTOR'S** Assistants shall not be eligible for compensation from the **COUNTY** due to

1. illness;
2. absence due to normal vacation;
3. absence due to attendance at school or special training or a professional convention; or meeting.

D. The **CONTRACTOR** shall be solely responsible for applicable taxes for all compensation paid to the **CONTRACTOR** or its Assistants under this Agreement, and for compliance with all applicable labor and employment requirements with respect to the **CONTRACTOR'S** form of business organization, and with respect to the Assistants, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The **COUNTY** shall not be responsible for withholding from the payments provided for Services rendered for state or federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). The **CONTRACTOR** shall provide proof of workers' compensation insurance, where applicable, prior to the execution of this Agreement.

E. The **CONTRACTOR** shall indemnify and hold the **COUNTY** harmless from all loss or liability incurred by the **COUNTY** as a result of the **COUNTY** not making such payments or withholdings.

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

G. The **CONTRACTOR** shall comply with federal and state laws as supplemented in the Department of Labor Regulations and any other regulations of federal and state entities relating to such employment and Civil Rights requirements.

12. **STANDARD ASSURANCES**

A. The **CONTRACTOR** shall comply with statutes, regulations, and policies set by the following: Federal Department of Health and Human Services, AOA, the NYSOFA, and the **COUNTY**, more fully described in **APPENDIX A**.

B. The **CONTRACTOR** shall comply with section 504 of the Rehabilitation Act of 1973 (Nondiscrimination) which states "No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service." (29 U.S.C.A. §794)

C. The **CONTRACTOR** shall comply with the Human Rights Law Article 15 of the Executive Law of New York State (N.Y. Exec. Law §290, et seq.), Article 15A of the Executive Law of New York State regarding participation by minority group members and women with respect to state contracts (N.Y. Exec. Law §310, et seq.), and the Governor's Executive Order 28 which prohibits discrimination based on sexual orientation (9 NYCRR 4.28).

D. The **CONTRACTOR** shall comply with Title VI, the Civil Rights Act of 1964 (42 U.S.C.A. §2000-d, et seq.), and any amendment thereto: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

E. The **CONTRACTOR** agrees that any program, public information materials, or other printed or published materials on the work of or funded by CSEP/III-E will give due recognition to the NYSOFA and the Oneida County Office for the Aging. The statement shall be in font which is one of the following: in italics, or at least two font sizes larger than the rest of the text, or in bold font or underlined (i.e., "***This program is supported by Oneida County Office for the Aging and Continuing Care, New York State Office for the Aging, and the Administration on Aging.***"). The **CONTRACTOR** shall forward copies of all materials to the **COUNTY** at the end of each month.

F. The **COUNTY** shall conduct a program review to ensure that the **CONTRACTOR** is in compliance with all standards and regulations as set forth in this Agreement.

13. **NYSOFA TERMS AND CONDITIONS**

A. The **CONTRACTOR** agrees that all its activities under this Agreement shall conform with all applicable federal, state, and local laws, with federal and state regulations, and Program Standards and Program Instructions of the NYSOFA that apply to such activities, including, but not limited to:

1. Rehabilitation Act of 1973, Sec. 504 Nondiscrimination (29 U.S.C. 794)
2. Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.; see 92-PI-32, [8/4/92])
3. Civil Rights Act of 1964, Title VI, as amended (42 U.S.C. 2000-d et. seq.)
4. Older Americans Act (42 U.S.C. 3001, et seq.)
5. Executive Order 13166 Improving Access to Services for Persons with Limited English Proficiency (65 FR 50121)
6. Federal Executive Order 11246 (30 FR 12319), as Amended by Executive Order 11375 (32 FR 14303, Affirmative Action); as Amended by Executive Order 12086 (43 FR 46501, Consolidation of Compliance Functions); and as Amended by Executive Order 13279 (67 FR 77141, Equal Protection for Faith-Based and Community Organizations.)
7. Article 15 of the Executive Law of the State of New York, Human Rights Law: prohibiting discrimination based on age, race, creed, color, national origin, sexual orientation, military status, sex, marital status, or disability (N.Y. Exec. Law §290, et seq.)
8. Article 15A of the Executive Law of New York State regarding participation by minority group members and women with respect to state contracts (N.Y. Exec. Law §310, et seq.),
9. The NYSOFA'S Equal Access to Services and Targeting Policy Program Instruction (12-PI-08)
10. Elder Law

B. The **CONTRACTOR**, to the extent it has discretion regarding to whom it will provide the Services, shall provide the Services to those unserved and underserved older adults in greatest social or economic need, particularly those who are low-income, low-income minorities, older adults with Limited English Proficiency (LEP), Native Americans, and frail/persons with disabilities and older adults residing in rural areas, in accordance with

their need for such Services, and to meet specific objectives established by the COUNTY for providing the Services to the above groups within Oneida County. The CONTRACTOR shall concentrate the Services on older adults in the targeted populations identified by the COUNTY following the methods the COUNTY has established for complying with the targeting requirements under the Older Americans Act and the Equal Access and Targeting Policy issued by the NYSOFA.

C. The CONTRACTOR shall inform persons with LEP of the availability of language assistance, free of charge, by providing written notice of such assistance in a manner designed to be understandable by LEP persons at service locations and, at a minimum, have a telephonic interpretation service contract or similar community arrangement with a language interpretation service provider of their choice. The CONTRACTOR shall train staff that have contact with the public in the timely and appropriate use of these and other available language services.

D. To the extent that this Agreement with the COUNTY is for a program or service funded under the COUNTY'S Area Plan, the CONTRACTOR agrees that it and any subcontractors shall perform such Services in accordance with the terms of the Area Plan. The COUNTY agrees to make the Area Plan available to the CONTRACTOR.

E. The CONTRACTOR agrees that for programs established and funded in whole or in part pursuant to Title III of the Older Americans Act, the CONTRACTOR shall specify how it intends to satisfy the service needs of low-income minority individuals, older adults with LEP, and older adults residing in rural areas in the area served by it; will to the maximum extent feasible, provide the Services to low-income minority individuals, older individuals with LEP, and older adults residing in rural areas in accordance with their need for such Services; and meet specific objectives established by the COUNTY, for providing the Services to low-income minority individuals, older adults with LEP, and older adults residing in rural areas within the planning and service area.

14. **GRIEVANCE PROCEDURES**

The CONTRACTOR shall implement the Oneida County Office for the Aging Grievance Procedures as required by the NYSOFA. The written procedures are attached in APPENDIX B.

15. **FISCAL REQUIREMENTS/RESPONSIBILITIES**

A. The CONTRACTOR shall keep CSEP/III-E funds separate; further, state and federal funds shall not be used as local share (match).

B. The **CONTRACTOR** shall comply with all voucher and contribution procedures, and submissions of required reports as described in the Oneida County Office for the Aging Voucher Instructions for Units of Service Contracts, attached as **APPENDIX C**.

C. The **COUNTY** shall be responsible for sending donation letters and collecting Consumer contributions for all Consumers who attend **COUNTY** funded Services. Any contributions received by the **CONTRACTOR** for **COUNTY** funded Consumer will be reported and deducted on monthly vouchers by the **CONTRACTOR**.

D. The **CONTRACTOR** shall report to the **COUNTY** any and all additional moneys or program income (contributions, donations) given to the CSEP/III-E supported programs. "Program income means gross income received by the subcontractor directly generated by a **COUNTY** grant supported activity, or earned as a result of the **COUNTY** grant agreement during the grant period." REF: Department of Health & Human Services, Program Instruction AoA-PI-96-01, October 16, 1995.

E. The **CONTRACTOR** shall maintain copies of proper documentation for all program income, including, but not limited to, in-kind support, donations, contributions, reimbursements, and other grants within its program budget.

F. The **COUNTY** shall conduct a periodic audit of revenues and expenditures, as well as the required annual on-site review of the program's fiscal status to ensure expenditures are in proportion to the total program budget.

G. The **CONTRACTOR** shall agree to have an independent audit conducted for the contracted program if it has provided the Services to the **COUNTY** for two (2) years or more. A copy of the audit shall be submitted to the **COUNTY** upon completion of the program/fiscal audit conducted by the outside auditor.

H. The **CONTRACTOR** shall maintain fiscal records for six (6) years and shall make them available for **COUNTY** review upon request.

I. The **CONTRACTOR** shall cooperate with the close-out audit that is required when this Agreement is terminated.

J. The **CONTRACTOR** shall follow close-out procedures administered by the **COUNTY** in accordance with the 45 C.F.R. §75, et seq.

## 16. **INDEMNIFICATION**

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

B. The **CONTRACTOR** shall defend, indemnify, and hold harmless the **COUNTY** from and against all liability, damages, expenses, costs, including, without limitation, attorneys' fees and expenses, causes of action, suits, claims or judgments arising, occurring or resulting from or out of the performance of the Services by the **CONTRACTOR** and its agents, servants, employees or Assistants, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the **CONTRACTOR** or failure on the part of the **CONTRACTOR** to comply with any of the covenants, terms or conditions of this Agreement.

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

17. **INSURANCE COVERAGE REQUIREMENTS**

A. As part of its obligation to indemnify, defend, and hold harmless the **COUNTY**, its officers, agents, employees, as set forth above, the **CONTRACTOR** shall obtain and maintain in full force and effect, for the term of this Agreement, insurance coverage as described below.

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

C. Prior to the start of any Services, the **CONTRACTOR** shall provide certificates of insurance to the **COUNTY**. The certificates shall be on forms approved by the **COUNTY**. Acceptance of the certificates shall not relieve the **CONTRACTOR** of any of the insurance requirements, nor decrease the liability of the **CONTRACTOR**. The **COUNTY** reserves the right to require the **CONTRACTOR** to provide insurance policies for review by the **COUNTY**. The **CONTRACTOR** grants the **COUNTY** a limited power of attorney to



communicate with the **CONTRACTOR'S** insurance provider and/or agent for the express purpose of confirming the coverages required hereunder.

D. Certificates of Insurance: Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of the **CONTRACTOR'S** Commercial General Liability Policy. These certificates and the insurance policies required below shall contain a provision that coverage afforded under the policies will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the **COUNTY**.

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

1. Coverage for the additional insured shall include completed operations,
2. The CGL coverage shall include a General Aggregate Limit and such General Aggregate Limit shall apply separately to each project,
3. The CGL coverage shall be written on ISO Occurrence form CG 00 01 1001 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contracts, products, completed operations, and personal and advertising injury,
4. There shall be no exclusions to contractual liability for Employee Injuries (i.e. Labor Law Exclusions),
5. The **CONTRACTOR** shall maintain CGL coverage for itself and the additional insured for the duration of this Agreement and maintain completed operations coverage for itself and the additional insured for at least three (3) years after completion of the Services.

F. Business Automobile Liability Insurance: The **CONTRACTOR** shall, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of Business Automobile Liability Insurance in an amount equal to or greater than One Million Dollars (\$1,000,000.00) for the term of this Agreement. Business Automobile

Liability coverage must include coverage for liability arising out of all owned, leased, hired, and non-owned automobiles. The **CONTRACTOR** shall have the **COUNTY** added to said insurance policies as a named additional insured, on a primary, non-contributory basis.

G. Excess/Umbrella Liability Insurance: The **CONTRACTOR** shall, at its own expense, at all times during the term of this Agreement, purchase and maintain in force a policy of Excess/Umbrella Liability Insurance in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence and such insurance shall not be less than One Million Dollars (\$1,000,000.00) annual aggregate. The **CONTRACTOR** shall have the **COUNTY** added to said insurance policies as a named additional insured, on a primary, non-contributory basis. Umbrella coverage for such additional insured shall apply as primary and non-contributory before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by or provided to the additional insured.

H. Professional Liability Insurance: The **CONTRACTOR** shall, during the term of this Agreement maintain a professional liability policy and will provide the **COUNTY** with proof of coverage in the amount of One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) annual aggregate.

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

J. The **CONTRACTOR** shall require any subcontractors to procure and maintain insurance coverage of the same type and in the same amounts with the same endorsements required of the **CONTRACTOR** in the above Insurance Coverage Requirement paragraphs.

K. Reimbursement to the **CONTRACTOR** may be suspended in the event that the **CONTRACTOR** or its subcontractors, if any, fail to provide the required insurance documentation in a timely manner.

L. Waiver of Subrogation: The **CONTRACTOR** waives all rights against the **COUNTY** and its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by CGL, Business Automobile Liability, Excess/Umbrella Liability, Professional Liability or Workers' Compensation and Employer's Liability Insurance maintained per requirements stated above.

18. **REPORTING REQUIREMENTS**

A. The **COUNTY** shall, pursuant to the requirements of CSEP/III-E funded programs, comply with the definition of Services, as established by the NYSOFA Program Instruction 96-PI-43 (April 2011).

B. The **CONTRACTOR** shall provide the **COUNTY** with required information needed to meet planning, coordination, evaluation, and reporting requirements as required by the NYSOFA's Consolidated Area Agency Reporting System (CAARS), by the 10<sup>th</sup> of every month. The current and revised CAARS Monthly Report Forms and Monthly Summary Form must be submitted as an attachment to the voucher on a monthly basis.

C. The **CONTRACTOR** shall maintain appropriate Consumer records on each EISEP Consumer who receives Services pursuant to this Agreement; the **COUNTY** shall have access to the Consumer records upon request; the **COUNTY** shall have ownership of all Consumer's records and files.

D. The **CONTRACTOR** shall comply with policies ensuring Consumer confidentiality, as established by the **COUNTY**, when information sharing between agencies is crucial to the Consumer's well-being and is needed to ensure effective service provision; pertinent information shall be shared in accordance with federal and state regulations and statutes.

E. The **CONTRACTOR** shall provide the **COUNTY** with required monthly, periodic, and/or special reports and shall submit all reports to the **COUNTY** by the dates specified.

19. **COORDINATION REQUIREMENTS**

A. The **CONTRACTOR** and the **COUNTY** shall coordinate referrals.

B. The **CONTRACTOR** and the **COUNTY** shall work with older persons, who are not eligible for Services under this Agreement, to obtain needed Services.

C. The **CONTRACTOR** shall coordinate with other appropriate service providers in obtaining and providing referrals for older residents of Oneida County.

20. **AGREEMENT CANCELLATION**

A. This Agreement may be cancelled by the **COUNTY** for failure by the **CONTRACTOR** to comply with the terms and conditions of this Agreement. The **CONTRACTOR** shall agree to incur no new obligations nor submit a claim for any expenses made after the receipt of written notification of termination.

B. The **CONTRACTOR** and the **COUNTY** reserve the right to cancel the Agreement upon thirty (30) day written notice to the other **PARTY**.

C. The **CONTRACTOR** agrees that in the event of termination, said **PARTY** shall make a full and final accounting of all funds received and monies expended under the Agreement within thirty (30) days after the date of termination. Any unexpended funds shall be the property of the **COUNTY**.

D. The **CONTRACTOR** shall coordinate with the **COUNTY** and other providers to ensure that any break in Service to Consumers shall not be detrimental to the Consumers' health or well-being. If available and appropriate, other services shall be substituted and/or coordinated on the Consumers' behalf.

21. **ENTIRE AGREEMENT**

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

B. Oral statements and understandings are not valid or binding, and this Agreement shall not be changed or modified except by a writing signed by all **PARTIES**.

C. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall be deemed the same instrument.

22. **INCORPORATION BY REFERENCE**

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

23. **STANDARD ADDENDUM**

The **CONTRACTOR** shall comply with the Standard Oneida County Conditions Addendum which is attached hereto and made a part hereof as **APPENDIX D**.

24. **CHOICE OF LAW/FORUM**

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

B. This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

25. **SUCCESSORS AND ASSIGNS**

This Agreement shall be binding on and inure to the benefit of the **PARTIES** hereto and their respective heirs, legal or personal representation, successors and assigns.

26. **NON WAIVER**

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

27. **SEVERABILITY**

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

28. **AUTHORITY TO ACT/SIGN**

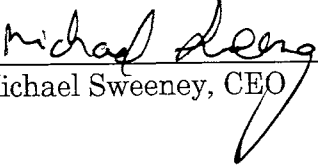
The **CONTRACTOR** hereby represents and certifies that it has the power and authority to execute and deliver this Agreement and to carry out its obligations hereunder. The execution and delivery by the **CONTRACTOR** of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by the **CONTRACTOR**; no other action on the part of the **CONTRACTOR** or any other person or entity, whether pursuant to its Articles of Incorporation, Articles of Operation, Operating Agreement or Bylaws, as the case may be, or by law or otherwise, are necessary to authorize the **CONTRACTOR** to enter into this Agreement, or to consummate the transactions contemplated herein.

29. **ADVICE OF COUNSEL**

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

**IN WITNESS THEREOF**, the **PARTIES** have here unto set their hand on the date respectively stated.

THE LUTHERAN HOME OF CENTRAL NEW YORK, INC.

  
\_\_\_\_\_  
Michael Sweeney, CEO

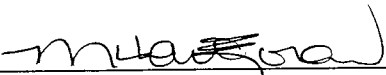
11/27/19  
\_\_\_\_\_  
Date

COUNTY OF ONEIDA

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

\_\_\_\_\_  
Date

OFFICE FOR THE AGING AND CONTINUING CARE

  
\_\_\_\_\_  
Michael J. Romano, Director

12/12/19  
\_\_\_\_\_  
Date

Approved:

By: \_\_\_\_\_  
Maryangela Scalzo, Assistant County Attorney

\_\_\_\_\_  
Date

## APPENDIX A

- 1) The Older Americans Act (OAA) of 1965, as amended (42 U.S.C.A. § 3001 et. seq.)
- 2) 2 CFR part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards)
- 3) 2 CFR Part 230 (Cost Principles for Non-Profit Organizations)
- 4) 2 CFR Part 376 (Nonprocurement Debarment and Suspension)
- 5) 20 CFR Part 614 (Provisions Governing the Senior Community Service Employment Program)
- 6) 29 CFR Part 37 (Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998)
- 7) 45 CFR Part 75 (Uniform Administration Requirements, Cost Principles, and Audit requirements for HHS Awards)
- 8) 45 CFR Part 80 (Nondiscrimination under programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964)
- 9) 45 CFR Part 84 (Nondiscrimination on the basis of Handicap)
- 10) 45 CFR Part 92 (Uniform Administrative Requirements for Grant and Cooperative Agreements to State and Local Governments)
- 11) 45 CFR Part 93 (New Restrictions on Lobbying)
- 12) 45 CFR Part 1321, Subparts A-D (Grants to State and Community Programs on Aging)
- 13) 45 CFR Part 1321.61 (b)(4) (Support of State Title VII Activities)
- 14) Age Discrimination in Employment Act of 1975, as amended (29 USC §621, et seq.)
- 15) Americans with Disabilities Act of 1990 (42 U.S.C.A. §12101, et seq.)
- 16) Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (42 U.S.C.A. §2000e, et. seq.)
- 17) Equal Pay Act of 1963, as amended (29 U.S.C.A. §206)
- 18) Hatch Act (5 U.S.C.A. §1501, et seq.)
- 19) Low Income Energy Assistance (42 U.S.C.A. § 8621, et seq.)
- 20) Rehabilitation Act of 1973, Sec. 504 (29 U.S.C.A. §794) (Nondiscrimination)
- 21) Single Audit Act of 1984 (31 U.S.C.A. §7501, et. seq.)
- 22) USDA Nutrition Programs for the Elderly (7 C.F.R. § 226, et seq.) and (7 C.F.R. §235, et seq.)
- 23) Office of Management and Budget (OMB):

- a. OMB Circular A-87 (Cost Principles for State, Local and Indian Tribal Governments)
  - b. OMB Circular A-95 (Clearinghouse Review)
  - c. OMB Circular A-102 (Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments)
  - d. OMB Circular A-110 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-profit Organizations)
  - e. OMB Circular A-122 (Cost Principles for Non-profit Organizations)
  - f. OMB Circular A-128 (Audits of State and Local Governments)
  - g. OMB Circular A-133 (Audits of States, Local Governments and Non-Profit Organizations)
- 24) 30 FR 12319- Federal Executive Order 11246, as Amended by 32 FR 14303- Federal Executive Order 11375 (Affirmative Action); as Amended by 43 FR 46501- Federal Executive Order 12086 (Consolidation of Compliance Functions); and as Amended by 67 FR 77141- Federal Executive Order 13279 (Equal Protection for Faith-Based and Community Organizations)
  - 25) New York State Office for the Aging Rules and Regulations (9 NYCRR Parts 6651, 6652, 6653, 654, 6655, and 6656)
  - 26) Executive Law of New York State, Article 15- State Human Rights Law (N.Y. Exec. Law §290, et seq.)
  - 27) Executive Law of New York State, Article 15-a Minority/Women's Business contract Requirements (N.Y. Exec. Law §310, et seq.)
  - 28) Executive Law of New York State, Article 7-a Solicitation and Collection of Funds for Charitable Purposes (N.Y. Exec. Law § 171-a, et seq.)
  - 29) Expanded In-home Services for the Elderly (EISEP) Program Standards (87-PI-66 [10/21/87])
  - 30) NYS Office for the Aging's 1990 Nutrition Program Standards (90-PI-26 [5/17/90])
  - 31) Legal Assistance Standards (94-PI-52 [12/29/94])
  - 32) Weatherization Referral and Packaging Program (WRAP) Handbook
  - 33) Governor's 1960 Code of Fair Practices (9 CRR-NY 1.4)
  - 34) Governor's Executive Order 6 (Affirmative Action Efforts) (9 NYCRR 4.6)
  - 35) Governor's Executive Order 19 (Prevention of Sexual Harassment) (9 NYCRR 4.19)
  - 36) Governor's Executive Order 28 (Prohibiting discrimination based on Sexual Orientation) (9 NYCRR 4.28)



## APPENDIX B

### Oneida County Office for the Aging Grievance Procedures

In accordance with the Older Americans Act (OAA), as amended, the Oneida County Office for the Aging has established the following process for resolving complaints from participants who are dissatisfied with or persons denied services funded under the Act.

#### Right to File a Grievance

The Office for the Aging and all contracting provider agencies who receive OAA funds shall notify program participants of their right to file a grievance with the provider agency and/or with Oneida County Office for the Aging. Upon request, the Office for the Aging will provide assistance with filing a grievance.

#### Denial of Service or Client's Dissatisfaction of Service

A participant or applicant who is denied OAA services must be given the reasons for the denial. Services may be denied because of funding restrictions, ineligibility, hours or locations have changed, reassessment determined services no longer needed, or client is disruptive to the program. For OAA services for which a written application is made, the denial shall be confirmed in writing and the applicant informed of the right to file a grievance and to whom the grievance shall be made. For OAA services for which verbal application is made by telephone or in person, the person may be denied verbally and verbally informed of the right to file a grievance and to whom.

#### Grievance Process

##### Filing a Grievance

- Individual must submit their grievance in writing to the Director of the Office for the Aging who will forward the Letter to the designated person of the provider agency to conduct the initial review.
- **The grievance must be filed within thirty (30) calendar days of denial, reduction or termination of services, or of the event or circumstances with which the person is dissatisfied.** The Office for the Aging or the provider agency may grant an extension for good cause shown.
- The Letter of Grievance should include a written statement setting forth in detail the date, time and circumstances that are the basis for the complaint.

##### Investigation and Response to a Grievance

- The designated reviewer will investigate the complaint. The reviewer will determine whether the action was in accordance to applicable Older Americans Act and State laws and regulation and are supported by facts.
- The reviewer will prepare and send written response to the grievant and to the Office for the Aging Director within fifteen (15) working days after the grievance is filed. The response will set forth the circumstances relating to the grievance, the action requested by the grievant, the findings of the reviewer, a proposed remedial action and, if any, the reason(s) for and facts relied on in the determination.

##### Appeal of Initial Response/Decision

If the grievant is not satisfied with the determination, s(he) has the right to further review as follows:

- S(he) may initiate a request for subsequent review by the Office for the Aging Director within ten (10) calendar days following receipt of notification from the provider agency of its decision.
- The Office for the Aging Director will request, and the provider agency shall provide, copies of the initial file on the complaint in question. The Office for the Aging Director will review the materials to ensure that pertinent policies and procedures have been applied and followed.
- If the policies and procedures have been adhered to, the Office for the Aging Director will not overturn the decision of its contracting provider agency. If the proper policies and procedures have not been applied, the director reserves the right to overturn the decision.
- A written notification of the results will be made to the grievant within twenty (20) working days of receipt of the appeal request.

##### Record Keeping

The provider agency will keep a file, for six years, of all relevant documents and records of a grievance. The file shall include at a minimum: the initial grievance; any investigative reports; any and all written responses; any documents or other records submitted by any party; and, if applicable, the notice to the grievant of the right to appeal.

##### Confidentiality

No information, documents or other records relating to a grievance shall be disclosed by program staff or volunteers in a form that identifies the grievant without the written informed consent of the grievant, unless the disclosure is required by court order or for program monitoring by authorized agencies.

## APPENDIX C

### Oneida County Office for the Aging **Voucher Instructions for Units of Service Contracts**

Complete the Oneida County voucher (3-part white, yellow, and pink form) as follows:

1. **Department:** Office for the Aging and Continuing Care
2. **Claimants Name and Address:** Contractor name and address (checks will be payable to the name given and sent to the address listed).
3. **Date:** List month this claim covers.
4. **Vendor's Invoice Number:** leave blank
5. **Quantity/Description of Material or Service/Unit Price/Amount:**
  - ✓ State the number of units of service and the description of services performed during the month.
  - ✓ List the Unit Price as stated in the Contract Budget.
  - ✓ Place the amount (Units X Unit Price) in the Amount column.
  - ✓ Place the amount to be reimbursed in the Total block.
  - ✓ Specify program funds (III-E, EISEP, CSE, III-B etc.) in the space after the Contract Number.
6. **Claimant's Certification:**

Fill out completely, Note that Oneida County will not pay a voucher without an original signature, Federal ID Number or Social Security Number.
7. **Voucher Backup**
  - ✓ Attach CAARS monthly report.
  - ✓ Master list of clients billed for on voucher (with individual total monthly amount billed).
  - ✓ Attach appropriate backup:
    - Payroll certification sheets and time sheets signed by Agency employee.
    - Legal Assistance Program – case numbers, DOB, Legal Assistance Referral, Type of Service, Fax Date and Unit of Services.
    - Housekeeper/Chore (PCA Level I) or Homemaker/personal care (PCA Level II), Housekeeper/chore (Level I) – Contract EISEP voucher backup. Copies of PCA daily logs including date and times of service and all must be signed by client.
    - Adult Day Care – OFFICE approved sign-in log sheet with dates and times of service and all must be signed by client.
    - Emergency Response Systems – (Original Invoice)

Have all accounting records, receipts and supporting documentation readily available for review by the County, State and/or Federal personnel authorized to examine and/or audit program accounts. Ref: US Code of Federal Regulations 45-74 amended in 1980. Check numbers, dates paid and amounts paid must be written on each receipt.
8. **Timely Submissions:**
  - ✓ Submit monthly vouchers by the 10<sup>th</sup> day of the month following the reporting month.
  - ✓ Checks are issued by Oneida County Audit and Control only on Fridays - approximately 30 days after submission.
  - ✓ If all documentation is not included, the voucher will be returned unpaid with a request for proper backup and documentation.

**9. Changes To The Budget** (including personnel):

- ✓ Submit a Budget Revision and a justification for the change.

**10. Technical Assistance:**

- ✓ If you have fiscal questions regarding your program or require technical assistance, please contact the OFA-OCC Fiscal Unit directly at 315-798-5456.

Susie Perritano, Accounting Supervisor

## APPENDIX D

### STANDARD ONEIDA COUNTY CONDITIONS ADDENDUM

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

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

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

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

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

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

- ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
  - i. The Contractor will or will continue to provide a drug-free workplace by:
    - A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
    - B. Establishing an ongoing drug-free awareness program to inform employees about:
      - 1) The dangers of drug abuse in the workplace;
      - 2) The Contractor's policy of maintaining a drug-free workplace;
      - 3) Any available drug counseling, rehabilitation, and employee assistance program; and
      - 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
    - C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;
    - D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:
      - 1) Abide by the terms of the statement; and
      - 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
    - E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:

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

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

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

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

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

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

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

\_\_\_\_\_  
\_\_\_\_\_

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

i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

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



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

When applicable to the services provided pursuant to the Contract:

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

- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
- ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

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

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

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

## 5. NON-ASSIGNMENT CLAUSE.

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

assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKER'S COMPENSATION BENEFITS.

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

7. NON-DISCRIMINATION REQUIREMENTS.

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

8. WAGE AND HOURS PROVISIONS.

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

9. NON-COLLUSIVE BIDDING CERTIFICATION.

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

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

10. RECORDS.

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

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing

tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

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

13. GOVERNING LAW.

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

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

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

16. GRATUITIES AND KICKBACKS.

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

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

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

## 17. AUDIT

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

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

## 18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

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

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

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

take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

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

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

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

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

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

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







## ONEIDA COUNTY BOARD OF LEGISLATORS

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*Gerald J. Fiorini, Chairman ♦ 800 Park Avenue ♦ Utica, New York 13501*  
*Work Phone: 798-5900 ♦ Home Phone: 337-9045*

January 6, 2020

Board of Legislators  
County of Oneida  
800 Park Avenue  
Utica, NY 13501

FN 20 20-045

Honorable Members:

I hereby appoint Mary Pratt to the position of Vice-Chair to the Board of Legislators.

This appointment is effective January 1, 2020 and will expire December 31, 2021.

Respectfully submitted,

GERALD J. FIORINI  
CHAIRMAN OF THE BOARD



# ONEIDA COUNTY BOARD OF LEGISLATORS

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*Gerald J. Fiorini, Chairman ♦ 800 Park Avenue ♦ Utica, New York 13501  
Work Phone: 798-5900 ♦ Home Phone: 337-9045*

January 6, 2020

FN 20 20-046

Board of Legislators  
County of Oneida  
800 Park Avenue  
Utica, NY 13501

Honorable Members:

I hereby appoint Jennifer Scoones to the position of Secretary to the Board of Legislators.

This appointment is effective January 1, 2020 and will expire December 31, 2021.

Respectfully submitted,

GERALD J. FIORINI  
CHAIRMAN OF THE BOARD

CC: Audit & Control  
Personnel



## ONEIDA COUNTY BOARD OF LEGISLATORS

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*Gerald J. Fiorini, Chairman ♦ 800 Park Avenue ♦ Utica, New York 13501*  
*Work Phone: 798-5900 ♦ Home Phone: 337-9045*

January 6, 2020

FN 20 20 - 026

Board of Legislators  
800 Park Ave.  
Utica, NY 13501

Honorable Members:

I am writing in regards to "LOCAL LAW INTRODUCTORY "A" OF 2020 AMENDING THE HOTEL MOTEL OCCUPANCY TAX."

To ensure that this law takes effect prior to the end of the year, I am attaching a message of necessity to this Local Law pending passage by Ways and Means, and I am requesting that the waiting period be waived for passage by this Board at the January 8, 2020 board meeting.

Thank you in advance.

Sincerely,

Gerald J. Fiorini  
Chairman of the Board

Anthony J. Picente Jr.  
County Executive



John P. Talerico  
Commissioner

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

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

January 7, 2020

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

FN 20 20-047

GOVERNMENT OPERATIONS

WAYS & MEANS

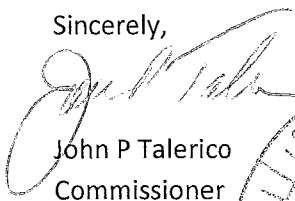
Dear County Executive Picente:

In October 2018 Oneida County revised our Sexual Harassment Prevention Policy incorporating the changes made to New York State Law regarding sexual harassment. At that time we had standalone policies for Sexual Harassment Prevention and Discrimination and Harassment Prevention. I am now recommending we consolidate both policies into a single Discrimination and Harassment Prevention Policy. This will standardize the reporting procedure for any claim of discrimination or harassment. There are no other substantive changes. The consolidated Discrimination and Harassment Prevention Policy is attached for your review.

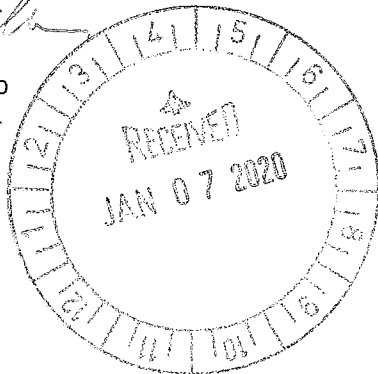
The second policy attached for your review is the Americans with Disabilities Act (ADA) policy. Under the ADA employers are required to provide reasonable accommodations for qualified individuals with disabilities that would allow those individuals to enjoy equal employment opportunities. The change to this policy formalizes the interactive process the employer and employee should engage in to determine what if any reasonable accommodation is available.

If you concur with these changes please request the Board of Legislators to adopt the revised policies and amend the personnel rules accordingly.

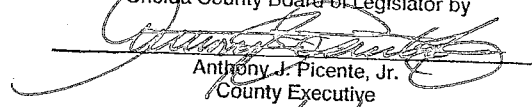
Sincerely,

  
John P Talerico  
Commissioner

CC: P Rayhill



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

  
Anthony J. Picente, Jr.  
County Executive

Date 1/7/20

# **ONEIDA COUNTY HARASSMENT AND DISCRIMINATION PREVENTION POLICY**

## **A. Objective**

1. Oneida County strives to create and maintain a work environment in which people are treated with dignity, decency and respect. The environment of Oneida County should be characterized by mutual trust and the absence of intimidation, oppression and exploitation. Oneida County will not tolerate unlawful discrimination or harassment of any kind. Through enforcement of this Policy and by education of employees, Oneida County will seek to prevent, correct and discipline behavior that violates this policy.
2. Oneida County is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of Oneida County's commitment to a discrimination-free work environment.
3. Harassment and discrimination are against the law. All employees have a legal right to a workplace free from harassment and discrimination, and employees can enforce this right by filing a complaint internally with Oneida County, with a government agency, or in court under federal, state or local antidiscrimination laws.
4. All employees, regardless of their positions, are covered by and are expected to comply with this Policy and to take appropriate measures to ensure that prohibited conduct does not occur. Appropriate disciplinary action will be taken against any employee who violates this Policy. Based on the seriousness of the offense, disciplinary action may include verbal or written reprimand, suspension, or termination of employment.
5. Managers and supervisors who knowingly allow or tolerate discrimination, harassment or retaliation, including the failure to immediately report such misconduct to the Commissioner of Personnel, are in violation of this Policy and subject to discipline.

