



# ONEIDA COUNTY BOARD OF LEGISLATORS

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

Gerald J. Fiorini  
Chairman  
(315) 798-5900

Mikale Billard  
Clerk  
(315) 798-5404

George Joseph  
Majority Leader

Philip M. Sacco  
Minority Leader

## COMMUNICATIONS WITH DOCUMENTATION

February 14, 2018

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

<u>FILE NO.</u>	<u>COMMITTEE</u>	<u>PAGES</u>
2018-052 . . .	Ways & Means	.....
2018-053 . . .	Read & Filed	.....
2018-054 . . .	Read & Filed	.....
2018-055 . . .	Read & Filed	.....
2018-056 . . .	Read & Filed	.....
2018-057 . . .	Read & Filed	.....
2018-058 . . .	Read & Filed	.....
2018-059 . . .	Public Works, Ways & Means	.....
2018-060 . . .	Public Works, Ways & Means	.....
2018-061 . . .	Public Works, Ways & Means1	.....
2018-062 . . .	Public Works, Ways & Means	.....
2018-063 . . .	Public Works, Ways & Means	.....
2018-064 . . .	Public Works, Ways & Means	.....
2018-065 . . .	Public Safety, Ways & Means	.....
2018-066 . . .	Public Safety, Ways & Means	.....
2018-067 . . .	Public Safety, Ways & Means	.....
2018-067 . . .	Public Safety, Ways & Means	.....
2018-069 . . .	Public Safety, Ways & Means	.....
2048-070 . . .	Government Operations, Ways & Means	.....
2018-071 . . .	Government Operations, Ways & Means	.....
2018-072 . . .	Health & Human Services, Ways & Means	.....
2018-073 . . .	Health & Human Services, Ways & Means	.....
2018-074 . . .	Health & Human Services, Ways & Means	.....
2018-075 . . .	Health & Human Services, Ways & Means	.....
2018-076 . . .	Health & Human Services, Ways & Means	.....
2018-077 . . .	Public Safety & Ways & Means	.....

AVAILABLE ON WEBSITE ONLY  
[www.ocgov.net](http://www.ocgov.net)



## ONEIDA COUNTY BOARD OF LEGISLATORS

---

*Gerald J. Fiorini, Chairman ♦ 800 Park Avenue ♦ Utica, New York 13501*  
*Work Phone: 798-5900 ♦ Home Phone: 337-9045*

February 13, 2018

FN 20 18-052

Board of Legislators  
800 Park Ave.  
Utica, NY 13501

Honorable Members:

Please find the attached resolution appointing Daniel R. Guzewich to the position of Majority Analyst (25M, Step 12, \$52,116). I ask that you approve this resolution at the February 14, 2018 Board meeting.

Thank you in advance for your consideration.

Sincerely,

Gerald J. Fiorini  
Chairman



# 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

January 24, 2018

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

FN 20 18-052

READ & FILED

Honorable Members:

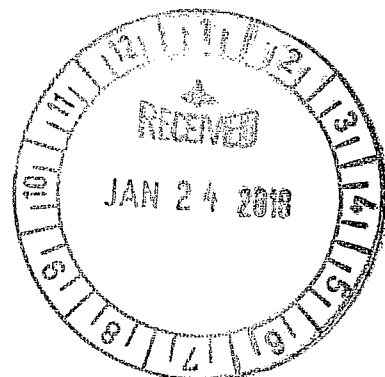
Pursuant to the Rules of the Board, I hereby appoint County Legislator **Michael B. Waterman to serve as Parliamentarian** of the Oneida County Board of Legislators for the 2018-2019 term.

This appointment is effective immediately and will expire on December 31, 2019.

Respectfully submitted,

GERALD J. FIORINI  
CHAIRMAN OF THE BOARD

GJF:cd





# 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

January 24, 2018

FN 20

18-054

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

READ & FILED

Ladies and Gentlemen:

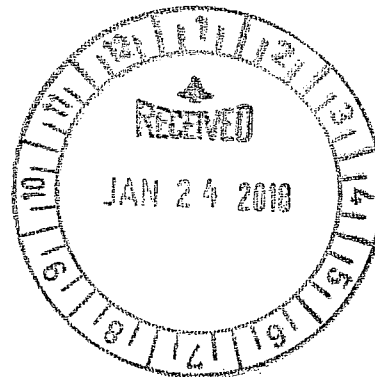
Pursuant to the Rules of the Board, I hereby appoint County Legislator **Mary Austin Pratt, R-16** to serve as **Vice Chair** of the Oneida County Board of Legislators for the 2018-2019 term of the Board.

Said appointment shall be effective immediately and shall expire on December 31, 2019.

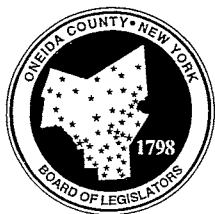
Respectfully submitted,

GERALD J. FIORINI  
CHAIRMAN OF THE BOARD

GJF:cd







# 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

January 24, 2018

FN 20 18-055

Herkimer-Oneida Counties  
Government Policy and Liaison Committee  
321 Main Street  
Boehlert Station  
Utica, New York 13501

READ & FILED

Gentlemen:

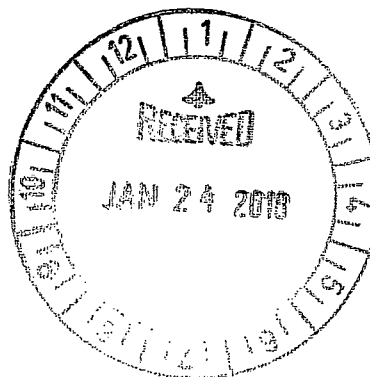
Please be advised that I have re-appointed Oneida County Legislator **Emil R. Paparella** of 613 Locust Drive, Utica, NY 13502, to represent me at all meetings of the Herkimer-Oneida Counties Governmental Policy and Liaison Committee.

Sincerely,

GERALD J. FIORINI, CHAIRMAN  
ONEIDA COUNTY BOARD OF LEGISLATORS

GJF:cd

Cc: Mr. Paparella





## ONEIDA COUNTY BOARD OF LEGISLATORS

George Joseph, Majority Leader  
7315 Merriman Road ♦ Clinton, New York 13323  
Phone: (315) 853-3006 ♦ Email: nrthstr40@aol.com

January 24, 2018

FN 20 18-056

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

READ & FILED

Ladies and Gentlemen:

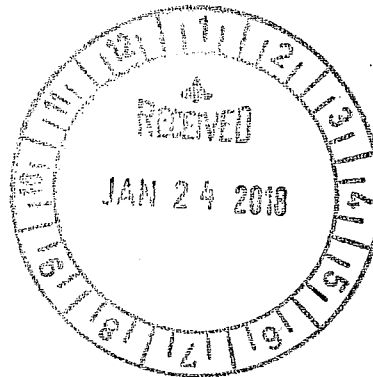
Pursuant to the Rules of the Board of Legislators, I am writing to advise that I hereby appoint Richard Flisnik as Assistant Majority Leader for the 2018-2019 term of this Board.

Said appointment is effective immediately.

Very truly yours,

GEORGE JOSEPH  
MAJORITY LEADER

GJ:cd





# ONEIDA COUNTY BOARD OF LEGISLATORS

Keith Schiebel ♦ 4830 Day Road ♦ Vernon, NY 13476  
Phone: 315.335.0887 ♦ Email: kschiebel@ocgov.net

January 24, 2018

FN 20 18-057

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

**READ & FILED**

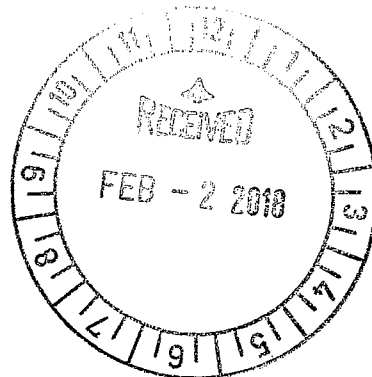
Dear Mr. Billard:

Please be advised that I am employed at Vernon-Verona-Sherrill Central School District, where I am an Agriculture teacher and FFA advisor. Also I am a member of the following organizations: Oneida County Farm Bureau, New York Association of Agriculture Educators, National Association of Agriculture Educators, New York FFA Alumni, Vernon-Verona -Sherrill Alumni and the New York State Maple Producers Association.

I am making this disclosure of interest in the aforementioned in compliance with Section 803 of the General Municipal Law. It is my understanding that this letter of disclosure will become a part of the official record of this Board.

Respectfully submitted,

KEITH H. SCHIEBEL  
Oneida County Legislator  
1<sup>st</sup> District





# ONEIDA COUNTY BOARD OF LEGISLATORS

Michael J. Clancy ♦ 4932 Old Oneida Rd. ♦ Verona, New York 13478  
Home Phone: (315) 363-2570

January 29, 2018

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

FN 20 18-057

READ & FILED

Dear Mr. Billard:

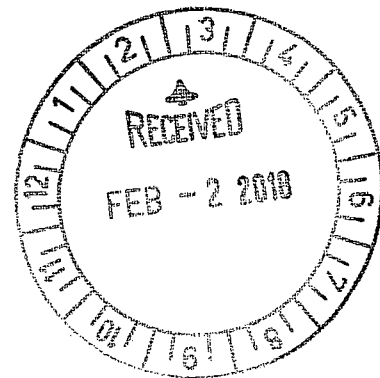
Please be advised that I am employed by the United Food and Commercial Workers Local 350-1 and I serve as treasurer for the Verona Volunteer Fire Department.

I am making this disclosure of interest in the aforementioned in compliance with Section 803 of the General Municipal Law. It is my understanding that this letter of disclosure will become a part of the official record of this Board.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Michael Clancy".

MICHAEL CLANCY  
Oneida County Legislator  
4<sup>th</sup> District





# ONEIDA COUNTY BOARD OF LEGISLATORS

*Gerald J. Fiorini, Chairman ♦ 800 Park Avenue ♦ Utica, New York 13501*  
*Work Phone: 798-5900 ♦ Home Phone: 337-9045*

January 22, 2018

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

FN 20 \_\_\_\_\_ - \_\_\_\_\_

READ & FILED

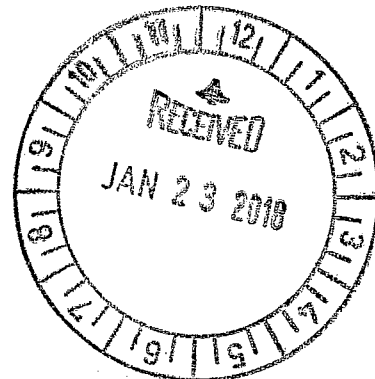
Dear Mr. Billard:

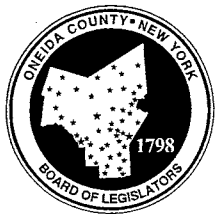
Please be advised that I am currently a member of the Board of Directors for the Rome Baseball Association and my wife, Frances Fiorini works part-time as an usher at the Turning Stone Casino.

I am making this disclosure of interest in the aforementioned in compliance with Section 803 of the General Municipal Law. It is my understanding that this letter of disclosure will become a part of the official record of this Board.

Respectfully submitted,

Gerald J. Fiorini  
Oneida County Legislator  
7th District





## ONEIDA COUNTY BOARD OF LEGISLATORS

Robert Koenig

7982 Postal Road ♦ Oriskany, New York 13424

Phone: (315) 736-0479 ♦ Email: rkoenig@ocgov.net

January 24, 2018

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

FN 20 18 - 057

READ & FILED

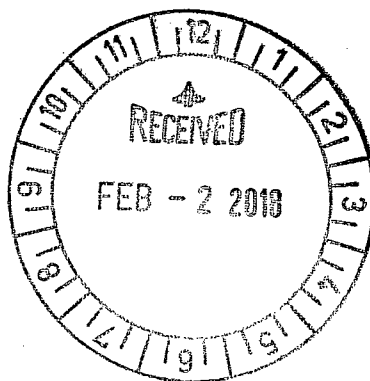
Dear Mr. Billard:

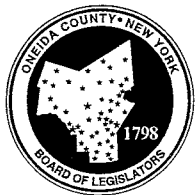
Please be advised that I am employed at TECT Corp.

I am making this disclosure of interest in the aforementioned in compliance with Section 803 of the General Municipal Law. It is my understanding that this letter of disclosure will become a part of the official record of this Board.

Respectfully submitted,

ROBERT KOENIG  
Oneida County Legislator  
11<sup>th</sup> District





ONEIDA COUNTY BOARD OF LEGISLATORS - 12<sup>th</sup> DISTRICT

MICHAEL D. BROWN  
111 FORT STANWIX PARK, S. ♦ ROME, NY 13440  
(315) 225-8720 ♦ mbrown@ocgov.net

January 24, 2018

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

FN 20 18 - 057  
READ & FILED

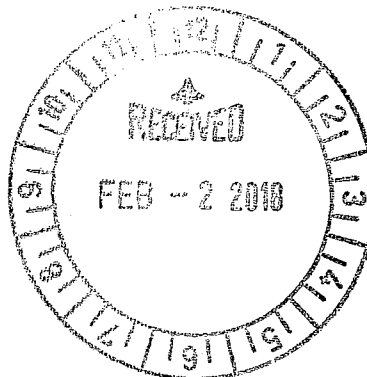
Dear Mr. Billard:

Please be advised that my employer is Rome Main Street Alliance, a 501(c)3 non-profit organization, of which I am Executive Director. I also sit on the Board of Directors of the Capital Civic Center, Inc. (Capitol Theatre).

I am making this disclosure of interest in the aforementioned in compliance with Section 803 of the General Municipal Law. It is my understanding that this letter of disclosure will become a part of the official record of this Board.

Respectfully submitted,

Michael D. Brown  
Oneida County Legislator  
12th District





# ONEIDA COUNTY BOARD OF LEGISLATORS

*Chad Davis ♦ 25 Utica Street ♦ Clinton, New York 13323*  
*Home Phone: (315) 853-4037 ♦ Business Phone: (315) 732-0324*

January 24, 2018

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

FN 20 18 - 057

**READ & FILED**

Dear Mr. Billard:

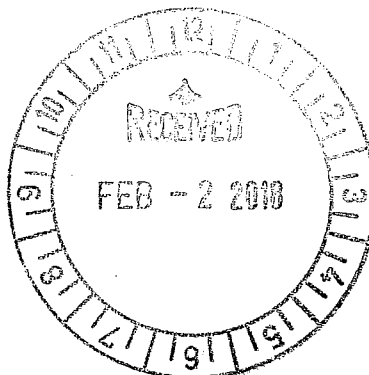
Please be advised that I am an owner/managing partner with Advantage Company Inc. with an office at 258 Genesee Street in Utica, NY.

I am making this disclosure of interest of the aforementioned in compliance with Section 803 of the Municipal Law. It is my understanding that this letter of disclosure will become a part of the official record of this Board.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. Chad Davis".

D. Chad Davis  
Oneida County Legislator  
14<sup>th</sup> District







# ONEIDA COUNTY BOARD OF LEGISLATORS

*James M. D'Onofrio ♦ PO Box 29 ♦ Utica, NY 13503*

January 22, 2018

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

FN 20 18 - 057

**READ & FILED**

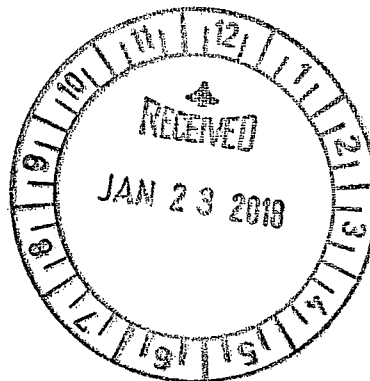
Dear Mr. Billard:

Please be advised that I am President and majority stockholder of Arlott's Office Products, Inc., 820 Charlotte St, Utica, NY; I am a member of the Board of Directors for Insight House, a member of the Board of the Oneida-Herkimer Solid Waste Authority and a member of the ARC Board of Oneida-Lewis Counties.

I am making this disclosure of interest in the aforementioned in compliance with Section 803 of the General Municipal Law. It is my understanding that this letter of disclosure will become a part of the official record of this Board.

Respectfully submitted,

James M. D'Onofrio  
Oneida County Legislator  
15<sup>th</sup> District





# ONEIDA COUNTY BOARD OF LEGISLATORS

*Emil R. Paparella*

*613 Locust Dr.*

*Utica, New York 13502*

January 24, 2018

FN 20 18 - 057

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

**READ & FILED**

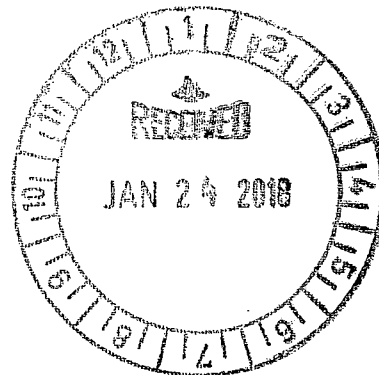
Dear Mr. Billard:

Please be advised that I am associated with the North Utica Senior Citizens Recreation Center, Inc. located at 121 Herkimer Road, Utica, NY 13502. I also serve on the Board of Directors for the Mohawk Valley Economic Development District, Inc.

I am making this disclosure of interest in the aforementioned in compliance with Section 803 of the General Municipal Law. It is my understanding that this letter of disclosure will become a part of the official record of this Board.

Respectfully submitted,

Emil R. R. Paparella  
Oneida County Legislator  
23rd District





**ONEIDA COUNTY DEPARTMENT OF  
WATER QUALITY & WATER POLLUTION CONTROL**

51 Leland Ave., PO Box 442, Utica, NY 13503-0442  
(315) 798-5656 wpc@ocgov.net (FAX) 724-9812

Anthony J. Picente, Jr.  
County Executive

Steven P. Devan, P.E.  
Commissioner

**MEMORANDUM**

**TO:** Mikale P. Billard  
Clerk of the Oneida County Board of Legislators

FN 20 18 - 058

**FROM:** Steven P. Devan, P.E.  
Commissioner

**READ & FILED**

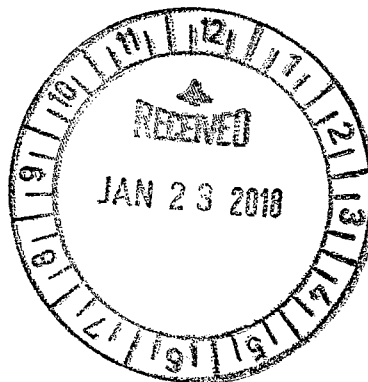
**SUBJECT:** Proposed Oneida County Sewer District Rate Schedule

**DATE:** January 22, 2018

---

Please find attached the proposed Oneida County Sewer District rate Schedule and corresponding legal notice. As the legal notice indicates, I am required to file it with you so that it is available for public inspection.

Thank you for your cooperation in this matter. Please feel free to contact me if you have any questions.



## NOTICE OF PUBLIC HEARING

**PLEASE TAKE NOTICE**, that the proposed sewer use charges for the Oneida County Sewer District have now been completed by the administrative head of said District and have been filed with the Clerk of the Board of the Oneida County Board of Legislators.

**TAKE FURTHER NOTICE**, that the administrative head of the Oneida County Sewer District will conduct a public hearing on said charges at the Oneida County Office Building, 10<sup>th</sup> Floor Legislative Chambers, 800 Park Ave., Utica, NY at 11:00 AM, on the 31<sup>st</sup> day of January, 2018 for the purpose of hearing and reviewing any comments on the proposed sewer service charges.

**TAKE FURTHER NOTICE**, that written statements may be submitted at this time. Furthermore, the record shall remain open for a period of five (5) days following this public hearing for the purpose of receiving any additional written comments. Such comments may be filed up to the 7<sup>th</sup> day of February 2018. Comments can be mailed to OCSD, P.O. Box 442, Utica, NY 13503-0442.

**TAKE FURTHER NOTICE**, that the proposed sewer use charges will remain of file with the Clerk of the Board of the Oneida County Board of Legislators and will be open to public inspection during regular business hours.

Dated: January 22, 2018

Steven P. Devan, P.E.  
Commissioner  
Oneida County Department of  
Water Quality and Water Pollution Control  
P.O. Box 442  
Utica, NY 13505-0442



## ONEIDA COUNTY SEWER DISTRICT RATE SCHEDULE EFFECTIVE JANUARY 1, 2018

This rate schedule will apply to all bills issued on or after April 1, 2018.  
It will remain in effect until modified by the Oneida County Board of Legislators

### A. RESIDENTIAL CUSTOMER FEES

#### 1. Metered Consumption

Customers will be charged a wastewater treatment fee based on metered water usage. The rate charged will be \$4.52 per 1000 gallons of water consumed. The customer will receive a bill for these services through contract billing services provided by the Mohawk Valley Water Authority, the Sauquoit Water District or the Clayville Water District. The Sewer District wastewater treatment fee can be calculated using the following equation.

$$\text{Billable Amount} = \frac{(\text{cubic feet of water consumed}) * (7.481 \text{ gallons/cubic foot}) * (\$4.52)}{(1000 \text{ gallons})}$$

#### 2. Unmetered Consumption

Customers who do not have water meters will have a usage calculated based on an estimated water consumption rate of 50 gallons per person per day. The maximum charge per household will be based on 200 gallons per day. The rate charged will be \$4.52 per 1000 gallons of water consumed. The customer will receive a bill directly from the Sewer District for these services. The Sewer District wastewater treatment fee can be calculated using the following equation.

$$\text{Billable Amount} = \frac{(\text{days in billing period}) * (50 \text{ gallons/ day}) * (\text{number of people}) * (\$4.52)}{(1000 \text{ gallons})}$$

Customers covered under this section of the rate schedule will be required to complete a form certifying as to the number of persons occupying the property serviced by the account. Customers who do not submit the required certification form will be charged the maximum household rate of 200 gallons per day. Customers who intentionally misrepresent the number of occupants per household can be charged with a Class A misdemeanor pursuant to Section 210.45 of the Penal Law. Furthermore, restitution will be required as per Section D-3 of this rate schedule.

#### 3. Sauquoit Creek Basin Surcharge

In addition to the charges listed in sections 1 and 2, customers whose discharge is tributary to the Sauquoit Creek Pumping Station, except the Village of Whitesboro, will be assessed an additional surcharge to pay for capital expenditures and system repairs associated with the NYSDEC Consent Order. Like regular residential fees, the surcharge is based on metered or unmetered water consumption as listed in the formulas below. The rate charged will be \$1.05 per 1000 gallons of water consumed. The customer will receive a bill for these services through contract billing services provided by the Mohawk Valley Water Authority, the Sauquoit Water District, and the Clayville Water District or directly from the Oneida County Sewer District.



$$\text{Billable Amount} = \frac{(\text{cubic feet of water consumed}) * (7.481 \text{ gallons/cubic foot}) * (\$1.05)}{(1000 \text{ gallons})}$$

$$\text{Billable Amount} = \frac{(\text{days in billing period}) * (50 \text{ gallons/ day}) * (\text{number of people}) * (\$1.05)}{(1000 \text{ gallons})}$$

#### **4. Village of Whitesboro Surcharge**

In addition to the charges listed in sections 1 and 2, customers who reside in the Village of Whitesboro, will be assessed an additional surcharge to pay for capital expenditures and system repairs associated with the NYSDEC Consent Order as per Village Board Resolution dated July 13, 2015. Like regular residential fees, the surcharge is based on metered or unmetered water consumption as listed in the formulas below. The rate charged will be \$2.30 per 1000 gallons of water consumed. The customer will receive a bill for these services through contract billing services provided by the Mohawk Valley Water Authority or directly from the Oneida County Sewer District.

$$\text{Billable Amount} = \frac{(\text{cubic feet of water consumed}) * (7.481 \text{ gallons/cubic foot}) * (\$2.30)}{(1000 \text{ gallons})}$$

$$\text{Billable Amount} = \frac{(\text{days in billing period}) * (50 \text{ gallons/ day}) * (\text{number of people}) * (\$2.30)}{(1000 \text{ gallons})}$$

## **B. INDUSTRIAL CUSTOMER FEES**

### **1. Basic Rate**

Industrial customers will be charged a fee based on metered water consumption and be subject to the same rates as residential customers. In addition to these fees, industrial customers who require a permit under Oneida County Sewer Use Rules and Regulations will be charged an annual permit fee of \$660 to cover monitoring and administrative costs. Additional or modified charges may apply as detailed in subsequent sections of this schedule.