## **B. Policy**

1. This Policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors, subcontractors, vendors, consultants, anyone providing services in the workplace, and persons conducting business with Oneida County. In the remainder of this Policy, the term "Employees" refers to this collective group.
2. Harassment
  - a. Oneida County prohibits harassment of any kind, and will take appropriate and immediate action in response to complaints or knowledge of violations of this Policy. For purposes of this Policy, harassment is any unwelcome or unwanted verbal or physical conduct designed to threaten, intimidate or coerce an Employee.

- b. The following examples of harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this Policy:
  - i. Verbal harassment includes comments that are offensive or unwelcome regarding a person's national origin, race, color, religion, gender, sexual orientation, age, body, disability or appearance, including epithets, slurs and negative stereotyping.
  - ii. Nonverbal harassment includes distribution, display or discussion of any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility, aversion or disrespect toward an individual or group because of national origin, race, color, religion, age, gender, sexual orientation, pregnancy, appearance, disability, sexual identity, marital status or other protected status.
- c. Sexual harassment will not be tolerated. Any Employee covered by this Policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action, up to and including termination.
  - i. What Is "Sexual Harassment?"
    1. Sexual harassment is a form of sex discrimination and is unlawful under federal, state and, where applicable, local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.
    2. Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:
      - a. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
      - b. Such conduct is made either explicitly or implicitly a term or condition of employment; or
      - c. Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.
    3. A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence

which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

4. Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

5. Any Employee who feels harassed should file a complaint so that any violation of this Policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this Policy.

ii. Examples of Sexual Harassment

1. The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

a. Physical assaults of a sexual nature, such as:

i. Touching, pinching, patting, kissing, hugging, grabbing, brushing against another Employee's body or poking another Employee's body;

ii. Rape, sexual battery, molestation or attempts to commit these assaults.

b. Unwanted sexual advances or propositions, such as:

i. Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;

ii. Subtle or obvious pressure for unwelcome sexual activities.

c. Sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience, which create a hostile work environment.

d. Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to

other people's idea or perceptions about how individuals of a particular sex should act or look.

e. Sexual or discriminatory displays or publications anywhere in the workplace, such as:

i. Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.

f. Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:

i. Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;

ii. Sabotaging an individual's work;

iii. Bullying, yelling, name-calling.

iii. Who can be a Target of Sexual Harassment?

1. Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects Employees. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including a Employee, client, customer or visitor.

iv. Where can Sexual Harassment Occur?

1. Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while Employees are traveling for business or at employer sponsored events or parties.

2. Calls, texts, emails, and social media usage by Employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

### 3. Discrimination

a. It is a violation of this Policy to discriminate in the provision of employment opportunities, benefits or privileges; to create discriminatory work conditions; or to use discriminatory evaluative standards in employment if the basis of that



discriminatory treatment is, in whole or in part, the person's actual or perceived race, color, national origin, age, religion, disability status, gender, sexual orientation, gender identity, genetic information or marital status.

- b. Discrimination of this kind may also be strictly prohibited by a variety of federal, state and local laws, including Title VII of the Civil Rights Act 1964, the Age Discrimination Act of 1975 and the Americans with Disabilities Act of 1990. This Policy is intended to comply with the prohibitions stated in these anti-discrimination laws.
- c. Any Employee who engages in discrimination in violation of this Policy will be subject to disciplinary measures up to and including termination.

4. **Hostile Work Environment.** A hostile work environment results from harassing conduct that has the purpose or effect of unreasonably interfering with an Employee's work performance, or creates an intimidating, hostile, offensive or objectionable working environment.

5. **Retaliation Prohibition:** No person covered by this Policy shall be subject to adverse employment action because the Employee reports an incident of harassment or discrimination, provides information, or otherwise assists in any investigation of a harassment or discrimination complaint. Oneida County will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected harassment or discrimination. However, filing groundless or malicious complaints is an abuse of this Policy and will be treated as a violation. Any Employee of Oneida County who retaliates against anyone involved in a harassment or discrimination investigation will be subjected to disciplinary action, up to and including termination. All Employees who believe they have been subject to such retaliation should inform a department head, supervisor, manager, or the Commissioner of Personnel. All Employees who believe they have been a target of such retaliation may also seek compensation in other available forums, as explained below in section K, "Legal Protections and External Remedies."

6. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject Oneida County to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including department heads, managers and supervisors who engage in sexual harassment or who knowingly allow such behavior to continue, will be subject to discipline up to and including termination of employment.

7. Oneida County will conduct a prompt and thorough investigation that ensures due process for all parties, whenever the Commissioner of Personnel, a department head, manager or supervisor receives a complaint about harassment or discrimination, or otherwise knows of possible harassment or discrimination occurring. Oneida County will keep the investigation confidential to the extent possible, and information is disclosed strictly on a need-to-know basis. The identity of the complainant is usually revealed to the parties involved during the investigation, and the Commissioner of Personnel and/or his/her designee will take adequate steps to ensure that the complainant is protected from retaliation during and after the investigation. All information

pertaining to a complaint or investigation under this Policy will be maintained in secure files within the Personnel Department. Effective corrective action will be taken whenever harassment or discrimination is found to have occurred. Such corrective action may include discipline, up to and including termination. All Employees, including department heads, managers and supervisors are required to cooperate with any internal investigation of harassment or discrimination.

8. All Employees are encouraged to report any harassment, discrimination or behaviors that violate this Policy. Oneida County will provide all Employees a Complaint Form for Employees to report harassment and discrimination. A copy of said Complaint Form is attached hereto as **Exhibit A**.

9. Department heads, managers and supervisors are **required** to report any complaint that they receive, or any harassment or discrimination that they observe or become aware of to the Commissioner of Personnel.

10. This Policy applies to all Employees and Non-Employees and all must follow and uphold this Policy. This Policy must be provided to all Employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to all Employees upon hiring.

### **C. Retaliation**

1. Unlawful retaliation can be any action that could discourage an Employee from coming forward to make or support a harassment or discrimination claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

2. Such retaliation is unlawful under federal, state and, where applicable, local law. The New York State Human Rights Law ("HRL") protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

- a. made a complaint of harassment or discrimination, either internally or with any anti-discrimination agency;
- b. testified or assisted in a proceeding involving harassment or discrimination under the HRL or other anti-discrimination law;
- c. opposed harassment or discrimination by making a verbal or informal complaint to management, or by simply informing a department head, supervisor or manager of harassment or discrimination;
- d. reported that another Employee has been harassed or discriminated against; or
- e. encouraged a fellow Employee to report harassment or discrimination.

3. Even if the alleged harassment or discrimination does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, this retaliation provision is not intended to protect persons making intentionally false charges of harassment.

#### **D. Reporting Harassment and Discrimination**

1. **Preventing harassment and discrimination is everyone's responsibility.** Oneida County cannot prevent or remedy harassment or discrimination unless it knows about it. Any Employee who has been subjected to behavior that may constitute harassment or discrimination is encouraged to report such behavior to a department head, supervisor, manager or the Commissioner of Personnel. Anyone who witnesses or becomes aware of potential instances of harassment or discrimination should report such behavior to a department head, supervisor, manager or the Commissioner of Personnel.

2. Reports of harassment or discrimination may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all Employees are encouraged to use this Complaint Form. Employees who are reporting harassment or discrimination on behalf of other Employees should use the Complaint Form and note that it is on another Employee's behalf.

3. Employees who believe they have been a target of harassment or discrimination may also seek assistance in other available forums, as explained below in section K, "Legal Protections and External Remedies."

#### **E. Supervisory Responsibilities**

1. All department heads, supervisors and managers who receive a complaint or information about suspected harassment or discrimination, observe what may be harassing or discriminatory behavior or for any reason suspect that harassment or discrimination is occurring, **are required** to report such suspected harassment or discrimination to the Commissioner of Personnel.

2. In addition to being subject to discipline if they engaged in harassing or discriminatory conduct themselves, department heads, supervisors and managers will be subject to discipline, up to and including termination, for failing to report suspected harassment or discrimination, or otherwise knowingly allowing harassment or discrimination to continue.

3. Department heads, supervisors and managers will also be subject to discipline, up to and including termination, for engaging in any retaliation.

#### **F. Complaint and Investigation of Sexual Harassment**

1. All complaints or information about suspected harassment or discrimination will be investigated, whether that information was reported in verbal or written form, by the Commissioner of Personnel, or his/her designee.

2. In the event that the complaint of suspected harassment or discrimination is against the Commissioner of Personnel, such complaints shall be made to the County Attorney and will be investigated by the County Attorney, or his/her designee.

3. An investigation of any complaint, information or knowledge of suspected harassment or discrimination will be prompt and thorough, commenced immediately and completed as soon as possible.

4. The investigation will be kept confidential to the extent possible.

5. All persons involved, including complainants, witnesses and alleged harassers will be afforded due process, as outlined below, to protect their rights to a fair and impartial investigation.

6. Any Employee may be required to cooperate as needed in an investigation of suspected harassment or discrimination. Oneida County will not tolerate retaliation against Employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this Policy.

7. While the process may vary from case to case, investigations should be done in accordance with the following steps:

a. Upon receipt of complaint, the Commissioner of Personnel or his/her designee will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If the complaint is oral, the individual will be encouraged to complete the Complaint Form in writing. If he or she refuses, the Commissioner of Personnel or his/her designee shall prepare a Complaint Form based on the oral reporting.

b. If documents, emails or phone records are relevant to the allegations, take steps to obtain and preserve them.

c. Request and review all relevant documents, including all electronic communications.

d. Interview all parties involved, including any relevant witnesses.

e. Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:

i. A list of all documents reviewed, along with a detailed summary of relevant documents;

ii. A list of names of those interviewed, along with a detailed summary of their statements;

iii. A timeline of events;

- iv. A summary of prior relevant incidents, reported or unreported; and
  - v. The basis for the decision and final resolution of the complaint, together with any corrective actions action(s).
- f. Keep the written documentation and associated documents in a secure and confidential location.
- g. Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective action(s) identified in the written document.
- h. Inform the individual who reported of their right to file a complaint or charge externally as outlined in section H, "Legal Protections and External Remedies."

### **G. Responsive Action**

1. The Commissioner of Personnel and the appropriate department head(s) will review the results of the investigation, including other management staff as appropriate, and decide what action, if any, will be taken.
2. Once a final decision is made, the appropriate department head(s) will meet with the complainant and the respondent separately and notify them of the findings of the investigation. If disciplinary action is to be taken, the respondent will be informed of the nature of the discipline and how it will be executed.
3. If the investigation is inconclusive or if it is determined that there has been no violation of this Policy but potentially problematic conduct may have occurred, the Commissioner of Personnel or his/her designee may recommend appropriate preventive action.

### **H. Legal Protections and External Remedies**

1. Harassment and discrimination are not only prohibited by Oneida County, but are also prohibited by federal, state and, where applicable, local law. Aside from the internal process at Oneida County, Employees may also choose to pursue legal remedies with the following governmental agencies. While a private attorney is not required to file a complaint with a governmental agency, an individual may seek the legal advice of an attorney of his/her choosing. In addition to those outlined below, Employees in certain industries may have additional legal protections.

#### **a. HRL**

- i. The HRL, codified as N.Y. Executive Law, art. 15, § 290 et seq.

ii. A complaint alleging violation of the HRL may be filed either with New York State Division of Human Rights (“DHR”) or in New York State Supreme Court.

iii. Complaints with DHR may be filed any time **within one (1) year** of the harassment or discrimination. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three (3) years** of the alleged harassment or discrimination. An individual may not file with DHR if they have already filed a HRL complaint in state court.

iv. Complaining internally to Oneida County does not extend the time to file with DHR or in court. The one (1) year or three (3) years is counted from date of the most recent incident of harassment or discrimination.

v. An individual does not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

vi. DHR will investigate the complaint and determine whether there is probable cause to believe that harassment or discrimination has occurred. Cases where probable cause is found are forwarded to a public hearing before an administrative law judge. If harassment or discrimination is found after a hearing, DHR has the power to award relief, which varies but may include requiring the employer to take action to stop the harassment or discrimination, or redress the damage caused, including paying monetary damages, attorney’s fees and civil fines.

vii. DHR’s main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718) 741-8400 or visit [www.dhr.ny.gov](http://www.dhr.ny.gov)

viii. Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR’s regional offices across New York State.

#### **b. Civil Rights Act of 1964**

i. The United States Equal Employment Opportunity Commission (“EEOC”) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment or discrimination. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that harassment or discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

ii. The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if harassment or discrimination is found to have occurred. In general, private employers must have at least 15 Employees to come within the jurisdiction of the EEOC.

iii. An Employee alleging discrimination at work can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov)

iv. If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

**c. Local Protections**

i. Many localities enforce laws protecting individuals from harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.

**d. Contact the Local Police Department**

i. If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

Adopted: 10/09/2018  
Revised: 01/07/2020

# **Exhibit A**



**ONEIDA COUNTY HARASSMENT  
AND DISCRIMINATION COMPLAINT FORM**

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form for employees to report alleged incidents of sexual harassment.

If you believe that you have been subjected to harassment or discrimination, you are encouraged to complete this Complaint Form and submit it to the Commissioner of Personnel, 800 Park Avenue, Utica, New York 13501. If your complaint is against the Commissioner of Personnel, submit this Complaint Form to the County Attorney.

You will not be retaliated against for filing a complaint.

If you are more comfortable reporting verbally or in another manner, Oneida County should complete this Complaint Form, provide you with a copy and follow its Harassment and Discrimination Prevention Policy by investigating the claims as outlined on this Complaint Form.

**For additional resources, visit: [ny.gov/programs/combating-sexual-harassment-workplace](http://ny.gov/programs/combating-sexual-harassment-workplace)**

**COMPLAINANT INFORMATION**

Name: \_\_\_\_\_ Job Title: \_\_\_\_\_  
Work Address: \_\_\_\_\_ Work Phone: \_\_\_\_\_  
\_\_\_\_\_ Email: \_\_\_\_\_

Select Preferred Communication Method: (please select one)

Work Address     Work Phone     Email     In Person

**SUPERVISORY INFORMATION**

Immediate Supervisor's Name: \_\_\_\_\_  
Immediate Supervisor's Title: \_\_\_\_\_  
Work Address: \_\_\_\_\_ Work Phone: \_\_\_\_\_  
\_\_\_\_\_ Email: \_\_\_\_\_

**COMPLAINT INFORMATION**

1. Your complaint of harassment or discrimination is made against:

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

Work Address: \_\_\_\_\_ Work Phone: \_\_\_\_\_

\_\_\_\_\_ Email: \_\_\_\_\_

Relationship to you: (please select one)

Supervisor       Subordinate       Co-Worker       Other \_\_\_\_\_

2. Please describe what happened and how it is affecting you and your work. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

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3. Date(s) harassment/discrimination occurred: \_\_\_\_\_

Is the harassment/discrimination continuing? (please select one)     Yes       No

4. Please list the name and contact information of any witnesses or individuals that may have information related to your complaint:

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*The following question is optional, but may help the investigation.*

5. Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information?

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If you have retained legal counsel and would like us to work with them, please provide his/her contact information. \_\_\_\_\_

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

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

### **Instructions for Employers**

If you receive a complaint about alleged harassment or discrimination, you must follow the Harassment and Discrimination Prevention Policy by investigating the allegations. An investigation involves:

- Speaking with the employee;
- Speaking with the alleged harasser;
- Interviewing witnesses
- Collecting and reviewing any related documents

While the process may vary from case to case, all allegations should be investigated promptly and resolved as quickly as possible. The investigation should be kept confidential to the extent possible.

Document the findings of the investigation and basis for your decision, along with any corrective action(s) taken, and notify the complainant and the individual(s) against whom the complaint was made. This may be done via email.

**ONEIDA COUNTY AMERICANS WITH DISABILITIES ACT**  
**REASONABLE ACCOMMODATION POLICY**

**I. Introduction**

Oneida County affirms its' commitment to employ qualified individuals with disabilities within the workplace and to comply with the Americans with Disability Act of 1990 ("ADA").

**II. Policy Statement**

- A. Oneida County is committed to diversity and nondiscrimination, and supports the employment of qualified individuals with disabilities in the workplace. Oneida County will comply with all federal and state laws and regulations, including the ADA, Section 504 of the Rehabilitation Act of 1973.
- B. Consistent with ADA, Oneida County reaffirms bases all of its employment decisions on an employee's qualifications to perform the essential functions of the job. The essential functions of a job are identified in the job description, department policy and department procedure.
- C. The Commissioner of Personnel is responsible for implementing this policy, including the resolution of accommodation, safety/direct threat and undue hardship issues.
- D. Department Heads, managers and supervisors must immediately report any request for accommodation to the Commissioner of Personnel, whether or not the requesting individual identifies the request as a request for a "reasonable accommodation."

**III. Requests for Accommodations**

- A. Applicants or employees who desire reasonable accommodations may
  - 1. Apply for a position; or
  - 2. Request an opportunity to demonstrate their qualifications to perform the essential functions of a job.
- B. All applicants or employees desiring an accommodation should make a written request to the Commissioner of Personnel.
- C. All communications regarding accommodations made with Oneida County shall remain confidential, except as necessary to:

1. Arrange or approve such accommodations;
  2. Advise staff or faculty who may wish to apply for an accommodation.
- D. The information shall not be used as criteria in making an employment decision. The definitions that follow provide additional information about this Policy.

#### IV. Definitions

- A. **Direct threat:** A significant risk to the health, safety or well-being of individuals with disabilities or others when this risk cannot be eliminated by reasonable accommodation.
- B. **Disability:**
1. A disability is defined by the ADA as a physical or mental impairment that substantially limits one or more major life activities of an individual. A disability may also include an individual having a record of such an impairment or being regarded as having such an impairment.
  2. Individuals who are currently engaged in the illegal use of drugs are specifically excluded from coverage under this Policy.
- C. **Discrimination:** Discrimination is the prejudicial and/or distinguishing treatment of an individual based on their actual or perceived membership in a certain group or category, "in a way that is worse than the way people are usually treated." Discrimination is prohibited in all employment decisions and practices including the hiring, promoting, transferring, waiving, and terminating of employees.
- D. **Essential Functions:** Essential functions are those job activities that are determined by Oneida County to be essential or core to performing the job. They are functions that cannot be modified. At Oneida County, the essential functions of the position are identified in the job description, department policy and department procedure.
- E. **Major Life Activities:** Major life activities includes caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.
- F. **Reasonable Accommodation:**
1. Reasonable accommodations are actions taken to:
    - a. Ensure equal opportunity in the application process;

- b. Enable performance of the essential functions of a job;
  - c. Enable an employee with a disability to enjoy equal benefits and privileges of employment.
2. Includes any changes to the work environment and may include making existing facilities readily accessible to and usable by individuals with disabilities, job restructuring, or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.
3. Reasonable accommodations may be provided to individuals as long as they do not pose an undue hardship on Oneida County or cause a direct threat to workplace safety.

**G. Substantially Limits:** In accordance with the ADA final regulations, the determination of whether an impairment substantially limits a major life activity requires an individualized assessment, and an impairment that is episodic or in remission may also meet the definition of disability if it would substantially limit a major life activity when active. Some examples of these types of impairments may include epilepsy, hypertension, asthma, diabetes, major depressive disorder, bipolar disorder and schizophrenia. An impairment, such as cancer that is in remission but that may possibly return in a substantially limiting form, is also considered a disability under final ADA regulations.

**H. Qualified individual:** An individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

**I. Undue Hardship:** Undue hardship is the only statutory limitation on providing reasonable accommodation. Undue hardship is an action requiring significant difficulty or expense and such actions are considered unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operation of the business. In determining whether a requested accommodation creates an undue hardship on Oneida County, the appropriate Oneida County staff will consider reasonable accommodation requests on a case-by-case basis.

## **V. Procedure**

### **A. Requesting Reasonable Accommodation**

1. Employees or applicants with disabilities may request reasonable accommodations of Oneida County, regardless of title, salary or

employment status. This request should be made by the employee in writing to the Commissioner of Personnel.

2. The reasonable accommodation does not have to be requested at the beginning of employment. However, a reasonable accommodation request will not cancel out any prior performance improvement or disciplinary actions.

## **B. Identifying Need**

1. Upon receiving the reasonable accommodation request, the Commissioner of Personnel and/or his/her designee will meet with the employee to conduct an informal, interactive discussion. The discussion will include the following steps:
  - a. A review of the employee's position job description, department policy, and department procedure delineating the essential functions from the marginal or auxiliary functions.
  - b. A determination of how the employee's disability limits his/her ability to perform the essential functions of the job in order to identify the employee as a qualified individual with a disability.
  - c. Identify potential accommodations and assessment of the effectiveness of such accommodations on the employee's job performance.
  - d. Identification of the type of accommodation needed.
  - e. The employee's preference of accommodation will be considered, however, Oneida County has the right to select among the alternatives available, as long as they are effective.
  - f. Selection and implementation of the effective reasonable accommodation by Oneida County will occur as soon as possible. The Commissioner of Personnel or his/her designee will continue to communicate with the employee to discuss timelines for obtaining the accommodation and any possible delays.

## **C. Medical Documentation and Confidentiality**

1. If the disability is not obvious and there is no other medical information already on record for the employee, Oneida County may require the employee to provide documentation from a physician or other medical professional concerning the existence and extent of the disability, as well



as what, if any, possible accommodations would allow the employee to perform the essential functions of the job.

2. The employee's medical information will be maintained in a separate confidential file. Any information regarding the employee's condition will only be made available on a need to know basis.

#### **D. ADA Determination**

1. After meeting and reviewing medical documentation, the Commissioner of Personnel, in consultation with the Department Head, will determine whether the employee is a qualified individual with a disability and develop a reasonable accommodation plan for the employee.
2. The plan will:
  - a. State whether the employee is a "qualified individual with a disability" as defined by the ADA.
  - b. Outline the employee's essential job functions needing accommodation.
  - c. Recommend types of accommodation.
  - d. Determine whether any accommodations cause an undue hardship or pose a direct threat.

#### **VI. Types of Reasonable Accommodation**

- A. Accommodation will be determined on a case by case basis. The Commissioner of Personnel will work closely with the employee, Department Head and supervisor to ensure that reasonable accommodation is provided and effective.
- B. The employee's preference of accommodation will be considered, however, Oneida County has the right to select among the alternatives available, as long as they are effective.
  1. Some accommodations cost little or no money. Changes may include support from supervisor, additional time to complete assignments or small changes in worksite setup.
  2. Some accommodations are technologically simple and easily achieved in most offices. Examples: accessible door handle, magnifier, additional lighting.

3. Accommodations requiring advanced or sophisticated devices may take more time and expense to achieve. Examples: screen reading software, CCTV, speech synthesizer.
- C. Within 90 days after the accommodations have been provided, the Commissioner of Personnel will assess the effectiveness of the accommodations in enabling the employee to perform the essential functions of the job. Additional accommodations or changes to the existing accommodations may be considered.

## **VII. Complaint Form and Procedures**

- A. Any individual who believes that they have been subjected to unequal treatment or discrimination prohibited by the ADA may file a written complaint pursuant to the Oneida County Harassment and Discrimination Prevention Policy.
- B. A formal complaint must be filed within 180 days of the alleged occurrence or when the alleged discrimination became known to the complainant.



**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

**PETER M. RAYHILL**  
COUNTY ATTORNEY

January 7, 2020

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

FN 20 20 048

Re: Empire State Development Grant  
Construction of SkyDome  
Approval of Incentive Proposal

**AIRPORT**

**WAYS & MEANS**

Dear County Executive Picente:

As you are aware, Oneida County was notified that we are to receive an Empire State Development Grant for \$9,000,000 for the construction of SkyDome at the Griffiss International Airport.

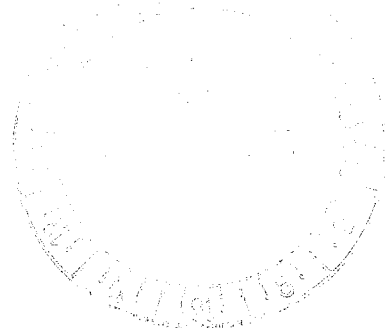
The Department is now in receipt of the incentive proposal from Empire State Development (ESD). This proposal must be executed by you and returned to ESD for processing. It is my understanding that before this can happen, approval of the acceptance of the proposal is required by the Oneida County Board of Legislators. A copy of the incentive proposal is attached for your review. In order to submit this proposal, Oneida County must pay an application fee of \$250, plus provide a Commitment Fee totaling 1% of the full award (\$90,000). The total obligation of the County to submit this proposal will be \$90,250.

**I would appreciate consideration of this incentive proposal by you and the Board of Legislators. In addition, I am requesting that the resolution include approval by the Board of Legislators for your authorization to execute the remaining documents that will be required for this project.**

Commissioner Lawrence and I are available to meet with you or the Board at your convenience to discuss this request and explain it in more detail. Thank you for your consideration in this matter.

Sincerely,

Amanda Lynn Cortese, Esq.  
Special Assistant County Attorney



Attachments: ESD Incentive Proposal  
Board of Legislators Contract Summary

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

Anthony J. Picente, Jr.  
County Executive

Date 1/7/20

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

**ONEIDA COUNTY BOARD OF LEGISLATORS  
CONTRACT SUMMARY**

**Name & Address of Vendor:** Empire State Development  
ESD Loans & Grants  
633 Third Avenue  
New York, NY 10017

**Title of Activity or Service:** ESD grant providing \$9,000,000 of incentives towards construction of SkyDome

**Proposed Dates of Operation:** Execution of proposal through April 1, 2022

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

**Summary Statements**

- 1) Narrative Description of Proposed Services: This is an ESD grant providing \$9,000,000 of incentives towards the construction of SkyDome.
- 2) Program/Service Objectives and Outcomes: The ultimate goal is the construction of SkyDome.
- 3) Program Design and Staffing:

**Total Funding Requested:** \$90,250.00                      **Account #:** H-597 SkyDome

**Oneida County Dept. Funding Recommendation:** \$90,250.00 (Includes \$250 application fee and 1% Commitment Fee per award requirements)

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

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

**Past Performance Data:** N/A

**O.C. Department Staff Comments:** Department staff recommends acceptance of this proposal as it provides \$9,000,000 towards the construction of SkyDome.



## REGIONAL COUNCIL AWARD – INCENTIVE PROPOSAL

### Oneida County

November 6, 2019

This **Incentive Proposal** outlines the general terms and conditions of the incentive package being offered by Empire State Development (“ESD”)\* to Oneida County to assist with project in Rome, Oneida County. This offer is subject to the availability of funds, completion of any applicable (1) non-discrimination and contractor diversity, (2) environmental and historic and (3) smart growth review requirements, approval by the ESD Directors, applicable statutes, and compliance with program requirements.

\* The New York State Department of Economic Development and the New York State Urban Development Corporation, d/b/a Empire State Development, are collectively referred to as ESD.

#### **I. GENERAL INFORMATION**

- a) **Recipient Name:** Oneida County (the “Recipient”)
- b) **Contact Information:** The Honorable Anthony J. Picente Jr.  
County Executive  
800 Park Avenue  
Utica, NY 13501  
Phone: 315-798-5800  
E-mail: apicente@ocgov.net
- c) **Project Location(s):** 592 Hangar Road  
Rome, NY 13441
- New York State Empire Zone:** N/A
- d) **Type of Business:** Municipality
- e) **Number of Full-time, Permanent Employees at all NYS Locations as of Today’s Date:** N/A
- f) **Number of Full-time, Permanent Employees at Project Location(s) as of Today’s Date:** N/A
- g) **Number of Part-time or Seasonal Employees, or Full-time Contract Employees at Project Location(s) as of Today’s Date:** N/A

**II. PROJECT SPECIFICS**

- a) **Project Description:** Create a state-of-the-art UAS/UAV test and research facility.
- b) **Estimated Schedule:** Begin: October 2019  
Complete: April 2020  
Estimated ESD Directors' Approval: June 2020

**III. PROJECT BUDGET**

You have informed us that the following costs will be incurred to complete this project. It is understood that these costs are estimates, based on the best information available to date. If these figures change, please inform your ESD contact as soon as possible.

|                                              |                     |
|----------------------------------------------|---------------------|
| Construction / Renovation:                   | \$4,500,000         |
| Machinery and Equipment ("M&E"):             | \$4,000,000         |
| Furniture, Fixtures, and Equipment ("FF&E"): | \$500,000           |
| Design and Planning:                         | \$1,000,000         |
| <b>Total Estimated Cost:</b>                 | <b>\$10,000,000</b> |

**IV. ESD INCENTIVES**

**Upstate Revitalization Initiative – Capital Grant – Project #133,137/CFA#92688**

- a) **Amount:** \$9,000,000
- b) **Use of Funds:** Reimbursement for a portion of eligible construction/renovation, M&E, FF&E, and design/planning expenses.
- c) **Requirements:** Funds will be disbursed in lump sum upon project completion, as described in Sections II and III above and as evidenced by attainment of a certificate of occupancy and/or other documentation verifying project completion as ESD may require, and documentation verifying project expenditures of at least \$10,000,000.

All disbursements require compliance with program requirements and must be requested by no later than April 1, 2022. Expenditures incurred prior to October 1, 2019 are not eligible project costs and cannot be reimbursed by grant funds.

The Grant is being offered in connection with the project as described in the CFA (or ESD application) and that funds will only be made available for projects that are undertaken as described in the CFA (or ESD application), except as expressly authorized by ESD.

- d) **Financial Disclosure:** Financial disclosure, consisting of three years of audited financials or three years of tax returns plus interim financials if the most recent financial report is older than six months, on Recipient and all corporate and personal guarantors acceptable to ESD must be provided prior to ESD Directors' approval.
- e) **Recapture:** Grant funds will be subject to *pro rata* recapture if property is sold within 5 years of disbursement of funds.

### General Requirements

- **Equity:**  
The Recipient will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed after the Recipient's written acceptance of ESD's Incentive Proposal. Equity is defined as cash injected into the project by the Recipient or by investors and should be auditable through Recipient financial statements or Recipient accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project.
- **Fees:**  
The Recipient will provide a \$250 Application Fee, due when this Incentive Proposal is returned and a 1% commitment fee (\$90,000), due after ESD Directors' approval at the time a Grant Disbursement Agreement is executed. In addition, the Recipient will reimburse ESD for any direct expenses incurred in connection with this project, including costs related to holding a public hearing, attorney fees, appraisals, surveys, title insurance, credit searches, filing fees, and other requirements deemed appropriate by ESD.
- **Non-discrimination and Contractor Diversity:**  
ESD's Non-discrimination & Contractor and Supplier Diversity policy will apply to this project. The Recipient shall be required to use "Good Faith Efforts," pursuant to 5 NYCRR §142.8, to achieve an overall Minority and Women-owned Business Enterprise ("MWBE") participation goal of 30% (\$2,700,000). A further explanation of the MWBE requirements is attached hereto.

The Recipient is encouraged to use "Good Faith Efforts," pursuant to 9 NYCRR §252.2(m), to utilize NYS-certified Service-Disabled-Veteran-owned Business Enterprises ("SDVOBs") in the execution of the grant. Any utilization of SDVOBs would be in addition to goals established pursuant to Article 15-A of the Executive Law with respect to MWBEs. Should SDVOBs be utilized, a further explanation of the SDVOB reporting requirements is attached hereto.

- **Environmental, Historic and Smart Growth Review:**  
Please note in particular the Environmental, Historic and Smart Growth Review requirements at the end of the attached document, which, if applicable, must be satisfied prior to ESD Directors' approval of funding. The ESD Planning & Environmental Review office may contact your office for further information regarding status of the environmental, historic and smart growth review for your project.
- **Environmental Sustainability:**  
ESD encourages the environmentally sustainable practice of recycling construction and demolition debris rather than disposition in a landfill.
- **Insurance Requirements:**  
The Recipient shall maintain Commercial General Liability Insurance providing both bodily injury (including death) and property damage insurance in a limit not less than One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) aggregate and Three Million Dollars (\$3,000,000) umbrella. In addition, if the grant contemplates the purchase, construction or renovation of any buildings or equipment, the Recipient shall keep the buildings at the Project Location and the building equipment insured against: (i) loss by fire, (ii) additional perils customarily covered under an all-risk policy and (iii) flood hazard, if the Project Location is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, as amended.

- **Modification:**  
ESD reserves the right to review and reconsider project and property selections in the event of material changes in the project plans or circumstances.
- **Reservations of Rights Concerning Funding Commitment:**  
It is expected the project will proceed in the time frame set forth by the Applicant. If the implementation of a project fails to proceed as planned and is delayed for a significant period of time and there is, in the exclusive judgment of ESD, doubt as to its viability, ESD reserves the right to cancel its funding commitment to such project.
- **Next Steps After Accepting this Incentive Proposal:**  
Within approximately 30 days of your acceptance of this Incentive Proposal, your Project Manager will acknowledge receipt of the signed Incentive Proposal and will provide a guide to the ESD Approval and Disbursement Process and relevant contact information. Prior to ESD Directors' approval, ESD will require updated project information and Declarations and Certifications. Please note that ESD Directors' approval typically occurs at project completion.

**V. SUMMARY**

**Total ESD Assistance:** **\$9,000,000**

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**Expiration of Proposed Offer:**

This proposal expires January 7, 2019 unless endorsed below and received by ESD prior to the expiration date.

**Expiration of Accepted Offer:**

The accepted proposal expires two years from the date of acceptance by the Recipient. ESD reserves the right to require Recipient to provide any additional information and/or documentation ESD deems necessary.

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



Date: November 6, 2019

Edwin Lee, Senior Vice President  
ESD Loans & Grants  
633 Third Avenue  
New York, NY 10017  
Phone: (212) 803-3618

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

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

The Honorable Anthony J. Picente Jr., County Executive  
Oneida County  
800 Park Avenue  
Utica, NY 13501  
Phone: 315-798-5800

\* Please see the following Affirmation page, which must be completed, signed and notarized for this Incentive Proposal to be considered accepted.



**AFFIRMATION**

STATE OF NEW YORK            )  
                                                  ) ss.:  
COUNTY OF                    )

The Undersigned, being duly sworn, deposes and says:

1. I, \_\_\_\_\_, am the \_\_\_\_\_ of \_\_\_\_\_ (the "Recipient"), a municipality that is duly organized and validly existing under the laws of \_\_\_\_\_, and is authorized to do business and is in good standing in the State of New York.
2. I have read and know the contents of the Incentive Proposal prepared by the New York State Urban Development Corporation d/b/a Empire State Development ("ESD") dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.
3. I have reviewed all of the information provided by the Recipient to ESD to assist in ESD's preparation of the Incentive Proposal, including information provided on Recipient's behalf by third-party consultants
4. I know all of the information provided by Recipient or its third-party consultants to be true and complete in all material respects. To the extent such information involves projections about future performance, these projections have been prepared in good faith, based upon reasonable assumptions.
5. Recipient did not make a decision to undertake the project described in the Incentive Proposal prior to October 1, 2019.
6. Recipient hereby accepts the terms of the Incentive Proposal.
7. Receipt of the Incentive Proposal was a material factor in Recipient's decision to undertake the above-referenced project.
8. Recipient agrees to allow the Department of Taxation and Finance to share Recipient tax information with Empire State Development.
9. Recipient authorizes the Commissioner of Labor to disclose, to employees of both the New York State Department of Labor, the New York State Department of Economic Development, and the Urban Development Corporation, (dba Empire State Development), all records filed by the Recipient in making Unemployment Insurance (U.I.) reports and contributions required by State Labor and Tax Law, including, but not limited to, all information contained in or relating to the quarterly combined withholding, wage reporting and U.I. returns, the registration for U.I., the New Hire file, and all records of U.I. delinquencies. In addition, this authorization shall include all information contained in any survey reports requested by the Department of Labor on behalf of the U.S. Department of Labor, Bureau of Labor Statistics including, but not limited to, the Current Employment, Occupational Employment, multiple worksite, and annual refilling surveys. The use of information and records released pursuant to this authorization shall be limited to government purposes concerning the Recipient and assistance described in this Incentive proposal to monitor compliance with worker protection laws and with the conditions and requirements associated with the financial assistance being requested.
10. Recipient certifies, under penalty of perjury, that the Recipient is in substantial compliance with all environmental, worker protection, and local, state and federal tax laws.

\_\_\_\_\_  
Signature

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

## **ENVIRONMENTAL, HISTORIC AND SMART GROWTH REVIEW REQUIREMENTS**

Approval of funding by ESD, a public benefit corporation of the State of New York, requires compliance with environmental, historic and smart growth review requirements under New York State regulations. The information below provides a brief guide to the review processes. If you have any questions about the required documentation or how to proceed in these areas, please contact ESD's Planning & Environmental Review Office at (212) 803-3252 or 3253. **Physical work on an ESD-funded project may not be started prior to the completion of any necessary environmental, historic and/or smart growth review.**

### **Environmental Review under State Environmental Quality Review Act (SEQRA)(6 NYCRR Part 617)**

- Projects or physical activities, such as construction or other activities that may affect the environment by changing the use, appearance or condition of a site or structure require review under SEQRA. Certain listed activities are not subject to any review because they involve actions with little, if any, environmental impact, referred to as "Type II" Actions. Conversely, SEQRA also includes a list of actions that are assumed to be more apt to result in impacts, referred to as "Type I" Actions, which are subject to formal review. If a proposed action is neither listed on the Type II or Type I lists, it is referred to as an "Unlisted Action" and is also subject to review under SEQRA.
- The applicant must demonstrate compliance with SEQRA if the project does not meet the definition of a Type II Action. If SEQRA review is required for the project, the review must be completed by a lead agency such as a municipal planning or zoning board, common council, county industrial development agency, or state regulatory or funding agencies.
- Please note that if the project consists of more than one phase, a SEQRA review must be completed for all known or reasonably foreseeable phases of the project, not only the phase that is the subject of ESD funding. An environmental review of only a portion of a project constitutes improper segmentation under SEQRA and is not accepted except in special circumstances.
- Required SEQRA documentation:

If the project has already been determined to have no significant effect on the environment, the following two documents must be provided:

1. Environmental Assessment Form (EAF) –Short EAF or Full EAF, as appropriate for the project. All parts must be fully completed and approved by the lead agency that reviewed the project; and
2. Negative Declaration

(Note: If the project was approved by a lead agency on or after October 7, 2013, the new EAFs must be used and a separate Negative Declaration form is not required.)

If a Positive Declaration was made for the project, indicating that the project may have a significant adverse impact on the environment, the following documents must be provided:

1. Draft and Final Environmental Impact Statement (DEIS and FEIS) – digital copy is preferable; and
2. Lead Agency Statement of Findings

- If your SEQRA review has not yet been completed, please provide in an addendum to this application information about the status of the review and designated lead agency for the review, and submit "Part 1" of a Short EAF or Full EAF as appropriate for your project. Subsequent EAF Parts are completed by the lead agency based upon the information you include in Part 1.

For further information about SEQRA, please visit the New York State Department of Environmental Conservation's web site at <http://www.dec.ny.gov>.

#### Historic Review

- Projects involving a building, structure, district, or site, including underground or underwater sites, listed on or eligible for listing on the State or National Register of Historic Places (S/NRHP) must be evaluated by the State Historic Preservation Office (SHPO) of the New York State Office of Parks, Recreation and Historic Preservation in accordance with Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law.
- Buildings that are more than 50 years old and/or those that are historically, architecturally, or culturally significant, as well as project locations wholly or partially within an identified archeologically-sensitive area or a land area that typically contains archeological resources, may meet the eligibility criteria for S/NRHP listing.
- The applicant must demonstrate compliance with Section 14.09. In order to initiate the SHPO consultation process, the applicant must submit the project for review by SHPO through the Cultural Resources Information System (CRIS) found at <https://cris.parks.ny.gov/Default.aspx>. Upon completion of the SHPO consultation process, SHPO will determine whether or not the project will have an adverse impact on historical or cultural resources and will provide a letter of comment on the project.
- Required SHPO documentation:
  - Letter of No Adverse Impact determination or
  - Letter of Resolution – required if SHPO determines that the project will have an Adverse Impact on historic or cultural resources.

#### Smart Growth

The State Smart Growth Public Infrastructure Policy Act of 2010 requires that public infrastructure projects approved, undertaken, supported or financed by a State Infrastructure Agency, which includes ESD, to the extent practicable, are consistent with relevant Smart Growth Criteria specified in the law. Projects that involve ESD approval of funding for public infrastructure (e.g., publicly-supported roads, bridges, streetscapes, other transportation systems, drinking water, sewers, drainage systems, and utilities) will require the completion of a Smart Growth Impact Statement prior to approval of funding. (Note: Projects that only involve Excelsior Jobs Tax Credits do not require Smart Growth review.) ESD staff will advise you if a Smart Growth Impact Statement is required.

## **PARTICIPATION REQUIREMENTS FOR NEW YORK STATE CERTIFIED MWBES**

ESD is required to comply with and implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (MWBE Regulations) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

Approval of funding by ESD, a public benefit corporation of the State of New York, is conditioned upon and subject to the following requirements:

- a) Recipient agrees to fully comply and cooperate with ESD in the implementation of New York State Executive Law Article 15-A. These requirements include contracting opportunities for *New York State certified* Minority-owned Business Enterprises ("MBEs") and Women-owned Business Enterprises ("WBEs"), collectively MWBES.
- b) For purposes of this project, ESD hereby establishes the following MWBE participation requirements:

**Overall MWBE Participation Requirement: 30% (totaling no less than \$2,700,000)**

- c) For purposes of providing meaningful participation by MWBES on the project and achieving the project goals established herein, Recipient should reference the directory of New York State certified MWBES found at the following internet address:

**<https://ny.newnycontracts.com>**

Additionally, Recipient may contact ESD's Office of Contractor and Supplier Diversity (OCSD) to discuss additional methods of maximizing participation by MWBES on the project.

- d) Recipient is required to submit a completed Non-Discrimination and Equal Employment Opportunity Policy Agreement (Form OCSD-1) prior to the first disbursement.
- e) For all Incentives the Recipient and any contractors or sub-contractors are required to provide to OCSD (i) an MWBE Staffing Plan (Form OCSD-2) prior to the first disbursement, where ESD's effective contribution is equal to or greater than \$250,000, and (ii) Workforce Utilization Reports (Form OCSD-3) on a monthly basis, for construction contracts in excess of \$100,000, or quarterly basis, for services and commodities contracts in excess of \$25,000, until the final disbursement of project funds. If the first disbursement is also the final disbursement, the Recipient may submit only the final Workforce Utilization Report. Workforce Utilization Reports must be submitted to OCSD via email in, **excel format only**, to [danielle.adams@esd.ny.gov](mailto:danielle.adams@esd.ny.gov).

The Recipient shall also require each of its sub-contractors to submit a Workforce Utilization Report (Form OCSD-3) on a monthly basis, for construction contracts in excess of \$100,000, or quarterly basis, for services and commodities contracts in excess of \$25,000, until the final

disbursement of project funds. The Workforce Utilization Report must be sent by email in excel format only to ESD:

- f) Recipient is required to submit a MWBE Utilization Plan (Form OCSD-4, also known as the MWBE Participation Plan) not later than ten (10) days after the execution of this Incentive Proposal.
  - If additional time is required to prepare an acceptable and effective MWBE Utilization Plan, the Recipient may submit a written extension request to the OCSD or the respective OCSD assigned project manager. The extension request must provide an explanation regarding why additional time is needed and provide an estimated date of submission for the MWBE Participation Plan.
  - Any modifications or changes to the MWBE Participation Plan after the execution of this Incentive Proposal and during the performance of the project must be reported on a revised MWBE Utilization Plan and submitted to OCSD for approval.
- g) ESD will review the submitted MWBE Utilization Plan and advise the Recipient of acceptance or issue a notice of deficiency within twenty (20) days of receipt.
- h) If a notice of deficiency is issued, Recipient agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to OCSD a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify the Recipient and direct the Recipient to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals (Form OCSD-5, Waiver Request). Failure to file the waiver request in a timely manner may result in a finding that Recipient has intentionally or willfully failed to comply with the requirements of Article 15-A of the Executive Law and the MWBE provisions outlined herein.
- i) ESD may find that Recipient has willfully or intentionally failed to meet the MWBE project requirements under the following circumstances:
  - 1. If a Recipient fails to submit a MWBE Utilization Plan;
  - 2. If a Recipient fails to submit a written remedy to a notice of deficiency;
  - 3. If a Recipient fails to submit a request for waiver; or
  - 4. If ESD determines that the Recipient has failed to document "Good Faith Efforts."
- j) Recipient shall attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the project. Requests for a partial or total waiver of established goal requirements made subsequent to the execution of the Incentive Proposal may be made at any time during the term of the project to ESD, but must be made no later than prior to the submission of a request for final payment on the project.
- k) Recipient is required to submit a periodic MWBE Compliance & Payment Report to OCSD by the 10<sup>th</sup> day following either the end of each (i) month, for construction contracts in excess of \$100,000, or (ii) quarter, for services and commodities contracts in excess of \$25,000, over the term of the project documenting the progress made toward achievement of the MWBE project goals.

Periodic compliance and payment reports may be submitted electronically through the New York State Contract System, found at <https://ny.newnycontracts.com>. The New York State Contract System provides automated electronic alerts to the Recipient and any identified sub-contractors and sub-vendors and allows for the electronic reporting and confirmation of the relevant data by all tiers of identified subcontractors. Payment information and confirmation must be submitted by the 10<sup>th</sup> day following the end of each month or quarter, as applicable. For additional information regarding this process, please contact OCSD.

Periodic compliance and payment reports may also be completed manually (Form OCSD-6, MWBE Compliance & Payment Report) and submitted to OCSD or the assigned OCSD Project Manager.

- l) "Good Faith Efforts" is the standard applied to the MWBE participation requirements in all applicable ESD incentives. Recipients shall adhere to this standard and ensure that proactive and ongoing efforts are made throughout the length of the project to include MWBE participation in all categories where MWBE participation potential exists. In order for OCSD to evaluate "Good Faith Efforts", Recipients must maintain detailed records of its efforts to include MWBEs in the performance of the project.

For additional details regarding "Good Faith Efforts," please review 5 NYCRR §142.8 (MWBE Rules and Regulations), available at:  
[http://esd.ny.gov/MWBE/Data/OFFICIAL\\_COMPILATION\\_OF\\_MWBЕРЕGS.pdf](http://esd.ny.gov/MWBE/Data/OFFICIAL_COMPILATION_OF_MWBЕРЕGS.pdf)

- m) Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Recipient must document "good faith efforts" to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the project. The Recipient acknowledges that if Recipient is found to have willfully and intentionally failed to comply with the MWBE participation goals and requirements set forth herein, such a finding may result in the recapture of grant proceeds. Such MWBE Recapture shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Recipient achieved the MWBE project goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the project.
- n) Recipient's demonstration of Good Faith Efforts shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, other applicable federal, state or local laws.

Any questions relating to the MWBE requirements stated herein may be directed to OCSD at [danielle.adams@esd.ny.gov](mailto:danielle.adams@esd.ny.gov). Recipient may also address any inquiries relating to the above MWBE requirements to the respective OCSD Project Manager.

Forms OCSD-1 through OCSD-6 may be completed by hand, or fillable Word versions are available upon request. Documents relating to MWBE requirements outlined herein must be provided to OCSD in one of the following ways:

1. In an email to [danielle.adams@esd.ny.gov](mailto:danielle.adams@esd.ny.gov);
2. Through the New York State Contract System (<https://ny.newnycontracts.com>); or
3. By postal mail, addressed to:

Empire State Development  
Office of Contactor & Supplier Diversity  
625 Broadway  
Albany, NY 12245

All communications to OCSD must clearly identify the ESD project number and provide pertinent details.

## **PARTICIPATION REQUIREMENTS FOR NEW YORK STATE CERTIFIED SDVOBS**

It is the policy of ESD to comply with and implement the provisions of New York State Executive Law Article 17-B and 9 NYCRR Part 252 (SDVOB Regulations) for all State contracts, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

For purposes of this project, the Grantee is encouraged to solicit and utilize NYS certified Service Disabled Veteran-owned Businesses ("SDVOBs") for any contractual opportunities generated in connection with the project.

- a) For purposes of providing meaningful participation by SDVOBs on the project, Recipient should reference the directory of New York State certified SDVOBs found at the following internet address: <https://online.ogs.ny.gov/SDVOB/search>

Additionally, Recipient may contact ESD's Office of Contractor and Supplier Diversity ("OCSD") to discuss additional methods of maximizing participation by SDVOBs on the project.

- b) If NYS-certified SDVOB firms are utilized in the grant, Recipient is to provide a Utilization Plan to report on expected utilization (Form OCSD-4).
- c) Recipient is then required to submit a periodic SDVOB Compliance and Payment Report to OCSD by the 10<sup>th</sup> day following each end of month, for construction contracts in excess of \$100,000, or quarter, for services and commodities contracts in excess of \$25,000, over the term of the project documenting the progress made toward achievement of the project goals.

Periodic compliance and payment reports may be submitted electronically through the New York State Contract System, found at <https://ny.newnycontracts.com>. The Contract System provides automated electronic alerts to the Recipient and any identified sub-contractors and allows for the electronic reporting and confirmation of the relevant data by all tiers of identified subcontractors. For additional information regarding this process, please contact OCSD. Compliance and payment reports may also be completed manually (Form OCSD-6) and submitted to the assigned OCSD Project Manager.

"Good Faith Efforts" is the standard applied to the SDVOB participation requirement in all applicable ESD incentives. As SDVOB utilization is encouraged, rather than required, for this project, Recipients are encouraged to adhere to this standard and ensure that proactive and ongoing efforts are made throughout the length of the project to include SDVOB participation in all categories where SDVOB participation potential exists. For additional details regarding Good Faith Efforts, please review section 252.2(m) of NYCRR 9 (SDVOB Rules and Regulations), found at: <https://ogs.ny.gov/Veterans/>

Any questions relating to the SDVOB requirements stated herein may be directed to ESD's Office of Contractor and Supplier Diversity at [OCSD@esd.ny.gov](mailto:OCSD@esd.ny.gov) or to the assigned OCSD Project Manager. All communications to OCSD must clearly identify the ESD project number and provide pertinent details.





ONEIDA COUNTY  
OFFICE OF THE COUNTY EXECUTIVE

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

November 15, 2019

Gerald J. Fiorini, Chairman.  
Oneida County Board of Legislators  
800 Park Avenue  
Utica, NY 13501

FN 20 20 049

FIORINI

WAYS & MEANS

Dear Chairman Fiorini:

On November 6, 2019, Oneida County was notified by the New York State Empire Development that Oneida County was awarded a grant of \$ 9,000,000. These funds are to establish the SkyDome, a small UAS Cyber Resilient Command and Control Facility. The County has also been awarded \$450,000 from a SAM Grant.

SkyDome will create a year-round, large instrumented UAV experimentation facility to support the development and testing of related technologies at the Griffiss Airfield

In order to keep track of this project it is best to create a new capital project.

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

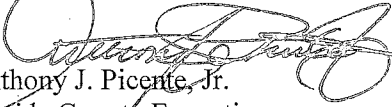
A.) Establishment of **Capital Project H-597 – Griffiss Airfield / SkyDome**

B.) Funding for Capital Project H – 597 as follows:

|                                                  |                          |
|--------------------------------------------------|--------------------------|
| <b>H – 597 – 3597 State Aid - ESD.....</b>       | <b>\$ 9,000,000</b>      |
| <b>H – 597 – 3597 State Aid – SAM Grant.....</b> | <b>\$ 450,000</b>        |
| <b>H – 597 – 2770 Other .....</b>                | <b>\$ <u>550,000</u></b> |
| <b>Total.....</b>                                | <b>\$ 10,000,000</b>     |

Thank you for kind attention to this request.

Very truly yours,

  
Anthony J. Picente, Jr.  
Oneida County Executive

CC: Comptroller  
County Attorney  
Budget



**ONEIDA COUNTY**  
**DEPARTMENT OF PUBLIC WORKS**  
 George E. Carle Complex  
 5999 Judd Road, Oriskany, NY 13424  
 Phone: (315) 793-6235 Fax: (315) 768-6299

ANTHONY J. PICENTE, JR.  
 County Executive

DENNIS S. DAVIS  
 Commissioner

January 6, 2020

FN 20 20-050

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

**PUBLIC WORKS**

WAYS & MEANS

Dear County Executive Picente,

Enclosed is an agreement for professional consulting services with MARCH Associates, Architects & Planners, P.C.

Proposals were solicited from qualified consultants to prepare plans and specifications for various building improvements at various county facilities. The scope of work includes the following:

- Replace boilers at Union Station.
- Renovate 1st floor restroom at 5999 Judd Road.
- Miscellaneous HVAC repairs at 5999 Judd Road.
- Renovate entrance lobby at Law Enforcement Building.
- Reconstruct driveway and install fencing at 4681 St. Rt. 233.
- Renovate jury box at Rome Courthouse.
- Renovate entrance vestibule at 300 W. Dominick Street.

On April 10, 2019 the Oneida County Board of Acquisition & Contract accepted a proposal from MARCH Associates in the amount of \$141,300.00 plus time and materials expense for on-site representation and mandatory asbestos abatement project monitoring and air sampling. The term of the agreement is from August 14, 2019 until the completion of the work, estimated to be before December 31, 2020.

Please consider the enclosed contract for these services and if acceptable forward to the Oneida County Board of Legislators for approval. Thank you for your continued support.

Sincerely,

Dennis S. Davis  
 Commissioner



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

Anthony J. Picente, Jr.  
 County Executive

Date 1/7/20

cc: Mark E. Laramie, PE, Deputy Commissioner

Oneida County Department: Public Works

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

**ONEIDA COUNTY BOARD OF LEGISLATORS**

Name & Address of Vendor: MARCH Associates, Architects and Planners, P.C.  
258 Genesee Street, Suite 300  
Utica, NY 13502

Title of Activity of Service: Professional Consulting Services

Proposed Dates of Operation: August 14, 2019 – Completion of Project  
Anticipated 12/31/2020

Client Population/Number to be Served: N/A

Summary Statements

1) Narrative Description of Proposed Services:

Enclosed is an agreement for professional consulting services with MARCH Associates, Architects and Planners, PC to prepare plans and specifications for various building improvements at various county facilities including Union Station, 5999 Judd Road, the Law Enforcement Building, 4681 St. Rt. 233, the Rome Courthouse, and 300 W. Dominick Street.

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

3) Program Design and Staffing: N/A

4)Funding

|                                             |                      |
|---------------------------------------------|----------------------|
| Account #:                                  | H-473                |
| Total Funding Requested:                    | \$141,300.00         |
| Oneida County Dept. Funding Recommendation: | \$141,300.00         |
| Proposed Funding Sources                    | Federal: \$0.00      |
|                                             | State: \$0.00        |
|                                             | County: \$141,300.00 |
|                                             | Other: \$0.00        |

Past Performance Data: N/A

O.C. Department Staff Comments: None

# AIA<sup>®</sup> Document B101<sup>™</sup> – 2017

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

AGREEMENT made as of the Fourteenth day of August in the year 2019  
(In words, indicate day, month and year.)

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

Oneida County  
800 Park Avenue  
Utica, NY 13501

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

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

MARCH Associates, Architects and Planners, P.C.  
258 Genesee Street, Suite 300, Utica, NY 13502  
Telephone Number: (315) 733-3344

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

Facilities Improvement Projects - 2019  
Various County Facilities

The Owner and Architect agree as follows.

TABLE OF ARTICLES

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| 5  | OWNER'S RESPONSIBILITIES             |
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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

§ 1.1.1 The Owner's program for the Project:

*(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)*

Exhibit A

§ 1.1.2 The Project's physical characteristics:

*(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)*

Exhibit A

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

*(Provide total and, if known, a line item breakdown.)*

Exhibit A

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

Init.

To Be Determined

.2 Construction commencement date:

January 1, 2019

.3 Substantial Completion date or dates:

December 31, 2020

.4 Other milestone dates:

None

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:  
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

Competitive bid compliant with New York State Law

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:  
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

None

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™-2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204-2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204-2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:  
(List name, address, and other contact information.)

Mark E. Laramie, P.E.  
5999 Judd Road, Oriskany, NY 13424  
Telephone Number: (315) 793-6236

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:  
(List name, address, and other contact information.)

New York State Department of State

§ 1.1.9 The Owner shall retain the following consultants and contractors:  
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

None

Init.

.2 Civil Engineer:

None

.3 Other, if any:

*(List any other consultants and contractors retained by the Owner.)*

None

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:  
*(List name, address, and other contact information.)*

Christopher J. Crolius, AIA  
258 Genesee Street, Suite 300, Utica, NY 13502  
Telephone Number: (315) 733-3344

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:  
*(List name, legal status, address, and other contact information.)*

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

Almy and Associates  
Robert Almy, P.E.  
258 Genesee Street, Utica, NY 13502

.2 Mechanical Engineer:

Towne Engineering  
William Towne, P.E.  
18 South Street, Utica, NY 13501

.3 Electrical Engineer:

Towne Engineering  
William Towne, P.E.  
18 South Street, Utica, NY 13501

§ 1.1.11.2 Consultants retained under Supplemental Services:

init.

Hazardous Materials Testing, Design, and Monitoring: Barton & Loguidice, 443 Electronics Parkway, Liverpool, NY 13088

§ 1.1.12 Other Initial Information on which the Agreement is based:

Exhibit A, Exhibit C

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. ~~The parties will use AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.~~

§ 1.3.1 ~~Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™ 2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees. Paragraph Deleted~~

## ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

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

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

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall ~~maintain~~ maintain, at its own expense, the following insurance until termination of this Agreement. ~~If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9. The insurance carrier must have at least an A-~~ (excellent) rating by A.M. Best and be qualified and admitted to do business in the State of New York.

§ 2.5.1 Commercial General Liability with policy limits of not less than Two Million Dollars (\$ 2,000,000 ) for each occurrence and Four Million Dollars (\$ 4,000,000 ) in the aggregate for bodily injury and property damage. CGL coverage shall be written on ISO Occurrence form CG 00 01 1001 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, XCU, independent contracts, products, pollution, completed operations, personal and advertising injury.

§ 2.5.2 Automobile Liability covering vehicles owned, leased, hired, and non-owned vehicles used, by the Architect with policy limits of not less than Two Million (\$ 2,000,000 ) per accident for bodily injury, death of any person,



and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

~~§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. Commercial Umbrella coverage with limits of at least Four Million Dollars (\$4,000,000) each occurrence, following form over the Commercial General Liability, with subrogation waived.~~

~~§ 2.5.4 Workers' Compensation at statutory limits, pursuant to statute.~~

~~§ 2.5.5 Employers' Liability with policy limits not less than (\$ ) each accident, (\$ ) each employee, and (\$ ) policy limit. Paragraph Deleted~~

~~§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than One Million Dollars (\$ 1,000,000 ) per claim and Two Million Dollars (\$ 2,000,000 ) in the aggregate.~~

~~§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations. The Architect shall maintain completed operations coverage for a period of three (3) years after completion.~~

~~§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5. Certificates shall be on forms approved by the Owner, and shall contain a provision that coverage afforded under the policies will not be canceled or allowed to expire until at least thirty (30) days prior written notice has been given to the Owner. Acceptance of the certificates shall not relieve the Architect of any of the insurance requirements, nor decrease the liability of the Architect. The Owner reserves the right to require the Architect to provide insurance policies for review by the Owner. The Architect grants the Owner a limited power of attorney to communicate with the Architect's insurance provider and/or agent for the express purpose of confirming the coverages required hereunder.~~

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

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

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

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

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

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User Notes:

(1364419442)

the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

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

### § 3.2 Schematic Design Phase Services

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

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

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

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

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

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

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

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

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

### § 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix

and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

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

#### § 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

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

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

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

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

#### § 3.5 Procurement Phase Services

##### § 3.5.1 General

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

##### § 3.5.2 Competitive Bidding

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

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

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

### § 3.5.3 Negotiated Proposals

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

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

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

### § 3.6 Construction Phase Services

#### § 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. ~~If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.~~ Construction, as modified by Owner.

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

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

#### § 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

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

Init.

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

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

**§ 3.6.2.5** Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

### **§ 3.6.3 Certificates for Payment to Contractor**

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

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

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

### **§ 3.6.4 Submittals**

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

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

**§ 3.6.4.3** If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information

given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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

### § 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

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

### § 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

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

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

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

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

## ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

### § 4.1 Supplemental Services

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

specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.  
*(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)*

| Supplemental Services                                                          | Responsibility<br><i>(Architect, Owner, or not provided)</i> |
|--------------------------------------------------------------------------------|--------------------------------------------------------------|
| § 4.1.1.1 Programming                                                          | <u>Not Provided</u>                                          |
| § 4.1.1.2 Multiple preliminary designs                                         | <u>Not Provided</u>                                          |
| § 4.1.1.3 Measured drawings                                                    | <u>Not Provided</u>                                          |
| § 4.1.1.4 Existing facilities surveys                                          | <u>Architect</u>                                             |
| § 4.1.1.5 Site evaluation and planning                                         | <u>Not Provided</u>                                          |
| § 4.1.1.6 Building Information Model management responsibilities               | <u>Not Provided</u>                                          |
| § 4.1.1.7 Development of Building Information Models for post construction use | <u>Not Provided</u>                                          |
| § 4.1.1.8 Civil engineering                                                    | <u>Not Provided</u>                                          |
| § 4.1.1.9 Landscape design                                                     | <u>Not Provided</u>                                          |
| § 4.1.1.10 Architectural interior design                                       | <u>Not Provided</u>                                          |
| § 4.1.1.11 Value analysis                                                      | <u>Not Provided</u>                                          |
| § 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3        | <u>Not Provided</u>                                          |
| § 4.1.1.13 On-site project representation                                      | <u>Architect</u>                                             |
| § 4.1.1.14 Conformed documents for construction                                | <u>Not Provided</u>                                          |
| § 4.1.1.15 As-designed record drawings                                         | <u>Architect</u>                                             |
| § 4.1.1.16 As-constructed record drawings                                      | <u>Architect</u>                                             |
| § 4.1.1.17 Post-occupancy evaluation                                           | <u>Not Provided</u>                                          |
| § 4.1.1.18 Facility support services                                           | <u>Not Provided</u>                                          |
| § 4.1.1.19 Tenant-related services                                             | <u>Not Provided</u>                                          |
| § 4.1.1.20 Architect's coordination of the Owner's consultants                 | <u>Not Provided</u>                                          |
| § 4.1.1.21 Telecommunications/data design                                      | <u>Not Provided</u>                                          |
| § 4.1.1.22 Security evaluation and planning                                    | <u>Not Provided</u>                                          |
| § 4.1.1.23 Commissioning                                                       | <u>Not Provided</u>                                          |
| § 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3              | <u>Not Provided</u>                                          |
| § 4.1.1.25 Fast-track design services                                          | <u>Not Provided</u>                                          |
| § 4.1.1.26 Multiple bid packages                                               | <u>Architect</u>                                             |
| § 4.1.1.27 Historic preservation                                               | <u>Not Provided</u>                                          |
| § 4.1.1.28 Furniture, furnishings, and equipment design                        | <u>Not Provided</u>                                          |
| § 4.1.1.29 Other services provided by specialty Consultants                    | <u>Architect</u>                                             |
| § 4.1.1.30 Other Supplemental Services                                         | <u>Not Provided</u>                                          |
|                                                                                |                                                              |

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**§ 4.1.2 Description of Supplemental Services**

**§ 4.1.2.1** A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

*(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)*

4.1.1.4: Architect shall perform field investigations and confirm existing conditions.

4.1.1.13 Architect shall provide part-time on-site project representation as directed by Owner. Services shall be provided in accordance with AIA B207-2017 attached hereto as Exhibit D.

4.1.1.15: Architect shall provide as-designed record documents in electronic format specified by Owner.

4.1.1.16: Architect shall provide as-built record documents in electronic format specified by Owner.

4.1.1.26: Architect shall prepare separate bid packages if required.

4.1.1.29: Architect shall identify, quantify, prepare plans/specifications for abatement of asbestos containing Materials, and provide abatement project monitoring services.

**§ 4.1.2.2** A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

*(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)*

None

**§ 4.1.3** If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

**§ 4.2 Architect's Additional Services**

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;

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- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

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

- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Twenty-Four ( 24 ) visits to the site by the Architect during construction
- .3 Two ( 2 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two ( 2 ) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

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

## ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

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

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

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement.

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

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

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

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

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

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

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

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

## ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead

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and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

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

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

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

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

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

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

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

## ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and

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other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

~~§ 7.3 The Architect grants to the Owner a nonexclusive an exclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive Service. The Architect shall obtain similar exclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate. Service. The Architect shall provide reproductions of the Instruments of Service and the As-Constructed Record Drawings to the Owner upon request, free of charge. All such reproductions shall be the property of the Owner, whether or not the Project is completed.~~

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

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

~~§ 7.5 Except as otherwise stated in Section 7.3, the The provisions of this Article 7 shall survive the termination of this Agreement.~~

## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 General

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

~~§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein. Paragraph Deleted~~

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

### § 8.2 Mediation

~~§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien~~

arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

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

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

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:  
(Check the appropriate box.)

- Arbitration pursuant to Section 8.3 of this Agreement
- ~~Litigation in a court of competent jurisdiction~~  Litigation in a New York State Court of competent jurisdiction or the Northern District of New York
- Other: (Specify)

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

### ~~§ 8.3 Arbitration~~ Paragraph Deleted

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

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

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

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

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#### **§ 8.3.4 Consolidation or Joinder**

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

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

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

**§ 8.4** The provisions of this Article 8 shall survive the termination of this Agreement.

#### **ARTICLE 9 TERMINATION OR SUSPENSION**

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

**§ 9.2** If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. ~~When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.~~

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

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

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

**§ 9.6** If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to ~~termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.~~ termination.

**§ 9.7** In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

*(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)*

##### **.1 Termination Fee:**

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User Notes:

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None

2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

None

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. ~~If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.~~

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction.

§ 10.3 ~~The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.~~ In compliance with New York General Municipal Law Section 109, the Architect agrees not to assign, transfer, convey, sublet or otherwise dispose of this Agreement or of its right, title, or interest therein, or its power to execute this Agreement, to any other person or corporation without the previous consent, in writing, by the Owner.