### **2. High Strength Wastewater**

Industrial customers who discharge high strength wastewater, as defined by the Sewer District, will be subject to fees in addition to those calculated using the basic rate. A surcharge will apply to discharges with total suspended solids (TSS) exceeding 290 mg/l and/or Biochemical Oxygen Demand (BOD) exceeding 330 mg/l. This surcharge will be \$0.02 per pound of TSS and/or BOD that exceed the limits as stated in this section. If insufficient BOD data exists to accurately determine the surcharge, Chemical Oxygen Demand (COD) can be substituted for BOD. In this case, the surcharge will be \$0.02 per pound of COD that exceeds 350 mg/l.

### **3. Federal Categorical Pretreatment Standards**

Federal Categorical Pretreatment Standards have additional monitoring and administrative cost associated with them. Accordingly, an annual permit fee of \$1,100 will be charged to industrial customers who are subject to these standards.



#### **4. Additional Sampling Fees**

A fee of \$200 per sample may be charged if more than four (4) twenty-four hour composite samples are needed on an annual basis to characterize the discharge of an industrial customer.

#### **5. Groundwater Remediation Projects**

Groundwater clean up and site remediation projects approved by the Sewer District for discharge directly to the sewer system will be charged the basic rate, as indicated in Section B-1, for wastewater generated. An annual permit fee of \$100 will be assessed to cover monitoring and administrative fees. The customer will be required to provide accurate discharge data on a semi-annual basis for billing purposes.

### **C. FEES FOR WASTEWATER HAULED DIRECTLY TO THE TREATMENT PLANT**

#### **1. Basic Rate**

Wastewater haulers who discharge directly to the wastewater treatment plant will be charged based on the actual amount of wastewater contained in each load. This fee will be \$0.08 per gallon of wastewater delivered. In addition, an annual permit fee of \$100 will be charged to cover monitoring and administrative costs. Additional or modified charges may apply as detailed in subsequent sections of this schedule.

#### **2. Domestic Wastewater**

Haulers of septic, cesspool and portable toilet wastewater, containing only household type wastewater, will be subject to all charges as detailed in Section C-1 of this schedule.

#### **3. Non-Domestic Wastewater**

Non-domestic wastewater, as approved by the Sewer District on a case-by-case basis, will be subject to all charges as detailed in Section C-1 of this schedule. In addition, the cost of contract laboratory services, plus 10%, will be billed to the permit holder for analytical analysis required by the Sewer District to accurately characterize the wastewater.

#### **4. Municipal or Private Sewage Treatment Systems**

Wastewater from municipal and private sewage treatment systems, as approved by the Sewer District on a case-by-case basis, will be subject to the charges as detailed in Section C-1 of this schedule.

#### **5. Low Solids Wastewater and Leachate**

Low solids wastewater, as approved by the Sewer District on a case-by-case basis, will be charged \$0.04 per gallon based on the actual amount of wastewater delivered. In addition, the cost of contract laboratory services, plus 10%, will be billed to the permit holder for analytical analysis required by the Sewer District to accurately characterize the wastewater.

#### **6. Landfill Leachate**

Landfill Leachate, as approved by the Sewer District on a case-by-case basis, will be charged \$0.02 per gallon based on the actual amount of wastewater delivered. In addition, the cost of contract laboratory services, plus 10%, will be billed to the permit holder for analytical analysis required by the Sewer District to accurately characterize the wastewater.



## **7. Food Waste Slurry**

Food waste slurry from the Oneida- Herkimer Solid Waste Authority that is fed directly to the anaerobic digesters will be charged \$0.02 per gallon based on the actual amount of slurry delivered.

## **D. OTHER CHARGES AND ADJUSTMENTS**

### **1. Late Charges**

A late charge of 10% will be charged to all accounts that are not paid by the date they are due. This fee will be assessed at the start of every billing cycle and only imposed on newly accrued late balances from the previous billing cycle.

### **2. Delinquent Charges**

All accounts that are overdue after October 31<sup>st</sup> and have a balance greater than or equal to \$50 will be declared delinquent and added to the tax rolls of the appropriate municipality. Once the delinquent accounts are transmitted to the Oneida County Department of Finance for processing, this department will be responsible for the collection activities associated with these accounts. Once declared delinquent, an additional charge of 10% will be assessed to the account. Delinquent charges are in addition to any other charges, including late charges.

Delinquent charges will be equally divided between the Oneida County Sewer District and the Oneida County Department of Finance as compensation for the cost of processing the delinquency. If the account actually is relieved on the tax rolls, the delinquent charge will rise to 12% with the Oneida County Sewer District receiving 5% and the Oneida County Finance Department receiving 7% as compensation for the cost of processing the delinquency.

### **3. Uncompensated Use of Sewer District Services**

Sewer customers who have been found utilizing Sewer District wastewater treatment services without paying for them will be assessed fees for these services. The fee will be based on actual meter readings or a consumption rate of 200 gallons per day and the user fees in effect during the time the services were being utilized. Charges will be calculated based on the amount of time the service was being utilized but in no case shall it exceed 6 years.

It is the responsibility of the sewer customer to provide the Sewer District adequate information so that the length of time service was rendered can be established. The Sewer District may, at its own discretion, conduct an investigation to establish the length of time service was rendered and bill the customer accordingly.

### **4. Refunds**

Customers who have been incorrectly billed for Sewer District wastewater treatment services may be entitled to a refund. The customer must petition the Sewer District in writing to have a refund considered. The refund will be based on the fees in effect during the time services were being utilized and will be calculated based on actual billing records. In no case shall the refund period exceed 6 years.





It is the responsibility of the customer to provide the Sewer District with adequate information to determine the amount of the refund. The Sewer District may, at its own discretion, conduct an investigation to establish the length of time service was incorrectly billed and base the refund to the customer accordingly.

Refunds for charges occurring in the current year will be processed as a credit to the customer's account. If the refunds encompass more than one year, or an active account no longer exists, the customer will receive reimbursement directly from the Sewer District, once the appropriate documents have been filed and processed by the County. If the refund is associated with a property that has a County tax lien, the refund will not be processed until this tax lien is satisfied.

The Commissioner of Water Quality and Water Pollution Control, upon thorough review of the documentation, may approve refunds up to \$1,000 per account. The Oneida County Board of Legislators must approve refunds over this amount.

### **5. Adjustments**

Customers may request an adjustment to an account for abnormal water consumption that was not discharged to the sewer system. Adjustments will be considered only if water consumption records indicate an abnormal pattern of water use and if physical evidence exists to support the adjustment claim. The customer must petition the Sewer District in writing within 180 days of the occurrence of the event causing abnormal water consumption to have an adjustment considered.

Customers may request adjustments to an account for water consumed in industrial or manufacturing processes. The customer must petition the Sewer District in writing to have such an adjustment considered. Supporting documentation must accompany the petition. The Sewer District may require additional engineering analysis to support a petition. The cost of this analysis is the responsibility of the petitioner.

The Sewer District may, at its own discretion, conduct an investigation, including a physical inspection of the property, to establish the legitimacy of an adjustment claim. Normal water consuming activities such as routine swimming pool maintenance, car washing and lawn or garden watering are not grounds for an adjustment.

The Commissioner of Water Quality and Water Pollution Control, upon thorough review of the documentation, may approve adjustments up to \$7,500 per account. The Oneida County Board of Legislators must approve adjustments over this amount.



ONEIDA COUNTY DEPARTMENT OF WATER QUALITY & WATER POLLUTION CONTROL

51 Leland Ave, PO Box 442, Utica, NY 13503-0442
(315) 798-5656 wpc@ocgov.net FAX 724-9812

Anthony J. Picente, Jr. County Executive

Steven P. Devan, P.E. Commissioner

January 31, 2018

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

FN 20 18 - 059

PUBLIC WORKS WAYS & MEANS

Re: Proposed Oneida County Sewer District Rate Schedule

Dear County Executive Picente:

Article 5-A, Section 266 of the County Law requires that the Oneida County Board of Legislators approve the proposed Oneida County Sewer District Rate Schedule. The proposed rate is \$4.52 per 1000 gallons. The old rate was \$4.13 per 1000 gallons. This represents approximately a 9.4% increase over last year. A ratepayer who consumes 80,000 gallons of water per year will pay an extra \$7.80 per quarter or \$31.20 per year as a result of the proposed rate.

The rate increase is almost entirely due to the increase in debt service as a result of activities associated with compliance with the New York State Department of Environmental Conservation Consent Order.

The rates listed in the schedule were used as a basis for developing revenue projections for the 2018 Sewer District budget. They will be effective January 1st but will not be implemented until April 1st to comply with legislation previously passed by the Board of Legislators.

Pursuant to County Law, a public hearing and comment period must be held. The public hearing was conducted on Wednesday, January 31st, 11:00 am at the Oneida County Legislative chambers. The public comment period will end on Wednesday, February 7th.

I am available at your convenience to answer any questions you or the Board of Legislators may have regarding the proposed schedule. I am requesting that the Board of Legislators consider this matter during their March 14, 2018 meeting.

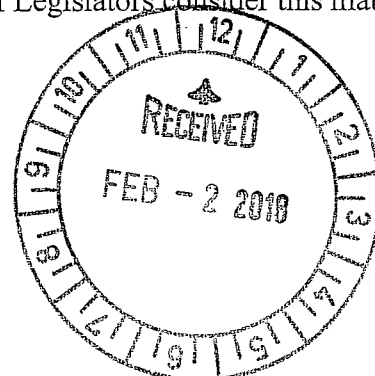
Thank you for your consideration in this matter.

Sincerely, THE ONEIDA COUNTY DEPARTMENT OF WATER QUALITY & WATER POLLUTION CONTROL

Handwritten signature of Steven P. Devan

Steven P. Devan, P.E. Commissioner

Attachments: Rate Schedule



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

Handwritten signature of Anthony J. Picente, Jr. County Executive

Date 2-2-18



## ONEIDA COUNTY SEWER DISTRICT RATE SCHEDULE EFFECTIVE JANUARY 1, 2018

This rate schedule will apply to all bills issued on or after April 1, 2018.  
It will remain in effect until modified by the Oneida County Board of Legislators

### A. RESIDENTIAL CUSTOMER FEES

#### 1. Metered Consumption

Customers will be charged a wastewater treatment fee based on metered water usage. The rate charged will be \$4.52 per 1000 gallons of water consumed. The customer will receive a bill for these services through contract billing services provided by the Mohawk Valley Water Authority, the Sauquoit Water District or the Clayville Water District. The Sewer District wastewater treatment fee can be calculated using the following equation.

$$\text{Billable Amount} = \frac{(\text{cubic feet of water consumed}) * (7.481 \text{ gallons/cubic foot}) * (\$4.52)}{(1000 \text{ gallons})}$$

#### 2. Unmetered Consumption

Customers who do not have water meters will have a usage calculated based on an estimated water consumption rate of 50 gallons per person per day. The maximum charge per household will be based on 200 gallons per day. The rate charged will be \$4.52 per 1000 gallons of water consumed. The customer will receive a bill directly from the Sewer District for these services. The Sewer District wastewater treatment fee can be calculated using the following equation.

$$\text{Billable Amount} = \frac{(\text{days in billing period}) * (50 \text{ gallons/day}) * (\text{number of people}) * (\$4.52)}{(1000 \text{ gallons})}$$

Customers covered under this section of the rate schedule will be required to complete a form certifying as to the number of persons occupying the property serviced by the account. Customers who do not submit the required certification form will be charged the maximum household rate of 200 gallons per day. Customers who intentionally misrepresent the number of occupants per household can be charged with a Class A misdemeanor pursuant to Section 210.45 of the Penal Law. Furthermore, restitution will be required as per Section D-3 of this rate schedule.

#### 3. Sauquoit Creek Basin Surcharge

In addition to the charges listed in sections 1 and 2, customers whose discharge is tributary to the Sauquoit Creek Pumping Station, except the Village of Whitesboro, will be assessed an additional surcharge to pay for capital expenditures and system repairs associated with the NYSDEC Consent Order. Like regular residential fees, the surcharge is based on metered or unmetered water consumption as listed in the formulas below. The rate charged will be \$1.05 per 1000 gallons of water consumed. The customer will receive a bill for these services through contract billing services provided by the Mohawk Valley Water Authority, the Sauquoit Water District, and the Clayville Water District or directly from the Oneida County Sewer District.



$$\text{Billable Amount} = \frac{(\text{cubic feet of water consumed}) * (7.481 \text{ gallons/cubic foot}) * (\$1.05)}{(1000 \text{ gallons})}$$

$$\text{Billable Amount} = \frac{(\text{days in billing period}) * (50 \text{ gallons/ day}) * (\text{number of people}) * (\$1.05)}{(1000 \text{ gallons})}$$

#### **4. Village of Whitesboro Surcharge**

In addition to the charges listed in sections 1 and 2, customers who reside in the Village of Whitesboro, will be assessed an additional surcharge to pay for capital expenditures and system repairs associated with the NYSDEC Consent Order as per Village Board Resolution dated July 13, 2015. Like regular residential fees, the surcharge is based on metered or unmetered water consumption as listed in the formulas below. The rate charged will be \$2.30 per 1000 gallons of water consumed. The customer will receive a bill for these services through contract billing services provided by the Mohawk Valley Water Authority or directly from the Oneida County Sewer District.

$$\text{Billable Amount} = \frac{(\text{cubic feet of water consumed}) * (7.481 \text{ gallons/cubic foot}) * (\$2.30)}{(1000 \text{ gallons})}$$

$$\text{Billable Amount} = \frac{(\text{days in billing period}) * (50 \text{ gallons/ day}) * (\text{number of people}) * (\$2.30)}{(1000 \text{ gallons})}$$

### **B. INDUSTRIAL CUSTOMER FEES**

#### **1. Basic Rate**

Industrial customers will be charged a fee based on metered water consumption and be subject to the same rates as residential customers. In addition to these fees, industrial customers who require a permit under Oneida County Sewer Use Rules and Regulations will be charged an annual permit fee of \$660 to cover monitoring and administrative costs. Additional or modified charges may apply as detailed in subsequent sections of this schedule.

#### **2. High Strength Wastewater**

Industrial customers who discharge high strength wastewater, as defined by the Sewer District, will be subject to fees in addition to those calculated using the basic rate. A surcharge will apply to discharges with total suspended solids (TSS) exceeding 290 mg/l and/or Biochemical Oxygen Demand (BOD) exceeding 330 mg/l. This surcharge will be \$0.02 per pound of TSS and/or BOD that exceed the limits as stated in this section. If insufficient BOD data exists to accurately determine the surcharge, Chemical Oxygen Demand (COD) can be substituted for BOD. In this case, the surcharge will be \$0.02 per pound of COD that exceeds 350 mg/l.

#### **3. Federal Categorical Pretreatment Standards**

Federal Categorical Pretreatment Standards have additional monitoring and administrative cost associated with them. Accordingly, an annual permit fee of \$1,100 will be charged to industrial customers who are subject to these standards.



#### **4. Additional Sampling Fees**

A fee of \$200 per sample may be charged if more than four (4) twenty-four hour composite samples are needed on an annual basis to characterize the discharge of an industrial customer.

#### **5. Groundwater Remediation Projects**

Groundwater clean up and site remediation projects approved by the Sewer District for discharge directly to the sewer system will be charged the basic rate, as indicated in Section B-1, for wastewater generated. An annual permit fee of \$100 will be assessed to cover monitoring and administrative fees. The customer will be required to provide accurate discharge data on a semi-annual basis for billing purposes.

### **C. FEES FOR WASTEWATER HAULED DIRECTLY TO THE TREATMENT PLANT**

#### **1. Basic Rate**

Wastewater haulers who discharge directly to the wastewater treatment plant will be charged based on the actual amount of wastewater contained in each load. This fee will be \$0.08 per gallon of wastewater delivered. In addition, an annual permit fee of \$100 will be charged to cover monitoring and administrative costs. Additional or modified charges may apply as detailed in subsequent sections of this schedule.

#### **2. Domestic Wastewater**

Haulers of septage, cesspool and portable toilet wastewater, containing only household type wastewater, will be subject to all charges as detailed in Section C-1 of this schedule.

#### **3. Non-Domestic Wastewater**

Non-domestic wastewater, as approved by the Sewer District on a case-by-case basis, will be subject to all charges as detailed in Section C-1 of this schedule. In addition, the cost of contract laboratory services, plus 10%, will be billed to the permit holder for analytical analysis required by the Sewer District to accurately characterize the wastewater.

#### **4. Municipal or Private Sewage Treatment Systems**

Wastewater from municipal and private sewage treatment systems, as approved by the Sewer District on a case-by-case basis, will be subject to the charges as detailed in Section C-1 of this schedule.

#### **5. Low Solids Wastewater and Leachate**

Low solids wastewater, as approved by the Sewer District on a case-by-case basis, will be charged \$0.04 per gallon based on the actual amount of wastewater delivered. In addition, the cost of contract laboratory services, plus 10%, will be billed to the permit holder for analytical analysis required by the Sewer District to accurately characterize the wastewater.

#### **6. Landfill Leachate**

Landfill Leachate, as approved by the Sewer District on a case-by-case basis, will be charged \$0.02 per gallon based on the actual amount of wastewater delivered. In addition, the cost of contract laboratory services, plus 10%, will be billed to the permit holder for analytical analysis required by the Sewer District to accurately characterize the wastewater.



## **7. Food Waste Slurry**

Food waste slurry from the Oneida- Herkimer Solid Waste Authority that is fed directly to the anaerobic digesters will be charged \$0.02 per gallon based on the actual amount of slurry delivered.

## **D. OTHER CHARGES AND ADJUSTMENTS**

### **1. Late Charges**

A late charge of 10% will be charged to all accounts that are not paid by the date they are due. This fee will be assessed at the start of every billing cycle and only imposed on newly accrued late balances from the previous billing cycle.

### **2. Delinquent Charges**

All accounts that are overdue after October 31<sup>st</sup> and have a balance greater than or equal to \$50 will be declared delinquent and added to the tax rolls of the appropriate municipality. Once the delinquent accounts are transmitted to the Oneida County Department of Finance for processing, this department will be responsible for the collection activities associated with these accounts. Once declared delinquent, an additional charge of 10% will be assessed to the account. Delinquent charges are in addition to any other charges, including late charges.

Delinquent charges will be equally divided between the Oneida County Sewer District and the Oneida County Department of Finance as compensation for the cost of processing the delinquency. If the account actually is relieved on the tax rolls, the delinquent charge will rise to 12% with the Oneida County Sewer District receiving 5% and the Oneida County Finance Department receiving 7% as compensation for the cost of processing the delinquency.

### **3. Uncompensated Use of Sewer District Services**

Sewer customers who have been found utilizing Sewer District wastewater treatment services without paying for them will be assessed fees for these services. The fee will be based on actual meter readings or a consumption rate of 200 gallons per day and the user fees in effect during the time the services were being utilized. Charges will be calculated based on the amount of time the service was being utilized but in no case shall it exceed 6 years.

It is the responsibility of the sewer customer to provide the Sewer District adequate information so that the length of time service was rendered can be established. The Sewer District may, at its own discretion, conduct an investigation to establish the length of time service was rendered and bill the customer accordingly.

### **4. Refunds**

Customers who have been incorrectly billed for Sewer District wastewater treatment services may be entitled to a refund. The customer must petition the Sewer District in writing to have a refund considered. The refund will be based on the fees in effect during the time services were being utilized and will be calculated based on actual billing records. In no case shall the refund period exceed 6 years.



It is the responsibility of the customer to provide the Sewer District with adequate information to determine the amount of the refund. The Sewer District may, at its own discretion, conduct an investigation to establish the length of time service was incorrectly billed and base the refund to the customer accordingly.

Refunds for charges occurring in the current year will be processed as a credit to the customer's account. If the refunds encompass more than one year, or an active account no longer exists, the customer will receive reimbursement directly from the Sewer District, once the appropriate documents have been filed and processed by the County. If the refund is associated with a property that has a County tax lien, the refund will not be processed until this tax lien is satisfied.

The Commissioner of Water Quality and Water Pollution Control, upon thorough review of the documentation, may approve refunds up to \$1,000 per account. The Oneida County Board of Legislators must approve refunds over this amount.

### **5. Adjustments**

Customers may request an adjustment to an account for abnormal water consumption that was not discharged to the sewer system. Adjustments will be considered only if water consumption records indicate an abnormal pattern of water use and if physical evidence exists to support the adjustment claim. The customer must petition the Sewer District in writing within 180 days of the occurrence of the event causing abnormal water consumption to have an adjustment considered.

Customers may request adjustments to an account for water consumed in industrial or manufacturing processes. The customer must petition the Sewer District in writing to have such an adjustment considered. Supporting documentation must accompany the petition. The Sewer District may require additional engineering analysis to support a petition. The cost of this analysis is the responsibility of the petitioner.

The Sewer District may, at its own discretion, conduct an investigation, including a physical inspection of the property, to establish the legitimacy of an adjustment claim. Normal water consuming activities such as routine swimming pool maintenance, car washing and lawn or garden watering are not grounds for an adjustment.

The Commissioner of Water Quality and Water Pollution Control, upon thorough review of the documentation, may approve adjustments up to \$7,500 per account. The Oneida County Board of Legislators must approve adjustments over this amount.



ONEIDA COUNTY DEPARTMENT OF WATER QUALITY & WATER POLLUTION CONTROL

51 Leland Ave, PO Box 442, Utica, NY 13503-0442
(315) 798-5656 wpc@ocgov.net FAX 724-9812

Anthony J. Picente, Jr. County Executive

Steven P. Devan, P.E. Commissioner

January 10, 2018

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

FN 20 18 - 060

PUBLIC WORKS

Re: Easement-Parcel 3
City of Utica
Sauquoit Creek Force Main

WAYS & MEANS

Dear County Executive Picente:

The Oneida County Department of Law in conjunction with this Department and its consultants are in the process of obtaining permission from property owners to run the new Sauquoit Creek Force Main through their property. These permissions will be in the form of easements, permits or license agreements.

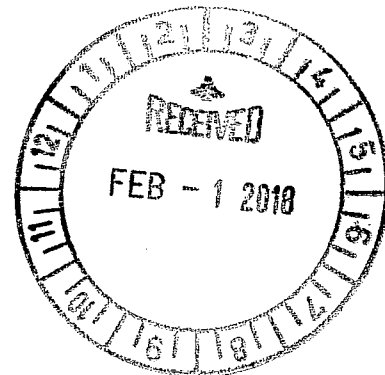
An easement between the City of Utica and Oneida County for a third property near the Barnes Ave. Pumping Station is now ready for execution. It must be approved by the Oneida County Board of Legislators.

I am available to meet with you at your convenience to discuss this request and explain it in more detail. I respectfully request that this item be considered by the Board of Legislators at their earliest convenience. Thank you for your consideration in this matter.

Sincerely,
THE ONEIDA COUNTY DEPARTMENT OF WATER QUALITY AND WATER POLLUTION CONTROL

[Handwritten signature]

Steven P. Devan, P.E.
Commissioner



Cc: Peter M. Rayhill, Esq. - Oneida County Attorney
Karl E. Schrantz, P.E. - O'Brien and Gere Engineering
John Waters - WQ&WPC

Attachments: Proposed Easement
Contract Summary Sheet

Reviewed and Approved for submittal to the Oneida County Board of Legislators by
[Signature]
Anthony J. Picente, Jr.
County Executive
Date 2/1/18



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

**ONEIDA COUNTY BOARD OF LEGISLATORS  
CONTRACT SUMMARY**

**Name & Address of Vendor:** City of Utica  
1 Kennedy Plaza  
Utica, NY 13502

**Title of Activity or Service:** Easement-Parcel 3

**Proposed Dates of Operation:** Upon execution then forever

**Client Population/Number to be Served:** 110,000 people

**Summary Statements**

- 1) Narrative Description of Proposed Services: This is an easement for a parcel of land owned by the City of Utica. The easement is required so that the Sauquoit Creek Pumping Station force main can be constructed through it.
- 2) Program/Service Objectives and Outcomes: Construct the force main through a parcel of land owned by the City of Utica.
- 3) Program Design and Staffing: Department staff will oversee this easement.

**Total Funding Requested:** \$1.00                      **Account #:** G8110.495

**Oneida County Dept. Funding Recommendation:** G8110.495

**Proposed Funding Sources (Federal \$/ State \$/County \$):** Funding for this easement will be provided by the Department operating budget, G8110.495.

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

**Past Performance Data:** The County currently has an existing easement with this property owner for the existing force main.

**O.C. Department Staff Comments:** This easement must be obtained as soon as possible so that construction can proceed on the Sauquoit Creek Pumping Station force main project. This is the third of three easements for Utica property in the Barnes Ave area.

## EASEMENT

This Indenture, made by The City of Utica, with offices at 1 Kennedy Plaza, Utica, New York 13502, hereinafter referred to as the Grantor, for and in consideration of the sum of One Dollar, and other good and valuable consideration paid to Grantor by the County of Oneida, a municipal corporation, with offices located at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as the Grantee, receipt of which is hereby acknowledged, does hereby grant and release to Grantee, its successors and assigns, the right, privilege and authority to construct, install, maintain, operate, inspect, repair, protect, replace, relocate, reconstruct, change the size of and remove one or more County owned sewer pipelines, and other fixtures or appurtenances, used or associated therewith upon, across and under the parcels and property more particularly described on Schedule A attached hereto and incorporated herein and as shown on a map to be filed in the Oneida County Clerk's Office concurrently herewith and which map as are entitled "Permanent & Temporary Easements to be Granted to Oneida County on Lands Belonging to City of Utica", a/k/a Barnes Avenue.

Together with free ingress and egress to and from said parcels for all of the above purposes and any other purposes reasonably incidental thereto.

Together with the appurtenances and all the estate and rights of the party of the first part in and to the said premises.

Grantor hereby warrants that it owns in fee simple the land and property described above and that said premises is free and clear of all liens and encumbrances of any nature and if not, the Grantor shall arrange or procure any documents necessary to grant clear title to said premises.

When this document is duly signed and acknowledged, this instrument shall be binding and inure to the benefit of the respective heirs, executors, administrators, successors and assigns of each of the parties hereto.

The County further covenants and agrees to hold the Grantor harmless for and indemnify said Grantor against any claims, damages or lawsuits that may arise from the construction, reconstruction, installation, maintenance, inspection or repair of the subject underground pipes, lines, laterals and accessories as performed by the County, its employees, agents or assigns.

In witness whereof, the City of Utica has set its Hand this 29 day of December, 2017.

By [Signature]  
Mayor

State of New York }

} ss.:

County of Oneida }

On the 29 day of December, in the year 2017, before me, the undersigned, a notary public in and for said state, personally appeared, 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 Robert H. Palumbo 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.

[Signature]

Notary Public  
KATHRYN FESTINE HARTNETT  
Notary Public, State of New York  
Registration #02HA6336698  
Qualified in Oneida County  
Commission Expires Feb. 8, 2019

September 16, 2016

DLM No. 14-010

PROPOSED DESCRIPTION

**CITY OF UTICA  
(Barnes Avenue)**

**Parcel 10**

**ALL THAT TRACT, PIECE OR PARCEL OF LAND** situate within the City of Utica, County of Oneida and State of New York, as shown on sheet 13 of the mapping entitled "Permanent & Temporary Easements to be granted to Oneida County on lands belonging to City of Utica a/k/a "Barnes Avenue", designated as Parcel 10, dated September 16, 2016, prepared by D. L. Mowers Land Surveyors & Associates; said Permanent Easement for the operation, maintenance, relocation, replacement, repair and improvement of the 48-inch force main and more particularly described as follows:

**BEGINNING** at a point located at North 1135997.02, East 1177184.54 of the New York State Plane Coordinate System, Central Zone; said point being 85'± distant, measured northeasterly and at right angles from station 12607+18± of the monumented railroad centerline of CSX Transportation, Inc. (reputed owner); said point being on the westerly street boundary of Barnes Avenue; said point also being on the northerly line of an existing 20 foot permanent easement for a 30 inch force main as shown on Map 15, Parcel 15 E. 06, 07;

Thence North 18° 52' 55" East, along said street boundary, a distance of 40.14 feet to a point; said point being 125'± distant, measured northerly and at right angles from station 12607+14± of the monumented railroad centerline of CSX Transportation, Inc. (reputed owner);

Thence South 75° 55' 05" East, through the property designated as Barnes Avenue, a distance of 60.21 feet to a point on the easterly street boundary of said Barnes Avenue; said point being 123'± distant, measured northerly and at right angles from station 12606+54± of the monumented railroad centerline of CSX Transportation, Inc. (reputed owner);

Thence South 18° 52' 55" West, along said easterly street boundary of Barnes Avenue, a distance of 40.14 feet to a point; said point being 83'± distant, measured northerly and at right angles from station 12606+58± of the monumented railroad centerline of CSX Transportation, Inc. (reputed owner);

Thence South 75° 55' 05" East, through the property of Barnes Avenue, a distance of 60.21 feet to point of beginning, containing 2,409± square feet or 0.055 acre, more or less.

**TOGETHER WITH:** A Temporary Easement, having a maximum width of forty (40) feet, being northeasterly of, adjacent to and parallel with the aforesaid permanent easement and shall be used for the purpose of ingress and egress, construction, erecting, installing, and stock piling of material and shall be exercised in, on, and over said parcel of land during the entire construction phase of said system.



ONEIDA COUNTY DEPARTMENT OF WATER QUALITY & WATER POLLUTION CONTROL

51 Leland Ave, PO Box 442, Utica, NY 13503-0442
(315) 798-5656 wpc@ocgov.net FAX 724-9812

Anthony J. Picente, Jr. County Executive

Steven P. Devan, P.E. Commissioner

January 10, 2018

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

FN 20 18-061

PUBLIC WORKS

WAYS & MEANS

Re: Niagara Mohawk Power Corporation/National Grid License Agreement Sauquoit Creek Force Main Construction Property Located Near North-South Arterial

Dear County Executive Picente:

The Oneida County Department of Law in conjunction with this Department and its consultants are in the process of obtaining permission from property owners to run the new Sauquoit Creek Force Main through their property. These permissions will be in the form of easements, permits or license agreements.

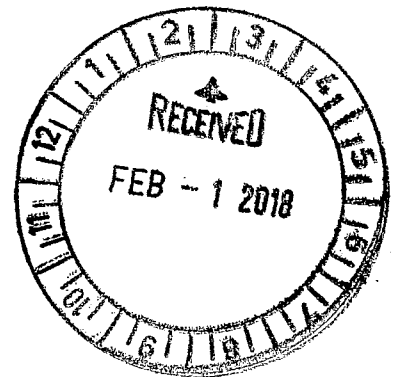
A license agreement between National Grid/ Niagara Mohawk Power Corporation and Oneida County for property adjacent to the North-South Arterial is now ready for execution. It must be approved by the Oneida County Board of Legislators.

I am available to meet with you at your convenience to discuss this request and explain it in more detail. I respectfully request that this item be considered by the Board of Legislators at their earliest convenience. Thank you for your consideration in this matter.

Sincerely, THE ONEIDA COUNTY DEPARTMENT OF WATER QUALITY AND WATER POLLUTION CONTROL

[Signature]

Steven P. Devan, P.E. Commissioner



Cc: Peter M. Rayhill, Esq. - Oneida County Attorney Karl E. Schrantz, P.E. - O'Brien and Gere Engineering John Waters - WQ&WPC

Attachments: Proposed License Agreement Contract Summary Sheet

Reviewed and Approved for submittal to the Oneida County Board of Legislators by [Signature] Anthony J. Picente, Jr. County Executive Date 2-1-18

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

**ONEIDA COUNTY BOARD OF LEGISLATORS  
CONTRACT SUMMARY**

**Name & Address of Vendor:** Niagara Mohawk Power Corporation  
c/o National Grid  
300 Erie Blvd West  
Syracuse, NY 13202  
Attn: Real Estate Energy Delivery Support

**Title of Activity or Service:** License Agreement

**Proposed Dates of Operation:** Upon execution then forever

**Client Population/Number to be Served:** 110,000 people

**Summary Statements**

1) Narrative Description of Proposed Services: This is a license agreement for a parcel of land owned by National Grid/Niagara Mohawk Power Corporation near the North-South Arterial. The easement is required so that the Sauquoit Creek Pumping Station force main can be constructed through it.

2) Program/Service Objectives and Outcomes: Construct the force main through a parcel of land owned by National Grid/Niagara Mohawk Power Corporation near the North-South Arterial.

3) Program Design and Staffing: Department staff will oversee this license agreement.

**Total Funding Requested:** \$0.00                      **Account #:** N/A

**Oneida County Dept. Funding Recommendation:** N/A

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

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

**Past Performance Data:** The County currently has an existing agreement with this property owner for the existing force main.

**O.C. Department Staff Comments:** This license agreement must be obtained as soon as possible so that construction can proceed on the Sauquoit Creek Pumping Station force main project.

## LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "Agreement") made as of this \_\_\_ day of December, 2017 ("Effective Date") by and between NIAGARA MOHAWK POWER CORPORATION, a New York corporation having a place of business at 300 Erie Boulevard West, Syracuse, NY 13202 (hereinafter referred to as "NMPC") and the COUNTY OF ONEIDA, a municipal corporation organized and existing under the laws of the State of New York, having its principal office at the County Office Building, 800 Park Avenue, Utica, New York 13407 (hereinafter referred to as the "Licensee").

WHEREAS, NMPC is the fee owner of a certain parcel of real property located in the City of Utica generally described as being bounded on the east and west sides of New York State Route 8/12 immediately north of the CSX rail line, by virtue of a deed recorded with the Oneida County Clerk's Office in Liber 614 of Deeds at Page 38 ("NMPC Property"); and

WHEREAS, Licensee has requested NMPC's permission to enter upon, access and use certain portions of the NMPC Property (the "Licensed Premises"), depicted as "40' License Agreement" on that certain plan entitled "LICENSE AGREEMENT TO BE GRANTED TO ONEIDA COUNTY ON LANDS BELONGING TO NATIONAL GRID a/k/a NIAGARA MOHAWK POWER CORPORATION" (Sheets 1 of 2 & 2 of 2) prepared by D.L. Mowers Land Surveyors & Associates, 141 Mower Lane, Mohawk, New York 13404, Project No. 14-010, dated 8/2/17, last revised \_\_\_\_\_ (the "Licensed Premises Plans"), reduced size copies of which Plans are attached hereto and made a part hereof at Exhibit A, for the sole purpose of constructing, operating and maintaining an underground sanitary sewer force main together with all of the pipes, equipment, and appurtenances used or associated therewith (collectively, the "Facilities"), to convey wastewater from the Sauquoit Creek Pumping Station in Yorkville to the Water Pollution Control Plant in the City of Utica (as more particularly described herein, the "Activity"), the proposed alignment of said Facilities being depicted on the Licensed Premises Plans; and

WHEREAS, the parties have reached an agreement as to the terms and conditions under which NMPC is willing to grant such permission, and desire to memorialize their agreement regarding the same.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter recited and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

- (1) Definitions. For purposes of this Agreement:
  - 1.1 The term "Licensee" means the County of Oneida, its officers, employees, consultants, contractors, agents, invitees, and successors and assigns.
  - 1.2 The term "NMPC" means Niagara Mohawk Power Corporation and, where the context permits, its employees, agents, directors, officers, affiliates, parent and subsidiary corporations, attorneys, consultants, contractors, and subcontractors.
  - 1.3 The term "Hazardous Materials" shall include any oil, hazardous waste, hazardous substance, pollutant, waste or material which is defined, determined or otherwise regulated as toxic, hazardous, unsafe or harmful to human health, safety, public welfare or the environment under any applicable law, rule or regulation, including, without limitation, the Rules and Regulations of the Department of Environmental Protection of the State of New York, the Comprehensive Environmental Response, Compensation and Liability Act, as



amended, 42 U.S.C. §§9601 et seq. and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§6901 et seq., the minimum standards for the management of hazardous and extremely hazardous waste as specified in Title 40 of the Code of Federal Regulations, Department of Transportation Title 49 of the Code of Federal Regulations and the requirements for hazardous materials release response plans and inventory law, Title 68 of the Code of Federal Regulations, and the "Fire Protection Guide on Hazardous Materials" as published by the National Fire Protection Association, or any material which an agent of local, state or federal agency has a reasonable basis for believing would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment.

- (2) Access and Activity. NMPC hereby grants to the Licensee, subject to the terms and conditions of this Agreement, a non-exclusive license to enter upon and use the Licensed Premises to construct, operate, and maintain the Facilities for the Activity, at no cost or expense to NMPC, and for no other use or purpose. Licensee covenants and agrees to construct such Facilities in strict accordance with the (a) the Licensed Premises Plans, and (b) those certain plans entitled "ONEIDA COUNTY SEWER DISTRICT - ONEIDA COUNTY, NEW YORK, SAUQUOIT CREEK FORCE MAIN UPGRADES, FORCE MAIN PLAN AND PROFILE 12 (Sheet C-116)" and "ONEIDA COUNTY SEWER DISTRICT - ONEIDA COUNTY, NEW YORK, SAUQUOIT CREEK FORCE MAIN UPGRADES, FORCE MAIN PLAN AND PROFILE 13 (Sheet C-117)" each prepared by Brown and Caldwell, Project Number C4-6070-08-02, dated October 2017, issued for bid 9/28/17 (the "Plan and Profile Drawings), reduced size copies of which Plans are attached hereto and made a part hereof at Exhibit B. Additional activities not specified in this Agreement shall require NMPC's prior written approval, which approval may be withheld in NMPC's sole discretion. NMPC reserves the right from time to time hereafter to grant to others or to authorize the occupancy or use by others of any portion or portions of the NMPC Property for any purpose or purposes whatsoever, provided, however, that any such future grant or authorization shall not unreasonably interfere with the permission herein granted. NMPC shall provide Licensee with a reasonable opportunity to review and comment on any proposed utility infrastructure within the License Area which would run parallel to, overhead, or underneath the Licensee's Facilities to ensure the protection thereof.
- (3) License Period. This Agreement shall commence on the full execution and delivery hereof and shall expire upon the removal or abandonment of the Facilities as provided herein, unless sooner terminated pursuant to the provisions hereof.
- (4) Reserved.
- (5) Relocation of Licensee's Facilities; Termination.

As soon as practicable, but in any event not later than one hundred eighty (180) days following written notice from NMPC delivered in accordance with the provisions on notice set forth in Paragraph 17 hereof (each, a "Relocation Notice"), Licensee shall, at its sole cost and expense, relocate (or commence relocating, if such Facilities cannot reasonably be relocated within one hundred (180) days), all or any part or parts of the Facilities as NMPC may at any time, or from time to time, reasonably require in the course of conducting its business. NMPC and Licensee agree that in the event any of the Facilities are so relocated in accordance with the terms of this Agreement, the parties

shall execute such amendments to of this Agreement as may be necessary to depict, describe, and condition as necessary, the location of such relocated facilities.

Notwithstanding the provisions of the immediately preceding paragraph, should Licensee not desire to relocate all or any part or parts of the Facilities subject to such a Relocation Notice, Licensee may elect, in writing, not later than thirty (30) days following NMPC's delivery of such Relocation Notice, to leave in place all or any part or parts of the Facilities which are the subject of such Relocation Notice. If Licensee makes such election, NMPC, after first conferring with Licensee, may impose reasonable conditions with respect to any of the Facilities which are to remain in place. Such election shall be subject to Licensee's delivery of a written agreement and financial assurance, satisfactory to NMPC in its reasonable discretion, that Licensee shall reimburse NMPC for any and all reasonable increases in cost which NMPC may incur due to the need to alter its design and/or associated increases in the cost of construction, reconstruction or installation of its facilities, or any and all increases in cost which NMPC may otherwise reasonably incur in conducting its business (whether routine operations or otherwise) as a result of such election by Licensee. If additional right-of-way is reasonably required to accommodate NMPC's requirements, Licensee shall be responsible for obtaining, at its sole cost and expense, such additional right-of-way on behalf of NMPC and subject to NMPC's right-of-way standards. Licensee's obligations hereunder shall survive the termination of this Agreement with respect to any Facilities which are abandoned in place or which otherwise remain in place.

If Licensee shall fail to observe or perform any of its agreements or obligations under this Agreement, NMPC may suspend use of the NMPC Property, or any portion thereof, until such time as said default is cured. NMPC shall give Licensee written notice of any default on Licensee's part hereunder as soon as practicable but no later than the date that NMPC suspends Licensee's use of the NMPC Property. If any such default shall not be cured within thirty (30) days of NMPC's delivery of written notice of default, or such longer time as is reasonably necessary to cure such default, provided Licensee is diligently and continuously pursuing such cure, NMPC may, at its sole option, terminate this Agreement with respect to all or any portion of the Licensed Premises or pursue the appropriate legal remedy to enforce the terms of this Agreement. Upon such termination, this Agreement shall become null and void and be of no further force and effect as of the date of said notice, except as to such of Licensee's liabilities or obligations hereunder, actual or contingent, as shall have arisen on or prior to such date of termination or which by their terms survive said termination, and Licensee either may (a) remove the Facilities on or prior to the termination date and shall restore NMPC's Property to a neat, safe and orderly condition or (b) abandon the Facilities in place, subject to such reasonable requirements as may be imposed by NMPC.

(6) Use of Licensed Premises.

6.1 The Licensee covenants and agrees that the Licensee shall not use the Licensed Premises for any purpose except for: (i) the construction, operation, maintenance, and repair of the Facilities described for this Activity; (ii) maintenance of the ground surface above the Facilities by means of mowing and brush/tree cutting as necessary to provide accessibility to Licensed Premises, and (iii) to take any necessary action to ensure NMPC's facilities are protected. The Licensee covenants and agrees that: (i) it will meet or exceed AASHTO H-25 loading criteria for all improved areas within NMPC's Property; (ii) no soil or sediment material lifted from adjacent properties

shall be stockpiled on NMPC's Property nor shall any soil or sediment material lifted from the ground on NMPC's Property will be removed from NMPC's Property, except to a location approved by NMPC prior to said removal; (iii) unless otherwise approved in the exhibits attached hereto, they will maintain minimum approach distances from all NMPC facilities at all times during construction in accordance with NMPC's Specifications for Work by Others on NMPC Easements and Rights-of-Ways Containing Gas Facilities, attached hereto as Exhibit C; and (iv) they will adhere to the guidelines and requirements set forth in Vibrational and Impact Forces in the Vicinity of Underground Gas Facilities, dated 7/15/2016, attached hereto as Exhibit D. If requested by NMPC at the expiration or termination of this Agreement, Licensee hereby agrees, at its sole cost and expense, to remove and properly dispose of or appropriately abandon the Facilities and to return the Licensed Premises to a condition satisfactory to NMPC. Within sixty (60) days following final completion of the Facilities, the Licensee shall deliver to NMPC an "as built" plan prepared by a New York State registered professional engineer or New York State licensed land surveyor indicating the exact location of the Facilities and all final grades within the Licensed Premises, and certifying that the Facilities have been located in strict compliance with the plans referred to herein.

6.2 The Licensee covenants and agrees that at all times, NMPC shall have the right, but not the obligation, to have an engineer or other employee or agent present at the NMPC Property, including the Licensed Premises, to observe the Licensee's work and to take any necessary action, and to require the Licensee to take any action or refrain from any activity, to ensure NMPC's facilities are protected. Regardless of whether NMPC's engineer, employee, or agent observes the Activity or any portion thereof as set forth herein, NMPC shall not be liable for injuries, damage, liabilities or claims hereunder, and Licensee shall not be released from any liability or obligation hereunder.

6.3 NMPC is under no obligation to restore, repair, renovate, alter, or maintain the Licensed Premises or to render the Licensed Premises serviceable for access or passage or any other purpose in any respect, and specifically, without limitation, NMPC will have no obligation to clear the Licensed Premises or remove accumulated debris, water, ice or snow from the Licensed Premises. However, NMPC shall make reasonable, good faith efforts to avoid blocking or otherwise obstructing the Licensed Premises such that it cannot be reasonably accessed by the Licensee to operate and maintain its Facilities. NMPC makes no warranty with respect to the condition, safety, title, or fitness of the Licensed Premises, including, without limitation the suitability or fitness of the Licensed Premises for the Activity, the environmental condition of the Licensed Premises, lateral support to the Licensed Premises, or rights of others held in and to the Licensed Premises, and the Licensee shall enter upon and use the Licensed Premises at its sole risk. The Licensee has inspected the Licensed Premises and shall accept the same "AS IS", "WHERE IS", and "WITH ALL FAULTS".

6.4 The Licensee covenants and agrees that it shall at all times, at its sole cost, be obligated to perform such maintenance, repair and renewal of the Facilities and the Licensed Premises as may be required for the safety, maintenance, and appearance of the NMPC Property and for accessibility to the Licensee's Facilities, and shall perform all such work in a good and workmanlike manner. The Licensee shall keep the Licensed Premises in a clean, safe, and attractive condition, free from snow (as needed to exercise its rights hereunder), Licensee's trash, debris, refuse, and other pollution. However, if necessary to protect the NMPC Property, or traffic, patrons, or employees of NMPC, or its employees, agents, directors, officers, affiliates, parent corporations, subsidiary

corporations, attorneys, consultants, contractors and subcontractors, or any other person from damage or injury, NMPC may at any time, with or without notice to the Licensee, make such repairs, renewals, or removal thereto and furnish such material therefore as NMPC deems adequate and necessary, all at the sole cost and expense of the Licensee if the work is done by NMPC after refusal to do so in a timely manner by the Licensee. The Licensee shall reimburse any costs incurred by NMPC pursuant to this paragraph within thirty (30) days of demand.

6.5 The Licensee covenants and agrees that it shall not use explosives or conduct blasting on or within NMPC Property.

6.6 Notwithstanding anything to the contrary described above, Licensee, prior to undertaking any Activity within the Licensed Premises, will call Dig Safe to ensure that NMPC's facilities are staked within the Licensed Premises and Licensee agrees not stockpile over NMPC gas mains nor within 20 feet of the centerline of the identified gas main, either temporarily or permanently, or otherwise accumulate any earth, materials, snow, trailers, storage containers, or supplies, or store any equipment or vehicles (overnight) upon the Licensed Premises or the NMPC Property. If the Licensee fails to remove any earth, materials, snow, trailers, storage containers, supplies, vehicles or equipment stored or stockpiled on NMPC Property in violation of this paragraph, NMPC has the right, but not the obligation, to remove the same without any liability to NMPC, and the Licensee shall reimburse NMPC for all indirect and direct costs associated therewith upon demand; provided, however, that Licensee may temporarily stockpile and stage construction materials and equipment in the areas shown as "Temporary Work Space" on Exhibit A, during initial construction and future maintenance and repair operations.