§ 10.4 ~~If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.~~ Paragraph Deleted

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

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§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

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

§10.10.1 For the purposes of this paragraph, the term "Independent Contractor" shall include the Architect, and any and all of its consultants, agents, servants, officers, and employees. It is expressly agreed that there shall be an independent contractor relationship between the Owner and the Independent Contractor. The Independent Contractor shall not be deemed an employee of the Owner for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Independent Contractor, covenants and agrees that it will conduct itself in accordance with such status, that it will neither hold itself out as, nor claim to be, an officer or employee of the Owner by reason thereof and that it shall not make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Owner. Both the Owner and the Independent Contractor shall have the right to participate in any conference, discussion or negotiation with any governmental agency regarding the Independent Contractor's status as an independent contractor.

§10.10.2 The Owner shall not make any withholding for taxes or any other obligations. The Architect shall be solely responsible for all applicable taxes, payroll deductions, workers' compensation insurance, and provision of health insurance where required. The Architect shall indemnify and hold the Owner harmless from all loss or liability incurred by the Owner as a result of the Owner not making such payments or withholdings.

§10.11 The Architect's signatory hereby represents, warrants, personally guarantees and certifies that he has the power and authority to execute and deliver this Agreement and to carry out the obligations hereunder. The execution and delivery by Architect's signatory of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by the Architect; no other action on the part of the Architect or any other person or entity is necessary to authorize the Architect's signatory to enter into this Agreement, or to consummate the transactions contemplated herein.

§10.12 This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall be deemed one and the same instrument.

§10.13 Conflicts among this Agreement and the Exhibits shall be resolved in the following order of precedence:

§10.13.1 Exhibit B, Addendum – Standard Oneida County Conditions

§10.13.2 Any Contract Amendments, in reverse chronological order

§10.13.3 This Agreement

§10.13.4 Exhibit A, Initial Information

§10.13.5 Exhibit C, Architect Proposal

§10.14 To the fullest extent permitted by law, the Architect shall indemnify, defend, and hold the Owner harmless against any and all claims (including but not limited to claims asserted by any employee of the Architect and/or its subconsultants) and costs and expenses of whatever kind (including but not limited to payment or reimbursement of attorneys' fees and disbursements) allegedly arising out of or in any way related to its performance and/or its subconsultants' performance of this Agreement or from the Architect's and/or its subconsultants' failure to comply with any of the provisions of this Agreement or of the law. Such costs and expenses shall include all those incurred in defending the underlying claim and those incurred in connection with the enforcement of this paragraph by way of cross-claim, third-party claim, declaratory action or otherwise. The parties expressly agree that the indemnification

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obligation hereunder contemplates (1) full indemnity in the event of liability imposed against the Owner without negligence and solely by reason of statute, operation of Law or otherwise; and (2) partial indemnity in the event of any actual negligence on the part of the Owner either causing or contributing to the underlying claim (in which case, indemnification will be limited to any liability imposed over and above that percentage attributable to actual fault whether by statute, by operation of Law, or otherwise). The obligations of the Architect under this paragraph shall not be limited by any enumeration herein of required insurance coverage and shall survive any expiration or termination of this Agreement and the Owner's tendering of the final payment.

## ARTICLE 11 COMPENSATION

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

- .1 Stipulated Sum  
(Insert amount)

Lump Sum Fee of \$103,000.00 for Schematic Design, Design Development, Asbestos Containing Material Survey including sample analysis, Construction Documents, Bidding, and As-Constructed Record Drawings.

Not-To-Exceed Fee of \$4,300.00 for Asbestos Abatement Design.

Lump Sum Fee of \$34,000.00 for Construction Phase Services

- .2 Percentage Basis  
(Insert percentage value)

( ) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

- .3 Other  
(Describe the method of compensation)

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:

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

4.1.1.4: Compensation included in lump sum fee for Basic Services.

4.1.1.13: Compensation for on-site representation shall be made on a time and materials basis for work completed utilizing rates established in Architects Proposal attached as Exhibit C.

4.1.1.15: Compensation included in lump sum fee for Basic Services.

4.1.1.16: Compensation included in lump sum fee for Basic Services.

4.1.1.26: Compensation included in lump sum fee for Basic Services.

4.1.1.29: Compensation for asbestos containing material building survey, including laboratory sample analysis and reporting included in lump sum fee for Basic Services. Compensation for NYS DOL variance application(s) and asbestos abatement project monitoring and air sampling shall be made on unit prices and a time and materials basis for work completed utilizing billable rates and unit prices established in Architects Proposal attached as Exhibit C.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:

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

### Negotiated Fee

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus five percent ( 5 %), or as follows:

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(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

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

|                              |                       |        |
|------------------------------|-----------------------|--------|
| Schematic Design Phase       | percent (             | %)     |
| Design Development Phase     | percent (             | %)     |
| Construction Documents Phase | percent (             | %)     |
| Procurement Phase            | percent (             | %)     |
| Construction Phase           | percent (             | %)     |
| <hr/>                        |                       |        |
| Total Basic Compensation     | one hundred percent ( | 100 %) |

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. (If applicable, attach an exhibit of hourly billing rates or insert them below.)

Exhibit C

| Employee or Category | Rate (\$0.00) |
|----------------------|---------------|
|----------------------|---------------|

§ 11.8 Compensation for Reimbursable Expenses

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

- ~~.1 Transportation and authorized out-of-town travel and subsistence;~~
- ~~.2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;~~
- ~~.3 Permitting and other fees required by authorities having jurisdiction over the Project;~~
- ~~.4 Printing, reproductions, plots, and standard form documents;~~
- ~~.5 Postage, handling, and delivery;~~
- ~~.6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;~~
- ~~.7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;~~
- ~~.8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;~~
- ~~.9 All taxes levied on professional services and on reimbursable expenses;~~
- ~~.10 Site office expenses;~~
- ~~.11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,~~

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~~.12 Other similar Project related expenditures. Paragraph Deleted~~

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

~~§ 11.8.3 Separate payment(s) will not be made for reimbursable expenses. The cost of all reimbursable expenses shall be included in lump sum fees, not-to-exceed fees, established hourly rates, and unit prices.~~

**§ 11.9 Architect's Insurance.** If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

*(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)*

None

#### **§ 11.10 Payments to the Architect**

##### **§ 11.10.1 Initial Payments**

**§ 11.10.1.1** An initial payment of Zero Dollars (\$ 0 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

**§ 11.10.1.2** If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of (\$ ) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

##### **§ 11.10.2 Progress Payments**

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

*(Insert rate of monthly or annual interest agreed upon.)*

Statutory % per annum

~~§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding. Paragraph Deleted~~

~~§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times. Paragraph Deleted~~

#### **ARTICLE 12 SPECIAL TERMS AND CONDITIONS**

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

*(Include other terms and conditions applicable to this Agreement.)*

Exhibit B, Addendum – Standard-Oneida County Conditions

#### **ARTICLE 13 SCOPE OF THE AGREEMENT**

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

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

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- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect  
 .2 ~~AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below: Paragraph Deleted~~  
*(Insert the date of the E203-2013 incorporated into this agreement.)*

.3 Exhibits:  
*(Check the appropriate box for any exhibits incorporated into this Agreement.)*

AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:  
*(Insert the date of the E204-2017 incorporated into this agreement.)*

Other Exhibits incorporated into this Agreement:  
*(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)*

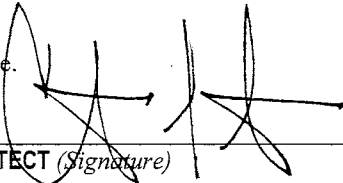
- Exhibit A, Initial Information, two (2) pages
- Exhibit B, Addendum – Standard Oneida County Conditions, fourteen (13) pages
- Exhibit C, Architects Proposal, fifty three (59) pages
- Exhibit D, AIA Document B207-2017, four (4) pages

.4 Other documents:  
*(List other documents, if any, forming part of the Agreement.)*

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

\_\_\_\_\_  
 OWNER *(Signature)*

Anthony J. Picente Jr.  
Oneida County Executive  
*(Printed name and title)*

  
 \_\_\_\_\_  
 ARCHITECT *(Signature)*

Christopher J. Crolius, AIA  
Principal  
*(Printed name, title, and license number, if required)*

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## **Certification of Document's Authenticity**

**AIA® Document D401™ – 2003**

I, Mark E. Laramie, P.E., hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification at 15:54:32 ET on 11/01/2019 under Order No. 5714959917 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2017, Standard Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than changes shown in the attached final document by underscoring added text and striking over deleted text.

---

*(Signed)*

---

*(Title)*

---

*(Dated)*

Exhibit A

Initial Information

1. Project Description

1.1.1. This project will complete various repairs at County facilities. Work shall include the following items at specified locations.

1.1.1.1. Union Station at 321 Main Street, Utica

1.1.1.1.1. Replace boilers, pumps, breaching, and associated equipment as necessary.

1.1.1.2. George E. Carle Complex at 5999 Judd Road, Oriskany.

1.1.1.2.1. Renovate 1st floor Men's restroom at 5999 Judd Road, Oriskany, NY

1.1.1.2.2. Renovate or replace all plumbing, fixtures, and finishes.

1.1.1.2.3. Subdivide Men's restroom into a restroom, office space, and a room for storage.

Install exterior window(s) in office space. Provide and/or renovate HVAC systems as required.

1.1.1.2.4. Replace three (3) condensate pumps. Evaluate and recommend alternate equipment and/or solutions.

1.1.1.2.5. Reinsulate condensate return tank.

1.1.1.2.6. Renovate dry storage ventilation system.

1.1.1.2.6.1. Replace sensors and controls for automated exhaust ventilation system.

1.1.1.2.6.2. Repair or replace makeup air units and ventilators.

1.1.1.3. Oneida County Law Enforcement Building at 6065 Judd Road, Oriskany.

1.1.1.3.1. Renovate interior of main entrance lobby and construct bullet resistant interior partitions, doors, and windows.

1.1.1.4. Oneida County Courthouse at 302 North James Street, Rome.

1.1.1.4.1. Renovate 2nd floor jury box. Provide adequate separation and eliminate tripping hazard.

1.1.1.5. Sheriff's storage facility at 4681 State Route 233, Westmoreland.

1.1.1.5.1. Full depth reconstruction of driveway and parking lot. Provide soil stabilization as required and new asphalt pavement.

1.1.1.5.2. Construct 10' high chain-link fence surrounding storage area at rear of facility.

Provide one personnel gate and one vehicle gate.

1.1.1.6. County Office Building at 300 West Dominick Street, Rome.

1.1.1.6.1. Renovate main entrance vestibule. Provide new exterior curtain wall assembly and new interior doors. Provide all features necessary for ADA compliance.

### 1.1.2. Schedule

1.1.2.1. Plans and specifications shall be prepared in 2019.

1.1.2.2. Work items 2.1.2.2, 2.1.2.3, 2.1.2.4, and 2.1.6 shall be designed and bid/constructed in 2019. All other work items shall be designed in 2019 and bid/constructed in 2020.

1.1.3. Project Budget is to be determined.

## 2. Scope of Services

2.1. Provide services necessary for the performance and completion of work noted in Section 1, Project Description and Section 2, Scope of Services. Services shall be provided as required and defined in AIA Document B101-2017, modified by County. Services shall include, but not be limited to, the following.

2.1.1. Perform asbestos containing material survey. Provide material sampling, analysis, and reporting as required.

2.1.2. Prepare plans and specifications for abatement of asbestos containing materials. Abatement design shall be performed by a NYSDOL certified project designer under the direct supervision of a Licensed Professional Engineer or Architect.

2.1.3. Prepare, submit application to NYSDOL, and secure approval for required asbestos abatement variances.

2.1.4. Provide Project monitoring/air sampling associated with abatement of ACM. All work shall be performed by a NYSDOL certified project monitor.

2.1.5. Prepare plans, specifications, and bid packages in compliance with New York State General Municipal Law.

2.1.5.1. Multiple bid packages may be required.

2.1.6. Prepare all permit applications and secure all permits. County shall pay all permit fees.

2.1.7. Provide part time on-site representation as directed by Owner and specified in AIA B207-2017.

2.1.8. Consultant's work shall be based on and comply with all current and applicable governmental laws, regulations, orders, ordinances and other rules of duly constituted authority, in all respects.

2.1.9. Consultant shall coordinate and attend bi-weekly project meetings during design, bid, and construction phases.

2.1.10. Consultant shall provide electronic files and hard copies of all submittals, as-built drawings, and O&M manuals.

**EXHIBIT B**

**ADDENDUM - STANDARD ONEIDA COUNTY CONDITIONS**

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

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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



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

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
  - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
  - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
  - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
  
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
  - i. The Contractor certifies that it and its principals:
    - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
    - B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a

public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

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

- 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:
- 1) Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
- F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;
- 1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - 2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;
- G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.
- ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

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

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

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA). When applicable to the services provided pursuant to the Contract:

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

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

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

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

8. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.
9. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its knowledge and belief: (1) the prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; and (2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) no attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.
10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under

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

#### 11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may



have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

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

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

16. GRATUITIES AND KICKBACKS.

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

17.

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

18. AUDIT.

- a. The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.
- b. If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single

Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

19. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

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

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

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

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

21. COMPLIANCE WITH NEW YORK STATE LABOR LAW § 201-G

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



## Exhibit C

April 4, 2019

**MARCH**  
**ASSOCIATES**  
*ARCHITECTS & PLANNERS, PC*

Mark E. Laramie, P.E., Deputy Commissioner  
Oneida County Department of Public Works  
Division of Engineering  
5999 Judd Road  
Oriskany, NY 13424

258 Genesee Street, Suite 300  
Utica, New York 13502  
Phone 315.733.3344  
Fax 315.733.3331  
Web [marchassoc.com](http://marchassoc.com)

Re: Oneida County Office Building  
Various Facility Improvements - 2019  
MARCH No. 1922

Dear Mark:

MARCH Associates is pleased to submit this proposal for professional consulting services. We have based our proposal on the RFP, our understanding of the scope of work, and our previous experience the various facilities.

MARCH Associates is committed to providing personalized service to Oneida County. My role will be as Principal-In-Charge and I will serve in that capacity throughout this entire project.

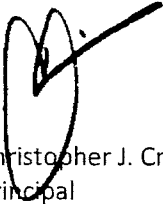
To best serve you, we have chosen to collaborate with Appel Osborne, Almy & Associates, Towne Engineering, and Barton & Loguidice to assist us with addressing site design, structural engineering, mechanical and electrical engineering, and hazardous materials associated with the project. MARCH Associates will utilize Kestrel Construction Services to provide on-site project representation.

Our proposal is formatted as follows:

|           |                           |
|-----------|---------------------------|
| Section 1 | Firm Profile              |
| Section 2 | Project Approach          |
| Section 3 | Project Team & Experience |
| Section 4 | References                |
| Section 5 | Proposed Schedule         |
| Section 6 | Insurance                 |
| Section 7 | Exhibits / Fee Proposal   |

We certainly hope that you find this material responsive and that we will have the opportunity to continue working with the County. If you require any additional information or have any questions, please contact us.

Very truly yours,



Christopher J. Crolius, AIA  
Principal

encl.

CJC/dpl

# Professional Qualifications

Oneida County Department of Public Works  
Division of Engineering

*Presented for:*

**Various Facility Improvements - 2019**

**Oneida County  
800 Park Avenue  
Utica, NY 13501**

*By:*

**MARCH  
ASSOCIATES**

*ARCHITECTS & PLANNERS, PC*

258 Genesee Street, Suite 300

Utica, New York 13502

Phone 315.733.3344

Fax 315.733.3331

Web [marchassoc.com](http://marchassoc.com)

**April 4, 2019**

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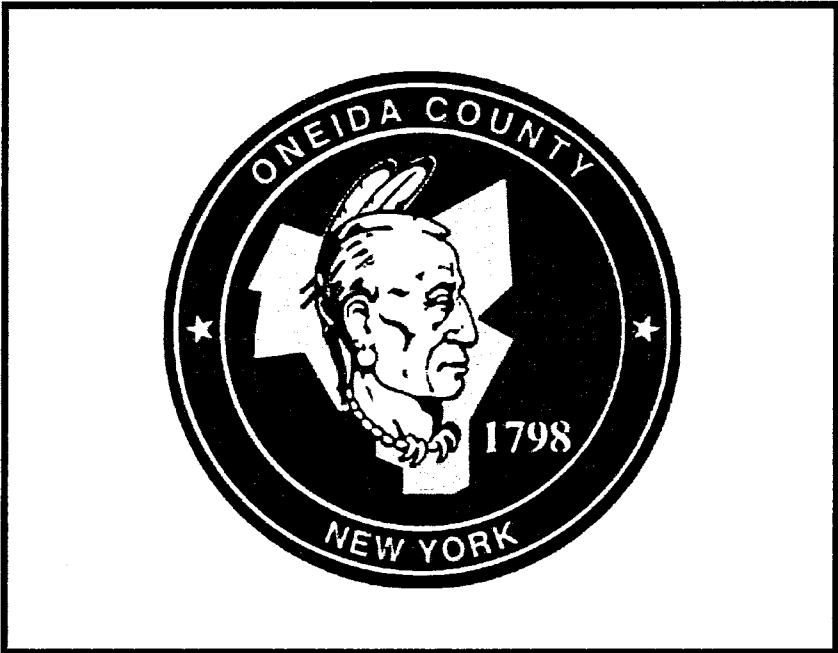
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McFARLANE  
ARCHITECTS



# Firm Profile

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M



## Firm Profile

### CONTACT INFORMATION:

MARCH Associates, Architects & Planners, PC  
258 Genesee Street, Suite 300  
Utica, NY 13502  
Phone: (315) 733-3344  
Fax: (315) 733-3331  
Web: www.marchassoc.com  
Email: ccrolius@marchassoc.com  
Contact: Christopher J. Crolius, AIA, Principal

### HISTORY OF THE FIRM:

MARCH Associates was founded on March 10, 1993. We are proudly celebrating 25+ years of service!

### FIRM'S FINANCIAL STABILITY:

We are a financially conservative firm and continually operate with no debt. Our accountant, Vincent J. Gilroy, CPA, (315) 734-1004, can furnish additional data, if required.

### FIRM BACKGROUND:

MARCH Associates is an architectural firm dedicated to the planning and design of educational, municipal, and corporate facilities. The firm is managed by two principals, Christopher J. Crolius and Anthony C. Martino, who possess more than half a century of professional experience. MARCH Associates' current staff includes seven registered architects and a support staff of nine.

We offer "local service" to all our clients and assure responsiveness through all phases of the work. We routinely attend early morning committee meetings and make late evening presentations to Boards of Education, Town Boards and Community Groups. Our services are scheduled to conform to the needs and convenience of our Clients.

MARCH Associates is committed to a planning and design approach based on interaction, participation and collaboration.

### PRINCIPAL-IN-CHARGE:

At the initiation of each project, MARCH Associates assigns a Principal-In-Charge. That principal will be the primary contact for the client throughout the course of our services.

The Principal-In-Charge will function as the project manager and will direct the representatives of the design team.

**The team members assigned to this project will remain in place for the duration and will not be reassigned without your permission. Chris Crolius will be the Principal-In-Charge for the services provided to Oneida County. Chris will be assisted by David D. Jadowski, Project Architect.**

### EXPERIENCE OF PRINCIPAL-IN-CHARGE:

Chris Crolius has been overseeing construction projects for over 35 years.

### DESIGN PHILOSOPHY:

We are very proud of our architectural accomplishments. While our projects have been recognized by a number of awards programs and publications, they are concurrently practical, flexible, and functional. After occupancy, our clients find their facilities fully usable, sustainable, and energy efficient.

### COMMITMENT:

The leaders of MARCH Associates commit to and deliver personalized service to our clients. The principal-in-charge will be personally involved in all phases and aspects of the work and will always be available to the client. There will be no "hand-off" of leadership responsibilities at any time. We strive to establish long term relationships and are prepared to serve our clients through all phases of all project types.

### GEOGRAPHIC LOCATION:

MARCH Associates' office is in downtown Utica, conveniently located in the heart of Central NY.

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# Firm Profile

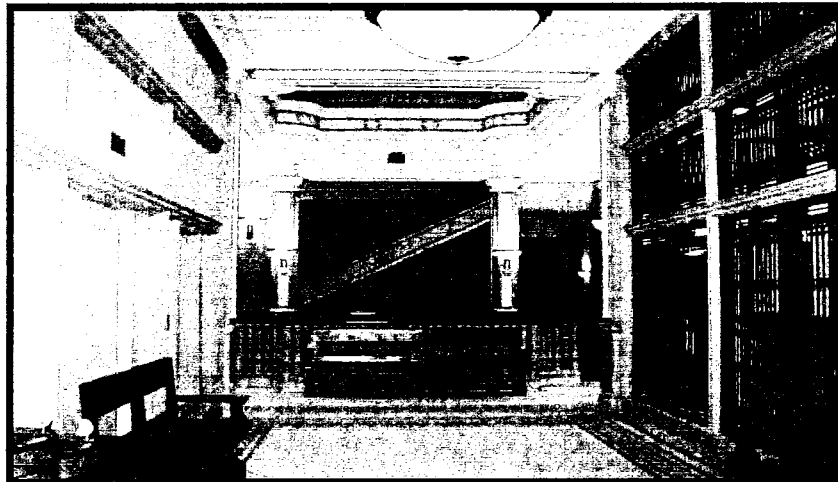
## MARCH STAFF COMPOSITION:

| <u>Name</u>              | <u>Title</u>         | <u>Tasks</u>                          | <u>Exp.</u> | <u>Yrs w/Firm</u> |
|--------------------------|----------------------|---------------------------------------|-------------|-------------------|
| Christopher J. Crolius * | Principal            | Project Management/Construction       | 35+         | 26                |
| Anthony C. Martino *     | Principal            | Programming/Design                    | 40+         | 26                |
| Charles W. Higgerson *   | Consulting Architect | Quality Control/Project Management    | 40+         | 26                |
| Michael S. Lahey *       | Associates           | Architecture/CADD Management          | 25          | 25                |
| David D. Jadowski *      | Associates           | Architecture/LEED                     | 19          | 19                |
| Matthew E. Lacey *       | Associates           | Architecture/LEED                     | 10          | 3                 |
| Steven S. Wickman *      | Associates           | Architecture/LEED                     | 28          | 3                 |
| Maria E. Leon            | Senior Designer      | Architecture                          | 30+         | 25                |
| Jessica L. Perry         | Senior Design        | Architecture/Interior Design          | 10          | 8                 |
| Jeffrey Dingman Jr.      | Designer             | CADD/Drafting                         | 7           | 5                 |
| Michael S. Stickle       | Designer             | CADD/Drafting                         | 12          | 2                 |
| Marija Lazic             | Designer             | CADD/Drafting                         | 12          | 1                 |
| Brandon L. Stefanik      | Designer             | CADD/Drafting                         | 1           | 1                 |
| Sheena K. Dundon         | Office Administrator | Assistant Administrator               | 8           | <1                |
| Barbara J. Dundon        | Office Administrator | Office Management                     | 10          | 10                |
| Donna P. Lahey           | Administrator        | Construction Administration/Marketing | 24          | 24                |

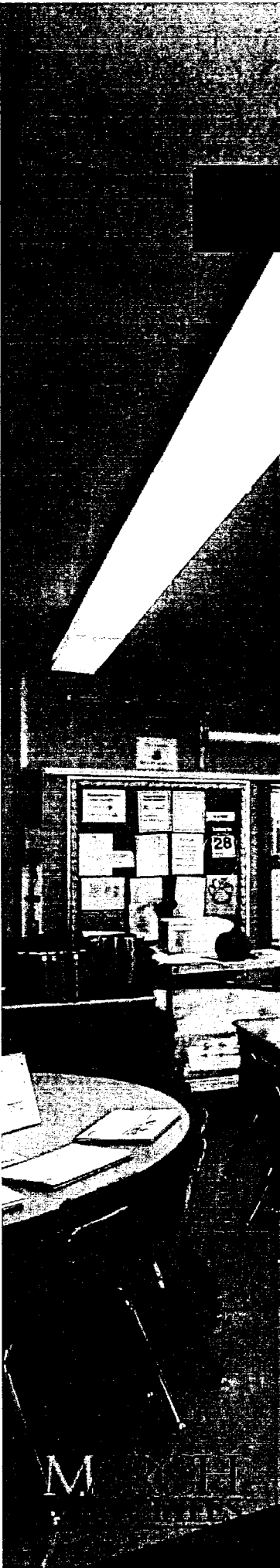
\* Licensed to practice Architecture in New York State.

## PRIME SUBCONSULTANTS:

|                                    |                                      |
|------------------------------------|--------------------------------------|
| Site Design:                       | Appel Osborne Landscape Architecture |
| Structural Engineering:            | Almy & Associates                    |
| Mechanical/Electrical Engineering: | Towne Engineering                    |
| Hazardous Materials:               | Barton & Loguidice                   |

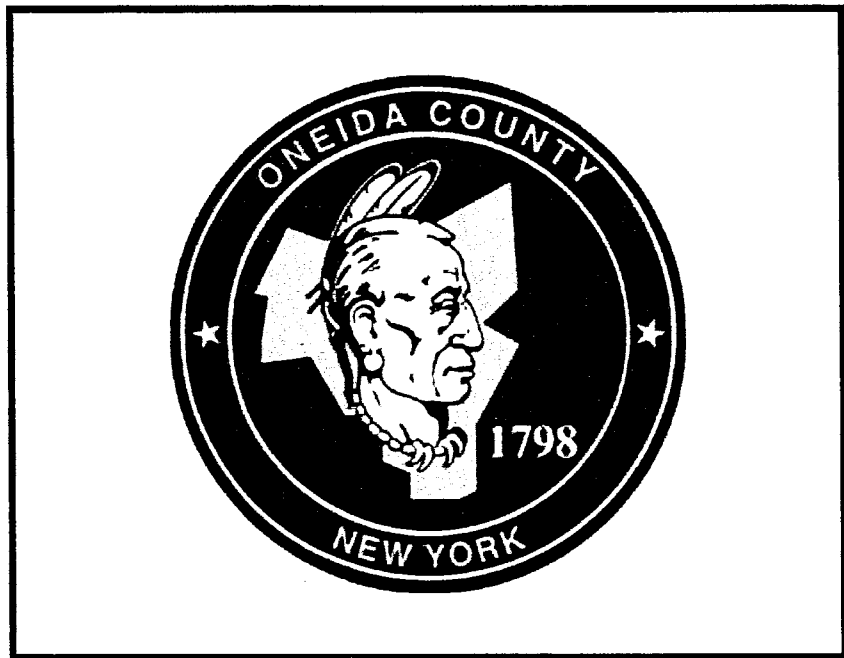


Oneida County Courthouse, Utica, NY



# Project Approach

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## Project Approach

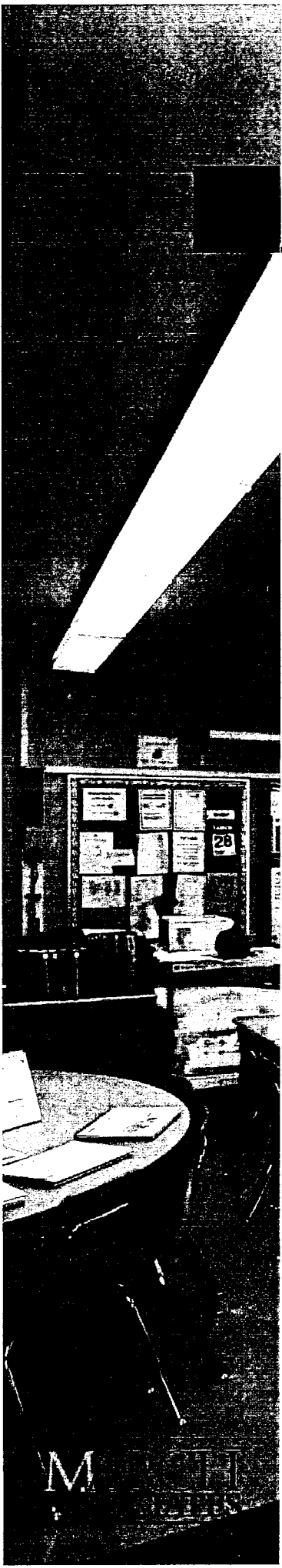
Our approach to this project is based on a team approach. The design team, in conjunction with Oneida County will work to define the issues and develop the necessary contract documents. Our schedule reflects the work being done over two calendar years.

We would recommend a kick-off meeting and site visit of each facility to evaluate the proposed work items. MARCH Associates would review existing drawings and surveys to develop the necessary backgrounds and to determine the presence of possible hazardous materials. Field work would be conducted to verify existing conditions. Meetings would be held during the Design Phase with the County (as necessary), to review the proposed design solutions and update the project estimates. We would also identify the possible breakdown of Prime Construction Contracts to determine how the project would be Bid. The work could also be bid as a single prime contract or by grouping multiple facilities.

MARCH Associates has an accomplished resume working on multiple facilities and sites concurrently. We are working on several multi-building projects for area school districts within Oneida County, including Clinton, New Hartford, Waterville, Westmoreland, and Whitesboro. We believe the design team has the necessary technical expertise to address any issues identified with the proposed scope(s) of work. Our team has worked together on a number of assignments for Oneida County on most of the facilities highlighted in the RFP. We believe the County will benefit greatly from our shared experience. In addition, our proven ability to support the construction process will also be an asset to the County.

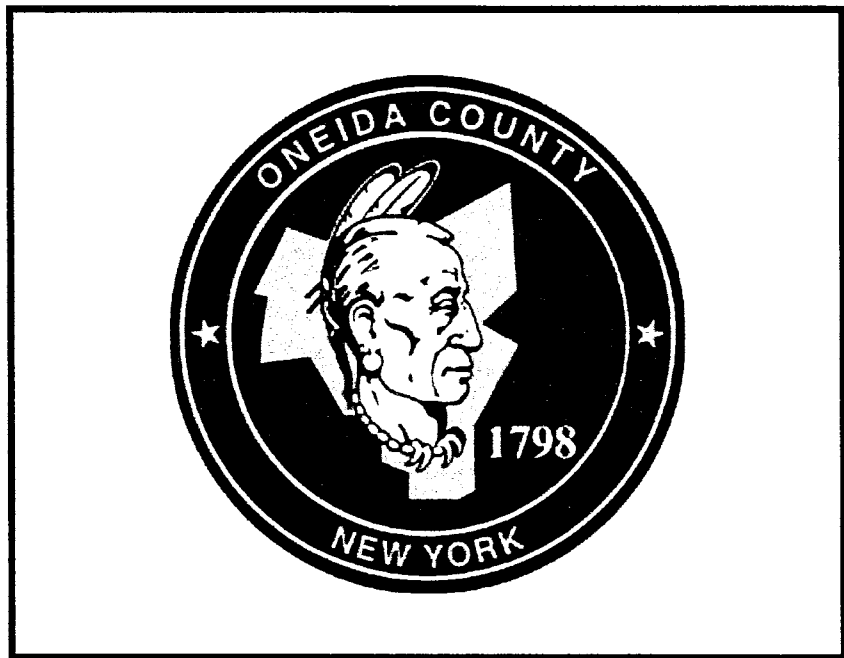


Oneida County Correctional Facility



# Project Team & Experience

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## Project Team

The design team proposed for the project is a "local" and proven team of Architects and Engineers. MARCH Associates, Appel Osborne, Almy & Associates, Towne Engineering, and Barton & Loguidice are or have worked for Oneida County on numerous projects. We have a thorough understanding of the process and of working with governmental agencies.

Christopher Crolius, AIA, will serve in the role of Principal-In-Charge for this assignment. Chris will be responsible for client communication and maintaining project schedules and budgets. Chris has extensive experience in managing renovation projects. Chris will be assisted throughout the project by David D. Jadlofski, AIA, Project Architect, and Charles W. Higginson, RA, Consulting Architect.

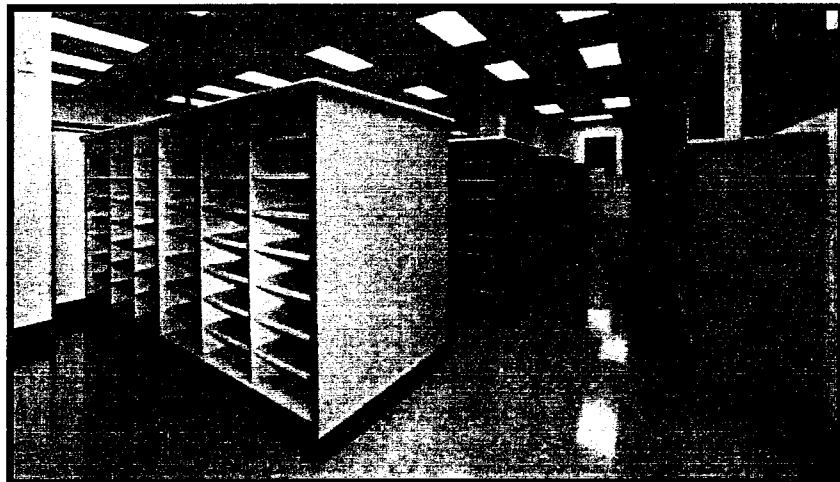
Appel Osborne will provide landscape architecture services and technical expertise. They have vast knowledge with planning, site design, and site engineering issues. Vince Pietrzak, RLA, Partner, and Patrick Costello, RLA, Project Manager, will be the key personnel for this project.

Robert Almy, P.E., Principal of Almy & Associates will serve as a structural consultant to MARCH Associates. Bob has many years of experience in the review of structural systems, including concrete, reinforced masonry and steel.