6.7 The Licensee agrees that it, or any other person or persons claiming through or under the Licensee, (i) shall not permit any use of the Licensed Premises which shall create a fire hazard or be unlawful or which constitutes a legal nuisance or that is contrary to any law, rule, regulation or requirement of any governmental authority; (ii) shall not injure, overload, deface or commit waste at the Licensed Premises; (iii) shall comply with all federal, state, or local statutes, laws, regulations, ordinances, orders or other requirements affecting the Licensed Premises; and (iv) shall obtain all necessary federal, state and local permits, licenses, and other approvals, in its name, which are required for the Licensee's use of the Licensed Premises.

(7) Reserved and Existing Rights.

7.1 NMPC expressly reserves the right to enter upon the Licensed Premises at any time for any purpose whatsoever and, without limiting the generality of the foregoing, specifically reserves the right to enter upon the Licensed Premises for any and all maintenance, construction or other activity in connection with its present or future operations (including excavating the Licensed Premises as necessary); to pass and repass with vehicles and equipment; and to install, construct or maintain any gas or electrical transmission, distribution or communication lines and facilities or other additional facilities. The Licensee covenants and agrees that it, its affiliates, employees, tenants, agents, licensees and contractors will not hinder or interfere with any of the rights reserved by NMPC herein. In the event of a breakdown of NMPC's facilities or any other contingency requiring immediate maintenance or repairs, the Licensee agrees, upon receiving either written or oral notification, to use its best efforts to remove any vehicle

or other obstruction that may be present within the Licensed Premises, at its sole cost and expense, so as to give NMPC immediate access to its facilities. Neither NMPC nor its affiliates, or any officers, directors, shareholders, employees or agent of any of them, shall be liable to the Licensee, its employees, tenants, agents, servants, contactors, visitors and invitees with respect to any claim or cause of action or right to payment for any personal injury or property damage resulting from or in any way connected with the rights reserved in this paragraph.

7.2 This Agreement is subject to all existing rights, restrictions, easements, encumbrances, licenses, takings, or covenants affecting the NMPC Property ("Existing Rights"). In particular, this Agreement is subject to and subordinate to all security interests, trust indentures, chattel mortgages and other mortgages which may now or hereafter affect the Licensed Premises and to all renewals, supplements, modifications, consolidations, replacements and extensions thereof and advances thereunder. This paragraph shall be self operative and no further instrument of subordination shall be required by any secured party, mortgagee or trustee.

7.3 The license granted herein shall not be construed as creating or vesting in the Licensee any easement, estate or other interest in real property.

(8) Compliance with Laws; Mechanic's Liens; Taxes.

8.1 The Licensee shall be responsible for working conditions within the Licensed Premises, including the protection of the health, welfare and safety of persons and property during the Licensee's access to and use of the Licensed Premises, and in compliance with Occupational Safety and Health Administration, and other applicable federal, state and local governmental laws, ordinances, codes, rules and regulations, including but not limited to National Electrical Safety Code Regulations for Working clearances from energized lines. The Licensee covenants and agrees that the Licensee and its guests, employees, volunteers, invitees, visitors, licensees, permittees, agents, officers, affiliates, attorneys, consultants, contractors, suppliers, executors, administrators, and patrons shall exercise extreme caution within the Licensed Premises.

8.2 In addition to the notice provisions in Paragraph 17 herein, prior to entry upon the Licensed Premises to begin any maintenance, or repair activity, the Licensee shall provide plans and specifications, if necessary, to NMPC for NMPC's approval, and obtain and keep current all required permits, licenses and other approvals, and provide copies thereof to NMPC upon request.

8.3 The Licensee agrees that it shall not cause or permit any liens or encumbrances to be placed on the NMPC Property.

8.4 The Licensee agrees to pay any increase in taxes, betterments and assessments levied against the Licensed Premises attributable to Licensee's use thereof.

(9) Indemnification, Release and Damages.

9.1 The Licensee agrees, to the extent permitted by law to pay on demand and to protect, defend (with counsel reasonably satisfactory to NMPC), indemnify, and hold harmless NMPC from and against any and all liabilities, losses, damages (to persons and property), costs, expenses (including any and all attorney's fees and expenses of

NMPC), causes of action, suits, claims, obligations, or demands for judgment, of any nature whatsoever (collectively "Costs and Claims") caused by, arising out of, or in any way related to the Licensee's access to or use of the Licensed Premises under this Agreement, or any act or omission to act done in, on, about or within the Licensed Premises, or any part thereof, by or on behalf of the Licensee, including, without limitation, Costs and Claims arising from:

(a) injury to, or the death of, any person or damage to property within the Licensed Premises or upon adjoining property (including damage to the environment or natural resources), including such injury, death or damage resulting from the condition of the Licensed Premises;

(b) violation by the Licensee, or the guests, employees, volunteers, invitees, visitors, licensees, permittees, agents, officers, affiliates, attorneys, consultants, contractors, subcontractors, suppliers, executors, administrators, or patrons of the Licensee, of any covenant, agreement, representation or condition of this Agreement;

(c) violation by the Licensee, or the guests, employees, volunteers, invitees, visitors, licensees, permittees, agents, officers, affiliates, attorneys, consultants, contractors, subcontractors, suppliers, executors, administrators, or patrons of the Licensee, of any applicable federal, state or local statutes, laws, codes, ordinances, by-laws, rules, regulations or other requirements affecting the Licensed Premises, or the occupancy or use thereof by the Licensee; and

(d) interference with Existing Rights.

The foregoing indemnification shall not include injury or damage to the extent directly caused by the willful misconduct or gross negligence of NMPC as set forth in a final judgment rendered by a court of competent jurisdiction.

9.2 The Licensee hereby releases, to the extent permitted by law, NMPC from and against any and all liabilities, losses, damages (to persons and property), costs, expenses (including attorney's fees), causes of action, suits, claims, obligations and/or demands for judgment whatsoever caused by, arising out of or in any way related to the: (a) the Licensee's exercise of its rights under this Agreement; (b) condition of the NMPC Property; (c) Existing Rights; and (d) NMPC's reservation of rights under this Agreement, including, without limitation, Paragraph 6 herein. Moreover, the Licensee understands that the existence of NMPC's utilities on the NMPC Property involves some risk, and the Licensee, as part of the consideration for this Agreement, hereby releases and waives any right to ask for or demand damages for or on account of loss or injury.

9.3 The Licensee covenants and agrees to pay NMPC on demand any and all costs and expenses incurred by NMPC which, in the sole discretion of NMPC, are necessitated by or related to the Licensee's exercise of this Agreement, including, but not limited to any and all costs for repairs of, or modifications to, any structure, guys, anchors, grounds, counterpoises, culverts, access roads or any other utility facility or equipment located on NMPC's Property (including without limitation buried underground wires and/or pipes). The Licensee hereby authorizes NMPC to bill or invoice the Licensee's general contractor directly for such costs and expenses.

(10) Hazardous Materials.

10.1 The Licensee covenants and agrees with NMPC that neither the Licensee nor any person claiming under the Licensee, nor its and their respective guests, employees, volunteers, invitees, visitors, licensees, permittees, agents, officers, affiliates, attorneys, consultants, contractors, subcontractors, suppliers, executors, administrators, or patrons or any such person shall bring onto, store, generate or permit to be stored or generated on the Licensed Premises or on NMPC's Property, any Hazardous Materials. The Licensee shall indemnify and hold NMPC harmless from and against any and all losses arising out of or related to a breach of any of the covenants or agreements of this paragraph.

10.2 The Licensee shall indemnify NMPC with respect to any and all reasonable costs and expenses for environmental assessment, remediation or response activities, including attorney's fees, which NMPC may incur as a result of existing conditions on the NMPC Property that are discovered as a result of the Activities of the Licensee or the guests, employees, volunteers, invitees, visitors, licensees, permittees, agents, officers, affiliates, attorneys, consultants, contractors, subcontractors, suppliers, executors, administrators, or patrons of the Licensee while on the Licensed Premises.

- (11) Insurance. The Licensee shall maintain insurance covering the Licensed Premises with coverages and amounts satisfactory to NMPC in its sole discretion and in accordance with the requirements set forth in Exhibit E attached hereto and made part hereof.
- (12) Survival of Indemnification and Restoration Provisions. All of the covenants and indemnities of this Agreement, including, but not limited to, Paragraphs 7, 9 and 10 hereof, shall be continuing obligations of the Licensee and its successors or assigns and shall survive the expiration, revocation or earlier termination of this Agreement.
- (13) Complete Agreement and Modification. This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof and supersedes all prior oral and written offers, negotiations, proposals, representations, agreements, courses of dealing and understandings between the parties relating to the Licensed Premises, and is subject to no understandings, conditions, or representations other than those expressly stated herein. This Agreement may not be modified or amended unless mutually agreed upon in writing by the parties with reference made to this Agreement.
- (14) Due Authority. The Licensee hereto represents and warrants to NMPC that this Agreement has been duly authorized and all required action on its part has been taken, and that the Licensee has full power and authority to perform this Agreement in strict accordance with its terms. In addition, the person whose signature appears below is duly authorized and empowered, on behalf of the Licensee, to execute and deliver this Agreement as a binding instrument under seal, and the signature of no other party is required in order to bind the Licensee.
- (15) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.
- (16) Reserved.

(17) Notices.

17.1 The Licensee shall notify NMPC at least one (1) week in advance of any construction, maintenance, or repair on the Licensed Premises at:

Niagara Mohawk Power Corporation  
300 Erie Boulevard West  
Syracuse, New York 13202  
Attention: Pam Aspinall  
Real Estate Energy Delivery Support  
(315) 428-5118

17.2 Any notice or other communication in connection herewith shall be deemed duly served when received (or upon attempted delivery if delivery is not accepted). Such notice shall be in writing and either delivered in hand or mailed: (a) by registered or certified mail (return receipt requested) with the United States Postal Service, or (b) by reputable overnight mail carrier furnishing evidence of receipt, to:

To NMPC:

Niagara Mohawk Power Corporation  
c/o National Grid  
300 Erie Boulevard West  
Syracuse, NY 13202  
Attention: Real Estate Energy Delivery Support

With copy to:

c/o National Grid  
40 Sylvan Road  
Waltham, Massachusetts 02451  
Attention: Legal Department (Assistant General Counsel - Real Estate)

To Licensee:

County of Oneida  
County Office Building  
800 Park Avenue  
Utica, NY 13501  
Attn: Department of Law

Oneida County  
Department of Water Quality and Water Pollution Control  
P.O. Box 442  
51 Leland Avenue  
Utica, NY 13503  
Attn: Commissioner

Any party may change the address at which it is to receive notices by giving notice as hereinabove set forth.



(18) Waiver and Severability.

18.1 Failure of NMPC to complain of any act or omission on the part of the Licensee, no matter how long the same may continue, shall not be deemed to be a waiver by NMPC of any of its rights hereunder. No waiver by NMPC at any time, express or implied, of any breach of any provision of this Agreement shall be deemed a waiver of a breach of any other provision of this Agreement or consent to any subsequent breach of the same or any other provision. If any action by the Licensee shall require NMPC's consent or approval, such consent or approval on any particular occasion shall not be deemed a consent or approval of any other action on any subsequent occasion.

18.2 Any and all rights and remedies that NMPC may have under this Agreement or by operation of law, either at law or in equity, upon any breach, shall be distinct, separate, and cumulative and shall not be deemed inconsistent with each other; and no one of them, whether exercised by NMPC or not, shall be deemed to be in exclusion of any other; and any two or more or all of such rights and remedies may be exercised at the same time.

(19) Reserved.

(20) General Provisions.

20.1 This Agreement: (1) may be executed in counterparts, each of which when executed by all parties to this Agreement shall be deemed to be an original; (2) shall bind and inure to the benefit of the parties and their respective legal representatives, successors and permitted assigns, except that the Licensee may not delegate any of its obligations under this Agreement or assign this Agreement without NMPC's prior written consent, which may be withheld in its sole discretion; and (3) is not intended to inure to any third-party beneficiary.

20.2 If any provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder hereof, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected. Each provision of this Agreement shall be deemed valid and enforceable to the fullest extent permitted by law.

20.3 The paragraph headings contained in this Agreement are for reference and convenience only and in no way define or limit the scope and contents of this Agreement or in any way affect its provisions.

20.4 The parties agree that neither this Agreement nor any notice of this Agreement shall not be recorded at any registry of deeds or land evidence records office and that any such recording by the Licensee shall constitute a breach of this Agreement.

20.5 The Licensee acknowledges and agrees that NMPC has granted the Licensee the limited right to use the NMPC Property under this Agreement to the extent that NMPC has rights in and to the NMPC Property and without making any representations or warranties as to the rights or interests held by NMPC in and to the NMPC Property.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the date first above written.

**NIAGARA MOHAWK POWER  
CORPORATION**

**COUNTY OF ONEIDA**

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

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

**EXHIBIT A**

**Licensed Premises Plans**

**(See attached - two (2) Sheets)**





**EXHIBIT B**

**Plan and Profile Drawings**

**(See attached - two (2) Sheets)**







## EXHIBIT C

### NMPC's Specifications for Work by Others on NMPC Easements and Rights-of-Ways Containing Gas Facilities

The following is a list of specifications that you will be required to adhere to if NMPC grants permission for the construction you have proposed in our right-of-way. This document is not a consent or permission for said construction.

1. Final construction drawings must be submitted to NMPC at least fourteen (14) days before commencement of construction. The drawings must be approved by NMPC before it will execute an agreement.
2. All of NMPC's Facilities will be required to be located and marked prior to the commencement of work in the ROW. These locations and markings shall be maintained throughout the construction duration.
3. When working in the general vicinity of NMPC's Facilities, extreme care shall be taken. All excavation within 2 feet of the Pipeline/Main shall be done by hand in order to protect the pipe and its coating. Prior to excavation by hand, contact Damage Prevention (Dig Safely 811, Ann Wisniewski (315-416-8385) or Mike Quick (315-506-9100) to ensure an inspector is present.
4. All rules and regulations, included in but not limited to the N.Y.S. Department of Public Service Code 16NYCRR Part 753 as amended 1/4/12, for the safety and protection of personnel and gas facilities shall be adhered to while work is being performed in the vicinity of NMPC Facilities.
5. If travel across the NMPC Facilities or work above the NMPC Facilities is required, it shall be confined to an area protected by a hardened crossing previously installed over a portion of the pipeline or temporary air bridging, if electing to cross at an area that is not covered by a hardened crossing, that is inspected and accepted by NMPC. Contact Damage Prevention (Ann Wisniewski (315-416-8385) or Mike Quick (315-506-910) for hardened crossing location verification or air bridge inspection.
6. Care shall be taken to avoid damage to natural gas witness posts, test stations and other related natural gas facilities. Any damage of said facilities shall be reported immediately.
7. Test holes may be required and the Pipeline/Main located and its elevation determined by survey. This is necessary for establishing guidelines for grading and for crossing the pipeline.
  - A. Cover Over Transmission Pipelines and Distribution Gas Mains:
    1. Minimum Cover:
      - a. 24 inches – Distribution Mains; All locations.
      - b. 36 inches - Pipelines; Grass areas.
      - c. 42 inches - Pipelines; Roads

2. Maximum Cover: 72 inches - Pipeline/Main
- B. Clearances for Other Utility Mains, Other Service Laterals and Structures Installed in Proximity to the Pipeline/Main
  1. When installed across the Pipeline, the minimum face-to-face clearance is 1 foot with the space in between filled with sand.
  2. No buildings shall be constructed within the NMPC Easement.
- C. When crossing an NMPC Pipeline/Main, all excavation work shall be done by hand.
- D. An inspector from NMPC is required to be on site when excavation and/or construction are being done within the NMPC Easement or within twenty (20) feet of the Pipeline to ensure safety.
8. In areas where fill (permanently or temporarily) is planned to be dumped on the NMPC Easement, a proposal shall be submitted in writing to NMPC for prior approval along with a sketch describing the depth and the permanence of this material on the NMPC Easement. All drainage patterns shall be returned to their pre-construction condition.
9. Backfill material over or in contact with the NMPC Facilities must be free of sharp rocks, large stones and other debris which may damage the NMPC Facilities. Backfill and restoration must be conducted in accordance with the Backfill and Restoration Procedures attached hereto as Exhibit C-1. Any damage (however slight) to NMPC Facilities must be reported to NMPC immediately so that it can be repaired.
10. Temporary supports for NMPC Facilities will be required if soil removal is necessary under the pipeline/main. Temporary supports consisting of sandbags shall be spaced no further than 10ft center to center.
11. When excavating in poor soils (soils of poor bearing qualities or subject to quick conditions) in the proximity of the NMPC Facilities, additional support may be necessary as determined by the NMPC inspector. Said inspector will be provided promptly. Such support will be provided by the contractor at his cost.
12. No blasting will be permitted on the NMPC Easement without the approval of the Regional Gas Superintendent or the Manager of System Gas Engineering at NMPC.
13. No shrubs or trees shall be allowed to be planted on the NMPC Easement.
14. Under no circumstances will NMPC allow the grade of the NMPC Easement to be altered until final plans and elevations of proposed drainage, pavement and other construction have been submitted and approved by the proper authorities at NMPC.

**Exhibit "C-1"**

**Backfill and Restoration Procedures**

Exhibit C, 6 pages

nationalgrid	Gas Work Method General Construct and Maintain Procedures	Doc. # CNST01003 Page 1 of 6
	Backfill and Restoration	Revision 1.1 – 09/15/14

**Backfill and Restoration CNST01003**

**1. Purpose**

This document describes how to perform backfill, compaction, compaction verification and restoration. This document also provides the company's minimum standards for backfill and restoration operations that will provide a starting point for negotiations with municipalities and contractors.

**2. Responsibilities**

Construct & Maintain shall be responsible to follow:

- Backfill procedures
- Compaction procedures
- Compaction verification procedures
- Restoration requirements



For Massachusetts see, DPU/DTE Street Restoration Standards (formerly CNST5011-MA)

For NYC roadway and sidewalk restorations see, NYC – Roadway and Sidewalk Backfill and Restoration Requirements

**3. Personal & Process Safety**

- Utilize all Personnel Protective Equipment.
- Use extreme caution while working around mechanized equipment in the work zone.
- Use proper body mechanics when lifting and operating tamping equipment.
- Be aware of traffic conditions while working in and around roadways.

**4. Operator Qualification Required Tasks [Qualified or Directed & Observed]**

- Task 21 - Line Locating and Mark Out.
- Task 70 - Abnormal Operating Conditions and Properties of Natural Gas
- Task 71 - Operator Excavation and Backfilling in the Vicinity of a Pipeline.



Restoration contractors that are installing blacktop paving, concrete sidewalks or soft surface (grade and seed) are not required to be Operator Qualified

**5. Content**

Evaluation of excavated soil		
	The soil removed from an excavation shall be evaluated by trained personnel to determine its suitability as a backfill material in accordance with the instructions below.	
	Suitable backfill material shall be free of large stones, construction debris, trash, frozen soil, and	
PRINTED COPIES ARE NOT DOCUMENT CONTROLLED. © NATIONAL GRID GAS PLC 2014 - ALL RIGHTS RESERVED FOR THE LATEST AUTHORIZED VERSION PLEASE REFER TO THE APPROPRIATE DEPARTMENT WEBSITE OR DOCUMENTUM™		
FILE: CNST01003 BACKFILL AND RESTORATION	ORIGINATING DEPARTMENT: STANDARDS, POLICIES AND CODES	SPONSOR: SUSAN FLECK

nationalgrid	<b>Gas Work Method</b>	Doc. # <b>CNST01003</b>
	<b>General Construct and Maintain Procedures</b>	Page 2 of 6
	<b>Backfill and Restoration</b>	Revision 1.1 – 09/15/14

	<p>other foreign materials. Suitable soil consists of the following:</p> <ul style="list-style-type: none"> <li>• Well-graded gravel and sand</li> <li>• Gravel-sand mixtures with a small amount of silt and trace amounts of clay</li> </ul>
	<p>Unsuitable backfill materials consist of the following:</p> <ul style="list-style-type: none"> <li>• Inorganic silts and clays</li> <li>• Organic silts</li> <li>• Organic soils including peat, humus, topsoil, swamp soils, mulch, and soils containing leaves, grass, branches and other fibrous vegetable matter.</li> </ul>
	An excavated soil that has been evaluated as suitable for backfill shall be reused provided its moisture content has been determined to be "acceptable."
	An excavated soil that has been determined to be unsuitable for backfill shall be removed from the site and properly disposed.



**Field determination of moisture content**

	<p>Trained personnel will conduct the following field test of moisture content, referred to as a "soil ball" test.</p> <ul style="list-style-type: none"> <li>• Collect a handful of soil from beneath the surface of the stockpile (i.e., excavated from a trench or obtained from a borrow area)</li> <li>• Squeeze the sample firmly making a closed fist</li> <li>• Open hand and observe the condition of the soil ball <ul style="list-style-type: none"> <li>○ If the soil ball is loose and crumbly, the soil is too dry for compaction</li> <li>○ If the soil ball drips water, the soil is too wet for compaction</li> <li>○ If the soil ball holds together firmly or breaks into large chunks, the soil has acceptable moisture content for compaction</li> </ul> </li> </ul>
	An excavated soil that has been evaluated as unsuitable, due to improper moisture content and/or composition, shall be corrected (add and mix the appropriate amount of water or dry soil), if possible, or removed from the site and properly disposed.


**Backfilling- Padding Specification for Mains and Services (all pipe materials)**

	<p>The padding-backfill material immediately adjacent (within 6" any direction) to main and services of all diameters and materials shall consist of well compacting material which is non-injurious to the pipe. For pipelines operating below 125 psig, non-injurious clean material is defined as material which passes through a 1½" screen. Care should be taken to prevent injurious material from contacting the pipe. Recycled material which meets the above requirements should be used.</p>
	In addition, material placed in direct contact with the pipe shall be visually inspected to prevent

<b>nationalgrid</b>	<b>Gas Work Method</b>	Doc. # <b>CNST01003</b>
	<b>General Construct and Maintain Procedures</b>	Page 3 of 6
	<b>Backfill and Restoration</b>	Revision 1.1 – 09/15/14


	sharp-edged material from coming in direct contact with the pipe.
	Special care should be taken to place finer material in contact with plastic tubing.
	<u>Exceptions:</u> In-service plastic pipe manufactured out of Aldyl resin (pink/tan or green color) shall require select backfill containing less than ¾" material.
	<p><u>For pipelines operating at 125 psig or greater, the following applies:</u> Bed, side and top fill material shall extend at least 6" around the circumference of the pipe after compaction. The fill material shall be a natural granular soil or sand with 100% of the particles finer than a ¾" sieve and less than 10% of the particles finer than a No. 200 sieve. (No. 200 sieve = .0029" sieve size) (Ref: 220 CMR 109.09).</p> <p>Note: This requirement will become effective on January 1, 2015 for new pipelines in NY and RI and it will also be expanded in MA to include new pipelines operating at 125 psig or greater (this requirement already exists in MA for pipelines operating at pressures greater than 200 psig)..</p>

**Compaction**

	Backfill material shall be placed in lifts with loose thickness (i.e., prior to compaction) based on the compaction equipment utilized as specified in <u>Table A</u> , below.												
	<table border="1" style="margin: auto;"> <thead> <tr> <th colspan="2">Table A</th> </tr> <tr> <th>Tool</th> <th>Thickness of Lifts (not to exceed)</th> </tr> </thead> <tbody> <tr> <td>Pavement breaker tamping foot (60-90 lb.)</td> <td style="text-align: center;">6"</td> </tr> <tr> <td>Pneumatic air tamper</td> <td style="text-align: center;">6"</td> </tr> <tr> <td>Percussive whacker rammer</td> <td style="text-align: center;">6" – 12"</td> </tr> <tr> <td>Vibratory compactor (7000 lb.)</td> <td style="text-align: center;">6" – 12"</td> </tr> </tbody> </table>	Table A		Tool	Thickness of Lifts (not to exceed)	Pavement breaker tamping foot (60-90 lb.)	6"	Pneumatic air tamper	6"	Percussive whacker rammer	6" – 12"	Vibratory compactor (7000 lb.)	6" – 12"
Table A													
Tool	Thickness of Lifts (not to exceed)												
Pavement breaker tamping foot (60-90 lb.)	6"												
Pneumatic air tamper	6"												
Percussive whacker rammer	6" – 12"												
Vibratory compactor (7000 lb.)	6" – 12"												
	<p>Compaction shall be performed by making a minimum of four (4) passes per lift with a compactor. The passes shall start around the perimeter of the excavation and move toward the center in an inward spiral. Recommended method:</p> <ul style="list-style-type: none"> <li>• Hand tamp around the pipe in 6" lifts until compacted soil is 6" above the pipe and fittings</li> <li>• Continue backfill and compaction with a hand or mechanical tamper in 6"-12" lifts until backfilling is complete</li> </ul>												
	<p>Soft surface compaction</p> <ul style="list-style-type: none"> <li>• Should match the surrounding conditions.</li> <li>• Should be adequately compacted to withstand settlement.</li> </ul>												

nationalgrid	Gas Work Method	Doc. # CNST01003
	General Construct and Maintain Procedures	Page 4 of 6
	Backfill and Restoration	Revision 1.1 – 09/15/14

### Compaction Verification

	Compaction verification (excluding soft surface areas) shall be performed in accordance with the following to ensure that 95% standard proctor density has been achieved.
	The compaction of each lift shall be verified using a Dynamic Cone Penetrometer (DCP) or Soil Compaction Supervisor (SCS) or equivalent company approved device. For instruction manuals for DCP or SCS, refer to 8 - Tools Equipment in Section 6. Knowledge Base and References <ul style="list-style-type: none"> <li>• For standard maintenance excavations, each lift shall be verified at one location</li> <li>• For longer excavations (i.e., trenches), a test shall be made at approximately every 25 feet per lift.</li> </ul>
	A DCP test shall be considered acceptable in local earth/soil if after 15 drops, the pass/fail reference line on the DCP is above the soil surface. For sand, the pass/fail is 9 drops from the sand reference points.
	The SGS Manufacturing DCP with a drop weight of five (5) pounds requires a minimum of 18 drops for earth/soil and a minimum of 15 drops for sand (refer to the manufacturer's instructions).
	An unacceptable test shall require that corrective measures be taken until an acceptable test is achieved. This may include making additional passes with the compactor or removing the backfill material and starting over.

### Restoration

	Temporary asphalt materials shall be used in roadways. <ul style="list-style-type: none"> <li>• Two-inch minimum</li> <li>• Four inches flush with the roadway is recommended</li> <li>• Temporary asphalt must be compacted with an approved asphalt compaction device.</li> <li>• Temporary materials shall be used in driveways.</li> <li>• Materials should be used to enable pedestrian's safe access to and from the property until permanent repairs can be completed.</li> </ul>
	Driveway Restoration <ul style="list-style-type: none"> <li>• The company or designee shall be responsible to replace all material disturbed by work under the permit with homogeneous and in-kind material, unless otherwise stipulated, to the original strength and condition.</li> </ul>
	Final Roadway Paving Restoration <ul style="list-style-type: none"> <li>• The company or designee shall be responsible to replace all pavement disturbed by work under the permit with homogeneous and in-kind pavement, unless otherwise stipulated, to the original strength and condition.</li> <li>• All existing surfaces shall be free of debris and other foreign matter prior to introduction of paving material.</li> </ul>


PRINTED COPIES ARE NOT DOCUMENT CONTROLLED. © NATIONAL GRID GAS PLC 2014 - ALL RIGHTS RESERVED. FOR THE LATEST AUTHORIZED VERSION PLEASE REFER TO THE APPROPRIATE DEPARTMENT WEBSITE OR DOCUMENTUM™.

FILE: CNST01003 BACKFILL AND RESTORATION	ORIGINATING DEPARTMENT: STANDARDS, POLICIES AND CODES	SPONSOR: SUSAN FLECK
--	--	-------------------------

nationalgrid	<b>Gas Work Method</b>	Doc. # CNST01003
	<b>General Construct and Maintain Procedures</b>	Page 5 of 6
	<b>Backfill and Restoration</b>	Revision 1.1 – 09/15/14

	<ul style="list-style-type: none"> <li>• The surface shall be free of standing water.</li> <li>• An asphalt emulsion tack coat shall be applied to the vertical sides of the old pavement so that the hot mix will bond to the existing material.</li> <li>• For all disturbed pavement areas and undermined cavities associated with the excavation, the affected pavement shall be cutback full-depth. For aesthetics, all cutbacks shall be done in reasonably straight lines, rectangular in shape and parallel to curb/edge of roadways, whenever possible.</li> <li>• Pavement repair depths shall equal or exceed adjoining pavement depths. When existing pavement depths are greater than 2", pavement repairs shall be made utilizing binder course in the underlying patch courses. The wearing surface shall be a minimum 1.5" final course. Pavement courses shall not exceed 2". All pavement courses shall be thoroughly compacted prior to placement of subsequent courses.</li> <li>• Completed pavement repairs shall be flush to the existing street surface.</li> <li>• All excavations made within concrete roadways shall be repaired with concrete in depths and strength equal to the existing concrete.</li> <li>• All leak detection holes (i.e. bar holes), shall be filled with the appropriate asphalt filler, flush to surrounding surface only after the leak is completed and detection holes deemed unnecessary. Also, see Technical Bulletin <u>PLCS Barseal® Product Replacing Tapered Asphaltic Barhole Plugs [D-10-16]</u>, as an alternative.</li> </ul>
	<p><b>Sidewalk Restoration</b></p> <ul style="list-style-type: none"> <li>• All work shall be performed in accordance with 521 CMR rules and regulations of the Architectural Access Board (AAB) and Americans with Disabilities Act (ADA).</li> <li>• A sidewalk area that is disturbed shall be restored, full width and in-kind. Full flag restoration only.</li> <li>• Concrete work will not be performed when the temperature falls below 35°F, unless approval from National Grid is obtained and additional measures such as chemical formulations, blankets, etc., are applied.</li> <li>• All necessary expansion joints and sealer shall be installed</li> </ul>
	<p><b>Soft Surface Restoration</b></p> <ul style="list-style-type: none"> <li>• The company shall be responsible to replace all soft surface area's disturbed with in-kind material, unless otherwise stipulated, to the original strength and condition. Restoration of grass shall include minimum of 2" of loam, seed and fertilizer.</li> </ul>

**Excessive Restoration requirements (Grind and Inlay)**

	Pre-approval is required by the local Director/ Manager of Construct and Maintain on all excessive restoration requirements (grind and inlay) before the restoration work is to begin.
---	--



nationalgrid	<b>Gas Work Method</b>	Doc. # <b>CNST01003</b>
	<b>General Construct and Maintain Procedures</b>	Page 6 of 6
	<b>Backfill and Restoration</b>	Revision 1.1 – 09/15/14

**6. Knowledge Base & References [\(Click here\)](#)**

Knowledge Base		References
1 - Compliance History	5 - Job Aid	1 - Regulatory – Codes
2 - Data Capture	6 - Learning & Development	2 - Technical Documents
3 - Definitions	7 - Standard Drawings	3 - Tools Catalog
4 - Document History	8 - Tools & Equipment	

**7. Attachments**

No Attachments

**EXHIBIT D**

**National Grid Gas Policy – Damage Prevention  
Vibrational and Impact Forces in the Vicinity of Underground Gas Facilities  
(Attached)**

Exhibit D, four (4) pages

nationalgrid	Gas Policy Damage Prevention	Doc. # DAM01003 Page 1 of 4
	Vibrational and Impact Forces in the Vicinity of Underground Gas Facilities	Revision 0 – 07/15/16

## Vibrational and Impact Forces in the Vicinity of Underground Gas Facilities DAM01003

### 1. Purpose

The purpose of this document is to provide notification and monitoring guidelines for activities that produce vibrational and impact forces (e.g. pile driving) that occur in the vicinity of gas mains and services. For activities involving backfilling and tamping refer to excavation and backfill CNST01003, Backfill and Restoration. For activities involving blasting refer to Requirements and Planning Related to Foreign Construction Using Blasting Near Existing Gas Facilities [DAM01002].

### 2. Responsibilities

Damage Prevention (DP) or designee shall be responsible for:

- The timely mark out of gas facilities as prescribed in this procedure, and adherence to applicable One-Call laws.
- Notifications, as prescribed within this policy if made aware that vibration or impact activity (i.e. pile-driving) is taking place in the vicinity of gas facilities.
- The arrangement of contractor surveillance when deemed necessary

Public Works Engineering (PWE) (This is Project Engineering & Design in NE & UNY) or designee shall be responsible for:

- Notifications, as prescribed within this policy, to applicable jurisdictional departments if made aware that vibration or impact activity (i.e. pile-driving) is taking place in the vicinity of gas facilities
- Reviewing proposed vibration or impact activity (i.e. pile-driving) within 25 ft. of cast iron facilities and within 15 ft. of non-cast iron facilities
- Determination of the necessity for contractor surveillance and monitoring
- Seek input from relevant asset owner group(s) in Gas Systems Engineering, as necessary.
- Directing the performance of any monitoring required
- Developing contingency plan for gas main isolation if required and routing to Gas Control for review and approval
- Notifications to Gas Control if required
- Communicating National Grid standards and procedures to third party and municipalities

Gas Operations Engineering (GOE) or designee shall be responsible for:

- Supporting Public Works Engineering in providing necessary input, such as modeling data and mapping data in the development of the contingency plan
- Identify valve locations for isolation, and perform model analysis to simulate the isolation of the system/segment of pipe identified in the contingency operations

Engineering (Transmission, Distribution, Project, I&R) or designee shall be responsible for:

- Providing support and direction, analysis and equipment as required to ensure that vibration monitoring requirements can be adhered to and that facilities are protected
- Specifying additional requirements as deemed necessary to protect gas facilities

PRINTED COPIES ARE NOT DOCUMENT CONTROLLED.		© NATIONAL GRID GAS PLC 2016 – ALL RIGHTS RESERVED	
FOR THE LATEST AUTHORIZED VERSION PLEASE REFER TO THE APPROPRIATE DEPARTMENT WEBSITE OR DOCUMENTUM™			
FILE DAM01003: VIBRATIONAL AND IMPACT FORCES IN THE VICINITY OF UNDERGROUND GAS FACILITIES	ORIGINATING DEPARTMENT: STANDARDS, POLICIES AND CODES	SPONSOR: THOMAS BENNETT	

nationalgrid	Gas Policy Damage Prevention	Doc. # DAM01003 Page 2 of 4
	Vibrational and Impact Forces in the Vicinity of Underground Gas Facilities	Revision 0 – 07/15/16

Gas Construction/Field Operations, Contractors and Third-Party Excavators or designee shall be responsible for:

- Adhering to all facility verification requirements
- The performance of pre and post leakage surveys, when assigned and directed, and the associated documentation
- Performing remedial actions as directed when required
- Leak, Corrosion and/or valve repairs as required within this procedure
- Gas main/service relocation or cut-off as required

### 3. Personal & Process Safety

- All required PPE shall be worn or utilized in accordance with the current National Grid Safety Policy when performing field tasks associated with this document.



Verify that all Dig-Safe Notifications and regional Mark-Out and Locate, and pre-excavation requirements are completed before any excavations are performed.

### 4. Operator Qualification Required Tasks [Qualified or Directed & Observed]



Not all personnel shall be required to perform all tasks associated with this document. Therefore, Operations personnel shall only be required to qualify on those tasks associated with the tasks they will perform in their respective regions.

- Task 18 – Conducting Gas Leakage Surveys
- Task 21 – Line Locating and Mark-Out
- Task 70 – Properties of Natural Gas and Abnormal Operation Conditions

### 5. Content

#### 5.1. Notifications

- Excavators shall follow all State Dig Safe/One-Call regulations.
- When Public Works Engineering is aware of 3<sup>rd</sup> party construction involving vibration or impact forces within 25 ft. of gas facilities, Public Works shall notify, Damage Prevention, Gas System Operations Control Center, Transmission/Distribution Engineering and Construct/Maintain prior to the start of operations with the exact date, time and location of work.
- For in-house construction projects involving vibration or impact forces within 25 ft. of gas facilities, Project Management shall notify Damage Prevention, Gas System Operations Control Center, Transmission/Distribution Engineering and Construct/Maintain prior to the start of operations with the exact date, time and location of work.
- When Public Works is aware that 3<sup>rd</sup> party construction involving vibration or impact forces will take place within 200 ft. of a gas regulating facility, Public Works shall notify I&R with the exact date, time and location of work.
- For in-house construction projects involving vibration or impact forces that will take place within 200 ft. of a gas regulating facility Project Management shall notify I&R with the exact date, time and location of work.

PRINTED COPIES ARE NOT DOCUMENT CONTROLLED.		© NATIONAL GRID GAS PLC 2016-- ALL RIGHTS RESERVED	
FOR THE LATEST AUTHORIZED VERSION PLEASE REFER TO THE APPROPRIATE DEPARTMENT WEBSITE OR DOCUMENTUM™			
FILE DAM01003: VIBRATIONAL AND IMPACT FORCES IN THE VICINITY OF UNDERGROUND GAS FACILITIES	ORIGINATING DEPARTMENT: STANDARDS, POLICIES AND CODES	SPONSOR: THOMAS BENNETT	

nationalgrid	Gas Policy Damage Prevention	Doc. # DAM01003 Page 3 of 4
	Vibrational and Impact Forces in the Vicinity of Underground Gas Facilities	Revision 0 – 07/15/16

- f. If protected steel main is involved, PWE shall notify Corrosion Engineering of the location and scheduling of activities to determine and perform if required any pre and post cathodic protection testing/verification.
  - g. A National Grid Representative (construction inspector, qualified Gas Construction personnel, Contractor Oversight or Damage Prevention) should periodically inspect the location when operations are underway within 25 ft. of a cast iron gas main or within 15 ft. of steel or plastic gas facilities.
- 5.2. Contingency Planning



A contingency plan should be developed unless it is determined that it is not warranted. A contingency plan should be considered when a gas facility will remain in service throughout the procedure but whose integrity may be jeopardized due to its proximity to the operation.

- a. If required, GOE shall develop a contingency plan. Instructions for the development of emergency preparedness and contingency plans are established GEIP1 Gas Emergency Notification Procedure, GEIP2 Gas System Emergency Management Procedure, and GEIP3 Gas Emergency Operations Center (EOC) Activation and Operations Procedure. However, when developing an emergency plan consideration shall be given to:
    - 1) Establishing a means to isolate the gas facility.
      - i. Valves or line stopper devices shall be located, and accessed prior to the operations.
      - ii. An SOP should be prepared and submitted for approval only if gas main relocation or cut-off is required.
    - 2) Allocation of required manpower, equipment and materials to implement the plan.
    - 3) Coordinating, with all other affected groups and departments
    - 4) Notification to Gas Control
      - i. Applicable National Grid procedures shall serve to direct the channels of communication and reporting
    - 5) Lines of communication between National Grid and contractor personnel
- Specific actions the excavator should take in an emergency.

5.3. Facility Verification and Monitoring



All Dig-Safe Notifications and regional pre-marking, mark-out and locate, and pre-excavation requirements must be completed before any excavations are performed, including required hand-dug test holes prior to any mechanical excavations.

- a. For activities within 25 ft. of Cast Iron and 15 ft. of steel and plastic gas facilities:
  - 1) Leak surveys shall be performed prior to and after work is performed.



Cast Iron gas facilities  $\leq$  8 in. diameter that are within 10 ft. should be replaced/relocated. Notify Project Engineering and Design for treatment of larger diameter facilities

- 2) When directed by PWE, Engineering or Damage Prevention, prior to commencing

PRINTED COPIES ARE NOT DOCUMENT CONTROLLED.		© NATIONAL GRID GAS PLC 2018. ALL RIGHTS RESERVED	
FOR THE LATEST AUTHORIZED VERSION PLEASE REFER TO THE APPROPRIATE DEPARTMENT WEBSITE OR DOCUMENTUM™.			
FILE DAM01003: VIBRATIONAL AND IMPACT FORCES IN THE VICINITY OF UNDERGROUND GAS FACILITIES	ORIGINATING DEPARTMENT: STANDARDS, POLICIES AND CODES	SPONSOR: THOMAS BENNETT	

nationalgrid	Gas Policy Damage Prevention	Doc. # DAM01003 Page 4 of 4
	Vibrational and Impact Forces in the Vicinity of Underground Gas Facilities	Revision 0 - 07/15/16

activities that involve vibrational and impact forces and after hand excavated verification of the depth and location of the gas facility, the operator should excavate an opening equal or greater in depth to bottom of the elevation of the gas facility and commence operations at this depth.

- b. When directed by PWE, Engineering or Damage Prevention, the following constraints should be followed for activities within 12 ft. of gas facilities:
- 1) Cast iron gas facilities should be monitored with a seismograph to ensure that PPV (Peak Particle Velocity) at the gas facility does not exceed 2 in./sec.
  - 2) Non-cast iron gas facilities should be monitored with a seismograph to ensure that PPV at the gas facility does not exceed 5 in./sec.
  - 3) If monitoring indicates excessive displacement and/or vibration in excess of limits, suspend activities and consider alternative methods. Contact the appropriate National Grid Engineering department for analysis and guidance. (Project Engineering/Transmission/Distribution Engineering, etc.). The following measures should be considered:
    - i. Expose 4 ft. horizontal portions of the gas main that falls within 12 ft. of any proposed pile.
    - ii. Main should be monitoring for displacement utilizing methods such as an optical survey.



Third-Party Excavators shall be billed for repairs should any damage occur to National Grid Gas Facilities.

#### 6. Knowledge Base & References

Knowledge Base		References
1 - Compliance History	5 - Job Aid	1 - Regulatory - Codes
2 - Data Capture	6 - Learning & Development	2 - Technical Documents
3 - Definitions	7 - Standard Drawings	3 - Tools Catalog
4 - Document History	8 - Tools & Equipment	

#### 7. Attachments

No attachments

## EXHIBIT E

### Insurance Requirements

From the commencement of the License Agreement ("Agreement"), throughout its term, through acceptance or longer where specified below, Licensee shall provide and maintain, at its own expense, insurance policies, intended to be primary (with no right of contribution by any other coverage available to National Grid USA and its subsidiaries and affiliates, including but not limited to, NMPC (collectively, "National Grid"), covering all operations, work and services to be performed under or in connection with this Agreement, issued by reputable insurance companies with an A.M. Best Rating of at least B+, which at least meet or exceed the requirements listed herein:

#### A. Coverages Required

1. **Workers' Compensation and Employers Liability Insurance** as required by the State in which the work activities under this Agreement will be performed. If applicable, Coverage shall include the U.S. Longshoreman's & Harbor Workers Compensation Act, and the Jones Act. The employer's liability limit shall be at least \$500,000 per accident, per person disease, and disease by policy limit.

If the Licensee is exempt from having to obtain and maintain workers' compensation coverage due to their legal status as a sole proprietor or partnership, the Licensee shall obtain:

- a. Long term disability insurance covering any illness or injury incurred in connection with this Agreement that prevents the Licensee from working, with benefits of at least 50% of the Licensee's monthly income on the last day before the disability begins.
  - b. Health Care Insurance, covering any loss occasioned by bodily injury, sickness or disease, and medical expense, with limits, coverage, deductibles, co-insurance payments, and any other cost sharing features customarily maintained by other entities of a similar size and business nature.
2. **Commercial General Liability (CGL) Insurance**, covering all operations to be performed by or on behalf of the Licensee under or in connection with this Agreement, with minimum limits of :
    - Bodily Injury (BI) - \$1,000,000 per occurrence
    - Property Damage (PD) - \$ 500,000 per occurrence
    - OR
    - Combined Single Limit - \$1,000,000 per occurrence
    - OR
    - BI & PD per Occurrence - \$1,000,000
    - General Aggregate &  
Product Aggregate - \$2,000,000 each
  - Coverage shall include: Contractual Liability (with this Agreement being included under the definition of "insured Contract" thereunder), Products/Completed Operations, and if applicable, Explosion, Collapse and Underground (XC&U).
  - If the Products-Completed Operations coverage is written on a Claims-made basis, coverage shall be maintained continuously for the duration of this Agreement and for at least two years

thereafter.

- National Grid USA, its direct and indirect parents, subsidiaries and affiliates, shall be included as an additional insured for all CGL coverages in order to provide the same protection as other insureds automatically covered by this policy. In addition, the policy shall contain a separation of insureds condition.
  - Liability insurance contracts, that have an annual aggregate limit of liability, shall be amended to reflect that the annual aggregate limit applies on a per project basis.
  - Contractor's protective (independent Contractors) coverage in all cases where Sub-contractors are to perform any of the operations, work and services to be performed by or on behalf of the Licensee under or in connection with this Agreement.
3. **Automobile Liability**, covering all owned, non-owned and hired vehicles used in connection with all operation, work or services to be performed by or on behalf of the Licensee under or in connection with this Agreement with a minimum per occurrence limit of:
- |                       |   |
|-----------------------|---|
| Bodily Injury         | - \$500,000 per occurrence; 1,000,000 aggregate |
| Property Damage       | - \$500,000 per occurrence                      |
| OR                    |   |
| Combined Single Limit | - \$1,000,000 per occurrence                    |
- National Grid USA, its direct and indirect parents, subsidiaries and affiliates, shall be included as an additional insured with respect to liability associated with, or arising out of, all operations, work and services to be performed by or on behalf of the Licensee under or in connection with this Agreement.
4. **Umbrella Liability or Excess Liability** coverage, with a minimum per occurrence limit of \$4,000,000. National Grid USA, its direct and indirect parents, and its subsidiaries and affiliates,, shall be included as an additional insured for liabilities associated with, or arising out of, all operations, work or services to be performed by or on behalf of the Licensee under this Agreement. This coverage shall run concurrent to the CGL required in section 2 above, and shall apply excess of the required automobile, CGL and employer's liability coverage required herein.
5. **Watercraft Liability**, if used in connection with this Agreement, with the same minimum limits of liability as outlined in requirement 2 above, and naming National Grid USA, its direct and indirect parents, subsidiaries and affiliates, as an additional insured, as applicable.
6. **Aircraft Liability**, if used in connection with this Agreement, with a limit of liability of not less than \$10,000,000 combined single limit per occurrence, and naming National Grid USA, its direct and indirect parents, subsidiaries and affiliates, as an additional insured, as applicable.
7. **Contractors Pollution Liability (CPL)**: covering any sudden and accidental pollution liability which may arise out of, under, or in connection with this Agreement, including all operations to be performed by or on behalf of the Licensee or that arise out of the Licensee's use of any owned, non-owned or hired vehicles, with a minimum liability limit of:
- |                       |                              |
|-----------------------|------------------------------|
| Bodily Injury (BI)    | - \$1,000,000 per occurrence |
| Property Damage (PD)  | - \$ 500,000 per occurrence  |
| OR                    |                              |
| Combined Single Limit | - \$1,000,000 per occurrence |



This requirement may be satisfied by providing either this CPL policy, which would include naming National Grid USA and its subsidiaries, officers and employees as an additional insured, as applicable; OR by providing coverage for sudden and accidental pollution liability under the CGL and commercial automobile insurance policies required above - limited solely by the Insurance Services Organization (ISO) standard pollution exclusion, or its equivalent.