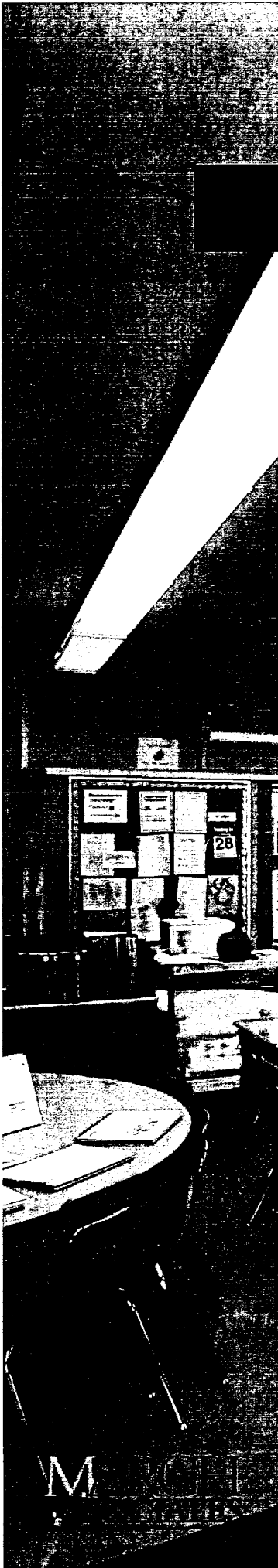
Towne Engineering is a mechanical, electrical and plumbing engineering firm established in 1975. Services include feasibility studies, design/development, preparation of bidding documents and construction administration. Gary Siver will oversee the M/E/P design.

Scott Nostrand, P.E. and John Rigge of Barton & Loguidice have over 25 years of experience in the investigation and handling of asbestos containing materials. They will oversee the hazardous material issues that arise during the course of the work. Christian Lawton, P.E., will address the various facets of water supply analysis and design associated with the project.

An Organizational Chart and Resumes for team members assigned to this project are included.

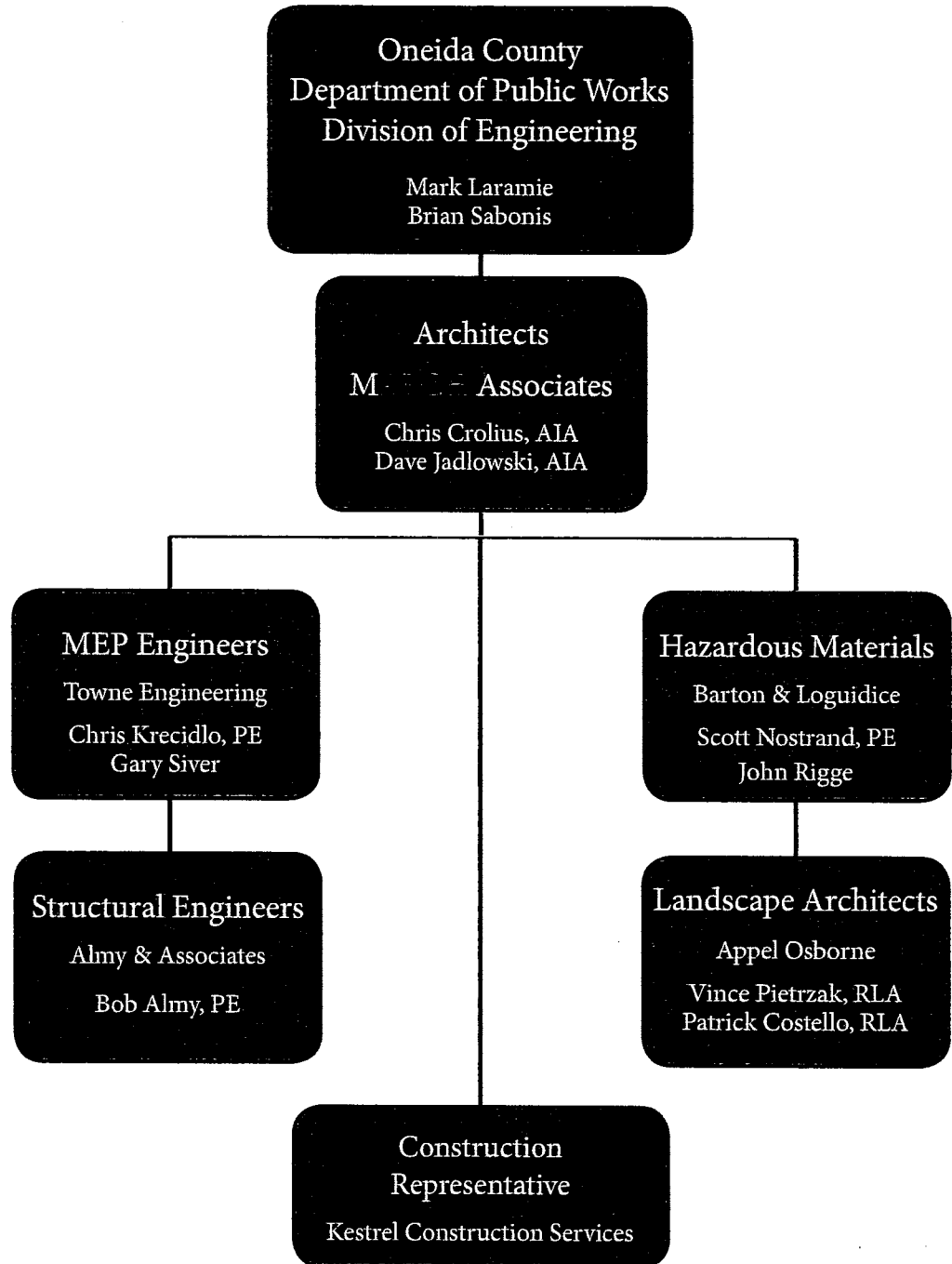


Oneida County Office Building - 5th Floor



MARCH ASSOCIATES

# Organizational Chart





# Christopher J. Crolius, AIA, CCS, Principal

## Education

M.B.A., 1985  
Rensselaer Polytechnic Institute

B.S., Construction Management, 1980  
Utica College of Syracuse University

A.A.S., Civil Technology, 1978  
Mohawk Valley Community College

## Teaching Experience

Utica College of Syracuse University  
Structural Drawing

## Professional Registrations

Registered Architect: New York, 1992  
American Institute of Architects  
Certified Construction Specifier

Mr. Crolius has been project manager, architect, and specifications writer on numerous projects for educational, utility, and industrial clients for over 35 years. Mr. Crolius has been responsible for directing the design team, project scheduling, cost control, quality assurance, and project coordination. He has served in the pivotal role of information transfer with the client and often serves as the primary contact for project related matters. As a principal in MARCH Associates, Mr. Crolius' primary responsibilities include office administration, project management, specifications, construction management and quality assurance. Clients to which Mr. Crolius has been directly responsible include:

## Public School Districts

- Adirondack Central School District
- Carthage Central School District
- Cambridge Central School District
- DeRuyter Central School District
- East Greenbush Central School District
- Ellenville Central School District
- Hoosick Falls Central School District
- Hornell City School District
- Hudson Falls Central School District
- Indian River Central School District
- Jefferson-Lewis BOCES
- Liverpool Central School District
- Malone Central School District
- Marathon Central School District
- Newburgh Enlarged City School District
- New York Mills Union Free School District
- OESJ Central School District
- Oneida-Herkimer-Madison BOCES
- Oriskany Central School District
- Rome City School District
- Roxbury Central School District
- Salmon River Central School District
- Saranac Central School District
- St. Lawrence-Lewis BOCES
- Tarrytown Union Free School District
- Town of Webb Union Free School District
- Utica City School District
- Waterville Central School District
- Westmoreland Central School District
- Whitesboro Central School District

## Colleges and Universities

- Dormitory Authority of the State of New York
- Hamilton College
- Mohawk Valley Community College
- State University College ESF at Syracuse
- State University College @ Oneonta
- New York State University Construction Fund
- State University College at Brockport
- SUNY College of Ag. & Tech. @ Morrisville
- SUNY Institute of Technology @ Utica/Rome
- Utica College of Syracuse University

## Corporate/Government/Housing

- Central Hudson Gas and Electric Corporation
- Central Vermont Public Service Corp., VT
- City of Rome, Parks & Recreation Department
- Delmarva Power, Indian River Power Plant
- Delmarva Power, MD
- Masonic Care Community of New York, Acacia Village
- Matt Brewing Company
- Mohawk Valley EDGE (GLDC)
- New York Telephone Co.
- Niagara Mohawk Power Corporation
- Oneida County Dept. of Public Works
- Town of Marshall

# David D. Jadowski, AIA, LEED AP, Associate

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## Education

A.S, Architectural Technology, 2000  
SUNY Morrisville

## Professional Experience

19 years

## Professional Registrations/Affiliations

Registered Architect: New York, 2014, License No. 036964  
American Institute of Architects  
LEED Accredited Professional, LEED AP BC+D

As a Project Architect, Mr. Jadowski is responsible for building design and production drawings. During the design phase he attends client meetings, coordinates with consultants and with all A/E disciplines, documentation of existing facilities, code compliance studies, presentation drawings, and contract documents (specifications and CADD). In the construction phase his responsibilities include reviewing shop drawings, clarification or interpretation of contract documents, attendance and administration of job meetings, and production of punchlists. Clients to which Mr. Jadowski has played a key role include:

## Public School Districts

- Adirondack Central School District
- Carthage Central School District
- Clinton Central School District
- Harrisville Central School District
- Hermon-DeKalb Central School District
- Indian River Central School District
- Madison Central School District
- Marathon Central School District
- New York Mills Union Free School District
- Oneida-Herkimer-Madison BOCES
- Poland Central School District \*
- Stamford Central School District
- Town of Webb Union Free School District
- Whitesboro Central School District

## Colleges & Universities

- Hamilton College
- Mohawk Valley Community College
- State University of New York - Oneonta
- SUNY Polytechnic Institute

## Corporate/Government

- Griffiss Local Development Corporation
- Matt Brewing Company
- Oneida County Department of Public Works
- Utica National Insurance Company
- City of Rome

## Municipal

- Floyd Fire Department
- Westmoreland Fire District



**Education | Registration | Associations**

State University of New York, College of Environmental Science & Forestry  
Syracuse, New York  
Bachelor's Degree in Landscape Architecture, 1985

Canton College, Canton, New York  
Associate's Degree in Arts and Science, 1982

New York State, Registration No. 1287

Member, American Society of Landscape Architects (ASLA)  
Affiliate Member, American Institute of Architects (AIA)  
Treasurer, New York Upstate Chapter ASLA

**Relevant Experience:**

**Oneida County Office Buildings**

- Increased Parking
- Improved Pedestrian/Vehicular Circulation

**Union Station**

- Sidewalk Renovation Project including ADA Compliance

**Oneida Business Park**

- Development of a New Office Park
  - Parking, signage, plantings
  - Storm water management

**Dresser Rand**

- New Office Building
  - Parking, entrance plaza, walking paths
- Landscape Master Plan

**Griffiss Institute Expansion**

- Feasibility Study and Contract Documents

**Griffiss Business and Technology Park**

- Building Reconstruction
  - Asphalt improvements, storm drainage
- New IT Building
  - Parking, storm water management

**Elmcrest Children's Center**

- Campus Roadwork, Sidewalks, Landscaping
- ADA Compliance

**Syracuse University**

- Day Residence Hall
  - Entry Steps, ramp, and railings improvements
- Brewster/Boland/Brockway Plaza Renovations
  - Replacement of pavers with concrete
  - Addition of ADA compliant ramp
- Sims Hall
  - Renovation of stairways

**Corning Community College**

- Commons Building Renovations
  - Renovation of front entry steps
  - Development of pedestrian plaza with ADA accessibility
- Wellness Education Center Addition
  - New entry courtyard including lighting, plantings, pavers, etc.



**Education | Registration**

State University of New York, College of Environmental Science & Forestry  
Syracuse, New York  
Bachelor's Degree in Landscape Architecture, 2005

Accredited Continuing Education Courses in Storm Water Management, Erosion and  
Sediment Control, and Cost Estimating

New York State, Registration No. 2437

**Relevant Experience:**

**Oneida County Office Buildings**

- Increased Parking
- Improved Pedestrian/Vehicular Circulation

**Union Station**

- Sidewalk Renovation Project including ADA Compliance

**Byrne Dairy UHT Plant**

- New UHT Plant
  - Driveways, parking, loading dock, sidewalk, storm water management, curbs, landscaping
- Plant Expansion
  - Circulation and drainage improvements, parking expansion

**Fayetteville-Manlius CSD**

- Main Entrance Courtyard
- Realigned Entrance Drive
- Parking Expansion

**Poland CSD**

- Parking and Sidewalk Improvements
- Main Entry Improvements Associated with a Secure Vestibule Addition

**Lake Placid CSD**

- Site Work Associated with Multiple Secure Vestibule Additions

**Clinton CSD**

- Sidewalk and Pavement Reconstruction

**Bainbridge-Guilford CSD**

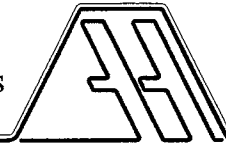
- Parking Expansion
- ADA Accessibility Improvements
- Curbing, Pavement Replacement

**Central Valley CSD**

- Front Entry and Accessibility Improvements

**Whitesboro CSD**

- Plaza and Courtyard Improvements
- Sidewalk Improvements and Pavement Reconstruction



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**ROBERT N. ALMY, P.E.**  
PRINCIPAL

**Education**

B.S. Civil Engineering; 1964

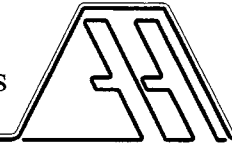
Cornell University

**Active Registration**

Professional Engineer      New York State - Lic. 045972  
South Carolina  
District of Columbia  
Commonwealth of Virginia  
Ohio

**Experience**

As the principal and owner, Mr. Almy has operated the firm since January 1976. Prior to formation of the firm, Mr. Almy was Chief Structural Engineer at Dale Engineering (later Montgomery Watson Harza) where he was employed from 1964 thru 1975. His responsibilities have included structural and civil engineering design on projects of various sizes including substantial experience as Prime Consultant. Mr. Almy also continues to serve as a member of the New York State Department of State Variance Review Board.



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**LOUIS M. ELEFANTE**  
ENGINEERING TECHNICIAN

**Education**

A.A.S. Civil Engineering Technology  
B.S. Civil Engineering Technology

Mohawk Valley Community Collage  
SUNY Institute of Technology at Utica/Rome

**Experience**

Mr. Elefante has experience in Structural and Civil Engineering, with a background in concrete, wood frame, and structural steel design, drafting, and steel detailing.

A representative list of past projects for which Mr. Elefante was involved include:

- NEW FACILITY - Science & Theater Arts Building, MVCC, Utica, NY
- NEW FACILITY - Canajoharie High School, Canajoharie, NY
- NEW FACILITY - Historic Erie Canal Marina Park, Utica, NY
- NEW FACILITY - Balston Library, Balston Hill, NY
- NEW FACILITY - Scotia-Glenville Middle School, Scotia, NY
- ADDITIONS & ALTERATIONS - Herkimer High School, Herkimer, NY
- NEW FACILITY - Utica National Insurance Company, Utica, NY
- NEW FACILITY - Schuyler Commons, Utica, NY
- NEW FACILITY - Enclave Condominiums & Club, Windham, NY
- NEW FACILITY - Acacia Village, Utica, NY
- VARIOUS BUILDINGS - Utica City School District Capital Projects, Utica, NY

# **TOWNE ENGINEERING**

## **OUR STAFF**

*William H. Towne* earned his degree in Mechanical Engineering at Iowa State University and is a registered Professional Engineer in New York, Pennsylvania, Vermont, Wisconsin and Illinois. He holds memberships in the American Society of Heating, Ventilating and Air Conditioning Engineers (ASHRAE) and the National Society of Professional Engineers (NSPE).

*Gary H. Siver* joined Towne Engineering in 1977, after attending Mohawk Valley Community College. He is principally responsible for electrical design and specification including power, lighting, fire alarm and security systems. He is a LEED Green Associate, a member of the Illuminating Engineering Society of North America (IES).

*Christopher D. Krecidlo* became a staff member in 2003, shortly after obtaining his Mechanical Engineering degree from State University of New York Institute of Technology and is a registered Professional Engineer in New York. His responsibility is mechanical systems design including heating, ventilating, air conditioning, plumbing and fire protection. He is a LEED Green Associate, a member of the American Society of Plumbing Engineers (ASPE), National Fire Protection Association (NFPA) and American Society of Health Care Engineers (ASHE).

*Jeremy R. Mroz* studied Computer Aided Drafting & Design at Oneida County Board of Cooperative Educational Services (BOCES) and worked several years as a drafter/designer before joining Towne Engineering in 2000.

*Travis W. Richards* joined our staff in 2010 while attending State University of New York Institute of Technology. He since has received his degree in Mechanical Engineering Technology and is a mechanical systems designer.

**Years of Experience**

30

**Education**

B.S. Agricultural Engineering -  
Cornell University, 1984

M.S. Animal Science - Cornell  
University, 1989

**Professional Registrations**

Professional Engineer - New  
York, 1998

State of New York, Department  
of Labor, Current Asbestos  
Handling Certificate - Project  
Designer

Hazardous Waste Operations  
Health & Safety (HAZWOPER)

**PE License #**  
#075454

**Professional Affiliations**

Air and Waste Management  
Association

Solid Waste Associations of  
North America (SWANA)

**Summary**

Mr. Nostrand manages B&L's environmental engineering and consulting group and oversees all the firm's environmental activities including hazard mitigation planning, environmental permitting and compliance, stormwater, stream restoration, site remediation, fuel systems design, industrial environmental compliance, air permitting and modeling, asbestos abatement, industrial wastewater pretreatment systems, and biosolids management.

**Asbestos Management**

Mr. Nostrand is a certified Asbestos Project Designer and oversees B&L's Industrial Hygiene group, which provides a broad array of asbestos management, indoor air quality, and environmental health and safety services. These services include preparation of pre-demolition surveys, asbestos abatement design, noise assessment, safety training, air quality analysis, and construction inspection for projects throughout the company.

For all of the project areas identified above, Mr. Nostrand has been involved with contract administration, construction management, and preparation of private and municipal bidding documents.

**Hazard Mitigation Planning**

Mr. Nostrand has overseen several successful FEMA/NYSOEM funding application and subsequent hazard mitigation plans and plan updates. Generally the plans include pro-active planning with various municipality personnel, community stakeholders, utilities and NYSOEM to identify hazards, risk assessment and mitigation strategies. He oversees all assessments of natural hazards, including earthquakes, landslides, flooding, and severe weather events.

**Greenhouse Gas**

Mr. Nostrand has overseen the preparation of greenhouse gas (GHG) monitoring plans and screening analyses for numerous clients to satisfy the requirements for the U.S. Environmental Protection Agency (EPA) Mandatory Greenhouse Gas Reporting Rule (40 CFR Part 98). The process involves evaluating each site to identify specific GHG emission sources requiring monitoring, calculating modeled and actual GHG emissions from various stationary combustion sources and fugitive methane emissions from MSW landfill sources, and preparing comprehensive site specific monitoring plans which included data collection, management, and QA/QC procedures related to the monitoring of GHG emission sources.

**Environmental and Permitting**

Mr. Nostrand oversees all activities regarding environmental and permitting issues such as wetland permitting, wetland assessment and delineation, wetland mitigation and design, threatened and endangered species surveys, biota inventories, habitat assessments and restorations, stream assessment and natural stream channel design, natural resource inventories, aquatic habitat



improvements, fish and wildlife impact analysis, water quality analysis and sampling, electro-fishing, macro/micro invertebrate sampling, SEQR and NEPA compliance assistance, and wildlife management and monitoring plans.

#### **Environmental Compliance**

Mr. Nostrand also manages B&L's program for environmental compliance reporting. This area has included the preparation of EPA Spill Prevention Control & Countermeasure Plans, Chemical Bulk Storage Spill Prevention Reports, Hazardous Waste Reduction Plans, and Environmental Compliance Audits.

#### **Air Quality Permits**

Mr. Nostrand has prepared air quality permit applications for municipal and industrial clients. Mr. Nostrand has been an expert witness for adjudicatory hearings, prepared Title V Air Permit applications and state facility air permit applications, and processed permit modifications for numerous clients. Permit writing has involved determination of acceptable capping strategies, monitoring strategies, and NANSR and PSD applicability. In support of these permits, Mr. Nostrand has prepared air quality screening dispersion models of expected contaminant releases. Due to B&L's solid waste practice, Mr. Nostrand has developed significant expertise in the permitting strategy for solid waste landfills that are subject to the federal New Source Performance Standards for landfills.

#### **Due Diligence**

Mr. Nostrand has prepared more than 300 Phase I Environmental Site Assessment reports for commercial and industrial clients in the Northeast. Environmental concerns identified during these assessments included leaking underground storage tanks, deteriorated asbestos materials, polychlorinated biphenyls, air, soil, wastewater pollution, permit compliance, and other environmental concerns.

#### **Remediation Projects**

Mr. Nostrand has been responsible for the management of numerous investigations of petroleum, solvent, PCB and hazardous substance spills at industrial and municipal sites under various regulatory programs such as NYSDEC's Oil Spills Program, Inactive Hazardous Waste Site Program, Voluntary Cleanup Program, and Environmental Restoration Program (municipal brownfields). These projects have included site characterization, remedial investigation, feasibility analysis, remedial design and construction administration. Remedial design projects have involved in-situ bioremediation, groundwater extraction and treatment, soil vapor extraction, source removal, and monitored natural attenuation. Projects have included remediation investigations at hazardous waste landfills, industrial facilities, abandoned industrial and commercial properties, and petroleum bulk storage and retail service stations.

**Years of Experience**

31

**Education**

B.S. Biology, State University of  
New York at Cortland, 1985

Graduate Study in Microbiology,  
1986

**Professional Registrations**

NYS Department of  
Labor/Pennsylvania/EPA  
Asbestos Project Designer

NYS Department of Labor/EPA  
Asbestos Project Monitor

NYS Department of Labor/EPA  
Asbestos Project Inspector

NYS Department of Labor/EPA  
Asbestos Management Planner

NYS Department of Labor/EPA  
Asbestos Air Sampling  
Technician

NYS Department of Labor/EPA  
Lead Supervisor

Certified by Scitec and Niton  
Corporation for use of MAP  
Analyzer

Radiation Safety Training, 40  
hour course, Cornell University

Various training courses  
completed within the health and  
safety field including: mold  
remediation, indoor air quality,  
and industrial hygiene

**Certification #**

88-12622

(NYS Asbestos Inspector)

**Summary**

Mr. Rigge has 30 years of experience in asbestos management, lead management, indoor air quality, and industrial hygiene services. He manages the Industrial Hygiene group for B&L and is the project manager for a host of clientele including industrial, municipal, educational, commercial, and professional clients. Mr. Rigge is the manager and project consultant for industrial hygiene, asbestos management, lead-based paint management, and indoor air quality projects. He has completed and/or managed hundreds of projects including survey, inspection, design, and construction related services for local educational facilities. He implements company initiatives, programs, and policies; directs provision of services to clients; and directs marketing and business development efforts.

**Relevant Project Experience**

**Asbestos Management**

**Public School Districts, New York State**

Mr. Rigge has provided asbestos and/or lead-based paint survey, design, and construction management services including project/air monitoring services for more than 100 public school districts and regional BOCES throughout NYS in conjunction with renovations, additions, and district upgrades. He has been involved successfully with the completion of hundreds of renovation, addition, and capital projects for the public school system.

**Oneida County, Asbestos Surveys/Management Oneida County, Utica, NY**

Building asbestos surveys, design, and construction related services at various county-owned facilities including Union Station Building (c.1910) and the Oneida County Court House (c.1920). Additionally Mr. Rigge developed an operations and management plan for asbestos in the Oneida County Office Building to provide an ongoing program oversight.

**Onondaga Community College Asbestos Survey, Syracuse, NY**

B&L was retained by Onondaga County to conduct surveys for asbestos containing material at nine buildings on the Onondaga Community College (OCC) Main Campus located in Syracuse, NY. The surveys were conducted by B&L personnel and included accessible areas of the buildings' interior spaces, roofs (as directed by OCC), and exteriors. The survey of each building included the sampling of suspect ACM by B&L personnel. Mr. Rigge served as the project manager for the project. He was responsible for the scheduling, coordination, and execution of the services and for review and quality control.

**Central New York School District, Indoor Air Quality, Central New York**

Building-wide indoor air quality assessment and airborne and surface mold and bacteria sampling at two elementary schools and associated risk assessment.

**Asbestos Services, Cornell University, Ithaca, NY**

Mr. Rigge managed comprehensive surveys of asbestos materials, including extensive exposure assessment, hazard ranking, and cost estimates for more than 338 campus buildings totaling more than 8.5 million square feet. Supervised and designed asbestos abatement in multiple buildings on the University campus.

**Asbestos and Lead Services, Various USAF Facilities, United States Air Force**

Project consultant for building surveys for asbestos-containing materials/lead at Air Force bases and government owned manufacturing plants throughout the United States, approximately 70 million sf.

**Asbestos Services, State University of New York at Morrisville, Morrisville, NY**

Mr. Rigge conducted asbestos surveys and project monitoring services at several buildings on campus.

**Asbestos and Lead Services, Cornell University, Ithaca, NY**

Mr. Rigge was project manager/consultant for design and project monitoring at several large asbestos and lead abatement projects including major renovations/demolition at S.T. Olin Chemistry, Baker Chemistry, and Sage Hall on the Cornell University campus.

**Asbestos and Lead Services, Hamilton College, Clinton, NY**

Project manager/consultant for design and project monitoring during large asbestos/lead abatement project at numerous college buildings.

**Industrial Hygiene and Environmental Services for Rochester Institute of Technology, Rochester, NY**

B&L was retained by RIT for the provision of industrial hygiene and environmental services on an as-needed basis. Services provided under the contract include industrial hygiene sampling and assessment, indoor air quality investigations and sampling, engineering review of specific building components, and miscellaneous environmental testing services. Mr. Rigge serves as the project manager for the project. He is responsible for the scheduling, coordination, execution, and quality control of the services with the project designate(s) from RIT.

**Indoor Air Quality, Le Moyne College, Syracuse, NY**

Project consultant for full day area sampling for particulate, oxides of nitrogen, formaldehyde volatile organic compounds, and other indoor air quality indicators.

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**David A. Morse**  
Managing Industrial Hygienist

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**Years of Experience**

26

**Summary**

Mr. Morse has a significant background as an industrial hygiene consultant to numerous educational, commercial, professional, and industrial clients. He has completed hundreds of projects involving hazardous material remediation design, asbestos and lead-based paint consulting, and industrial hygiene services.

**Education**

A.A.S. Natural Resource  
Conservation, SUNY Morrisville,  
1988

A.A.S. Civil Engineering, SUNY  
Mohawk Valley, 1993

**Industrial Hygiene Monitoring**

Conducted a multitude of projects involving sampling for numerous types of airborne contaminants including various solvents, metals, total and respirable dust/silica. Responsibilities included: scheduling and conducting field sampling, interviewing affected employees to determine their job responsibilities, observing employee activities throughout their work shifts, documenting work place observations to correlate exposures with job functions, interpreting analytical data gathered from sampling events, and preparing reports discussing exposures in relation to applicable exposure limits.

**Professional Registrations**

NYS Department of Labor/EPA  
Asbestos Project Monitor

NYS Department of Labor/EPA  
Asbestos Designer

NYS Department of Labor/EPA  
Asbestos Project Inspector

NYS Department of Labor/EPA  
Asbestos Management Planner

NYS Department of Labor/EPA  
Asbestos Air Sampling  
Technician

EPA Certified Lead Risk Assessor

**Indoor Air Quality Investigations**

Conducted numerous IAQ surveys which included investigations and monitoring throughout facilities for typical IAQ indicators, including temperature, relative humidity, total particulates, volatile organic compounds, carbon dioxide, and carbon monoxide. He conducted examinations of the use and layout of floor space to identify patterns of air movement with respect to potential sources of indoor air contaminants. Conducted follow up investigations to isolate sources of contaminants.

**US Air Force Survey Team Leader**

Served as on site asbestos and lead based paint survey team leader at more than 40 US Air Force bases and government -owned manufacturing facilities worldwide. The project encompassed 4 years and included the asbestos and lead based survey of approximately 70 million square feet of building space. Duties: scheduling work, conducting surveys, QA/QC of field data, client relations and solving logistical issues involved with working in other states/countries.

**Certification #**

NY-R-5524-6  
(Risk Assessor)

**Site Clearance Project Field Supervisor**

Mr. Morse served as on site supervisor for a \$1.1 million site clearance project, which included the hazardous material survey, asbestos survey, abatement and demolition of 34 buildings at a former government installation. The project was conducted over a period of nine months. Responsibilities included: oversight of initial asbestos and lead based paint surveys, assistance in the formation of all design and specification documentation, on site supervision of asbestos and lead based paint abatement, building demolition, site grading, final report generation, and final close out documentation submission.

**Asbestos Surveys**

Mr. Morse conducted a multitude of asbestos material surveys in a variety of commercial, industrial and residential environments; including multi story office buildings, manufacturing plants, power plants, and schools. Work included site investigations, material sampling, material assessment, report generation, and identifying ACM on computer generated floor plans.

**Lead Based Paint Surveys**

Conducted lead based paint inspections and risk assessments as an EPA Certified Lead Inspector and Risk Assessor for numerous school districts throughout New York State. Work was conducted according to HUD guidelines and using portable x ray fluorescent instrumentation.

**Asbestos and Lead-based paint Investigations, Herkimer-Fulton-Hamilton-Otsego BOCES, Herkimer, NY**

Performed asbestos and lead-based paint investigations and removal design for renovations to the building. Mr. Morse also provided sampling and removal documents for the mercury containing sports flooring in the gymnasium.

**Asbestos and Lead-based Paint Investigations, Oneida-Herkimer-Madison BOCES, New Hartford, NY**

Performed asbestos and lead-based paint investigations and asbestos removal design work for renovations/additions to the building.

**Air Sampling**

Performed real-time particulate and high volume TSP (total suspended particulate) monitoring of containments during bridge rehabilitation projects. Reviewed control techniques with NYSDOT Engineers and Inspectors to ensure public safety.

**Public School Districts, New York State**

Mr. Morse has provided asbestos and lead-based paint survey, abatement design, project monitoring, and construction management services at over 70 public school districts and regional BOCES facilities throughout NYS. The work was conducted in conjunction with renovations, additions, capital projects, and district upgrades. He has been involved in numerous successfully completed school projects in NYS.

**Asbestos and Lead Services, Hancock Field Development Corporation, Syracuse, NY**

As Project Manager for Hancock Airpark site clearance project, Mr. Morse performed site surveys for asbestos and lead and other hazardous materials, and prepared contract specifications for removal, disposal, and demolition for 137 buildings.

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**Ronald C. Thorp**  
Managing Industrial Hygienist

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**Years of Experience**

28

**Summary**

Mr. Thorp has a significant background as an industrial hygiene consultant to professional, institutional, commercial, and industrial clientele. He has overseen the completion of hundreds of projects of varying complexity involving duties such as project costing, technical performance, and project performance. Mr. Thorp has completed hundreds of projects involving asbestos and lead-based paint consulting, industrial hygiene services, and hazardous material remediation design.

**Education**

A.A.S. Ecology and Environmental Technology, Paul Smiths College, 1989

**Relevant Project Experience**

**Professional Registrations**

NYS Department of Labor/EPA  
Asbestos Project Monitor  
NYS Department of Labor/EPA  
Asbestos Project Inspector  
NYS Department of Labor/EPA  
Asbestos Management Planner  
NYS Department of Labor/EPA  
Asbestos Air Sampling  
Technician  
EPA Certified Lead Risk Assessor  
OSHA 40-Hour Hazardous Waste  
Operations Training  
Certified by Scitec and Niton  
Corporation for use of MAP  
Analyzer

**Asbestos**

**Asbestos and Lead Based Paint Services, School District (K-12)**

Mr. Thorp performed asbestos and lead based paint investigations, designs, and project monitoring/air sampling for numerous school district capital projects including, locally, Syracuse City, North Syracuse, Baldwinsville, Westhill, Oneida, Morrisville, Vernon Verona Sherrill, Ilion, Solvay, Pulaski, Union Springs, Camden and Rome City Schools. He performed the same services for BOCES campuses at Herkimer-Fulton-Hamilton-Otsego BOCES and the Oneida-Herkimer-Madison BOCES.

**Asbestos and Lead Services, Hancock Field Development Corporation, Syracuse, NY**

Industrial hygienist for Hancock Airpark site clearance project. Performed site surveys for asbestos and lead and other hazardous materials, prepared contract specifications for removal, disposal, and demolition for 137 buildings.

**Structural Conditions Assessment of Two Buildings, City of Syracuse, NY**

As part of a structural conditions assignment under the B&L General Services Agreement with the City of Syracuse, Mr. Thorp provided engineering and environmental services necessary for two vacant buildings targeted for demolition on S. Warren Street in the City of Syracuse. He was project manager for asbestos inspection, abatement, and air sampling services.

**Certification #**

90-04160  
(NYS Asbestos)

**State University of New York**

Mr. Thorp performed asbestos project monitoring services for renovation projects at various campuses including Albany, Binghamton, Morrisville, Onondaga Community, Oswego, Cortland, and Oneonta.

**Hamilton College, Clinton, NY**

Mr. Thorp performed asbestos investigations, design services, and construction period monitoring for projects at several buildings on campus.

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**Ronald C. Thorp**  
**Managing Industrial Hygienist**

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**Cornell University, Ithaca, NY**

Mr. Thorp performed asbestos surveys of entire endowed portion of the campus (over 6 million sq. ft.) including sampling, drawings, and data entry to database format. Numerous asbestos design and construction period monitoring projects including Olin Chemistry, Baker Chemistry, Sage Hall, and Plant Science Buildings.

**Mohawk Valley Community College, Utica and Rome Campuses, NY**

Mr. Thorp performed asbestos investigations, project design, and construction period monitoring for several buildings.

**St. John Fisher College, Rochester, NY**

Mr. Thorp performed asbestos surveys of the entire campus including sampling, drawings, and preparing data into a management plan format. He was involved with numerous asbestos design and construction period monitoring projects at various buildings on campus.

**Asbestos and Lead Based Paint Surveys, US Air Force**

Mr. Thorp conducted at various government owned manufacturing facilities and bases throughout the US.

**Veterans Administration Medical Centers, Albany, Bath, Buffalo, Canandaigua, Rome, and Syracuse Facilities**

Mr. Thorp performed asbestos project monitoring and air sampling for numerous renovation and addition and renovation projects.

**Griffiss Local Development Corporation, Former Griffiss AFB, Rome, NY**

Mr. Thorp performed asbestos and lead-based paint surveys, project design services, and project management/project monitoring for building demolitions and various renovation projects.

# Experience

## BIRNIE BUS SERVICE

Rome, NY  
Mr. Tim Birnie

- Additions/Alterations to Existing Utica Facility.
- Site Plan for New Facility in Cornell, NY.

## EDGEWATER SERVICES CO. LTD.

Syracuse, NY

- Design and Construction of Addition to Existing LCMG Building.
- 25,000 S.F. Light Manufacturing/Warehouse with loading docks.

## FRANKFORT FREE LIBRARY

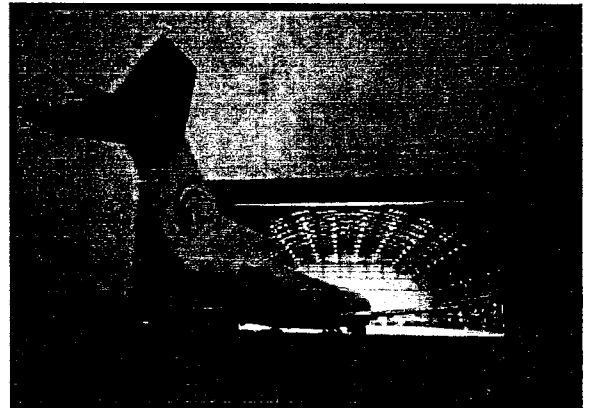
Frankfort, NY  
Mr. Jon Loiacano, Board President

- Repair/replace concrete entrance way and railings.

## GRIFFISS LOCAL DEVELOPMENT CORPORATION / MOHAWK VALLEY EDGE

Rome, NY  
Mr. Steve DiMeo

- Expansion and Renovation of Hangar 101 for Empire Aero Center.
- Various Site Evaluations, Building Evaluations & Miscellaneous Design Work.
- Design of Light Manufacturing Building.
- Site Master Plan.
- Asbestos Abatement/Demolition of Building 112.
- Bay 6 Tail Door Upgrades.
- Empire Aero Center Annex Roofing
- Renovations to the Former Base Gym.



## NATIONAL DISTANCE RUNNING HALL OF FAME

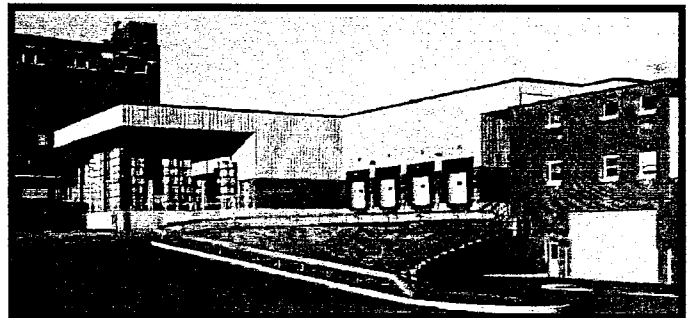
Utica, NY  
Mr. Earle Reed, Founder

- New National Distance Running Hall of Fame Showcasing the Utica Boilermaker.
- Renovations to existing multi-story historic building.

## MATT BREWING COMPANY

Utica, NY  
Mr. Nick Matt, President

- Phase 1 - Interior Renovations
- Phase 2 - Warehouse Expansion and New Keg Cooler





# Experience

ONEIDA COUNTY DEPARTMENT OF PUBLIC WORKS  
Oriskany, NY  
Mr. Mark Laramie, Deputy Commissioner

- Interior Renovations to Oneida County Courthouse.
- Interior Renovations at 235-247 Elizabeth Street.
- Design of New Vehicle Storage Facility.
- Re-roof County DPW Buildings.
- Renovations to Union Station.
- Renovate OCDPW Offices at 5911 Airport Road.
- Re-Roof Oneida County Office Building.
- OCOB - Asbestos Abatement & Interior Renovations - 5th Floor.
- Replacement of Exterior Facade at OCCF.
- Re-Roof OC Courthouse & Union Station.
- Window & Door Replacement at OCOB-Rome.
- Overhead Door Replacement at Various OCDPW Facilities.
- HVAC System Improvements at Oriskany Maintenance Facility.
- Union Station Reroofing & Fuel Stack at Chimney.
- OC Facility Improvements at MVCC A&P Training Center.
- Union Station - REA Wing Renovations.
- OC - MVCC Rome - Plumley Building Roof Replacement & Skylight Restoration.
- OC - Homeland Security Training Center Building Improvements.
- OC - Railroad Street & Sitework Improvements at Union Station.
- OCDPW - Salt Storage Facilities - (3) Building Improvements.
- OCDPW - Taberg Maintenance Facility - Building Improvements.
- OCOB - Asbestos Abatement & Interior Renovations - 1st & 3rd Floors.
- OCOB - Asbestos Abatement & Interior Renovations - B1/B2.
- OCOB - Asbestos Abatement, Boiler and VCT Replacement, & Interior Renovations, B1/B2.
- OCOB - 1st Floor VCT Replacement.
- OCDPW - Oriskany Maintenance Facility - Building Improvements.
- OC - Building 13 at the former Oriskany Airfield - Roof Replacement.
- Union Station - Department of Elections.
- OC - MVCC - Exterior Building Improvements.
- OC - Correctional Facility - Recreation Yard Improvements
- OC - Correctional Facility - Sliding Gate
- OC - Rome - 300 W. Dominick Street - Probation Renovations.
- OCOB - Chimney Retrofit.
- OCOB - Parking Lot Expansion.
- OCOB - Garage Door Replacement.
- OCOB - 1st Floor Store Door Replacement.
- OCDPW - 120 Airline Street - ReBid Renovations.
- OC - Rome - 301 W. Dominick Street - Family Court Facility Renovations.
- OCOB - Asbestos Abatement & Interior Renovations - 4th & 2nd Floor.
- OC - MVCC - Transfer Center (Phase 1) & Student Commons (Phase 2).
- OCOB - Asbestos Abatement & Interior Renovations - 10th Floor.



M

# Experience

ONEIDA COUNTY DEPARTMENT OF WATER QUALITY & WATER POLLUTION CONTROL  
Utica, NY  
Mr. John Waters

- Roofing Construction at (3) Buildings: Barnes Avenue & Sauquoit Creek Pump Stations and Leland Avenue Garage.

ROME RECREATION CENTER  
Rome, NY  
Mr. Ryan Hickey, Recreation Coordinator

- Study for new sports complex with ice arena and indoor playing surfaces.
- Additions and Alterations at John F. Kennedy Civic Arena, Phases I & II.

STANLEY PERFORMING ARTS CENTER  
Utica, NY  
Mr. Mark Laramie, Oneida County Division of Engineering

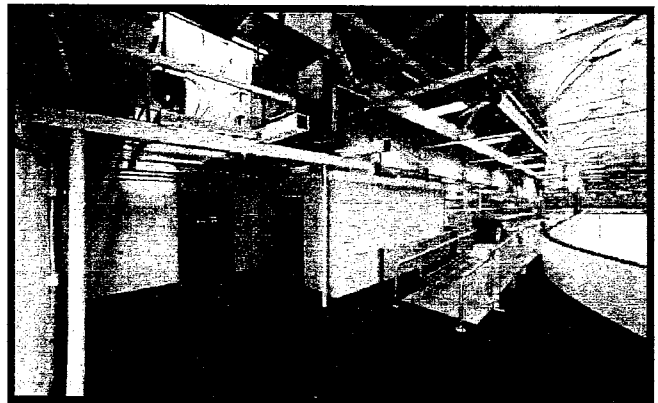
- Window Replacement Project.

UTICA BOILERS  
Utica, NY  
Mr. Timothy Reed, President

- Training Center with working Boiler Demonstration/Testing Area.
- Warehouse Expansion Study.
- Research and Development Facility Improvements.

UTICA NATIONAL INSURANCE GROUP  
New Hartford, NY

- New Corporate Headquarters Building.
- Mechanical Upgrades and Associated Renovations.
- Facade Reconstruction/Window Replacement to Existing Building.
- Cafeteria Addition.
- Renovations to Third Floor Office Area.
- Fuel Tank Removal.
- Executive Suite Modifications.
- Re-roof Main Building.
- Limestone Restoration.
- Parking Lot Improvements.



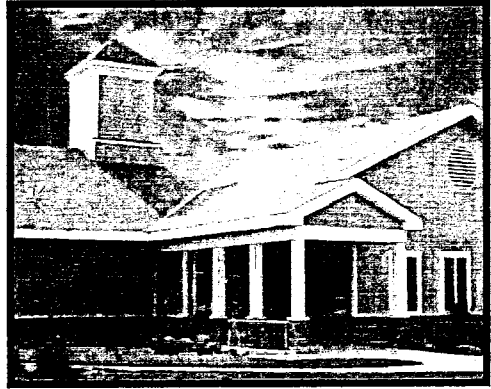
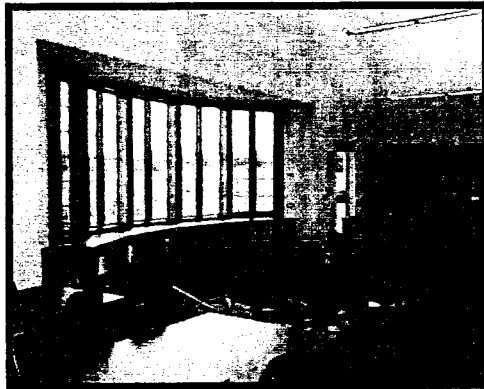
# Experience

## WATERVILLE PUBLIC LIBRARY

Waterville, NY

Mr. Stephen J. Keating, Former Board President

- New Public Library.

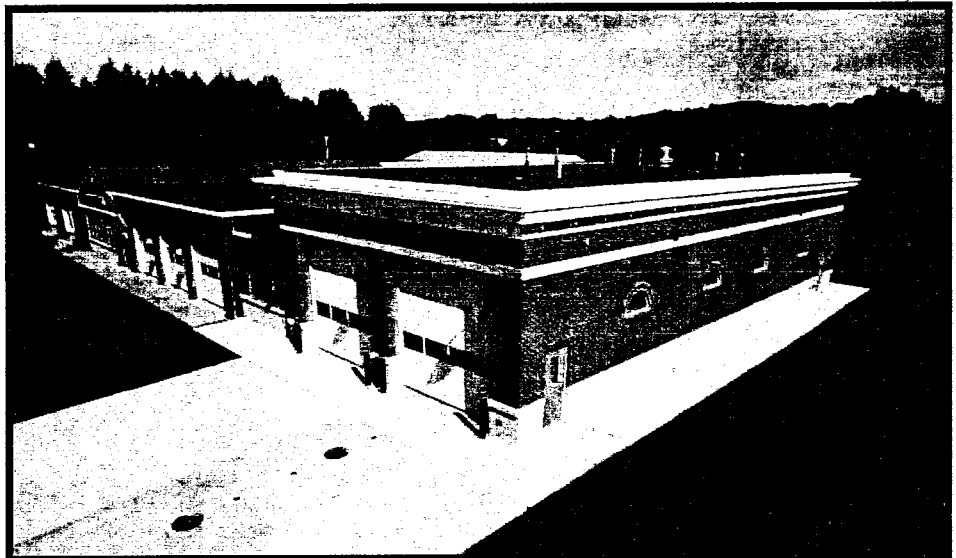


## VOLUNTEER FIRE DEPARTMENT - FLOYD

Rome, NY

Mr. Dan Schwertfeger, Fire Department Chief

- Addition & Alterations



## FIRM BACKGROUND AND PROFESSIONAL SERVICES

### SERVICES

site selection  
 master planning  
 feasibility studies  
 environmental assessment  
 SEQR determination  
 agency approvals  
 DEC permitting  
 site design  
 storm water management  
 irrigation  
 contract documents  
 contract administration

### A SYNTHESIS OF LANDSCAPE ARCHITECTURE AND SITE ENGINEERING

Our clients benefit from the firm's capability to creatively solve a broad range of planning, site design, and site engineering issues. Our office includes 15 Licensed Landscape Architects including four partners, Peter Osborne, Vincent Pietrzak, Timothy Bonaparte, and Cory Jenner, and a support staff of 11 talented professionals.

### AN ESTABLISHED PRACTICE

Since 1975, we have completed award-winning projects throughout New York State. We stress personalized service, with hands-on partner involvement on every project. Our clients benefit from our experience in the site design of a wide array of facilities and our familiarity with the agencies involved in the process including the NYS Department of Environmental Conservation, the Oneida County Engineering Department, the NYS and Onondaga County Departments of Transportation, and the NYS Education Department.

Our contract documents are well respected by both Owners and Contractors and have a proven track record of being thorough and easy to read, resulting in very few change orders. We can prepare presentation graphics including perspectives, plan renderings, and visual simulations used to aid in client and agency reviews, public presentations, and fundraising.

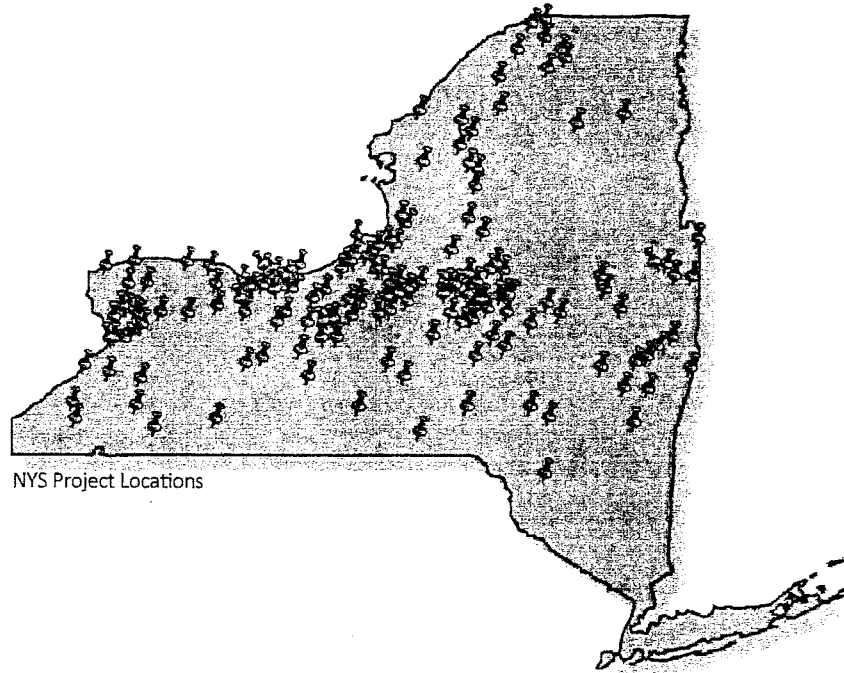
### MARKETS

K-12 education  
 higher education  
 healthcare facilities  
 residential  
 government/public institutions  
 parks & recreation  
 corporate facilities  
 master planning  
 athletic complexes  
 sustainable design

### STAFF CREDENTIALS BREAKDOWN

- 15** LICENSED LANDSCAPE ARCHITECTS
- 3** LEED ACCREDITED PROFESSIONALS
- 2** CLARB CERTIFIED LANDSCAPE ARCHITECTS
- 2** CERTIFIED PROFESSIONALS IN EROSION & SEDIMENT CONTROL
- 1** CERTIFIED EROSION, SEDIMENT & STORM WATER INSPECTOR
- 1** CERTIFIED PROFESSIONAL IN STORM WATER QUALITY

### AFFILIATIONS

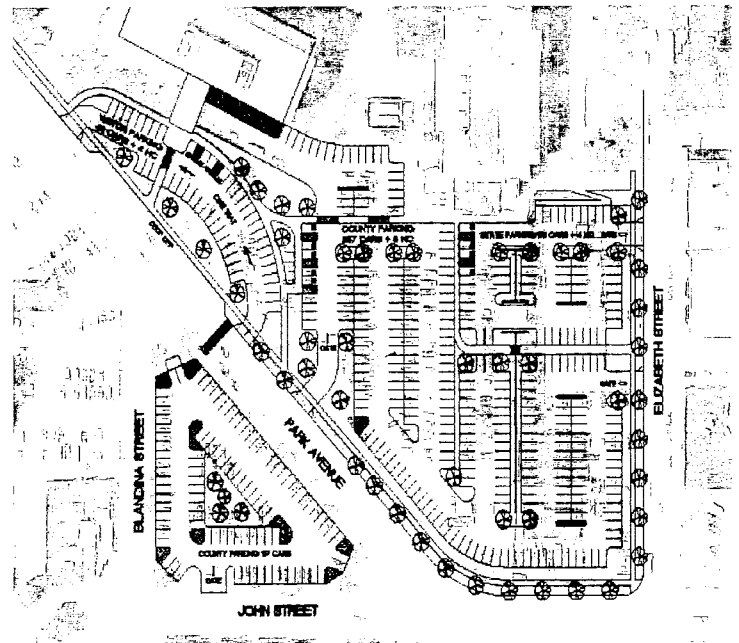




# ONEIDA COUNTY OFFICE BUILDINGS UTICA, NEW YORK

- Design a parking lot expansion and renovation
- Maximize total number of parking spaces
- Minimize or eliminate pedestrian/vehicular conflict points
- Separate parking areas for County employees, State employees and visitors via automated gates and physical barriers
- Improve handicapped accessibility to the office building and courthouse
- Green strategies to reduce storm runoff such as permeable asphalt, landscaping and infiltration management areas
- New parking lot signage and pedestrian wayfinding
- Development of a landscaping plan to enhance building entrances and plaza spaces

| Project Overview                   |                                                               |
|------------------------------------|---------------------------------------------------------------|
| Approximate Site Construction Cost | \$1.5 million                                                 |
| Completion Date                    | 2017                                                          |
| Partner-In-Charge                  | Vincent P. Pietrzak                                           |
| Project Manager                    | Patrick J. Costello                                           |
| Reference                          | Mr. Mark Laramie, P.E.<br>Oneida County DPW<br>(315) 793-6236 |



- Sidewalk renovation including ADA compliance
- Paver replacement
- Drainage improvements
- New plantings
- Reconstruction of the Rail Road Street pavement

**Project Overview**

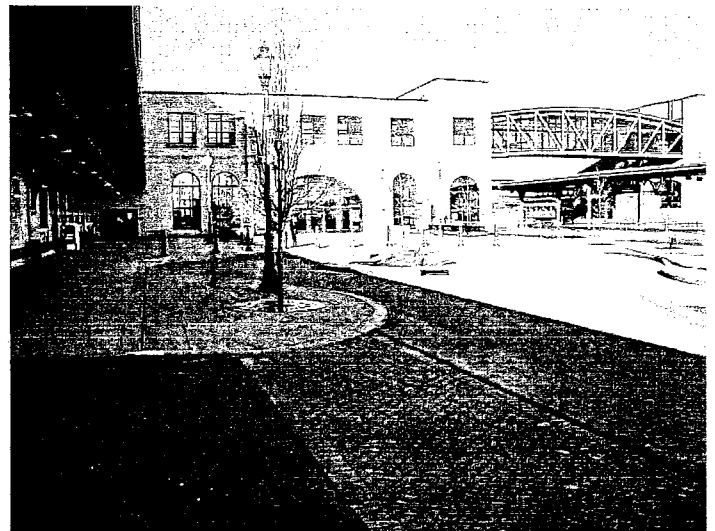
**Approximate Site Construction Cost**  
\$150,000

**Completion Date**  
2013

**Partner-In-Charge**  
Vincent P. Pietrzak

**Project Manager**  
Patrick J. Costello

**Reference**  
Mr. Mark F. Kantor  
Assistant Civil Engineer  
Oneida County DPW  
(315) 793-6236



UHT Plant

- New UHT plan on a 20-acre site
- Prepared documentation to obtain Site Plan Approval
- Driveways, parking lot, loading dock, sidewalk, curbs
- Storm water management
- Landscaping
- Gravity sanitary system from municipal system was designed to within five feet of building
- Master Planning for future phases

Plant Expansion

- 105,500 s.f. addition
- Circulation and drainage improvements
- Parking lot expansions
- Concrete loading docks
- Sanitary conveyance for an on-site processed waste treatment facility
- Storm water management includes expansion of the existing retention basin

**Project Overview**

**Estimated Site Construction Cost**

UHT Plant: \$650,000  
Expansion: \$2.0 million

**Completion Date**

UHT Plant: 2005  
Expansion: Ongoing

**Partner-In-Charge**

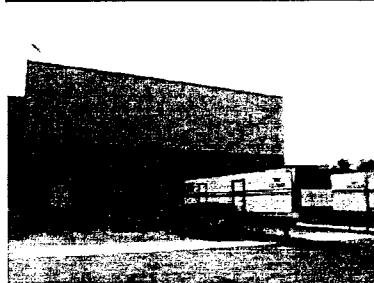
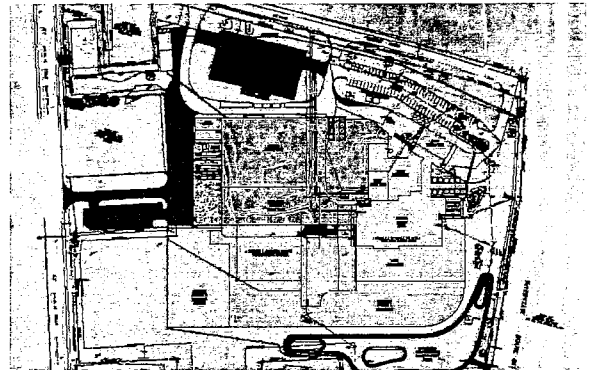
Peter S. Osborne

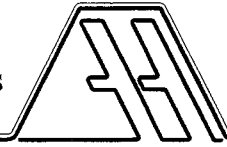
**Project Manager**

Cory M. Jenner  
Patrick J. Costello

**Reference**

Mr. Nick Marsella  
(315) 475-2111





## **FIRM PROFILE**

### **ALMY & ASSOCIATES CONSULTING ENGINEERS**

238 GENESEE STREET  
UTICA, NEW YORK 13502

Phone: (315) 735-6464  
Fax: (315) 735-7309

**PROFESSIONAL ENGINEER/  
PRINCIPAL**

Robert N. Almy, P.E.

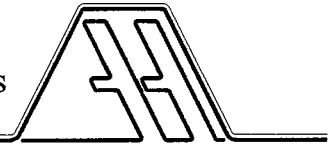
**ENGINEERING TECHNICIAN/  
DESIGNER**

Louis M. Elefante

**OFFICE MANAGER**

Lissette V. Molina





## **RELATED EXPERIENCE**

### **M & T BANK (formerly SAVINGS BANK OF UTICA)**

**Genesee Street**

**Utica, New York**

Following demolition of existing buildings, construct new lower level secured open parking with new higher grade level parking complete with new landscaped walks and handicapped access to the banking floor.

### **FORMER MOHAWK AIRLINES/ORION BUS MAINTENANCE FACILITY**

**Oneida County Airport**

Repairs to weather exposed long span pre-cast concrete roof structure.

### **THE MATT BREWING COMPANY**

**Edward Street**

**Utica, New York**

Repairs and reconstruction to damaged and deteriorated roof and concrete dock structures along railroad siding.

### **ONEIDA COUNTY OFFICE BUILDING**

**Utica, New York**

Construction of concrete retaining walls and truck dock at northwesterly corner of existing building.

## ***EXPERIENCE SUMMARY***

Towne Engineering personnel (over a time span of three decades) have successfully completed the design and specification of Mechanical and Electrical Systems for *more than 2000 projects* associated with public schools, universities, libraries, nursing homes, hospitals, government buildings (post offices, courthouses, correctional facilities), multiple residences, elderly housing, military installations, airport terminals, aircraft hangars, office buildings, banks, a broad range of industrial facilities, telecommunication equipment facilities, supermarkets, garages, churches, theatres, waste recycling stations, vehicle maintenance facilities, etc.

Projects have ranged in size from small residential and nominal retrofit installations to both new and retrofit construction of *several hundred thousand square feet*. The cumulative total of boiler, refrigeration and service would be many thousand horsepower, tons and KVA, respectively, with an *associated cost of millions*.

**Design Efforts** have included:

### ***Mechanical***

**Airside:** Single zone, multizone, terminal reheat, variable volume, induction, induction reheat, fan coil, dual duct, radiant panel, unitary, heat pump (air and water source) commercial exhaust, make-up air, industrial exhaust, heat recovery (air/air and air/water), precision environmental control.

**Waterside:** Low, medium and high pressure steam and condensate, low medium and high temperature hot water, chilled water, condenser water, refrigerant, natural and propane gas, light and heavy oil, sanitary drainage, storm drainage, low and high pressure compressed air, acetylene, chlorine, nitrogen, nitrous oxide, oxygen, vacuum, fire protection sprinklers and standpipes, dry chemical fire protection, halonogated fire protection, process (broad range of media) domestic and process hot and cold water.

### ***Electrical***

**Power:** Service, transformation, switchgear, distribution, uninterruptible, standby (turbine driven, engine driven, battery).

**Lighting:** Exterior, interior, direct, indirect, task, decorative, emergency, exit.

**Special Systems:** Fire alarm, security alarm, communications, telephone, data.

We're confident that our extensive experience and expertise will provide cost effective solutions to engineering demands in a fashion that properly addresses prevailing needs.



## Firm Profile

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**Locations** New York: Syracuse • Albany • Binghamton • Rochester • Ellenville • Newburgh  
• Watertown • Newburgh, Pennsylvania: Camp Hill • Lanham, Maryland

**Phone** 1-800-724-1010

**Personnel** 250

**Web Address** [www.BartonandLoguidice.com](http://www.BartonandLoguidice.com)

**Business Description** Barton & Loguidice, incorporated in 1961, is a full service engineering firm specializing in a variety of areas, including environmental services, facilities engineering, land planning and site design, solid waste management, transportation engineering, asset management, wastewater management, and water supply. Our philosophy of comprehensive, ongoing communication results in successful projects and relationships. Our clients benefit from the combination of the depth of knowledge, diversity of talent, and years of experience that our skilled team of engineering professionals brings to every project. B&L's dynamic, integrated approach allows us to provide the right combination of personnel to engineer multidisciplinary solutions to complicated issues.

**Markets Served** B&L serves private and public clients, including education and health care facilities; federal, local and state government; manufacturing; power and utilities; financial and insurance institutions and telecommunications.

**Environmental Services Contacts** B&L serves private and public clients, including education and facilities; federal, local and state government; manufacturing; power and utilities; financial and insurance institutions and telecommunications.

Environmental Services Scott D. Nostrand, P.E. [snostrand@bartonandloguidice.com](mailto:snostrand@bartonandloguidice.com)

Industrial Hygiene John E. Rigge [jrigge@bartonandloguidice.com](mailto:jrigge@bartonandloguidice.com)

**List of Environmental Services** Barton & Loguidice provides comprehensive environmental compliance engineering and environmental data management services. Our professional team of environmental engineers and scientists will provide innovative solutions to our hazardous waste, petroleum, chemical, air and water pollution challenges. We provide the following environmental services:

**Asbestos Management Services:** inspection and sampling, asbestos risk and condition assessment; removal design, construction inspection and administration including air monitoring.

**Remediation Engineering:** site investigation; remedial investigation and feasibility studies; forensic investigation and expert witness testimony

**Environmental Compliance:** Phase I environmental site assessment; pollution prevention; wetland delineation and permitting; ecological assessment; environmental impact statements

**Storage:** tank and fueling system design; fleet fueling systems; tank closure and site assessment; spill prevention control and countermeasure plans and reports

**Air Quality:** emission and compliance audits; Title V and state permits; air pollution control, dispersion modeling

### **Asbestos/Hazardous Building Material Services – Evidence of Specialized Knowledge**

Barton & Loguidice (B&L) can provide comprehensive pre-renovation investigation, sampling, analysis, removal design, and construction oversight of any necessary abatement operations. Our technical staff maintains applicable regulatory certifications and more importantly, executes services for public school capital projects continually as a primary service within the Industrial Hygiene Division. Extensive institutional knowledge of school facilities by district, region, vintage, and construction types coupled with experienced, educated staff working with the design team from start to project completion has been our formula for successful projects.

Our investigation services in the asbestos and hazardous building material arena are ancillary to architectural and mechanical renovations or demolition and redevelopment in educational facilities, primarily K-12. With this in mind, our survey methodologies and survey products are geared to allow easy transition to the material abatement design and bidding document phase. Ultimately, we know that the materials identified in our survey will need to be dealt with during renovation and construction activities. Accuracy and thoroughness at the survey and investigation phase is crucial to the construction phase.

When projects enter into the design phase and ultimately construction phase, it is of the utmost importance to have thorough and complete documents for bidding. The extra effort placed on the pre-renovation survey and planning with the design team ultimately reduces overall construction costs and potential for change orders, delays, and sometimes unanticipated conditions. In effect, it results in the best possible service for the owner both financially and with respect to execution. Our experience, knowledge, processes with an architectural design team, and commitment to the building owner is considered to be our specialty.

### **Sustainable Design and LEED Accredited Design**

B&L is a member of the U.S. Green Building Council (USGBC) and has experience with the Leadership in Energy and Environmental Design (LEED) program. Our team includes numerous LEED-accredited design professionals who are committed to the principles of sustainable design. We have participated in the design of LEED-certified projects, achieving energy conservation and efficient building performance through sustainable design practices.

The use of LEED green building design strategies not only improves the energy performance and occupant comfort within a building, but it is incorporated into many of our site designs for reduced water usage, habitat preservation, reduced waste disposal, and redevelopment of Brownfield sites. We incorporate the use of natural day-lighting, renewable energies, energy efficient equipment and lighting, recycled materials, and sustainable construction into our designs wherever possible. Throughout every project design, B&L recognizes the importance of incorporating innovative and progressive technologies, as well as sustainable design principles within the design of new and improved facilities. As a provider of LEED-based design solutions, we assist our clients in accomplishing alternative approaches in implementing creative technologies on our facility designs.

## Firm Experience

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St. John Fisher College  
Rochester, NY

The project included the survey and assessment of numerous campus structures encompassing approximately 700,000 SF of building space for asbestos. The project included the review and incorporation and assimilation of two decades of miscellaneous survey information into a comprehensive user friendly survey for the campus to use for future planning purposes. The services included cost estimates for work in each building and drawings illustrating extent and location of asbestos.

**Contact:**  
Mr. Ronald Ange  
Department of Safety & Security  
St. John Fisher College  
3690 East Ave  
Rochester, NY 14618  
585-385-7319  
Email: ange@sjfc.edu

.....  
Utica College  
Utica, NY

The project included the survey and assessment of approximately 37 on-campus and off-campus buildings for asbestos. The approximate square footage of buildings encompassed 750,000 SF of various college facilities. The purpose of the survey was to be able to approximate the extent of asbestos containing materials associated with the structures under the responsibility of the college. The probable cost generated by B&L was used for the college's financial planning and budgeting for future work.

**Contact:**  
Mr. R. Barry White  
Vice President & Treasurer  
Utica College  
1600 Burrstone Road  
Utica, NY 13502  
315-422-8284  
Email: rwhite@utica.edu

**Hancock Field Development Corporation  
Syracuse, NY**

The project included the comprehensive survey and assessment of 34 buildings for asbestos, lead-based paint (LBP), PCBs, and other hazardous materials. Once environmental issues were identified, B&L staff developed detailed bid specifications and drawings for their removal, building demolition, and site clearance. B&L also provided project monitoring/air sampling during all abatement and provided oversight during building demolition and site restoration.



HFDC was able to realize complete removal and site restoration of 34 buildings within their budget. Original estimates and planning identified that a significantly lower number of buildings could be abated and raised. This project was executed on behalf of the U.S. Department of Commerce Economic Development Administration through HFDC.

**Contact:**

Lori Dietz, P.E., Executive Director  
Hancock Field Development Corporation  
572 South Salina Street  
Syracuse, NY 13202  
315-422-8284  
Email: [ldietz@mda-cny.com](mailto:ldietz@mda-cny.com)

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**Industrial Hygiene, Asbestos, Lead-Based Paint and Miscellaneous Environmental  
Services-Rochester, NY**

B&L is retained by the City of Rochester to provide general industrial hygiene, asbestos, lead-based paint, and miscellaneous environmental services for the Office of Community Development under a term contract.

Services have included pre-demolition inspections, hazardous building material removal design and building demolition, and construction monitoring services during removal and demolition. Pre-demolition inspections include extensive sampling of suspect materials, locating and documenting the extent of ACM, and review of the subject properties for other environmental hazards. A comprehensive survey report is provided to the City for each property for solicitation of asbestos removal and demolition bids and regulatory filing.

Services for the City have also included pre-demolition surveys for asbestos containing materials (ACMs) in approximately 400 residential, commercial properties, and abandoned industrial structures that have fallen into the possession of the City. B&L's

## Firm Experience

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Industrial Hygiene personnel provided the City with industrial hygiene, asbestos, lead-based paint, and miscellaneous environmental services for the Office of Community Development for approximately 11 to 12 years previous to their tenure at B&L. In excess of 2,000 pre-demolition surveys for ACMs for similar structures were provided.