In the event the Licensee is unable to secure and/or maintain any or all of this sudden and accidental pollution liability coverage, the Licensee agrees to indemnify and hold the National Grid USA and its subsidiaries, officers and employees harmless against any and all liability resulting from any coverage deficiency that is out of compliance with this insurance requirement.

8. **Risk of Loss:** The Licensee shall be responsible for all risk of loss to its equipment & materials, and any other equipment & materials owned by its employees or by other third parties that may be in their care, custody and control. If this coverage is excluded from the commercial general liability policy, then National Grid will accept coverage under the Licensee property policy.
9. **Limits:** Any combination of commercial general liability, automobile liability and umbrella liability policy limits can be used to satisfy the limit requirements in items 2, 3 & 4 above.
10. **Professional Liability:** At the request of National Grid, the Licensee shall provide Professional Liability coverage with a limit of liability to be determined by the Risk & Insurance Department of National Grid USA Services Company.

**B. Self-Insurance:** Proof of qualification as a qualified self-insurer, if approved in advance in writing by National Grid, will be acceptable in lieu of securing and maintaining one or more of the coverages required in this Insurance Section. Such acceptance by National Grid shall become a part of this insurance provision by reference herein. For Workers' Compensation, such evidence shall consist of a copy of a current self-insured certificate for the State in which the work will be performed.

**C. Waiver of Recovery:** The Licensee and its insurance carriers shall waive all rights of recovery against National Grid, its subsidiaries and affiliates for any loss or damage covered under those policies referenced in this insurance provision, or for any required coverage that may be self-insured by the Licensee. To the extent the Licensee insurance carriers will not waive their right of subrogation against National Grid, the Licensee agrees to indemnify National Grid for any subrogation activities pursued against them by the Licensee's insurance carriers. However, this waiver shall not extend to the gross negligence or willful misconduct of National Grid, its employees, subcontractors or agents.

**D. Sub-Contractors:** In the event the Licensee uses subcontractors in connection with this Agreement, it is expressly agreed that the Licensee shall have the sole responsibility to make certain that all subcontractors are in compliance with these insurance requirements and remains in compliance throughout the course of this Agreement, and thereafter as required. The Licensee shall remain liable for the performance of the sub-contractor, and such sub-contract relationship shall not relieve the Licensee of its obligations under this agreement.

Unless agreed to in writing by the Risk & Insurance Department of National Grid USA Service Company, any deductible or self-insured retentions maintained by any subcontractor, which shall be for the account of the subcontractor, shall not exceed \$100,000. If requested by National Grid, Contractor shall provide National Grid with an insurance certificate from its subcontractor evidencing this coverage.

In the event any sub-contractor is unable to maintain all of the same insurance coverage as required in this insurance article, the Licensee agrees to indemnify and hold National Grid harmless against any and all liability resulting from any deficiency in sub-contractor's insurance coverage that may be out of compliance with these insurance requirements.

**E. Insurance Certification:** Prior to starting work, the Licensee shall promptly provide National Grid with (a) **Certificate(s) of Insurance** for all coverage's required herein at the following address:

National Grid,  
Attn: Risk & Insurance , A-4  
300 Erie Boulevard West  
Syracuse, NY 13202

Such certificates, and any renewals or extensions thereof, shall outline the amount of deductibles or self-insured retentions which shall be for the account of the Licensee. Such deductibles or self-insured retentions shall not exceed \$100,000 unless agreed to in writing by the Risk & Insurance Department of National Grid USA Service Company; whose approval shall not be unreasonably withheld, delayed or conditioned.

The Licensee shall provide National Grid with at least 30 days prior written notice of any cancellation or diminution of the insurance coverage required in this insurance article.

**F. Insurance Obligation:** If any insurance coverage is not secured, maintained or is cancelled by the Licensee and Licensee fails immediately to procure other insurance as specified, National Grid has the right, but not the obligation, to procure such insurance and to invoice the Licensee for said coverage.

**G. Incident Reports:** The Licensee shall furnish the Risk & Insurance department of National Grid USA Service Company with copies of any accident or incident report(s) sent to the Licensee insurance carriers covering accidents, incidents or events occurring in connection with or as a result of the performance of all operations, work and services to be performed in connection with this Agreement. In addition, if requested, the Licensee shall promptly provide copies of all insurance policies relevant to any accident or incident.

**H. Other Coverage:** These requirements are in addition to any which may be required elsewhere in this Agreement. In addition, the Licensee shall comply with any governmental and/or site specific insurance requirements, even if not stated herein.

**I. Coverage Representation:** The Licensee represents that it has full policy limits available and shall notify National Grid USA Service Company's Risk & Insurance Department in writing when coverages required in this article herein have been reduced as a result of claims payments, expenses, or both. However, this obligation does not apply to any claims that would be handled solely within the Licensee's deductible or self-insured retention.

**J. Coverage Limitation:** Nothing contained in this article is to be construed as limiting the extent of the Licensee's responsibility for payment of damages resulting from all operations, work and services to be performed by or on behalf of the Licensee under or in connection with this Agreement, or limiting, diminishing, or waiving the Licensee's obligation to indemnify, defend, and save harmless National Grid in accordance with this Agreement.



**ONEIDA COUNTY DEPARTMENT OF  
WATER QUALITY & WATER POLLUTION CONTROL**

51 Leland Ave, PO Box 442, Utica, NY 13503-0442  
(315) 798-5656 wpc@ocgov.net FAX 724-9812

Anthony J. Picente, Jr.  
County Executive

Steven P. Devan, P.E.  
Commissioner

January 10, 2018

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

FN 20 18-062

**PUBLIC WORKS**

**WAYS & MEANS**

Re: Easement-Parcel 2  
City of Utica  
Sauquoit Creek Force Main

Dear County Executive Picente:

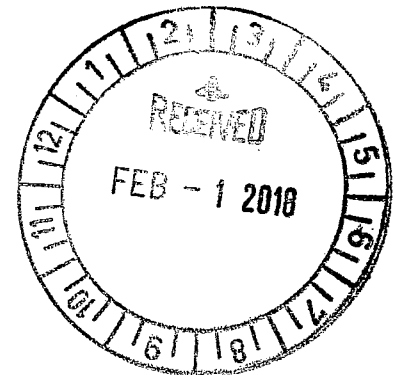
The Oneida County Department of Law in conjunction with this Department and its consultants are in the process of obtaining permission from property owners to run the new Sauquoit Creek Force Main through their property. These permissions will be in the form of easements, permits or license agreements.

An easement between the City of Utica and Oneida County for a second of three properties near the Barnes Ave. Pumping Station is now ready for execution. It must be approved by the Oneida County Board of Legislators.

I am available to meet with you at your convenience to discuss this request and explain it in more detail. I respectfully request that this item be considered by the Board of Legislators at their earliest convenience. Thank you for your consideration in this matter.

Sincerely,  
**THE ONEIDA COUNTY DEPARTMENT OF  
WATER QUALITY AND WATER POLLUTION CONTROL**

Steven P. Devan, P.E.  
Commissioner



Cc: Peter M. Rayhill, Esq. – Oneida County Attorney  
Karl E. Schrantz, P.E. – O'Brien and Gere Engineering  
John Waters - WQ&WPC

Attachments: Proposed Easement  
Contract Summary Sheet

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

Date 2-1-18

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

**ONEIDA COUNTY BOARD OF LEGISLATORS  
CONTRACT SUMMARY**

**Name & Address of Vendor:** City of Utica  
1 Kennedy Plaza  
Utica, NY 13502

**Title of Activity or Service:** Easement-Parcel 2

**Proposed Dates of Operation:** Upon execution then forever

**Client Population/Number to be Served:** 110,000 people

**Summary Statements**

- 1) Narrative Description of Proposed Services: This is an easement for a parcel of land owned by the City of Utica. The easement is required so that the Sauquoit Creek Pumping Station force main can be constructed through it.
- 2) Program/Service Objectives and Outcomes: Construct the force main through a parcel of land owned by the City of Utica.
- 3) Program Design and Staffing: Department staff will oversee this easement.

**Total Funding Requested:** \$1.00                      **Account #:** G8110.495

**Oneida County Dept. Funding Recommendation:** G8110.495

**Proposed Funding Sources (Federal \$/ State \$/County \$):** Funding for this easement will be provided by the Department operating budget, G8110.495.

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

**Past Performance Data:** The County currently has an existing easement with this property owner for the existing force main.

**O.C. Department Staff Comments:** This easement must be obtained as soon as possible so that construction can proceed on the Sauquoit Creek Pumping Station force main project. This is the second of three easements for Utica property in the Barnes Ave area.

## EASEMENT

This Indenture, made by The City of Utica, with offices at 1 Kennedy Plaza, Utica, New York 13502, hereinafter referred to as the Grantor, for and in consideration of the sum of One Dollar, and other good and valuable consideration paid to Grantor by the County of Oneida, a municipal corporation, with offices located at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as the Grantee, receipt of which is hereby acknowledged, does hereby grant and release to Grantee, its successors and assigns, the right, privilege and authority to construct, install, maintain, operate, inspect, repair, protect, replace, relocate, reconstruct, change the size of and remove one or more County owned sewer pipelines, and other fixtures or appurtenances, used or associated therewith upon, across and under the parcels and property more particularly described on Schedule A attached hereto and incorporated herein and as shown on maps to be filed in the Oneida County Clerk's Office concurrently herewith and which maps are entitled "Permanent & Temporary Easements to be Granted to Oneida County on Lands Belonging to City of Utica."

Together with free ingress and egress to and from said parcels for all of the above purposes and any other purposes reasonably incidental thereto.

Together with the appurtenances and all the estate and rights of the party of the first part in and to the said premises.

Grantor hereby warrants that it owns in fee simple the land and property described above and that said premises is free and clear of all liens and encumbrances of any nature and if not, the Grantor shall arrange or procure any documents necessary to grant clear title to said premises.

When this document is duly signed and acknowledged, this instrument shall be binding and inure to the benefit of the respective heirs, executors, administrators, successors and assigns of each of the parties hereto.

The County further covenants and agrees to hold the Grantor harmless for and indemnify said Grantor against any claims, damages or lawsuits that may arise from the construction, reconstruction, installation, maintenance, inspection or repair of the subject underground pipes, lines, laterals and accessories as performed by the County, its employees, agents or assigns.

In witness whereof, the City of Utica has set its Hand this 2nd day of January, 2018 ~~November, 2017.~~

By Robert M. Palmieri  
Mayor

State of New York }

} ss.:

County of Oneida }

On the 2nd day of January in the year 2018, before me, the undersigned, a notary public in and for said state, personally appeared, 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 Robert M. Palmieri 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.

Ashley B. Bizzari  
Notary Public

ASHLEY B. BIZZARI  
Notary Public, State of New York  
Registration No. 01B6236877  
Qualified in Oneida County  
My Comm. Expires August 27, 2019

September 16, 2016

DLM No. 14-010

PROPOSED DESCRIPTION

**CITY OF UTICA**

**Parcel 9**

**ALL THAT TRACT, PIECE OR PARCEL OF LAND** situate within the City of Utica, County of Oneida and State of New York, as shown on sheets 1 of 2 and 2 of 2 entitled "Permanent & Temporary Easements to be granted to Oneida County on lands belonging to City of Utica", designated as Parcel 9, dated September 16, 2016, prepared by D. L. Mowers Land Surveyors & Associates; said Permanent Easement for the operation, maintenance, relocation, replacement, repair and improvement of the 48-inch force main and more particularly described as follows:

**BEGINNING** at a point located at North 1136371.97, East 1175586.30 of the New York State Plane Coordinate System, Central Zone; said point being 94'± distant, measured northeasterly and at right angles from station 12623+60± of the monumented railroad centerline of CSX Transportation, Inc. (reputed owner); said point being at the intersection of the division line between the herein described property on the southeast and the property of NYS Realty & Terminal (reputed owner) on the northwest; said point also being on the northerly line of an existing permanent easement for the 30 inch force main as shown on Map 15, Parcel 15 E. 06, 07 of a 20 foot permanent easement for an existing 30 inch force main;

Thence North 30° 03' 55" East, along the last mentioned division line, a distance of 41.87 feet to a point; said point being 134'± distant, measured northeasterly and at right angles from station 12623+48± of the monumented railroad centerline of CSX Transportation, Inc. (reputed owner);

Thence South 77° 08' 05" East, through the property of City of Utica (reputed owner) a distance of 257.82 feet to an angle point;

Thence South 77° 08' 20" East, continuing through the property of City of Utica (reputed owner) a distance of 900.74 feet to an angle point;

Thence South 75° 56' 55" East, continuing through the property of City of Utica (reputed owner) a distance of 474.97 feet to a point located on the westerly street boundary of Barnes Avenue; said point being 125'± distant, measured northeasterly and at right angles from station 12607+14± of the monumented railroad centerline of CSX Transportation, Inc. (reputed owner);

Thence South 18° 52' 55" West, along said street boundary of Barnes Avenue, a distance of 40.14 feet to a point located on the aforesaid northerly line of an existing permanent easement for a 30-inch force main; as shown on Map 15, Parcel 15 E. 06, 07 of a 20-foot permanent easement for an existing 30-inch force main; said point being 85'± distant, measured northeasterly and at right angles from station 12607+18± of the monumented railroad centerline of CSX Transportation, Inc. (reputed owner);

Thence North 75° 56' 55" West, through the property of the City of Utica (reputed owner) along the last mentioned division line, being along the northerly line of said permanent easement of a 30-inch force main, a distance of 471.17 feet to a point an angle;

Thence North 77° 08' 20" West, continuing through the property of City of Utica (reputed owner) and continuing along said permanent easement of a 30-inch force main, a distance of 900.32 feet to an angle point;

Thence North 77° 08' 05" West, continuing through the property of City of Utica (reputed owner) and continuing along said permanent easement of said 30-inch force main, a distance of 270.20 feet to point of beginning, containing 65,504± square feet or 1.504 acres, more or less.

**TOGETHER WITH:** A Temporary Easement, having a maximum width of forty (40) feet, being northeasterly of, adjacent to and parallel with the aforesaid permanent easement and shall be used for the purpose of ingress and egress, construction, erecting, installing, and stock piling of material and shall be exercised in, on, and over said parcel of land during the entire construction phase of said system.



ANTHONY J. PICENTE JR.  
County Executive

DENNIS S. DAVIS  
Commissioner



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

## Oneida County Department of Public Works

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

December 8, 2017

FN 20 18 - 063

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

### PUBLIC WORKS

### WAYS & MEANS

Dear County Executive Picente,

Attached for your approval is a lease agreement with Cornell Cooperative Extension Association of Oneida County for use of office space at 121 Second Street, Oriskany, NY. The existing lease has expired and must be reestablished.

The terms of this agreement are for a period of five (5) years commencing January 1, 2018 and ending December 31, 2022. The annual rate is \$92,052.00. The Oneida County Board of Acquisition & Contract approved this agreement on November 8, 2017.

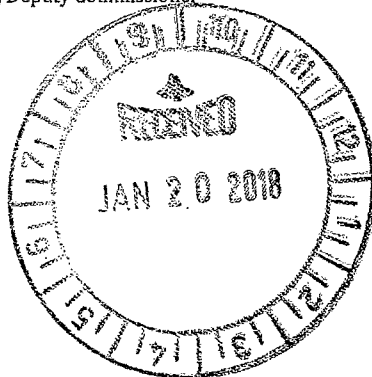
If you agree with the proposed terms, please forward the enclosed lease agreement to the Oneida County Board of Legislators for consideration.

Thank you for your continued support.

Sincerely,

Dennis S. Davis  
Commissioner

cc: Mark E. Laramie, PE, Deputy Commissioner



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

Anthony J. Picente, Jr.  
County Executive

Date 1-18-18

Oneida Co. Department: Public Works

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

## ONEIDA COUNTY BOARD OF LEGISLATORS

**Name & Address of Vendor:** Cornell Cooperative Extension Association of  
Oneida County  
121 Second Street  
Oriskany, NY

**Title of Activity or Service:** Lease Agreement  
**Proposed Dates of Operation:** 1/1/2018 – 12/31/2022  
**Client Population/Number to be Served:** N/A

### Summary Statements

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

The Cornell Cooperative Extension Association of Oneida County leases office space at 121 Second Street, Oriskany, NY. The lease has expired and must be reestablished.

A new lease term will commence January 1, 2018 and end December 31, 2022. The proposed annual rate is \$92,052.00.

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

3) Program Design and Staffing: N/A

**Total Funding Requested:** \$460,260.00

**Account #:** A2412

**Oneida County Dept. Funding Recommendation:**

\$460,260.00

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

\$460,260.00 (Revenue)

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

**Past Performance Data:** N/A

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

**LEASE AGREEMENT  
FOR  
THE CORNELL COOPERATIVE EXTENSION ASSOCIATION OF ONEIDA COUNTY**

This Lease Agreement is made the 1<sup>st</sup> day of January, 2018 between the **County of Oneida** (hereinafter "Lessor") a municipal corporation organized under the laws of the State of New York with its primary offices located at 800 Park Avenue, Utica, New York 13501, and the **Cornell Cooperative Extension Association of Oneida County** (hereinafter "Lessee") a cooperative extension existing under the laws of the State of New York and the United States of America, with its primary offices located at 121 Second Street, Oriskany, New York 13424 (each a "Party" and collectively the "Parties") in consideration of the covenants and agreements hereinafter mentioned on the part of Lessee to be kept and performed at the following premises:

Approximately eight thousand five hundred and eighty-eight (8,588) square feet of space in the premises owned by Lessor and located at 121 Second Street, Oriskany, New York 13424, in the Town of Whitestown, Oneida County, New York (hereinafter the "Demised Premises"). The actual rooms are bounded with grey lines on the attached Exhibit A, entitled Oneida County Farm and Home Center Floor Plan.

1. **TERM/RENT AND ADJUSTMENTS**

- a. Lessee shall hold the Demised Premises for a term of **Five (5)** years commencing on **January 1, 2018** and ending **December 31, 2022** unless sooner terminated as hereinafter provided.
- b. Annual rent payment shall be Ninety-Two Thousand Fifty-Two dollars and Zero cents (\$92,052.00).
- c. Such rents shall be payable to Lessor in annual payments the first of which is due **January 1, 2018** with the remaining payments due on the first day of each subsequent year thereafter.

2. **ASSIGNMENT**

- a. Lessee shall not assign this Lease Agreement, or sublet the Demised Premises or any part thereof, or make any alterations therein, or any additions thereto without the express written consent of Lessor. All additions, permanent fixtures or improvements including lighting and moldings, which may be made by Lessee, except movable office furniture or other easily removable fixtures, shall become the property of Lessor and remain upon the Demised Premises as a part thereof and be surrendered with the Demised Premises at the termination of this Lease Agreement.

3. **OPERATIONS**

- a. Lessee shall peaceably and quietly have, hold and enjoy the Demised Premises for use as its office and its facility for furthering its purposes as set forth in law. The purposes of Lessee are public in nature, and such furtherance is valuable consideration to Lessor. The public will be encouraged to use the facility. Lessee will at all times have an employee

or other designated individuals present for all activities sponsored by Lessee.

- b. No other unrelated activities shall be permitted without the prior written consent of Lessor.
- c. Lessee shall be responsible for securing and maintaining all required operating permits, licenses and certificates. Copies of all permits, licenses and certificates and copies of any renewals thereto shall be provided to Lessor within thirty (30) days of Lessor's written request.

#### 4. MAINTENANCE

- a. Lessor shall be responsible for providing all janitorial cleaning services and maintaining the Demised Premises during the term of this Lease Agreement in a neat and sanitary condition. Lessor agrees to dispose of all solid waste and all recyclable waste. Lessor also will provide janitorial services and maintenance of common areas, including public bathrooms, hallways and entrances. Lessor further agrees to provide snowplowing and sidewalk clearing, sanding and salting of sidewalks, and security.

#### 5. SECURITY

- a. Lessor shall be responsible for locking the exterior doors to the premises each evening. Lessee may provide additional security measures at its discretion.

#### 6. COMMON AREAS

- a. Lessee shall have the right to use, in common with Lessor and others legally entitled thereto, all outdoor areas and all portions of the premises, except those reserved by Lessor and the Demised Premises. Lessor reserves unto itself, its employees, tenants and/or licensees, the portions of the premises currently used by Lessor's maintenance personnel and by the Soil and Water Conservation District. Said reserved portions are bounded with thick black lines on the attached Exhibit A.
- b. Lessor makes no representations as to condition, fitness or utility of said common areas, except that such areas shall be neat, sanitary and regularly cleaned. Lessee's liability arising out of use of said areas shall be as if same were included within the Demised Premises.

#### 7. JOINT USE

- a. Lessor hereby reserves unto itself, its employees and invitees, at any time and at all times, the right to use jointly the common areas, which right shall be superior to, and supersede, Lessee's use thereof in the event of any conflicting uses.

#### 8. LESSOR'S FACILITIES

- a. Lessor hereby reserves unto itself, its agents and/or employees, the right and easement to construct, use, operate, maintain, repair and review any pipe, conduit or tunnel and any electric communication or signal transmission lines, together with poles and guys therefore, and any other facilities of like character, as may now exist or may hereafter be placed upon, within, under or over the Demised Premises it being agreed that this Lease Agreement is subject and subordinate to any and all such rights, easements and uses. Lessee shall occupy and use the Demised Premises in a careful, safe and orderly manner so as not to interfere in any way with the maintenance activities or the operations of Lessor regarding any structures or facilities appurtenant.

#### 9. UTILITIES/SERVICES

- a. Lessor agrees to furnish Lessee with heat, electricity, water and sewer service.
- b. Lessee shall not utilize electricity supplied to the premises for electrical space heaters or air conditioning units or any additional electrical connections without the prior written consent of Lessor.
- c. Lessor shall not be responsible for any loss of income or suspension of Lessee's service due to a delay or loss of heat, electricity, water or sewer service to the premises, including the Demised Premises.

#### 10. TELEPHONE AND DATA SERVICE

- a. Lessee shall have the right to have telephone and data service installed at Lessee's own expense. Lessee, upon termination of this Lease Agreement, shall have the right to remove from the Demised Premises any telephones or equipment which are Lessee's property. Establishment of telephone and data service must first be approved by Lessor to assure proper installation and location thereof and such approval shall not be unreasonably delayed, withheld or conditioned.

#### 11. MACHINERY AND EQUIPMENT

- a. Lessee is hereby authorized to install all machinery and equipment for its operation on/at such Demised Premises; such machinery and equipment installed by Lessee shall at all times remain the property of Lessee, notwithstanding the terms of Section 3, ASSIGNMENT, and at no time will such items be considered a fixture or appurtenance of Lessor's premises. At the termination of this Lease Agreement or any renewal period thereof, Lessee agrees to remove all items installed, and Lessor agrees that Lessee is so entitled. Lessee shall be responsible for any and all damages caused by the removal of any items so removed. If such removal is not completed by Lessee within a reasonable period of time, then Lessor shall have the authority to so remove, charging the expense of such removal, including

costs of repairs for any damages appurtenant thereto, as well as reasonable storage fee, to Lessee. Lessor shall have the option of pursuing its appropriate legal remedies to collect such expenses, or, following one hundred twenty (120) days after such removal by Lessor, Lessor may sell any of such items in storage in order to pay for such expenses, forwarding the surplus, if any, to Lessee, providing Lessor must give Lessee at least thirty (30) days advance written notice thereof and an opportunity to remove said items within that thirty-day period. In the event that any items attached to the realty are allowed to be removed, Lessee shall repair any damage caused by such removal.

## 12. ACCEPTANCE OF PREMISES/DUTY TO REPAIR

- a. Lessee hereby accepts the Demised Premises in the condition they are in at the beginning of this Lease Agreement, and agrees to maintain the said premises in the same condition, order and repair as they are at the commencement of said term excepting only reasonable wear and tear arising from the use thereof under this Lease Agreement, and excepting such change in condition, order and repair as may be incident to the rehabilitation of the premises, and to make reparations to Lessor immediately upon demand, any damage to water apparatus, or electrical lights or any fixtures, appliances or appurtenances of said premises, or damages to the structure of the building caused by any act of neglect of Lessee, or of any person or persons in the employ of Lessee or persons acting on the authority or at the direction of Lessee.

## 13. RENOVATIONS

- a. It is agreed between the Parties that the premises, including the Demised Premises, may be renovated by Lessor at its sole discretion and expense.

## 14. SIGN AND SUPPORT INFORMATION

- a. Lessee shall secure written approval from Lessor prior to posting or installing permanent signage, notices, or any other item on the facility.

## 15. ACCESS BY HANDICAPPED

- a. At all times during the term of this Lease Agreement, those portions of the premises which are made available to Lessee as an adjunct to or part of or along the way to the means of ingress and egress to the Demised Premises shall remain handicapped accessible and safe for the use of Lessee's employees, agents and invitees.

## 16. ACCESS TO PREMISES BY LESSOR

- a. Lessee agrees that Lessor, its agents and/or employees, shall have the right to enter into and upon the Demised Premises, at all reasonable hours for the purpose of examining the same or making emergency repairs or alteration

as may be necessary for the safety and preservation thereof. Further, Lessee agrees that Lessor, its agents and/or employees shall have the right to enter into or upon the Demised Premises as necessary in order to effectuate any rehabilitation of the premises, to the extent that such right does not interfere with Lessee's use and enjoyment of the premises.

#### 17. DAMAGES TO LESSEE'S PROPERTY

- a. All personal property placed or moved into the Demised Premises shall be at the risk of Lessee or owner thereof, and Lessor shall not be liable for any damage to said personal property, or to Lessee's employees' personal property arising from any cause or from any act of negligence, wrongdoing, malfeasance, or any act or failure to act of any co-tenant or occupants of the building or of any other person whatsoever, as well as from any act of theft, vandalism, malicious mischief or similar occurrence.

#### 18. DAMAGE TO LESSOR'S PROPERTY

- a. Lessee shall be responsible for all damages to the Demised Premises caused by the negligence, wrongdoing, malfeasance or any act or failure to act on the part of Lessee or any of its agents or employees in the normal operation of the premises ; and shall further be responsible for all damage caused to the premises through the negligence, wrongdoing, malfeasance or any act or failure to act on the part of Lessee or any of its agents, employees, or invitees; and shall be further responsible for all damages caused to the premises by the malfunctioning of any equipment or other property used by or in the possession of Lessee and due to Lessee's negligence and not the property of or in the care and custody of Lessor. Lessee shall report to Lessor any damages to said premises no later than ten (10) working days following the day upon which such damage was discovered.

#### 19. RIGHT TO REPAIR

- a. Lessee reserves the right and agrees to repair the premises within a reasonable period of time through the use of its employees or to hire any party to repair any defects or damage to said premises. Repairs to said premises shall not be made without the approval of Lessor unless (i.) the total cost for each repair is less than Five Hundred dollars (\$500.00), and (ii.) it is impractical to immediately secure such approval, and (iii.) additional damages would result if not immediately repaired. Any damages that result from the unreasonable delay of Lessor to give said approval for repairs shall be reimbursed to Lessee by Lessor.

#### 20. DESTRUCTION OF PREMISES

- a. In the event the Demised Premises shall be destroyed or so damaged by fire or other casualty during the term of this Lease Agreement, whereby said premises shall be rendered non-tenantable, then Lessor shall have the right to render said premises tenantable by repairs to be completed within

ninety (90) days therefrom.

- b. If said premises are not rendered tenantable within said time, it shall be optional for either Party hereto to cancel this Lease Agreement. The cancellation herein mentioned shall be submitted in writing by either Party hereto to the other at least fifteen (15) days from the actual cancellation date.
- c. If the premises is rendered non-tenantable by fire or other disaster or casualty during the term of this Lease Agreement or any subsequent renewal thereof, then Lessee's obligation to pay rent hereunder shall be suspended as of the date that the premises became non-tenantable.
- d. The determination of what is tenantable or non-tenantable shall be made by the fire or building code inspector of the State of New York.

## 21. INSURANCE

- a. Lessee 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.
  - i. Commercial General Liability (CGL) coverage with limits of Insurance of not less than \$1,000,000 each occurrence and \$3,000,000 Annual Aggregate. 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, sexual abuse, products, completed operations, and personal and advertising injury. Lessor shall be included as an additional insured. 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.
  - ii. Workers' Compensation and Employer's Liability
    - 1. Statutory limits apply.
  - iii. Business Automobile Liability
    - 1. Business Automobile Liability with limits of at least \$1,000,000 each accident.
    - 2. Business Automobile coverage must include coverage for liability arising out of all owned, leased, hired and non-owned automobiles.



3. Lessor shall be included as an additional insured on the auto policy, on a primary and non-contributing basis.

iv. Commercial Umbrella

1. Umbrella limits must be at least \$1,000,000.
  2. Umbrella coverage must include Lessor as an additional insureds.
  3. 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.
- b. Waiver of Subrogation: Lessee waives all rights against Lessor and its agents, officers, and employees for recovery of damages to the extent these damages are covered by Commercial General Liability, Business Auto Liability, Workers' Compensation and Employer's Liability, and Commercial Umbrella insurance maintained per requirements stated above.
- c. Certificates of Insurance: Prior to execution of this Lease Agreement, Lessee shall provide a certificate of insurance to Lessor. Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of Lessee's Commercial General Liability Policy. 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 Lessor.
- d. In the event that the activities and operations of Lessee shall change in such a substantial fashion as to pose an additional risk of liability, then Lessor shall have the right to request from Lessee an increase in the type and amount of liability coverage on its insurance policy.

22. LIABILITY OF LESSOR/INDEMNIFICATION OF LESSOR

- a. Lessee agrees that it shall defend, indemnify and hold harmless Lessor from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the operations of Lessee and its agents, servants, invitees or employees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default, negligence or malfeasance by Lessee and/or its agents, servants, invitees or employees, or failure on the part of Lessee and its agents, servants, invitees or employees to comply with any of the covenants, terms or conditions of this Lease Agreement.

23. DEFAULT OF LESSEE

- a. In the event that Lessee defaults in the performance of any of the material covenants herein, after reasonable notice from Lessor and opportunity to cure such default, it is mutually understood and agreed that Lessor may terminate this Lease Agreement and sue for non-payment of rent and re-enter the Demised Premises without resort to judicial process, or resort to any legal remedy available to Lessor.

24. NOTICES

- a. All notices to be served upon Lessee by Lessor or upon Lessor by Lessee shall be in writing and delivered by registered or certified mail. Notices to Lessor shall be addressed to **Deputy Commissioner, Division of Engineering, Department of Public Works, 6000 Airport Road, Oriskany, New York 13424**. Notices to Lessee shall be addressed to: **Executive Director, CCE Oneida County, 121 Second Street, Oriskany, NY 13424**.

25. WAIVER

- a. No waiver of any breach or breaches of any provision or condition of this Lease Agreement shall be construed to be a waiver of any preceding or succeeding provision or condition of this Lease Agreement or breach of same.

26. AMENDMENTS AND MODIFICATIONS

- a. This Lease Agreement may be modified or amended only in writing, duly authorized and executed by Lessor and Lessee. It may not be modified or amended by oral agreements or understandings between the Parties.

27. SEVERABILITY

- a. If any part of this Lease Agreement is invalid or illegal, then only that part shall be void and have no effect. All other parts of this Lease Agreement shall remain in full force and effect.

28. CAPTIONS

- a. The captions of the various paragraphs of this Lease Agreement are for convenience and reference purposes only. They are of no other effect.

29. RENEWAL

- a. This Lease Agreement may be renewed, with the approval of the Oneida County Board of Legislators, for two (2) additional five (5) year terms. Lessee shall provide written notice to Lessor of its intentions regarding renewal one hundred and eighty (180) days before the end of any term.

IN WITNESS WHEREOF, the Parties hereto have hereunto executed this instrument for the purposes herein expressed, the day and year above first written.

County of Oneida:

Cornell Cooperative Extension  
Association of Oneida County:

---

Anthony J. Picente, Jr.  
Oneida County Executive

---

John Brouillette  
Treasurer

Approved:

---

Linda Bylica Lark, Esq.  
Assistant County Attorney

ANTHONY J. PICENTE JR.  
County Executive

DENNIS S. DAVIS  
Commissioner



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

## Oneida County Department of Public Works

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

January 16, 2018

FN 20 18-064

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

### PUBLIC WORKS

### WAYS & MEANS

Dear County Executive Picente,

In 2017 the Department of Public Works assumed maintenance and operations responsibility for the Oneida County Correctional Facility. Significant time and resources were dedicated to identifying associated expenditures and making appropriate fund transfers and/or budget adjustments. Unfortunately but not unexpectedly, a small number of items were missed.

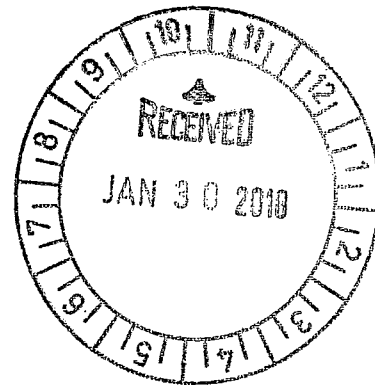
The enclosed property tax assessment was not included in the 2018 Buildings & Grounds budget. Therefore, I request a budget transfer in the amount of \$17,000.00 from A1620.414 to A1620.4951. If acceptable, please forward to the Oneida County Board of Legislators for consideration.

Thank you for your continued support.

Sincerely,

Dennis S. Davis  
Commissioner

cc: Mark E. Laramie, PE, Deputy Commissioner



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

Anthony J. Picente, Jr.  
County Executive

Date 1-29-18

**87% OF CO. BUDGET DUE TO STATE & FED. MANDATES  
2018 TOWN & ONEIDA CO. TAX BILL / WHITESTOWN**

JAN 04 2018

Bill No. 008048  
Sequence No. 8048  
Page No. 1 of 1

\* For Fiscal Year 01/01/2018 to 12/31/2018

\* Warrant Date 12/31/2017

**MAKE CHECKS PAYABLE TO:**

TOWN OF WHITESTOWN,  
RECEIVER OF TAXES  
8539 CLARK MILLS ROAD  
WHITESBORO, NY 13492  
(315) 736-9061

Oneida County  
Carol Soja  
6075 Judd Rd  
Oriskany, NY 13424

**TO PAY IN PERSON**

TOWN OF WHITESTOWN  
RECEIVER OF TAXES  
8539 CLARK MILLS ROAD  
WHITESBORO, NY 13492  
(315) 736-9061

**SWIS S/B/L ADDRESS & LEGAL DESCRIPTION & CK DIGIT**

**307089 275.000-2-64**  
Address: 6075 Judd Rd  
Town of: Whitestown  
School: Oriskany School Dist  
NYS Tax & Finance School District Code:  
670 - Correctional Roll Sect. 8  
Parcel Acreage: 22.10  
Account No. 085060  
Bank Code

Estimated State Aid: CNTY 74,874,332  
TOWN 411,966

**PROPERTY TAXPAYER'S BILL OF RIGHTS**

The Total Assessed Value of this property is:  
The Uniform Percentage of Value used to establish assessments in your municipality was:  
The assessor estimates the Full Market Value of this property as of July 1, 2016 was:  
If you feel your assessment is too high, you have the right to seek a reduction in the future. A publication entitled "Contesting Your Assessment in New York State" is available at the assessor's office and on-line: [www.tax.ny.gov](http://www.tax.ny.gov). Please note that the period for filing complaints on the above assessment has passed.

Exemption	Value	Tax Purpose	Full Value Estimate	Exemption	Value	Tax Purpose	Full Value Estimate
Co General	28,658,10	CO/TOWN/SCH	42,456,444				

**PROPERTY TAXES**

Taxing Purpose	Total Tax Warrant	% Change From Prior Year	Taxable Assessed Value or Units	Rates per \$1000 or per Unit	Tax Amount
County	73,650,353	2.3	0.00	9.841640	0.00
Town General	1,662,041	2.7	0.00	2.441096	0.00
Highway Townwide	860,361	9.6	0.00	1.263642	0.00
Oriskany Fd	74,505	-0.8	0.00	.980445	0.00
Suffiff #25	UNITS		177.60	93.498845	16,605.39

Property description(s): County Jail

PENALTY SCHEDULE	Penalty/Interest	Amount	Total Due	TOTAL TAXES DUE	\$16,605.39
Due By: 01/31/2018		16,605.39	16,605.39		

Apply For Third Party Notification By: 07/15/2018

Taxes paid by \_\_\_\_\_ CA CH

**RETURN THE ENTIRE BILL WITH PAYMENT AND PLACE A CHECK MARK IN THIS BOX [ ] IF YOU WANT A RECEIPT OF PAYMENT. THE RECEIVER'S STUB MUST BE RETURNED WITH PAYMENT.**

**2018 TOWN & ONEIDA CO. TAX BILL / WHITESTOWN**

Bill No. 008048

Town of: Whitestown  
School: Oriskany School Dist  
Property Address: 6075 Judd Rd

**RECEIVER'S STUB**

**307089 275.000-2-64**  
Bank Code

Pay By: 01/31/2018 16,605.39 16,605.39

Oneida County  
Carol Soja  
6075 Judd Rd  
Oriskany, NY 13424

**TOTAL TAXES DUE**  
**\$16,605.39**

ONEIDA COUNTY  
OFFICE OF THE DISTRICT ATTORNEY

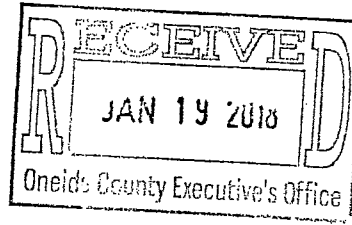
Scott D. McNamara  
District Attorney

Michael A. Coluzza  
First Assistant

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

Dawn Catera Lupi  
First Assistant

Sarah F. DeMellier  
Luke C. Davignon  
William J. Barry III  
Kevin J. Dwyer  
Stephanie N. Singe  
Paul S. Kelly  
Travis J. Yoxall  
Maria Murad Blais  
Rebecca G. Kelleher  
Archana Nayak



December 29, 2017

FN 20 18-065

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

**PUBLIC SAFETY**

Dear Mr. Picente:

**WAYS & MEANS**

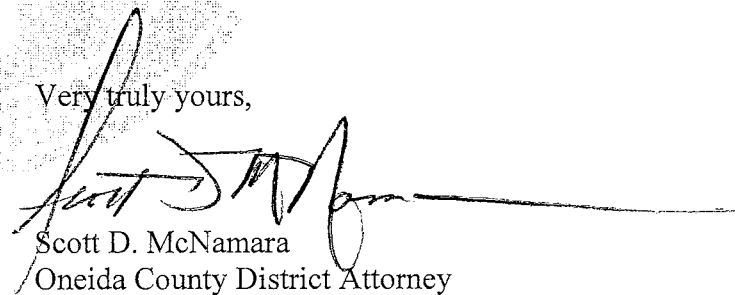
Enclosed please find documents pertaining to the expenses incurred by the Oneida County District Attorney's Office with regard to the investigation and/or prosecution of State of New York inmates.

Please review this material at your earliest convenience and forward it to the Board of Legislatures for their review and approval.

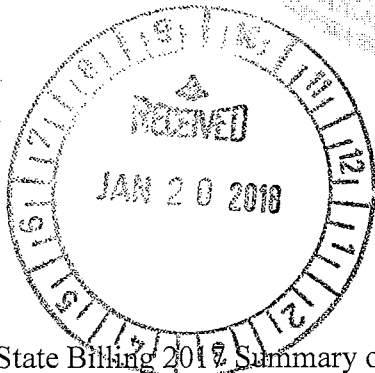
If you have any questions or concerns, please contact my office.

Thank you.

Very truly yours,



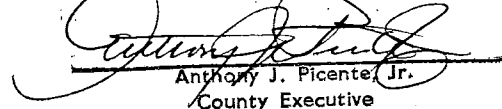
Scott D. McNamara  
Oneida County District Attorney



SW

Encs. State Billing 2017 Summary of Cases  
State Aid Voucher  
Proposed Resolution

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



Anthony J. Picente, Jr.  
County Executive

Date 1-19-18

STATE BILLING 2017  
SUMMARY OF CASES

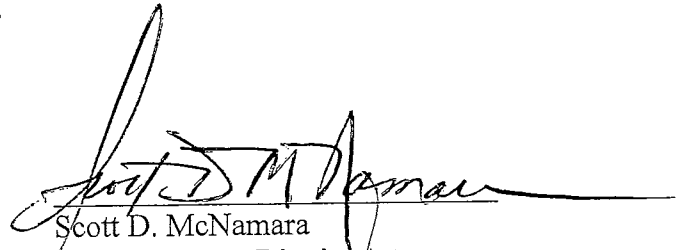
INMATE	TOTAL
Luis Alcantara	415.60
Stephen Andrews	307.97
Simon Berman	631.65
Carlos Cabrera	196.97
Jeffery DeMosthene	162.73
Fabian Echevarria	597.65
Jamel Evans	158.63
Adarryll Hammond	402.52
Daniel Johnson	178.34
Moshaun Johnson	147.31
Darrell Lester	832.08
John Lugo	160.78
Michael Maldonado	159.79
Tyquan McClary	132.19
Mark Richter	281.18
Brandon Rosado	408.62
Brandon Rosado	391.18
Brandon Rosado	731.41
Walter Rosado	154.07
Michael Ruiz	154.03
Joseph Solivan	136.51
Donald Spellman	132.19
Andre M. Terry	140.68
Clarence Thomas	169.95
Akhabue Ukpebor	163.74
Joel Uviles	149.17
Joshua Vega	132.19
Luis Vega	163.77
Salathiel Westerband	158.63
Bill Willis, Jr.	118.58
Total	\$8,070.11

STATE BILLING 2017  
SUMMARY OF CASES  
PAGE TWO

Time expended on 12/29/17 by Susan Welch preparing state billing for reimbursement:  
two hours at \$37.94 per hour = \$75.88 plus 50.99% in fringe benefits = \$114.57

Total	\$114.57
Grand Total	\$8,184.68

I hereby certify that the above expenses were incurred with regard to the investigation and/or prosecution of the above-entitled matters.

  
Scott D. McNamara  
Oneida County District Attorney



STATE OF NEW YORK

# STATE AID VOUCHER

Voucher No. 1

1 Originating Agency <i>NYS Dept of Corrections</i>		Orig. Agency Code		Interest Eligible (Y/N) <i>N</i>	
Payment Date (MM) (DD) (YY) <i>1 1</i>		OSC Use Only		Liability Date (MM) (DD) (YY) <i>1 1</i>	
2 Payee ID <i>156-00-0460</i>		Additional		3 Zip Code <i>13501</i>	
4 Payee Name (Limit to 30 spaces) <i>Oneida County</i>		Route		Payee Amount <i>\$8,184.68</i>	
Payee Name (Limit to 30 spaces) <i>District Attorney</i>		IRS Code		MIR Date (MM) (DD) (YY) <i>1 1</i>	
Address (Limit to 30 spaces) <i>235 Elizabeth Street</i>		Stat. Type		IRS Amount	
Address (Limit to 30 spaces)		Statistic		Indicator-Dept.	
City (Limit to 20 spaces) <i>Utica</i>		State (Limit to 2 spaces) → <i>NY</i>		5 Ref/Inv. No. (Limit to 20 spaces) <i>AAAD State Inmates</i>	
Zip Code <i>13501</i>		Ref/Inv. Date (MM) (DD) (YY) <i>12 29 17</i>			

6 Date Paid	Check or Voucher No.	Description of Charges (If Personal Service, show name, title, period covered)	Amount	
			Dollars	Cents
		<i>2017 Expenses associated with the investigation and prosecution of alleged crimes committed by inmates of the NYS Correctional Facilities as per attached list.</i>	<i>\$8,184</i>	<i>68</i>

7 State Aid Program or Applicable Statute:	TOTAL	<i>\$8,184</i>	<i>68</i>
8 Payee Certification: I certify that the above expenditures have been made in accordance with the provisions of the Applicable Statute; that the claim is just and correct; that no part thereof has been paid except as stated; that the balance is actually due and owing, and that taxes from which the State is exempt are excluded. → <i>Joseph Angere</i> Signature in Ink Title <i>Comptroller</i> Name of Municipality <i>Oneida County</i>	Less Receipts		
	NET		
	<i>100</i> State Aid % Claimed	<i>\$8,184</i>	<i>68</i>

FOR STATE AGENCY USE ONLY

STATE COMPTROLLER'S PRE-AUDIT

Merchandise Received	I certify that this claim is correct and just, and payment is approved.		State Aid	
Date	By _____		Verified	Certified For Payment of State Aid Amount
Page No.	Date _____		Audited	
By _____			By _____	

Expenditure						Liquidation					
Cost Center Code				Object	Accum		Amount	Orig. Agency	PO/Contract	Line	F/P
Dept.	Cost Center Unit	Var.	Yr.		Dept.	Statewide					

## PROPOSED RESOLUTION

**WHEREAS**, certain inmates incarcerated in the Midstate Correctional Facility, Marcy Correctional Facility and Mohawk Correctional Facility said inmates being in the custody of the New York State Department of Corrections, all institutions being located in the County of Oneida, have been the subject of an investigation and/or prosecution for the commission of various crimes while incarcerated in the aforementioned facilities, and

**WHEREAS**, the Oneida County District Attorney has conducted investigations of said crimes occurring in Oneida County and prosecuted said inmates, and

**WHEREAS**, Section 606 of the Correction Law mandates payments of state funds to the county for expenses incurred in the investigations of said crimes and the prosecution of state inmates, and

**WHEREAS**, the Oneida County District Attorney has certified to the Board that the expense associated in the investigation and prosecution of alleged crimes committed by Luis Alcantara, Stephen Andres, Simon Berman, Carlos Cabrera, Jeffery DeMosthene, Fabian Echevarria, Jamel Evans, Adarryll Hammond, Daniel Johnson, Moshawn Johnson, Darrell Lester, John Lugo, Michael Maldonado, Tyquan McClary, Mark Richter, Brandon Rosado, Walter Rosado, Michael Ruiz, Joseph Solivan, Donald Spellman, Andre Terry, Carence Thomas, Akhabue Ukpebor, Joel Uviles, Joshua Vega, Luis Vega, Salathiel Westerband and Bill Willis, Jr. amount to \$8,184.68, now, therefore,

**BE IT RESOLVED**, that this Resolution and the attached statement of the expense of the District Attorney be forwarded to the New York State Department of Corrections as required by Section 606 of the Correction Law.

Office of the Sheriff

Undersheriff Robert Swenszkowski  
Chief Deputy Jonathan G. Owens



County of Oneida

Chief Deputy Gregory Pflieger  
Chief Deputy Joseph A. Lisi

*Sheriff Robert M. Maciol*

January 14, 2018

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

FN 20 18-066

**PUBLIC SAFETY**

**WAYS & MEANS**

Dear County Executive Picente:

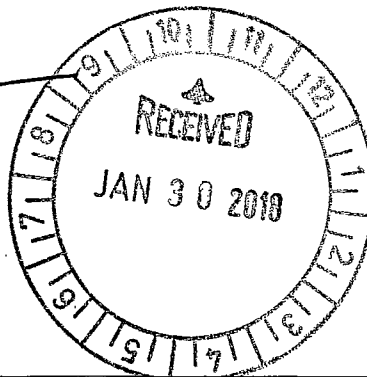
The Sheriff's Office is requesting approval of the attached amendment to a contract with Madison-Oneida BOCES . Madison-Oneida BOCES has requested an additional Deputy to be used as School Resource Officer at the school campus in Verona. This amendment will provide for a second SRO for the remainder of the 2017-2018 school year, beginning December 1, 2017. The usual charge of \$74,500.00 for the SRO will be pro-rated to reflect the December 1<sup>st</sup> start date for the new SRO, and will be charged to the District accordingly.