Our continued relationship with the City of Rochester has been based on sustained performance, overall cost efficiency per structure, and productivity. The survey protocol and report format for the City of Rochester was developed by B&L personnel in collaboration with representatives of the City. It was developed to meet and exceed regulatory requirements and provide the added value necessary for the execution of required material removals and demolition. The survey methodologies, procedures, and survey products reinforce accuracy and thoroughness.

**Contact:**

Curt Colombo, Manager of Contract Services  
City of Rochester  
City Hall – Room 028B  
30 Church Street  
Rochester, NY 14614  
585-428-6922  
Email: colomboc@cityofrochester.gov

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**Pre-Demolition Services, Eastman Kodak Company, Rochester, NY**

Barton & Loguidice was retained by LeChase Construction Solutions, LLC and V. Weis Construction Solutions, LLC on behalf of the Eastman Kodak Company to conduct pre-demolition asbestos containing material surveys of Buildings 50, 65, 67, and 69 in the Kodak Park in Rochester, NY. The buildings were a former manufacturing facility and consisted of approximately 2,000,000 SF of floor space. The surveys were conducted by B&L personnel and included all accessible areas of the building interior spaces, exterior, and roofs.

The purpose of the asbestos surveys were to identify and locate ACMs within the buildings to assist in the abatement prior to building demolition. Knowledge of ACM locations and quantities provided abatement and demolition contractors' information vital to project bidding and abatement scheduling. B&L survey information and AutoCAD drawings were instrumental components of the design specifications for the referenced buildings which encompassed over \$25M in asbestos abatement and demolition.

## Firm Experience

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The surveys included a comprehensive review of the facilities, extensive sampling, including core sampling of floor slabs, roof decks, and walls for concealed materials. B&L provided survey reports including material sampling summary, space-by-space ACM inventory, and AutoCAD drawings illustrating location of samples, extent of ACMs, and other pertinent information regarding the specialized sampling performed for Kodak. B&L performed labeling services of all ACMs and non-ACMs within the building.

**Contact:**

Darren Yehl  
LeChase Construction  
300 Trolley Boulevard  
Rochester, NY 14606  
585-722-2241  
Email: colomboc@cityofrochester.gov

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**Margaret Scott Bundy Field House - Sports Floor Removal and Replacement,  
Hamilton College, Clinton, NY**

Provided investigation, sampling, project removal work plan/design, and construction monitoring/oversight for the removal and disposal of 55,000 square feet of mercury containing flooring system in the Field House

**Contact:**

Brian Hansen, Director of Environmental Protection  
and Safety  
Hamilton College  
198 College Hill Road  
Clinton, NY 13323  
315-859-4647  
Email: bhansen@hamilton.edu



### Hamilton College Asbestos Consulting Services - Numerous Buildings

B&L has provided comprehensive asbestos and hazardous building services in virtually all of the college buildings on this campus. Our work has included provision of investigation, sampling, provision of design documents, bidding assistance, and construction services (project and air monitoring) during hazardous building material removal. We have worked in academic, residential, and administrative facilities at Hamilton College.

**Contacts:**

William Huggins, Associate Director of Physical Plant  
Hamilton College  
198 College Hill Road  
Clinton, NY 13323  
315-859-4500  
Email: whuggins@hamilton.edu

Brian Hansen, Director of Environmental Protection  
and Safety  
Hamilton College  
198 College Hill Road  
Clinton, NY 13323  
315-859-4647  
Email: bhansen@hamilton.edu

.....  
**Cornell University, Ithaca, NY**

The project included the campus-wide survey and assessment of approximately 338 campus structures asbestos. The survey encompassed several million square feet of building space. The survey was completed in conjunction with Cornell proprietary survey software by our staff over the course of several months. Field services, data assimilation, report preparation, sampling diagrams, and material location drawings were developed by our staff.

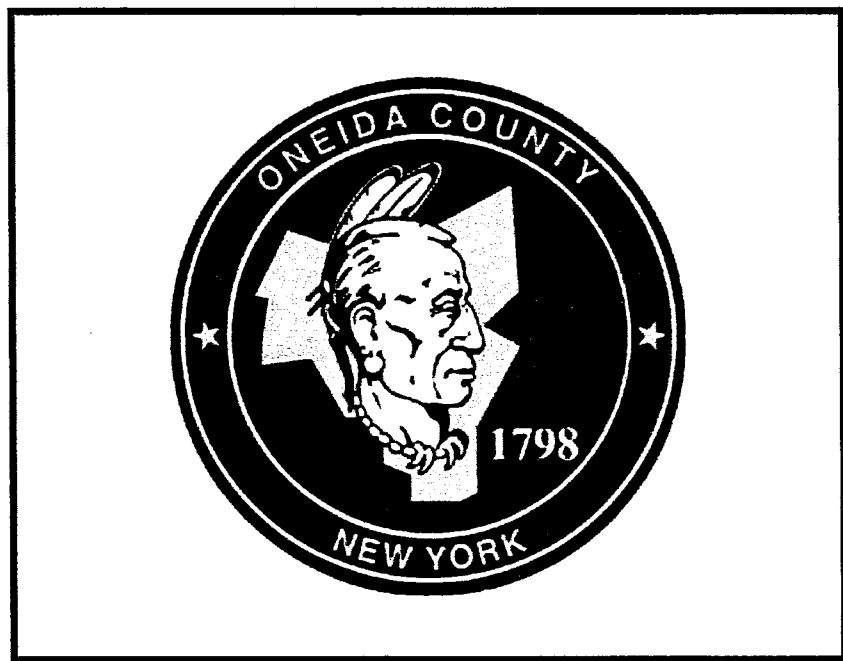
*Note – Project was completed by John Rigge as Project Manager and Ronald Thorp with previous employer along with numerous other projects at Cornell University through Planning Design and Construction, Maintenance Management, and Environmental Health and Offices.*

**Contact:**

Robert Stundtner, Director of Project Management  
Cornell University  
Humphreys Service Building  
Ithaca, NY 14853  
315-859-4647  
Email: rps2@cornell.edu

# References

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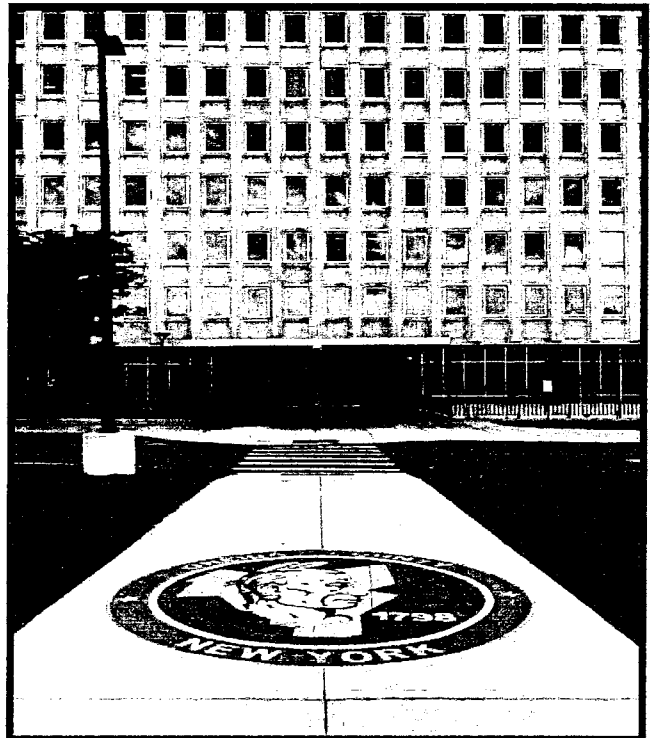
## References

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Mr. Michael McHarris  
Director of Facilities & Operations  
Mohawk Valley Community College  
1101 Sherman Drive  
Utica, NY 13501  
PH: 315.792.5489  
[mmcharris@mvcc.edu](mailto:mmcharris@mvcc.edu)

Mr. William Huggins  
Associate Director, Building Services  
Hamilton College  
198 College Hill Road  
Clinton, NY 13323  
PH: 315.859.4177  
[whuggins@hamilton.edu](mailto:whuggins@hamilton.edu)

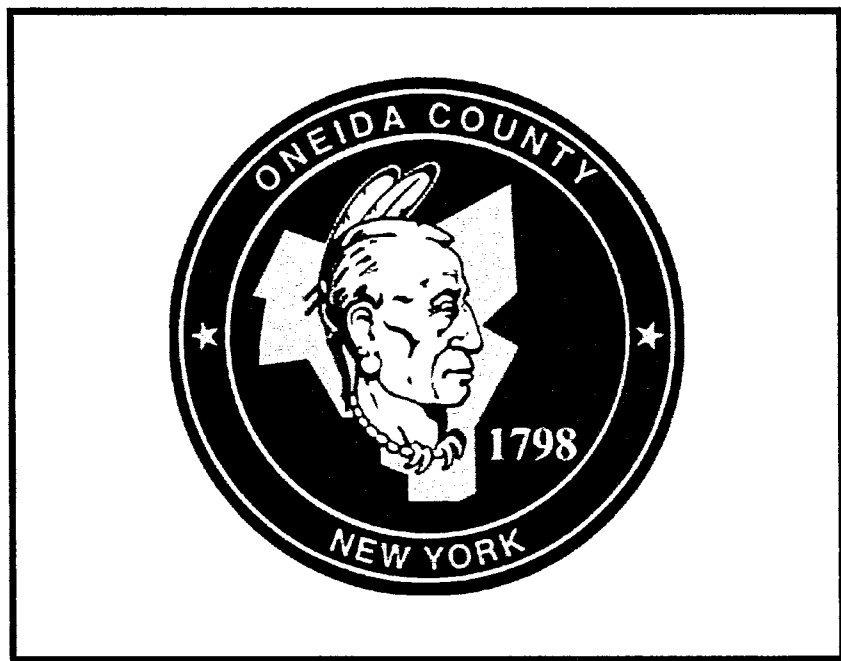
Mr. Steve Dimeo  
President  
Mohawk Valley EDGE  
584 Phoenix Drive  
Rome, NY 13441  
PH: 315.338.0393  
[sdimeo@mvedge.org](mailto:sdimeo@mvedge.org)



Oneida County Office Building

# Proposed Schedule

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# Proposed Schedule

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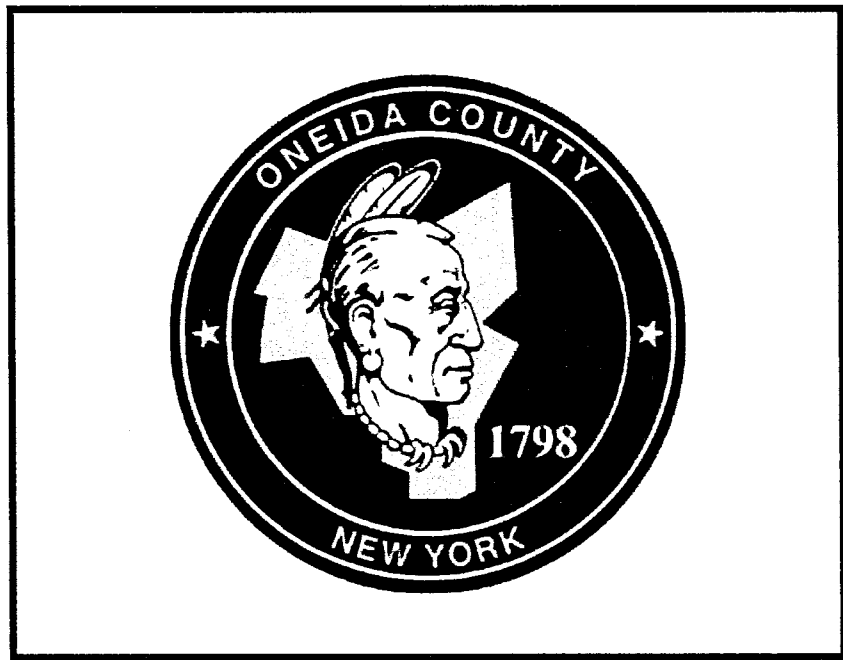
The following is a preliminary project schedule that outlines the work.

We would suggest that the schedule be finalized with the County after award of the contract. The schedule can also be modified to address any milestones desired by the County.

|                                                |                     |
|------------------------------------------------|---------------------|
| Submit Proposal                                | 04/04/19            |
| Notice to Proceed                              | 04/15/19            |
| Kick-Off Meeting                               | 04/24/19            |
| Field Work & Preliminary Design (All Projects) | 04/24/19 - 05/22/19 |
| Review Meeting with OCDPW                      | 05/22/19            |
| Finalize Bid Documents (All Projects)          | 05/22/19 - 06/05/19 |
| <u>Bid Phase - 2019 Projects</u>               | 06/05/19 - 06/27/19 |
| Contract Review & Award                        | 07/01/19 - 07/15/19 |
| Submittal Phase                                | 07/15/19 - 08/19/19 |
| Construction Phase (12 weeks)                  | 07/15/19 - 12/13/19 |
| Post Construction Phase                        | 12/13/19 - 12/31/19 |
| <u>Bid Phase - 2020 Projects</u>               | 01/06/20 - 01/30/20 |
| Contract Review & Award                        | 01/31/20 - 03/02/20 |
| Submittal Phase                                | 03/02/20 - 03/24/20 |
| Construction Phase (12 weeks)                  | 04/16/20 - 07/06/20 |
| Post Construction Phase                        | 07/06/20 - 08/03/20 |

# Insurances

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M

STAVES  
1798-1998, PG



## INSURANCES

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MARCH Associates currently carries Professional Liability Insurance from PLB&C with a \$5,000,000 aggregate limit. This policy also contains expanded pollution endorsement and self-insurances retention of \$20,000.

Our General Liability coverages are indicated below:

- \$2,000,000 per Claim, Limit of Liability
- \$4,000,000 Aggregate Limit of Liability
- \$2,000,000 Umbrella

A copy of our Insurance Certificate follows.

# General Liability



## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
03/04/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| <b>PRODUCER</b><br>THE BURNS AGENCY/PHS<br>01310999<br>The Hartford Business Service Center<br>3600 Wisoman Blvd<br>San Antonio, TX 78265 | <b>CONTACT</b><br>NAME:<br>PHONE (866) 467-8730<br>(A/C, No, Ext):<br>FAX (888) 443-6112<br>(A/C, No):<br>E-MAIL:<br>ADDRESS:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |           |           |           |           |           |           |                                |                                         |  |  |  |  |       |       |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|-------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|--------------------------------|-----------------------------------------|--|--|--|--|-------|-------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| <b>INSURED</b><br>MARCH ASSOCIATES ARCHITECTS & PLANNERS PC<br>268 GENESEE ST STE 300<br>UTICA, NY 13502-4638                             | <table border="1"> <thead> <tr> <th>INSURER A</th> <th>INSURER B</th> <th>INSURER C</th> <th>INSURER D</th> <th>INSURER E</th> <th>INSURER F</th> </tr> </thead> <tbody> <tr> <td>Hartford Ins Co of the Midwest</td> <td>Property &amp; Casualty Ins Co. of Hartford</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>37478</td> <td>34690</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table> | INSURER A | INSURER B | INSURER C | INSURER D | INSURER E | INSURER F | Hartford Ins Co of the Midwest | Property & Casualty Ins Co. of Hartford |  |  |  |  | 37478 | 34690 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| INSURER A                                                                                                                                 | INSURER B                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | INSURER C | INSURER D | INSURER E | INSURER F |           |           |                                |                                         |  |  |  |  |       |       |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Hartford Ins Co of the Midwest                                                                                                            | Property & Casualty Ins Co. of Hartford                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |           |           |           |           |           |           |                                |                                         |  |  |  |  |       |       |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 37478                                                                                                                                     | 34690                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |           |           |           |           |           |           |                                |                                         |  |  |  |  |       |       |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |           |           |           |           |           |           |                                |                                         |  |  |  |  |       |       |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |           |           |           |           |           |           |                                |                                         |  |  |  |  |       |       |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |           |           |           |           |           |           |                                |                                         |  |  |  |  |       |       |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |

COVERAGES      CERTIFICATE NUMBER:      REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE                                                                                                                                                                                                                                                                                                                                           | ADDITIONAL SUBR INSR | INSR NY/SD | POLICY NUMBER | POLICY EFF (MM/DD/YY) | POLICY EXP (MM/DD/YY) | LIMITS                                                                                                                                                                                                                                            |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|------------|---------------|-----------------------|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A        | COMMERCIAL GENERAL LIABILITY<br><input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR<br><input checked="" type="checkbox"/> General Liability<br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC<br><input type="checkbox"/> OTHER | X                    |            | 01 SBA AM7017 | 04/02/2019            | 04/02/2020            | EACH OCCURRENCE \$2,000,000<br>DAMAGE TO RENTED PREMISES (Per occurrence) \$300,000<br>MED EXP (Any one person) \$10,000<br>PERSONAL & ADV INJURY (Per person) \$2,000,000<br>GENERAL AGGREGATE \$4,000,000<br>PRODUCTS - COMPROP ASG \$4,000,000 |
| A        | AUTOMOBILE LIABILITY<br><input type="checkbox"/> ANY AUTO<br><input checked="" type="checkbox"/> ALL OWNED AUTOS<br><input type="checkbox"/> HIRE AUTOS<br><input checked="" type="checkbox"/> SCHEDULED AUTOS<br><input checked="" type="checkbox"/> NON-OWNED AUTOS                                                                                       |                      |            | 01 SBA AM7017 | 04/02/2019            | 04/02/2020            | COMBINED SINGLE LIMIT (Per accident) \$2,000,000<br>BODILY INJURY (Per person)<br>BODILY INJURY (Per accident)<br>PROPERTY DAMAGE (Per accident)                                                                                                  |
| A        | <input checked="" type="checkbox"/> UMBRELLA LIAB<br><input checked="" type="checkbox"/> EXCESS LIAB<br><input checked="" type="checkbox"/> RETENTION \$ 10,000                                                                                                                                                                                             | X                    |            | 01 SBA AM7017 | 04/02/2019            | 04/02/2020            | EACH OCCURRENCE \$2,000,000<br>AGGREGATE \$2,000,000                                                                                                                                                                                              |
| B        | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY<br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)<br>If yes describe under DESCRIPTION OF OPERATIONS below                                                                                                                                                                       |                      | N/A        | 01 WEC DQ1483 | 04/02/2019            | 04/02/2020            | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER<br>E.L. DISEASE - EA EMPLOYEE \$1,000,000<br>E.L. DISEASE - POLICY LIMIT \$1,000,000                                                                               |
| A        | EMPLOYMENT PRACTICES LIABILITY                                                                                                                                                                                                                                                                                                                              |                      |            | 01 SBA AM7017 | 04/02/2019            | 04/02/2020            | Each Claim Limit \$500,000<br>Aggregate Limit \$500,000                                                                                                                                                                                           |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks, Schedule, may be attached if more space is required)  
 Those usual to the Insured's Operations: RE Architectural Firm. Certificate Holder is an Additional Insured per the Business Liability Coverage Form SS0000 attached to this policy.

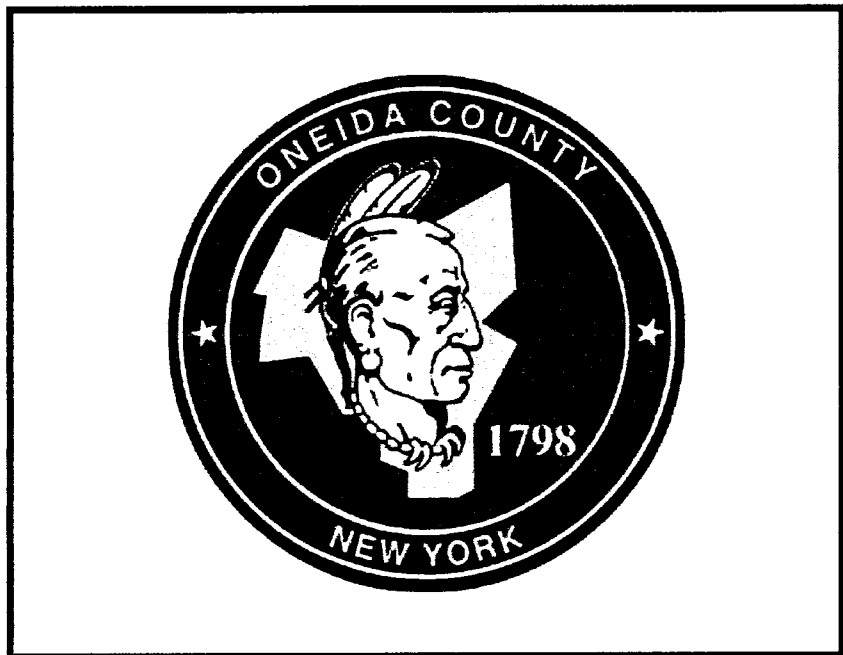
|                                                                                                                                                |                                                                                                                                                                                                                                                 |
|------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>CERTIFICATE HOLDER</b><br>County of Oneida &<br>Department of Public Works<br>C/o Commissioner of Finance<br>800 PARK AVE<br>UTICA NY 13501 | <b>CANCELLATION</b><br>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.<br>AUTHORIZED REPRESENTATIVE<br><i>Suzanne Costantini</i> |
|------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|





# Exhibits

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# Proposal / Certifications

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ATTACHED:

EXHIBIT A - Non Collusion Certification

EXHIBIT B - Iran Divestment Act - Certification

EXHIBIT C - Recycling and Solid Waste Management Certification

EXHIBIT D - Statement on Sexual Harassment in Accordance with NYS Law

EXHIBIT E - Fee Proposal Form

**Exhibit C**

**Recycling and Solid Waste Management Certification Form for Oneida County Contracts**

The Oneida County Board of Legislators at its May 26, 1999 meeting passed Resolution #249 dealing with the inclusion of recycling and solid waste management provision in Oneida County contract. All waste and recyclables generated by the contracting party shall be delivered to the facilities of the Oneida-Herkimer Solid Waste Authority.

**REGULATORY COMPLIANCE**

- (a) The Contractor agrees to comply with all applicable Federal, State and Local Statutes, rules and regulations as some may from time to time be amended pursuant to law.
  
- (b) Pursuant to Oneida County Board of Legislator Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all wastes and recyclables generated within the Authority's service area by performance of this contract by Contractor and any subcontractors. Upon awarding of this contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

**CERTIFICATION STATEMENT**

"I certify that I understand and agree to comply with the terms and conditions of the Oneida County Recycling and Solid Waste Management Program (R-249). I further agree to provide Oneida County proof of such compliance.

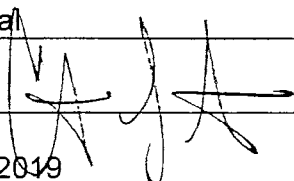
**Submitted By**

MARCH Associates, Architects & Planners, PC

(Legal Name of Person, Firm or Corporation)

Name: Christopher J. Crolius, AIA

Title: Principal

Signature: 

Date: April 4, 2019

**(SIGN AND RETURN WITH PROPOSAL)**

**Exhibit B**  
**Iran Divestment Act - Certification**

Pursuant to New York State Finance Law §165-a, Iran Divestment Act of 2012, the Office of General Services is required to post on its web site <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> a list of persons who have been determined to engage in investment activities in Iran ("the List"), as defined in that Act. Under Public Authorities Law § 2879-c, Iranian Energy Sector Divestment, the Authority, may not enter into or award a Contract unless it obtains a certification from a Bidder, who shall check the box and make the certification in Subparagraph a, below, that they are not on the List. If that certification cannot be made, the Authority may consider entering into a Contract, on a case by case basis if the Bidder checks the box and makes the certification in Subparagraph b, below, that their Iran investment is ceasing.

For purposes of this provision, a person engages in investment activities in Iran if: (A) the person provides goods or services of twenty million dollars or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or (B) the person is a financial institution that extends twenty million dollars or more in credit to another person, for forty-five days or more, if that person will use the credit to provide goods or services in the energy sector in Iran.

The Certification is as follows:

Certification that the Bidder is not on the List: Each person, where person means natural person, corporation, company, limited liability company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group, and each person signing on behalf of any other party, certifies, and in the case of a joint bid or proposal or partnership each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each person is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law.

By submission of this bid, each Bidder and each person signing on behalf of any Bidder certify, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law.

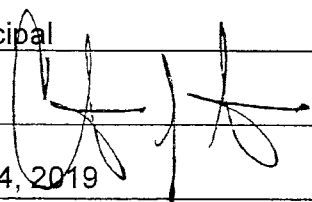
I certify under penalty of perjury that the foregoing is true.

**Submitted By**

MARCH Associates, Architects & Planners, PC  
(Legal Name of Person, Firm or Corporation)

Name: Christopher J. Crolius, AIA

Title: Principal

Signature: 

Date: April 4, 2019

**(SIGN AND RETURN WITH PROPOSAL)**

**Exhibit A  
Non Collusion Certification**

The following section is an excerpt from the General Municipal Law.

103-d Statement of Non-Collusion in Bids and Proposals to Political Subdivision of the State

1. Every bid or proposal hereafter made to a political subdivision of the State or any public department, agency or official thereof where competitive bidding is required by statute, rule, regulation or local law, for work or services performed or to be performed or goods sold or to be sold, shall contain the following statement subscribed by the Bidder and affirmed by such Bidder as true under the penalties of perjury: Non-collusive Bidding Certification.

a) By submission of this Bid, each bidder, and each person signing on behalf of any Bidder, certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty or perjury, that to the best of knowledge and belief.

1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;

2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly to any other Bidder or to any competitor; and

3) No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for restricting competition.

b) A Bid shall not be considered for award nor shall any award be made where (a), (1), (2) and (3) above have not been complied with; provided however, that if in any case the Bidder cannot make the foregoing certification, the Bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons

therefore. Where (a), (1), (2) and (3) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the Purchasing unit of the political subdivision, public department, agency or official thereof, to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a Bidder (a) has published price lists, rates, or tariffs covering items being procured, (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (c) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of subparagraph one (a).

2. Any bid hereafter made to any political subdivision of the state or any public department, agency or official thereof by a corporate Bidder for work or services performed or to be performed or goods sold or to be sold, where competitive bidding is required by statute, rule, regulation, or local law, and where such bid contains the certification referred to in subdivision one of this section, shall be deemed to have been authorized by the Board of Directors of the Bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation.

This is to certify that we have not been disqualified to contract with any municipality and we are in a position to accept any contract subject to the provisions of Section 103-d of General Municipal Law.

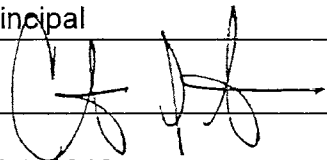
**Submitted By**

**MARCH Associates, Architects & Planners, PC**

(Legal Name of Person, Firm or Corporation)

Name: Christopher J. Crolius, AIA

Title: Principal

Signature: 

Date: April 4, 2019

**(SIGN AND RETURN WITH PROPOSAL)**

Exhibit D

Statement on Sexual Harassment in Accordance with New York State Law

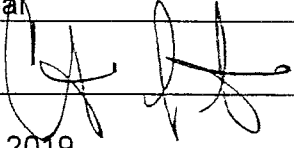
By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of Section 201-g of the Labor Law.

**Submitted By**

MARCH Associates, Architects & Planners, PC  
(Legal Name of Person, Firm or Corporation)

Name: Christopher J. Crolius, AIA

Title: Principal

Signature: 

Date: April 4, 2019

**(SIGN AND RETURN WITH PROPOSAL)**

**Exhibit E**  
**Fee Proposal**

We submit the following fee proposal for Professional Consulting Services to complete all services identified in the PROJECT DESCRIPTION and SCOPE OF SERVICES section of this Request for Proposal, upon the terms and conditions contained herein:

| Pay Items Per Paragraph 5. Payment for Services                                      |                                       |                                                              |
|--------------------------------------------------------------------------------------|---------------------------------------|--------------------------------------------------------------|
| Pay Item 1.                                                                          | \$103,000.00                          | Lump Sum Fee                                                 |
| Pay Item 2.                                                                          | \$4,300.00<br>\$1,800 NYSDOL Variance | Not-To-Exceed Fee<br>(Lump Sum Fee)                          |
| Pay Item 3a.                                                                         | \$57.00                               | Hourly Rate, Project Monitor                                 |
| Pay Item 3b.                                                                         | \$69.00                               | Overtime Hourly Rate, Project Monitor                        |
| Pay Item 3c.                                                                         | \$11.00                               | Each, Air Sample (PCM)*                                      |
| Pay Item 4.                                                                          | \$34,000.00                           | Lump Sum Fee                                                 |
| Pay Item 5a.                                                                         | \$70.00                               | Hourly Rate<br>On-Site Project Representation, Straight Time |
| Pay Item 5b.                                                                         | \$100.00                              | Hourly Rate<br>On-Site Project Representation, Over Time     |
| *- Unit price shall include all labor, equipment, materials, testing, and reporting. |                                       |                                                              |

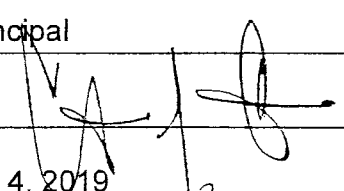
By signing below I hereby certify that I have the authority to offer this proposal to the County of Oneida for the above listed individual or company. I certify that I have the authority to bind myself/this company in an Agreement should I be successful in my proposal.

**Submitted By**

**MARCH Associates, Architects & Planners, PC**  
(Legal Name of Person, Firm or Corporation)

Name: Christopher J. Crolius, AIA

Title: Principal

Signature: 

Date: April 4, 2019

**(SIGN AND RETURN WITH PROPOSAL)**

# Hourly Rate Schedule

## HOURLY BILLING RATES

### MARCH Associates

|                      |          |
|----------------------|----------|
| Principal            | \$200.00 |
| Consulting Architect | \$130.00 |
| Associates           | \$115.00 |
| Senior Designer      | \$100.00 |
| Designer I           | \$75.00  |
| Designer II          | \$65.00  |
| Administrative       | \$65.00  |

### Appel Osborne

|                                       |          |
|---------------------------------------|----------|
| Partners-In-Charge                    | \$135.00 |
| Consulting Engineer                   | \$135.00 |
| Associates/ Licensed Project Managers | \$80.00  |
| Project Managers                      | \$70.00  |
| Project Designers                     | \$55.00  |
| Office Management/Marketing Manager   | \$50.00  |
| Administrative Assistant              | \$45.00  |

### Almy & Associates

|                                 |          |
|---------------------------------|----------|
| Principal/Professional Engineer | \$150.00 |
| Engineering Technician/Designer | \$75.00  |
| Designer/Draftsman              | \$70.00  |

### Towne Engineering

|                |          |
|----------------|----------|
| Principal      | \$170.00 |
| Designer I     | \$140.00 |
| Designer II    | \$80.00  |
| Administrative | \$50.00  |

### Barton & Loguidice

|                                   |          |
|-----------------------------------|----------|
| Senior Vice President             | \$215.00 |
| Vice President                    | \$207.00 |
| Associate                         | \$190.00 |
| Sr. Managing Industrial Hygienist | \$148.00 |
| Project Engineer                  | \$130.00 |
| Industrial Hygienist III          | \$94.00  |
| Industrial Hygienist II           | \$76.00  |
| Industrial Hygienist I            | \$68.00  |
| Sr. CADD Designer                 | \$72.00  |
| CADD Designer                     | \$62.00  |
| Engineering Aide                  | \$68.00  |
| Group Technical Assistant         | \$50.00  |





# AIA® Document B207™ – 2017

## Standard Form of Architect's Services: On-Site Project Representation

**for the following PROJECT:**

*(Name and location or address)*

Various Facility Improvement Projects - 2019

**THE OWNER:**

*(Name, legal status and address)*

Oneida County

800 Park Avenue, Utica, NY 13501

**THE ARCHITECT:**

*(Name, legal status and address)*

MARCH Associates, Architects & Planners, PC

258 Genesee Street, Suite 300, Utica, NY 13501

**THE AGREEMENT**

This Standard Form of Architect's Services is part of the accompanying Owner-Architect Agreement (hereinafter, together referred to as the Agreement) dated the    day of    in the year    .

*(In words, indicate day, month, and year.)*

**TABLE OF ARTICLES**

- 1 INITIAL INFORMATION
- 2 ON-SITE PROJECT REPRESENTATION SERVICES
- 3 ADDITIONAL SERVICES
- 4 OWNER'S RESPONSIBILITIES
- 5 COMPENSATION
- 6 SPECIAL TERMS AND CONDITIONS

**ARTICLE 1 INITIAL INFORMATION**

The Architect's performance of the services set forth in this document is based upon the following information. Material changes to this information may entitle the Architect to Additional Services.

*(List below information, including conditions or assumptions that will affect the Architect's performance.)*

Exhibit A attached to AIA Document B101-2017

This document has important legal consequences.

Consultation with an attorney is encouraged with respect to its completion or modification.

This document must be used with an owner-architect agreement where the architect provides construction administration services. This document provides the Architect's scope of services only and must be used with an owner-architect agreement. It may be used with G802™–2017, Amendment to the Professional Services Agreement, to create a modification to any owner-architect agreement.

Init.

**ARTICLE 2 ON-SITE PROJECT REPRESENTATION SERVICES**

§ 2.1 The Architect shall provide the On-Site Project Representative(s) indicated below at the Project site to assist in providing the Architect's Construction Phase Services described in the Agreement and the On-Site Project Representation Services described herein:

*(Identify the On-Site Project Representative(s) the Architect will provide and their contact information.)*

Kestrel Construction Services  
PO Box 28, Sherrill, NY 13461

§ 2.2 The Architect shall not change the On-Site Project Representative(s) without the Owner's approval, which shall not be unreasonably withheld.

§ 2.3 The On-Site Project Representative(s) shall be located at the Project site in accordance with the following schedule:

*(Insert the days per week, hours per day, schedule duration, and other relevant information.)*

To Be Determined by Owner

§ 2.4 The On-Site Project Representative(s) has authority to perform the Architect's Construction Phase Services described in the Agreement, subject to the limitations listed in this section, and all the On-Site Project Representation Services described herein:

*(Identify services described in the Agreement that the On-Site Project Representative does not have authority to perform.)*

None

§ 2.5 The On-Site Project Representation Services described herein do not create responsibility on behalf of the Architect or the On-Site Project Representative(s) for construction means, methods, techniques, sequences, or procedures; job site safety precautions and programs; or acts or omissions of others, beyond the responsibilities set forth in the Agreement.

§ 2.6 The On-Site Project Representative(s) shall attend the following meetings:

*(Identify meetings the On-Site Project Representative(s) is required to attend and include requirements, if any, for documentation of such meetings.)*

All Meetings

The On-Site Project Representative(s) shall also attend any other meetings at the Project site as necessary to perform the On-Site Project Representation Services described herein.

§ 2.7 The On-Site Project Representative(s) shall maintain at the Project site access to records necessary to provide the Construction Phase Services described in the Agreement and the On-Site Project Representation Services described herein. The On-Site Project Representative(s) shall make such records available to the Owner upon reasonable notice.

§ 2.8 The On-Site Project Representative(s) shall observe tests and inspections required by law or the Contract Documents, and the Architect shall report the results to the Owner as required in the Contract Documents.

§ 2.9 At the Owner's request, the On-Site Project Representative(s) shall observe materials and equipment located off site, but only for the limited purposes of checking for conformance with the design concept expressed in the Contract Documents and evaluating such materials and equipment for a Certificate for Payment. The Architect shall be reimbursed for all additional costs associated with such observations, including travel expenses and payroll costs.

§ 2.10 The On-Site Project Representative(s) shall periodically review the Contractor's construction schedule, and the Architect shall alert the Owner to conditions that may affect the Contractor's ability to complete the Work in accordance with the schedule.

Init.

§ 2.11 The On-Site Project Representative(s) shall periodically review documents and samples the Contractor is required to maintain at the site, and the Architect shall notify the Owner of any apparent failure by the Contractor to maintain up-to-date records.

§ 2.12 The On-Site Project Representative(s) shall keep a written log of activities that occur at the Project site for each day that the On-Site Project Representative(s) is present at the site. The daily logs will capture the information necessary to create the monthly progress reports required in Section 2.13, and shall include a record of:

- .1 the nature and location of Work being performed;
- .2 weather conditions;
- .3 meetings attended;
- .4 conditions that may delay the Project;
- .5 the status of the construction schedule;
- .6 tests and inspections performed; and
- .7 other:

*(List other items the On-Site Project Representative shall include in the daily logs.)*

§ 2.13 On a monthly basis, or as otherwise agreed to between the Architect and Owner, the On-Site Project Representative(s) shall submit written progress reports to the Owner, which include the following:

- .1 a summary of Work completed for the period;
- .2 a status report regarding the Project schedule;
- .3 a copy of the current submittal schedule and a status report regarding submittals, including a summary of those remaining and outstanding;
- .4 status reports for requests for information, Change Orders, minor changes in the Work, and Construction Change Directives;
- .5 a summary of tests and inspections performed for the period;
- .6 a status report of nonconforming and rejected Work;
- .7 a copy of daily logs for the period;
- .8 a summary of Contractor Applications for Payment and the Architect or On-Site Project Representative's action on each;
- .9 a status report of known activities pertaining to governmental or other authorities having jurisdiction over the Project;
- .10 a summary of off-site observations, if any, including materials and equipment stored or fabricated off-site;
- .11 representative photographs of the Work; and
- .12 other:

§ 2.14 Other On-Site Project Representation Services:

*(Describe other On-Site Project Representation Services provided by the Architect.)*

None

### ARTICLE 3 ADDITIONAL SERVICES

Additional Services may be provided after execution of the Agreement, without invalidating the Agreement. Except for services required due to the fault of the On-Site Project Representative(s) or the Architect, any Additional Services provided in accordance with this Article shall entitle the Architect to compensation pursuant to Section 5.2 and an appropriate adjustment in the Architect's schedule.

### ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 The Owner shall provide an office at the Project site for the On-Site Project Representative's use, which includes utilities, internet access, access to restroom facilities, parking, heating, air conditioning, and ventilation. The Owner shall provide furnishings and office equipment as follows:

*(List furniture, computers, printers, etc.)*

Owner shall provide necessary office furniture and telephone extension. Architect shall provide necessary computers, printers, cell phone(s) and any other necessary electronic hardware or device.

§ 4.2 The Owner shall inform the Contractor of any limitations of authority of the On-Site Project Representative(s) listed in Section 2.4.

**ARTICLE 5 COMPENSATION**

§ 5.1 If not specifically addressed in the accompanying Owner-Architect Agreement, the Owner shall compensate the Architect for the On-Site Project Representation Services described in Article 2 as follows:  
*(Insert amount of, or basis for, compensation.)*

Compensation pursuant to hourly rates contained in Exhibit C.

§ 5.2 For Additional Services that may arise during the course of the Project, including those under Article 3, the Owner shall compensate the Architect as follows:  
*(Insert amount of, or basis for, compensation.)*

Contract amendment.

§ 5.3 Compensation for Additional Services of the Architect's consultants, when not included in Section 5.2, shall be the amount invoiced to the Architect plus five percent (5 %), or as otherwise stated below:

**ARTICLE 6 SPECIAL TERMS AND CONDITIONS**

Special terms and conditions that modify this Standard Form of Architect's Services: On-Site Project Representation are as follows:

None

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

I, Mark E. Laramie, P.E., hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification 15:28:23 ET on 11/01/2019 under Order No. 5714959917 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B207™ - 2017, Standard Form of Architect's Services: On-Site Project Representation, as published by the AIA in its software, other than changes shown in the attached final document by underscoring added text and striking over deleted text.

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

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

\_\_\_\_\_  
*(Dated)* 1/6/20



ONEIDA COUNTY

DEPARTMENT OF EMERGENCY SERVICES

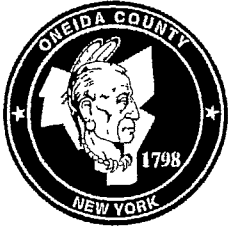
Anthony J. Picente, Jr.  
County Executive

FIRE COORDINATOR

911 CENTER

STOP-DWI PROGRAM

Kevin W. Revere  
Director



120 Base Road \* Oriskany, New York 13424  
Phone: 315-765-2526 \* Fax: 315-765-2529

January 6, 2020

EN 20-20-051

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

PUBLIC SAFETY

WAYS & MEANS

Dear County Executive Picente:

Attached, please find an agreement that requires both Board of Legislators action and your signature between the Oneida County Stop-DWI Program and the Town of Whitestown, through their Whitestown Police Department, for 2020. This agreement provides funding for police agencies within Oneida County to conduct DWI Selective Enforcement Patrols and purchase related equipment. This funding is 100% County dollars.

I respectfully request that the agreement for the Town of Whitestown be approved as a template for all police agency contracts, which are all of the same content, with the exception of agency name, locality, and dollar amount. The total funding amount for 2020 is \$75,000.00.

The police agency contracts that will follow this template are as follows:

|                                                                           |              |
|---------------------------------------------------------------------------|--------------|
| Camden Police Department: 30 Fayette Street, Camden, NY 13316             | \$ 380.70    |
| Kirkland Police Department: PO Drawer B, Clark Mills, NY 13321            | \$ 3,807.11  |
| New Hartford Police Department: 8635 Clinton St, New Hartford, NY 13313   | \$ 8,756.35  |
| New York Mills Police Department: 3 Maple Street, NY Mills, NY 13417      | \$ 2,284.26  |
| Oriskany Police Department: PO Box 904, Oriskany, NY 13424                | \$ 380.71    |
| City of Rome Police Department: 301 N James Street, Rome, NY 13440        | \$ 16,751.27 |
| City of Sherrill Police Department: 373 Sherrill Road, Sherrill, NY 13461 | \$ 761.42    |
| City of Utica Police Department: 413 Oriskany St W, Utica, NY 13502       | \$ 22,461.93 |
| Whitesboro Police Department: 46 Roosevelt Drive, Whitesboro, NY 13492    | \$ 3,045.69  |
| Whitestown Police Department: 8539 Clark Mills Rd, Whitesboro, NY 13492   | \$ 6,472.08  |
| Yorkville Police Department: 30 Sixth Street, Yorkville, NY 13495         | \$ 9,898.48  |

Thank you for your personal attention to this matter. Should you have any further questions, please contact my office.

Sincerely,

Kevin W. Revere  
Director

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

Anthony J. Picente, Jr.  
County Executive

Date 1/7/20



Oneida Co. Department: Stop-DWI Program

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

**ONEIDA COUNTY BOARD OF LEGISLATORS  
CONTRACT SUMMARY**

**Name & Address of Vendor:** Town of Whitestown  
Whitestown Police Department  
8539 Clark Mills Road  
Whitesboro, NY 13492

**Title of Activity or Service:** DWI Selective Enforcement Patrols and related activities.

**Proposed Dates of Operation:** January 1, 2020 – December 31, 2020

**Client Population/Number to be Served:** Oneida County Residents

**Summary Statements**

**1) Narrative Description of Proposed Services:** Agency will provide patrols, in addition to their normally scheduled patrols, whose sole function will focus on DWI and related enforcement. Funding may also be utilized to calibrate and repair DWI and related equipment and to attend training that enhances the mission of the Stop-DWI Program.

**2) Program/Service Objectives and Outcomes:** To increase annually the number of Selective Enforcement Patrols and corresponding arrests for DWI and its related offences.

**3) Program Design and Staffing:** Staff is drawn from the agency's sworn police officers.

**Total Funding Requested:** \$ 6,472.08

**Account#:** A3313.495

**Oneida County Funding Recommendation:** \$6,472.08

**Proposed Funding Sources (Federal \$ /State\$ / County \$):** County \$ - Reimbursable from DWI funds generated in Oneida County

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

**Past Performance Data:** Agency currently participates in Selective Enforcement Patrols and other STOP-DWI Program initiatives and special operations.

**O.C. Department Staff Comments:** This agreement is intended to be used as the master template agreement for all 2020 Selective Enforcement Patrol agreements.

**ONEIDA COUNTY STOP-DWI PROGRAM  
SELECTIVE ENFORCEMENT PATROLS  
AGREEMENT**

This Agreement (the "Agreement") made this 1<sup>st</sup> day of January 2020, by and between the County of Oneida, a municipal corporation existing under the laws of the State of New York, with principal offices located at 800 Park Ave., Utica, NY 13501, through its Stop-DWI program, with offices located at 120 Base Road, Oriskany, NY 13424, hereinafter collectively referred to as the "County," and the Town of Whitestown, a municipal corporation existing under the laws of the State of New York, through its Whitestown Police Department, both having offices at 8539 Clark Mills Road, Whitesboro, New York 13492, hereinafter collectively referred to as the "Police Agency" (each individually referred to as a "Party" and collectively referred to as the "Parties").

WHEREAS, the County operates and conducts a program entitled "Stop-DWI;" and

WHEREAS, the mission of the Stop-DWI program is the County-wide reduction of alcohol related traffic injuries and fatalities; and

WHEREAS, the Police Agency desires to participate in and promote the Stop-DWI program with the County;

**NOW, THEREFORE,** the Parties agree as follows:

1. **GENERAL:** The Police Agency shall provide services as outlined below under Section 2 "Scope of Services," which will assist in the County-wide enforcement of New York State Vehicle and Traffic Laws relating to Driving While Intoxicated, and shall be aimed at reducing alcohol-related traffic injuries and fatalities.
2. **SCOPE OF SERVICES:** In accordance with this Agreement, the Police Agency shall perform the following (collectively, (a), (b), and (c) shall hereinafter be referred to as the "Services"):
  - a) Conduct DWI Selective Enforcement Patrols;
  - b) Testify in criminal proceedings that are a result of DWI arrests; and
  - c) Attend training that enhances the mission of the Stop-DWI program.
3. **FEE:** The County shall reimburse the Police Agency for salary, fringe benefits, related travel and subsistence, and breath testing equipment calibrations up to the sum of six thousand four hundred seventy-two dollars and eight cents (\$6,472.08), related to the Services provided pursuant to this Agreement.
  - a) Payments shall be made upon receipt from the Police Agency of a properly completed County voucher form itemizing and setting forth in detail the costs incurred and Services performed, together with any receipts or other such supporting documentation attached thereto. Said voucher must be submitted no later than the 15<sup>th</sup> day of the month following the end of the quarter and shall be accompanied by a completed statistical report on forms provided by the County detailing the Police Agency's Services that were undertaken on behalf of the Stop-DWI program. To be reimbursed for expenses other than

the Services herein, the Police Agency must receive prior written approval from the Stop-DWI Coordinator.

b) The County reserves the right to conduct an on-site program and/or fiscal audit of the Police Agency's records as they relate to Stop-DWI program Services in a manner consistent with generally accepted accounting principles and program guidelines. The Police Agency shall make available all payroll, daily activity, and related logs at the request of the Stop-DWI Coordinator or designee in order to verify Services claimed by the Police Agency in claims made to the Stop-DWI program for reimbursement.

4. **GOVERNANCE AND OPERATING PROCEDURES:** All Services associated with this Agreement shall be governed by the official published "Standard Operating Procedures of the Oneida County Stop-DWI Program," as same may be amended.

a) Police Agency warrants and represents that the program to be conducted by it does not violate Section 1197 of the Vehicle and Traffic Law of the State of New York, as same may be amended.

b) Police Agency agrees to comply with all applicable Federal, State, and Local statutes, laws, rules, and regulations as same may from time to time be amended.

5. **TERM:** This Agreement shall be effective from January 1, 2020 through December 31, 2020.

6. **TERMINATION:** The County reserves the right to terminate this Agreement, upon thirty (30) days written notice to the Police Agency. In the event of termination, the County will have no further obligation to the Police Agency other than payment for costs incurred for Services performed prior to termination. In no event will the County be responsible for any actual or consequential damages as a result of termination.

7. **SPECIAL REPORTS:** Police Agency shall notify the STOP-DWI Coordinator of all arrests on a quarterly basis, and any traffic fatalities occurring within its jurisdiction upon completion of the crash investigation. Such notification shall be presented as a photocopy of the final MV-104A and MV-104D Police Reports.

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

9. **NON-ASSIGNMENT.** This Agreement may not be assigned by the Policy Agency without the prior written consent of the County.

10. **ENTIRE AGREEMENT:** The terms of this Agreement, including the "Standard Oneida County Conditions," which is attached hereto and made a part hereof as Addendum A, constitute the entire understanding and agreement of the Parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Agreement.

REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.  
SIGNATURE PAGE TO FOLLOW.

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

**TOWN OF WHITESTOWN**

BY \_\_\_\_\_

DATE \_\_\_\_\_

Shawn Kaleta  
Town Supervisor

**ONEIDA COUNTY**

BY \_\_\_\_\_

DATE \_\_\_\_\_

Anthony J. Picente, Jr.  
Oneida County Executive

BY \_\_\_\_\_

DATE \_\_\_\_\_

Kevin W. Revere  
Director of Emergency Services

Approved

\_\_\_\_\_  
Alison Stanulevich, Esq.  
Assistant County Attorney

## ADDENDUM A - STANDARD ONEIDA COUNTY CONTRACT CLAUSES

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

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

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

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

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1) The dangers of drug abuse in the workplace;

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

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

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

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

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

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

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



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

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

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

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

---

---

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

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

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

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

When applicable to the services provided pursuant to the Contract:

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

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

c. The Contractor shall:

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

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

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

5. NON-ASSIGNMENT CLAUSE.

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

6. WORKER'S COMPENSATION BENEFITS.

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

7. NON-DISCRIMINATION REQUIREMENTS.

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

8. WAGE AND HOURS PROVISIONS.

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

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

9. NON-COLLUSIVE BIDDING CERTIFICATION.

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

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

10. RECORDS.

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

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

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

12. CONFLICTING TERMS.

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

13. GOVERNING LAW.

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

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

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

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

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

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

16. GRATUITIES AND KICKBACKS.

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



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

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

## 17. AUDIT

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

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

## 18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

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

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

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

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

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

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

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

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

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

c. For the purposes of this provision, “on Oneida County property” shall be defined as:

i. Upon all real property owned or leased by the County of Oneida;  
and

ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.

d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

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

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



Undersheriff Joseph Lisi  
Chief Deputy Lisa Zurek

Chief Deputy Jonathan Owens  
Chief Deputy Derrick O'Meara

*Sheriff Robert M. Maciol*

January 3, 2020

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

FN 20 20 052

PUBLIC SAFETY

Dear County Executive Picente:

WAYS & MEANS

The Sheriff's Office has received insurance claims from the U.S. Specialty Insurance Company in the amount of \$9,912.35. The loss was due to a collision with a deer and a 2019 Ford Explorer. The accident happened in November 2019 and the funds were received in 2019. However, the vehicle is being repaired in 2020 with the invoice to follow. I would like to defer the revenue to 2020 and request a 2020 Supplemental Appropriation of Funds of \$9,912.35 for Sheriff Auto Fleet repairs.

I respectfully request your Board approval for the following 2020 supplemental appropriation:

|            |                    |            |
|------------|--------------------|------------|
| TO:        |                    |            |
| A3110.4522 | Automotive Repairs | \$9,912.35 |

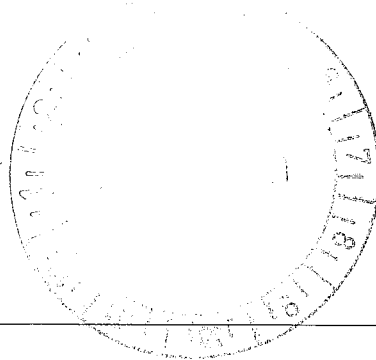
This supplemental appropriation will be fully supported by anticipated revenue in:

|       |                                |            |
|-------|--------------------------------|------------|
| A2681 | Insurance Recoveries - Sheriff | \$9,912.35 |
|-------|--------------------------------|------------|

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

Sincerely,

Robert M. Maciol,  
Oneida County Sheriff



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

Anthony J. Picente, Jr.  
County Executive

Date 1/7/20



**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

**PETER M. RAYHILL**  
COUNTY ATTORNEY

FN 20 20-053

January 6, 2020

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

**PUBLIC SAFETY**

**WAYS & MEANS**

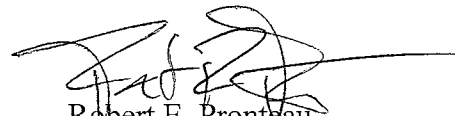
Dear County Executive Picente:

I enclose herewith a proposed Local Law that would implement a demonstration program imposing owner liability for failure of an operator to stop for a school bus displaying a red visual signal and stop-arm in Oneida County. This program would allow the County to then enter into agreements with school districts to mount and manage the stop-arm camera systems, and identify and hold accountable any owners of vehicles that pass a stopped school bus. This program was authorized by the New York State Legislature last year with the adoption of Vehicle and Traffic Law §1174-a.

If you wish this Local Law to be adopted, please forward to the Board of County Legislators for their consideration and approval at their next meeting.




Very truly yours,

  
Robert E. Pronteau  
Assistant County Attorney

Enc.

cc: Sheriff Robert M. Maciol

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

  
Anthony J. Picente, Jr.  
County Executive

Date 1/6/20

*INTRODUCTORY  
NO.*

*F.N. 2020-*

## **ONEIDA COUNTY BOARD OF LEGISLATORS**

*RESOLUTION NO.*

*INTRODUCED BY: Mr. Fiorini, Mr. D'Onofrio,  
2ND BY: Mr. Goodman*

**LOCAL LAW INTRO. \_\_\_\_\_ OF 2020  
LOCAL LAW NO. \_\_\_\_ OF 2020**

**A LOCAL LAW IMPLEMENTING A DEMONSTRATION PROGRAM IMPOSING  
OWNER LIABILITY FOR FAILURE OF AN OPERATOR TO STOP FOR A SCHOOL  
BUS DISPLAYING A RED VISUAL SIGNAL AND STOP-ARM.**

**BE IT ENACTED BY THE BOARD OF COUNTY LEGISLATORS OF THE COUNTY  
OF ONEIDA AS FOLLOWS:**

### **SECTION 1. PURPOSE AND INTENT.**

The Oneida County Legislature hereby finds and determines that New York State has authorized counties to implement a demonstration program or monitoring program which will allow Oneida County to install cameras on the exterior of school buses in participating school districts, and impose monetary liability on vehicles that fail to stop behind or in front of a school bus while the school bus stop signs are extended, including traffic travelling in both directions on divided highways.

The Oneida County Legislature also finds and determines that cars that fail to stop when a school bus operator engages the bus stop signs pose a threat to the safety of the children entering and exiting the bus.

The Oneida County Legislature further finds and determines that it is difficult to ticket drivers who disregard school bus stop signs without video evidence of the violation, as there are usually no members of law enforcement witnessing the violation.

The Oneida County Legislature determines that this school bus photo violation monitoring program will not only help to keep children safe when entering and exiting the school bus, but will also act as a deterrent to those who debate passing a school bus while the stop signs are engaged.

Therefore, the purpose of this law is to implement a demonstration program to impose monetary liability on the owner of a vehicle for failure of the operator to stop when a school bus has its stop signs extended in Oneida County through the installation and monitoring of external school bus cameras.

## **SECTION 2. DEFINITIONS.**

For the purposes of this local law, the following terms shall have the following meanings:

- A. "County" shall mean the County of Oneida.
- B. "Manual on uniform traffic control devices" or "MUTCD" shall mean the manual and specifications for a uniform system of traffic control devices maintained by the Commissioner of the Department of Transportation pursuant to Section 1680 of the New York Vehicle Traffic Law.
- C. "Owner" shall have the meaning provided in Section 239 of the New York Vehicle and Traffic Law.
- D. "School bus photo violation monitoring system" shall mean a device that is capable of operating independently of an enforcement officer which is installed to work in conjunction with a school bus stop-arm and which automatically produces two or more photographs, two or more microphotographs, a videotape or other recorded images of a vehicle at the time it is used or operated in violation of subdivision (a) of Section 1174 of the New York Vehicle and Traffic Law.

## **SECTION 3. PROGRAM ESTABLISHED.**

- A. There is hereby established, pursuant to Section 1174-a of the New York State Vehicle and Traffic Law, a demonstration program imposing monetary liability on Owners of vehicles for failure of the operators thereof to comply with Section 1174 of the New York State Vehicle and Traffic Law when meeting a school bus marked and equipped as provided in subdivisions 20 and 21-c of Section 375 of the New York State Vehicle and Traffic Law in Oneida County.
- B. Under such demonstration program the County is hereby authorized to install and operate school bus photo violation monitoring systems which may be stationary or mobile, and which may be installed, pursuant to an agreement with a school district within the County on school buses owned and/or operated by such school district. Provided, however, that:

- i. No stationary school bus photo violation monitoring system shall be installed or operated by the County, except on roadways under the jurisdiction of the County; and
  - ii. No mobile school bus photo violation monitoring system shall be installed or operated on any such school buses unless the County and such school district enter into an agreement for such installation and operation.
- C. To carry out the demonstration program, the County, acting by and through the County Executive, is authorized to enter into agreements with school districts for the installation, maintenance and use of school bus photo violation monitoring systems, for the proper handling and custody of photographs, microphotographs, videotapes, other recorded images and data produced by such systems, and for the forwarding of such photographs, microphotographs, videotapes, other recorded images and data to the County, subject to the provisions of this section and Section 1174-a of the New York Vehicle and Traffic Law and approval of the Board of County Legislators.
- D. Nothing in this local law shall be construed to prevent the County or school district at any time from withdrawing from or terminating an agreement for the installation, maintenance and use of school bus photo violation monitoring systems, provided however, that the County or the school district shall provide no less than thirty days' required notice to the other for such withdrawal, if any, prior to such withdrawal.
- E. Cost of Program and Reports Relating Thereto.
  - i. The total cost to the school district of the installation, maintenance and use of school bus photo violation monitoring systems pursuant to an agreement authorized by this local law shall be borne entirely by the County.
  - ii. Any participating school district, acting by and through the Superintendent of Schools of such district, or his or her designee shall provide any report required of the district, pursuant to Section 1174-a of the Vehicle and Traffic Law, to the State or any official thereof.
  - iii. To the extent that the County shall be required to issue any report to the State or any official thereof as a result of the adoption of this Local Law and/or Section 1174-a of the Vehicle and Traffic Law, the Oneida County Sheriff's Office shall cause the same to be prepared pursuant to this Local or applicable State law.
- F. Pursuant to Section 1174-a (a)(3)(i) of the Vehicle and Traffic Law, any school district participating in the demonstration program shall be prohibited from accessing any photographs, microphotographs, videotapes, other recorded images and data from school bus photo violation monitoring systems but shall provide, pursuant to the agreement with the County, as provided in this Local Law, for the proper handling and custody of such photographs, microphotographs, videotapes, other recorded images and data produced by such systems, and for the forwarding of such photographs, microphotographs, videotapes,



other recorded images and data to the County for the purpose of determining whether a motor vehicle was operated in violation of subdivision (a) of Section 1174 of the New York Vehicle and Traffic Law and imposing monetary liability on the Owner of such motor vehicle therefor.

- G. The agreements between the County and the school district shall provide that photographs, microphotographs, videotapes other recorded images and data produced by school bus photo violation monitoring systems shall be destroyed (i) ninety days after the date of the alleged imposition of liability if a notice of liability is not issued for such alleged imposition of liability pursuant to this Local Law; or (ii) upon final disposition of a notice of liability issued pursuant to this Local Law.
- H. The County shall adopt and enforce measures to protect the privacy of drivers, passengers, pedestrians and cyclists whose identity and identifying information may be captured by a school bus photo monitoring device. Such measures shall include:
  - i. Utilization of necessary technologies to ensure, to the extent practicable, that photographs produced by such school photo violation monitoring systems shall not include images that identify the driver, the passengers, the contents of the vehicle, pedestrians and cyclists, provided, however, that no notice of liability issued pursuant to this section shall be dismissed solely because a photograph or photographs allow for the identification of the contents of a vehicle, provided that the County has made a reasonable effort to comply with the provisions of this paragraph; and
  - ii. A prohibition of the use or dissemination of vehicles' license plate information and other information and images captured by school bus photo violation monitoring systems except: (a) as required to establish liability under this section or collect payment of penalties; (b) as required by court order; or (c) as otherwise required by law; and
  - iii. Oversight procedures to ensure compliance with the privacy protection measures required herein.
- I. The County, acting by and through the Commissioner of the Department of Public Works (DPW) shall also undertake the installation of signage in conformance with standards established in the Manual of Uniform Traffic Control Devices. Such signage shall be installed at each roadway entrance of the jurisdictional boundaries of the County giving notice that school bus photo violation monitoring systems are used to enforce restrictions on vehicles violating Section 1174 of the New York Vehicle and Traffic Law. For the purposes of this paragraph, the term "roadway" shall not include state expressway routes or state interstate routes but shall include controlled-access highway exit ramps that enter the boundaries of the County.

#### **SECTION 4. PENALTIES.**

An Owner liable for a violation of subdivision (a) of Section 1174 of the New York Vehicle and Traffic Law pursuant to this Local Law shall be liable for monetary penalties in accordance with the following schedule of fines and penalties:

- A. Two hundred fifty dollars (\$250.00) for a first violation;
- B. Two hundred seventy-five dollars (\$275.00) for a second violation committed within eighteen (18) months of the first violation;
- C. Three hundred dollars (\$300.00) for a third violation or subsequent violation all of which were committed within eighteen (18) months from the first violation; and
- D. An additional penalty of twenty-five dollars (\$25.00) for each violation for the failure to respond to a notice of liability within the prescribed time period.

#### **SECTION 5. NOTICE OF LIABILITY.**

- A. A notice of liability shall be sent as provided by State Law by first class mail to each person alleged to be liable as an Owner for a violation of subdivision (a) of Section 1174 of the New York Vehicle and Traffic Law. Personal delivery on the Owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein. To the extent that State Law does not preclude the County from causing such mailing to be made, the County shall undertake or cause to be undertaken such mailing.
- B. A notice of liability shall contain the name and address of the person alleged to be liable as an Owner for a violation of subdivision (a) of Section 1174 of the New York Vehicle and Traffic Law, the registration number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation and the identification number of the camera which recorded the violation or other document locator number.
- C. A notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons charged that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.
- D. The notice of liability may contain such other information as the entity causing such notice of liability to be mailed deems appropriate to communicate the law, the adjudicatory process if the addressee of the notice wishes to contest the notice of liability.

#### **SECTION 6. OWNER LIABILITY.**

- A. The Owner of a vehicle shall be liable for a penalty imposed pursuant to this Local Law if such vehicle was used or operated with the permission of the Owner, express or implied, in violation of subdivision (a) of Section 1174 of the New York Vehicle and Traffic Law and such violation is evidenced by information obtained from a school bus photo violation monitoring system; provided however that no Owner of a vehicle shall be liable for a penalty imposed pursuant to this Local Law where the operator of such vehicle has been convicted of the underlying violation of subdivision (a) of Section 1174 of the New York State Vehicle and Traffic Law. For purpose of this Section and this Local Law, there shall be a presumption that such vehicle was used and operated with the consent of the Owner at the time it was used and operated in violation of subdivision (a) of Section 1174 of the New York Vehicle and Traffic Law.
- B. If the Owner receives a notice of liability pursuant to this Local Law for any time period during which the vehicle was reported to the police as having been stolen, it shall be a valid defense to an allegation of liability for a violation of subdivision (a) of Section 1174 of the New York Vehicle and Traffic Law pursuant to this Local Law that the vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. For purposes of asserting the defense provided by this subdivision, it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent or delivered to a court of competent jurisdiction or parking violations bureau having jurisdiction where any contested notice of liability would otherwise be determined.
- C. An Owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to this Local Law shall not be liable for the violation of subdivision (a) of Section 1174 of the New York Vehicle and Traffic Law, provided that he or she complies with the provisions of Section 1174-a of the New York Vehicle and Traffic Law and otherwise sends to the Court of competent jurisdiction or other adjudicatory bureau or agency of competent jurisdiction, a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty-seven (37) days after receiving notice from the agency or entity which caused such notice of liability to be issued, together with the information contained in the original notice of liability. Failure to send such information within thirty-seven (37) day time period shall render the Owner liable for the penalty prescribed by this Local Law. Where the lessor complies with the provisions of this paragraph, the lessee of such vehicle for purposes of this Section, shall be deemed to be the Owner of such vehicle on the date of such violation for the purposes of this Section, shall be subject to liability for the violation of subdivision (a) of Section 1174 of the New York Vehicle and Traffic Law pursuant to this Local Law and shall be sent a notice of liability pursuant to Section 4 of this Local Law.
- D. A certificate, sworn to or affirmed by a technician employed by the County, or a facsimile thereof, upon inspection of photographs, microphotographs, videotapes, other recorded images produced by a school bus photo violation monitoring system, shall be *prima facie* evidence of the facts contained therein. Any photographs, microphotographs, videotapes, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation.

- E. It shall be a defense to any prosecution for or allegation of a violation of subdivision (a) of Section 1174 of the New York Vehicle and Traffic Law pursuant to this Local Law that such school bus stop-arms were malfunctioning at the time of the alleged violation.
- F. An imposition of liability under this Local Law shall not be deemed a conviction and shall not be made part of the operating record of the person upon whom such liability is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.
- G. All fines and penalties collected pursuant to this law shall be deposited with the County Comptroller.
- H. For the purpose of informing and educating Owners for motor vehicles in this County during the first thirty-day (30) period in which a school bus photo violation monitoring system is in operation pursuant to the provisions of this Local Law, all Owners of motor vehicles who would otherwise be held liable for failure of operators thereof to comply with Section 1174 of the New York Vehicle and Traffic Law when meeting a school bus marked and equipped as provided in subdivisions 20-21-c of Section 375 of such Law, shall be issued a written warning in lieu of a notice of liability.

#### **SECTION 7. ADJUDICATION OF LIABILITY.**

Liability pursuant to the demonstration program established hereunder shall be imposed upon Owners by the Court of competent jurisdiction in Oneida County or in another other manner pursuant to the New York State General Municipal or Vehicle and Traffic Law(s).

#### **SECTION 8. ACTION FOR INDEMNIFICATION.**

If the Owner held liable for a violation of subdivision (a) of Section 1174 of the New York Vehicle and Traffic Law pursuant to this Local Law was not the operator of the vehicle at the time of the violation, the Owner may maintain an action for indemnification against the operator.

#### **SECTION 9. REPORTING REQUIREMENTS.**

- A. The County, acting by and through the Oneida County Sheriff's Office, shall develop and cause to be submitted an annual report on the results of the use of a school bus photo violation monitoring system to the Governor, the temporary president of the Senate and the speaker of the Assembly on or before June 1 of each year in which the demonstration program is operable. Such report shall include any information required by Section 1174-a (m) of the New York Vehicle and Traffic Law to be included as a result of the enactment of this Local Law.



**OFFICE, CLERK BOARD OF COUNTY LEGISLATORS)**

**COUNTY OF ONEIDA**

**) SS:**

I, hereby certify that I have compared the foregoing extract from the minutes of meeting of the Board of

County Legislators of Oneida County held on the day of, 2019 with the original record thereof on

File in this office and that the same is a true and correct transcript therefrom, and of the whole of such original.

**IN TESTIMONY WHEREOF**, I have hereunto affixed the seal of  
said Board this day of , 2020.



\_\_\_\_\_ Clerk

**Mikale Billard**