**THIS CONTRACT WILL REQUIRE BOARD APPROVAL AT THE NEXT BOARD MEETING.**

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

Sincerely,

Robert M. Maciol  
Sheriff



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

Anthony J. Picente, Jr.  
County Executive

Date 1-29-18

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

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

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

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

Oneida Co. Department: Sheriff's Office

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

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name & Address of Vendor:** Madison-Oneida BOCES  
4937 Spring Road  
Verona, New York 13478

**Title of Activity or Service:** Creation of one (1) additional School Resource Officer (SRO), for a total of two (2) SROs

**Proposed Dates of Operation:** December 1, 2017 – December 31, 2018

**Client Population/Number to be Served:** Madison Oneida BOCES

**Summary Statements**

**1) Narrative Description of Proposed Services:** Creation of an additional School Resource Officer position to be assigned at the Verona campus of Madison Oneida BOCES for a total of two (2) SROs for the remainder of the 2017-2018 school year.

**2) Program/Service Objectives and Outcomes:** Provide students with role models that guide them toward community activities that prevent delinquency; develop crime prevention programs; provide training in conflict resolution, restorative justice, crime awareness and anger management; provide security to students and staff.

**3) Program Design and Staffing:** Total of two (2) School Resource Officers to be assigned at the Verona campus for the remainder of the 2017-2018 school year beginning December 1, 2017.

**Total Funding Requested:** \$74,500 for new SRO (will be less as amount will be pro-rated to reflect start date of December 1<sup>st</sup> for additional SRO)

**Account #** A3120 & A2735 (revenue)

**Oneida County Dept. Funding Recommendation:** \$74,500 for new SRO (rate for the newly added SRO will be pro-rated)

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

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

**Past Performance Data:** This is a good program and Madison Oneida BOCES is pleased with the presence of the current SRO. Madison Oneida BOCES is requesting an additional SRO to be utilized at their Verona campus. This will be done by way of amendment to the original SRO agreement signed in December 2015.

**O.C. Department Staff Comments:** Creation of a Deputy Sheriff Patrol position will be needed.

**AMENDMENT TO AGREEMENT  
BETWEEN THE ONEIDA COUNTY SHERIFF'S OFFICE AND MADISON-ONEIDA  
BOARD OF COOPERATIVE EDUCATION SERVICES (BOCES)**

THIS AMENDMENT made on this \_\_\_\_ day of \_\_\_\_\_ 2017, is by and between Madison-Oneida BOCES, a Board of Cooperative Educational Services and supervising school district organized and existing under the laws of the State of New York, located at 4937 Spring Road, Verona, New York 13478, hereinafter referred to as the "District," and Oneida County, a municipal corporation organized and existing under the laws of the State of New York, with principal offices located at 800 Park Ave, Utica, New York 13501, through its Office of the Sheriff, located at 6065 Judd Road, Oriskany, New York 13424, hereinafter referred to as the "County" (collectively referred to as the "Parties").

WHEREAS, the Parties hereto entered into an agreement that was fully executed on December 15, 2015 (County contract no. 2365), hereinafter referred to as the "Original Agreement," a copy of which is annexed hereto as "Exhibit A;" and

WHEREAS, the Original Agreement is set to expire on December 31, 2018; and

WHEREAS, the District wishes to continue the Original Agreement and the County is willing to continue to provide the services therein; and

WHEREAS, the District seeks to amend the Original Agreement by adding one (1) additional School Resource Officer (SRO) to the District, for a total of two (2) SROs for the 2017-2018 school year; and

WHEREAS, the County wishes to provide the additional SRO to the District;

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the Parties do hereby agree to amend the Original Agreement as follows:

1. The first paragraph of the Recitals in the Original Agreement shall be amended to read as follows:

"WHEREAS, the District wishes to secure the services of one (1) School Resource Officer, hereinafter referred to as SRO, for the 2015-2016 and 2016-2017 school years, one (1) SRO for the beginning of the 2017-2018 school year through November 30, 2017, and two (2) SROs for the remainder of the 2017-2018 school year commencing December 1, 2017, to serve as law enforcement officers, role models, and as a resource to students and families at the Madison- Oneida BOCES facilities and related Madison-Oneida BOCES programs, and"

2. Paragraph 1 of the Original Agreement titled "Assignment of the SRO" shall be amended to read as follows:

“Assignment of the SRO. The Sheriff shall assign one (1) Uniformed Officer as SRO for the 2015-2016 and 2016-2017 school years, one (1) Uniformed Officer as SRO for the beginning of the 2017-2018 school year through November 30, 2017, and two (2) Uniformed Officers as SROs for the remainder of the 2017-2018 school year commencing December 1, 2017, to serve at the 5-12 Alternative Education building in Verona, NY, according to a schedule established by mutual Agreement between the Sheriff and the District. The SRO will wear the uniforms issued by Oneida County Sheriff’s Office, including sidearm in an authorized holster when appropriate.”

3. Paragraph 11(a) of the Original Agreement titled “Compensation. Basic Payment” shall be amended to address the addition of one (1) additional SRO as follows:

“Basic Payment. The District agrees to pay the Sheriff an amount equal to the rate of pay and fringe benefits contained in the Collective Bargaining Agreement (CBA) between the Sheriff Deputies and the County in effect at the time that services are provided. It is understood that said rates may change upon any future CBA which becomes effective during the life of this Agreement. Based upon the current CBA which expires December 31, 2015, the estimated rates to be paid under this Agreement are \$69,500 for the 2015-2016 school year; \$72,000 for the 2016-2017 school year; and \$74,500 for each SRO for the 2017-2018 school year. The amount due for the newly added SRO will be pro-rated for the remainder of the 2017-2018 school year in accordance with the December 1, 2017 start date. The payment will cover the normal work day and week (Monday – Friday, 7:30 AM to 3:30 PM), up to the maximum regular hours per week not to exceed 40 hours. The County shall provide the District with notice of any new collectively bargained rates of pay and/or fringe benefits within ten (10) days of ratification of a CBA setting said rates. The new collectively bargained rates of pay shall become effective upon the date specified in the CBA. The estimated rates for compensation under this Agreement shall be adjusted and the actual rates reconciled with payments made as of the effective date of the agreement. In the event that such reconciliation results in a credit to the District, it shall be applied to offset subsequent payments due, and if such adjustment results in an amount due the County, it shall be included in the next quarterly payment.

4. Areas of the Original Agreement that refer to the SRO in the singular may be referred to in the plural form to account for the two (2) SROs for part of the 2017-2018 school year.
5. All other terms and conditions of the Original Agreement shall remain in full force and effect.

IN WITNESS THEREOF, this Amendment has been duly executed and signed by:

Oneida County:

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

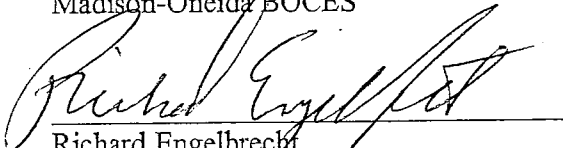
Date \_\_\_\_\_

Oneida County Sheriff's Office:

\_\_\_\_\_  
Robert M. Maciol  
Oneida County Sheriff

Date \_\_\_\_\_

Madison-Oneida BOCES

  
\_\_\_\_\_  
Richard Engelbrecht  
Board President

Date 12-7-17

Approved

\_\_\_\_\_  
Alison Stanulevich  
Assistant County Attorney

AGREEMENT  
BETWEEN  
THE ONEIDA COUNTY SHERIFF'S OFFICE  
AND  
MADISON-ONEIDA BOARD OF COOPERATIVE  
EDUCATION SERVICES (BOCES)

THIS AGREEMENT, made and entered into, by and between the Oneida County Sheriff, a public officer duly elected under the laws of the State of New York, 6065 Judd Road, Oriskany, New York, 13424, hereinafter referred to as "Sheriff", the County of Oneida, a municipal corporation organized and existing under the laws of the State of New York, hereinafter referred to as "County" and Madison-Oneida BOCES, a Board of Cooperative Educational Services and supervising school district organized and existing under the laws of the State of New York, 4937 Spring Road, Verona, New York 13478, hereinafter referred to as "District".

WITNESSETH

WHEREAS, the District wishes to secure the services of a one School Resource Officer, hereinafter referred to as SRO, for the 2015-2016, 2016-2017, 2017-2018 school years, to serve as law enforcement officers, role models, and as a resource to students and families at the Madison-Oneida BOCES facilities and related Madison-Oneida BOCES programs, and

WHEREAS, the Sheriff, the County and the District wish to enter into a partnership to provide law enforcement and other appropriate services to the students, staff, and faculty of Madison-Oneida BOCES and related Madison-Oneida BOCES programs, and

WHEREAS, the Sheriff, the County and the District declare that the parties' goals are the following:

1. To establish a multidisciplinary team consisting of experienced and trained personnel from law enforcement and the staff of the District
2. To increase the physical presence of the SRO within the District facilities,
3. To decrease the number of incidences involving outside police intervention at the District facilities,
4. To increase a sense of safety and order within the school setting, and



5. To provide counseling and advice to troubled students and staff within the District.

WHEREAS, the Sheriff has the personnel possessing the requisite skills and expertise to provide such services to the District

NOW THEREFORE, in consideration of the mutual promise made herein, the Sheriff, the County and the District agree as follows:

1. Assignment of the SRO. The Sheriff shall assign one Uniformed Officer as SRO to serve at the 5-12 Alternative Education building in Verona, NY, according to a schedule established by mutual Agreement between the Sheriff and the District. The SRO will wear the uniforms issued by Oneida County Sheriff's Office including sidearm in an authorized holster when appropriate.
2. Supervision of the SRO. The SRO will be under the supervision of a designated member of the Sheriff's Law Enforcement Division and such SRO shall coordinate his/her activities at the District with the Madison-Oneida BOCES Director of Alternative and Special Education Programs or designee.
3. Duties of the SRO. The SRO duties shall be as follows:
  - a. Provide for the security and safety of all students, staff and visitors.
  - b. Protect school property and maintain order in and around the school site.
  - c. Provide intervention between students and/or staff using appropriate techniques to calm and control situations.
  - d. Under the supervision of the Principal or designee, investigate all crimes and incidents occurring on and in the vicinity of school grounds and provide the appropriate documentation for such investigations.
  - e. Report all violations of law, school rules, regulations or policies to school administration.
  - f. Enforce New York State laws, rules and regulations.
  - g. Act as liaison with police and fire officials.
  - h. Advise school administration of any circumstances or situations that may create a potential for harm to persons, or damage to or loss of property.
  - i. Screen all persons entering the building or school grounds when in a position to do so. Take necessary action to prohibit loitering and trespassing on school grounds.
  - j. Become familiar with all hidden recesses in the building and checks them periodically.
  - k. Become familiar with the Student Code of Conduct, particularly prohibited items such as cell phones, pagers, iPods, wearing of hats, etc. Take required action to enforce the Code of Conduct and/or seize prohibited items.
  - l. Enforce Code of Conduct.

- m. Maintain post integrity. Be highly visible at all times and refrain from unnecessary fraternization with other officers/employees.
- n. Report for duty in a timely manner. If unable to work, give prior notification to the District and the Sheriff to make sure that a substitute or other arrangements have been made to insure a uniform presence by the Sheriff's Office at the District.
- o. Question any individual not having appropriate identification who appears to be a student to ascertain his/her status.
- p. Act as a mentor to students by maintaining an appropriate casual relationship with students; attempt to develop a rapport with students.
- q. Develop a common working relationship with the staff of the District.
- r. Report directly to the Principal or his/her designee.
- s. When requested, participate in meetings with school officials, parents or the School Board to assist in dispute resolution and/or in developing policy and procedures concerning school safety.

4. Sheriff's Responsibilities. The Sheriff further agrees as follows:

- a. To provide an SRO who:
  - i. Possesses a minimum of 40 hours of specialized SRO training.
  - ii. Demonstrate a broad base of knowledge regarding youth, social issues, and the criminal justice system.
  - iii. Demonstrate:
    - Effective verbal and written communication skills, including the ability to address public audiences in the school, business and community settings;
    - Ability to related to youth, especially the "at risk" and "special needs" populations;
    - Working knowledge of social services providers and other community justice and school resources;
    - Ability to identify, analyze and recommend solutions to complex behavioral and social problems;
    - A genuine interest in at-risk youth;
    - Meet all education and experience requirements set forth by Oneida County and New York State.

- b. Ensure the SRO or their substitute spends an average of 30 hours per week, on-site at the 5-12 Alternative Education building in Verona, NY between September and June when school is in session.
  - c. Submit appropriate verification forms to be signed by authorized school personnel to provide audit documentation of time spent on campus.
  - d. Submit quarterly vouchers to the District for services rendered.
  - e. Cooperate with the District to implement the SRO program with the least possible disruption to the educational process.
5. District's Responsibilities. The District's responsibilities under this program are as follows:
- a. Implement the SRO program in accordance with guidelines established herein by the parties.
  - b. Designate an employee as the School Representative through which day to day business contact will be conducted with SRO.
  - c. Provide the SRO with full access to school facilities, personnel and students.
  - d. Ensure that school personnel, school board members, students and parents are informed of the duties and presence of the SRO on campus.
  - e. Provide time and appropriate space for the SRO to conduct approved staff, student and parent training.
  - f. Provide space for the SRO to store instructional materials and perform necessary tasks directly related to the SRO program.
  - g. Evaluate the program and administer annual assessment of partnership/program.
  - h. Make recommendations and program adjustments as appropriate.
6. Confidentiality and Disclosure of Records.
- a. *Confidentiality.* The parties agree that all information exchanged is considered confidential and subject to provisions of Federal and New York State Law, and will be used only for the purposes outlined in this Agreement.
  - b. *Records Disclosure.* The Sheriff, the County and the District agree to comply with the requirements set forth in the Family Education Rights to Privacy Act (FERPA), the New York State Education Law Section 2-D, and regulations promulgated under those laws, as the same may be amended from time to time. Attached hereto and made a part of this Agreement are the terms required by New York Education Law Section 2-D concerning the disclosure of protected personally identifiable student, principal and teacher information from disclosure.

c. HIV Related Information.

(i). *Non-Discrimination.* The Sheriff, the County, the assigned SRO and any substitute SRO shall not discriminate or refuse assistance to individuals with AIDS or HIV infection from an HIV related test. It is agreed that the Sheriff and any member of his staff with whom confidential HIV related information may be given as a necessity for providing services and in accordance with 403 of Title 18 NYSDSS regulation and Section 2782 of the Public Health Law are fully informed of the penalties and fines for disclosure in violations of State Law and Regulations.

(ii). *Re-disclosure.* The following written statement must be included when disclosing any confidential HIV related information:

"This information has been disclosed to you from confidential records which are protected by State Law. State Law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State Law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for further disclosure."

7. Entire Agreement, Amendments, Applicable Law and Savings. The parties agree that this agreement and any addenda incorporated into this agreement whether or not physically attached, represent the entire agreement between them. Any amendments to this Agreement require the written consent of all parties. This Contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise. 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 remainder of the agreement shall continue in full force and effect.

8. Term of Agreement. The Agreement will be effective beginning on September 1, 2015 and expire on December 31, 2018, without notice, unless terminated earlier as provided in this agreement.

9. Resolution of Issues/Termination.

a. In case of deficiencies of service or other SRO programmatic issues, the District will first develop an Action Plan in concert with the Sheriff to address the issues. In the event that the issues cannot be resolved through the Action Plan, the District reserves the right to terminate services and this Agreement with a thirty (30) day notice.

- b. If circumstances arise that the Sheriff feels warrant termination of this Agreement on his part, he must first address the issues in writing to the District. A subsequent meeting will be held and an Action Plan developed to resolve the issue. In the event that the issues cannot be resolved through these steps, the Sheriff reserves the right to terminate services and this Agreement upon thirty (30) days written notice.
- c. The parties will use their best efforts to resolve any disputes between them concerning performance or administrative issues by negotiation and agreement. The exclusive means of disposing of any dispute arising under a contract with BOCES which is not resolved by agreement shall be by a New York State Court of competent jurisdiction located within Oneida County, New York. There shall be no right to binding arbitration. Pending final resolution of a dispute, the Sheriff must proceed diligently with contract performance. Each party waives any dispute or claim not made in writing and received by the other parties within thirty (30) days of the occurrence giving rise to the dispute or claim. The claim must be in writing for sum certain and must be fully supported by all cost and pricing information.

#### 11. Compensation.

a. *Basic Payment.* The District agrees to pay the Sheriff an amount equal to the rate of pay and fringe benefits contained in the Collective Bargaining Agreement (CBA) between the Sheriff Deputies and the County in effect at the time that services are provided. It is understood that said rates may change upon any future (CBA) which becomes effective during the life of this Agreement. Based upon the current CBA which expires December 31, 2015, the estimated rates to be paid under this Agreement are \$69,500 for the 2015-2016 school year; \$72,000 for the 2016-2017 school year; and \$74,500 for the 2017-2018 school year. The payment would cover the normal work day and week (Monday – Friday, 7:30 AM to 3:30 PM), up to the maximum regular hours per week not to exceed 40 hours. The County shall provide the District with notice of any new collectively bargained rates of pay and/or fringe benefits within ten (10) days of ratification of a CBA setting said rates. The new collectively bargained rates of pay shall become effective upon the date specified in the CBA. The estimated rates for compensation under this Agreement shall be adjusted and the actual rates reconciled with payments made as of the effective date of the agreement. In the event that such reconciliation results in a credit to the District, it shall be applied to offset subsequent payments due, and if such adjustment results in an amount due the County, it shall be included in the next quarterly payment.

b. *Additional Hours.* If additional coverage is deemed necessary by the District beyond the normal 8 hour work day and 40 hour work week, the rate to be paid by District to County for such additional hours of work will be the current hourly rate for special Sheriff details as set by the Collective Bargaining Agreement then in effect.

c. *Incidental and Unrelated Costs.* Incidental costs to include pager, vehicle, uniforms and ongoing training costs shall be covered by the Sheriff. Any time spent by the SRO that is not related to the interest of the District will not be considered time worked as an SRO or reimbursed by District. Any expenses or financial obligations made by an SRO without the prior approval of the District will become the responsibility of the Sheriff.

d. *Billing & Payment.* The District agrees to pay the Sheriff on a quarterly basis upon presentation of a Billing Statement, listing the Contract number, name and any attached data including the date and times worked by the SRO.

12. *Status of Parties.* It is expressly understood and agreed that the legal status of the Sheriff and County, its officers and employees, vis-à-vis the District under this Agreement is that of an independent Contractor, and in no manner shall the SRO be deemed an employee of BOCES. The County agrees, during the term of this Agreement, to maintain at its expense those benefits to which the SRO, as its employee, would otherwise be entitled by law, including health benefits, and all necessary insurances for its employees, including worker's compensation, disability and unemployment insurance, and to provide BOCES with certification of such insurance upon request. The County remains responsible for all applicable federal, state and local taxes, and all FICA contributions. In the event of injury occurring to the SRO while working at the District, the District will pay the County the sum of \$50.00 per day up to a maximum of seven (7) days for such period that the SRO is unable to work due to such injury.

13. *Indemnification & Insurance.*

a. The District agrees to indemnify, save and hold harmless the County and the Sheriff, their agents, servants, employees and subcontractors from any claims, demands, causes of action and/or judgments arising out of injuries to person or property of whatever kind or nature caused by the negligence and/or willful misconduct of the District, its agents, servants, employees or subcontractors in connection with the performance of this agreement, and to defend at its own cost, such action or proceeding.

b. The County and the Sheriff mutually agree to indemnify, save and hold harmless the District, its agents, servants, employees and subcontractors from any claims, demands

causes of action and/or judgments arising out of injuries to person or property of whatever kind or nature caused by the negligence and/or willful misconduct of the County and/or the Sheriff, its agents, servants, employees or subcontractors in connection with the performance of this Agreement, and to defend at their own cost, such action or proceeding.

- c. The District agrees that it will, at its own expense, at all times during the term of this Agreement, maintain in force a policy of insurance which will insure against liability for property damage and/or injury/death with regard to any property or persons. The liability and property damage coverage of such insurance shall not be less than One Million Dollars (\$1,000,000). The District agrees to have the Sheriff and the County added to said insurance policies as additional insureds, as their interest may appear and to provide the Sheriff and the County with a certificate from said insurance company or companies showing coverage as herein before required, such Certificate to show the Sheriff and the County as additional insureds and to provide that such coverage shall not be terminated without written prior notice to the Sheriff and the County of at least thirty (30) days.
  - d. The County agrees that it will, at its own expense, at all times during the term of this agreement, maintain in full 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). The County agrees to have the District added to said insurance policies as a named additional insured, as its interest may appear, and to provide the District with a certificate from said insurance company or companies, showing coverage as herein before required, such certificate to show the District as additional insured and to provide that such coverage shall not be terminated without written prior notice to the District of at least thirty (30) days.
15. No Special Duty. Nothing in this agreement shall create a special duty to the District or to any third party, including but not limited to employees and students of the District. The Sheriff cannot promise or guarantee crime prevention, safety or security.
16. Suspension of Work.
- a. District, in its sole discretion, reserves the right to suspend any or all activities under this Agreement at any time if deemed to be in the best interests of BOCES. In the event of such suspension, the Sheriff will be given a formal written notice outlining the particulars of such suspension. Examples of the reason for such suspension include, but are not limited to, a

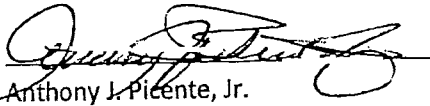
budget freeze on Contractor spending, a force majeure event, a declaration of emergency, or other such circumstances. Upon issuance of such notice, the Sheriff shall comply with the suspension order. Activity may resume at such time as BOCES issues a written notice authorizing a resumption of work.

- b. Neither party shall be liable for any delay or failure in performance beyond its control resulting from acts of God or force majeure. The parties shall use reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties under Contract.

17. No party may assign this agreement, any part hereof, or any rights hereunder, without the written advance consent of both other parties.

IN WITNESS WHEREOF, the County, the Sheriff, and the District have signed this Agreement effective on the day and year first above written.

For Oneida County:



Anthony J. Picente, Jr.  
County Executive

12/15/15  
Date

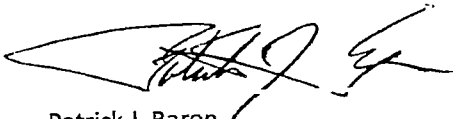
For the Oneida County Sheriff's Office:



Robert M. Maciol  
Oneida County Sheriff

12/29/15  
Date

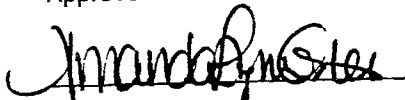
For Madison-Oneida BOCES



Patrick J. Baron  
Board President

9-2-15  
Date

Approved as to Form



Amanda P. Steer  
Oneida County Attorney

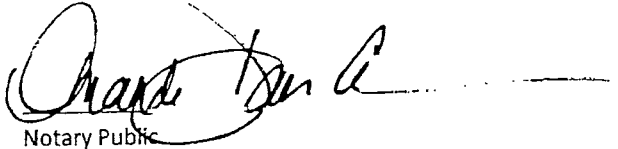
[Acknowledgments on next page.]



State of New York )

County of Oneida ) ss:

On the 14<sup>th</sup> day of December in the year 2015, before me, the undersigned, a notary public in and for said 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 entity or individual upon behalf of which the individual acted, executed the instrument.



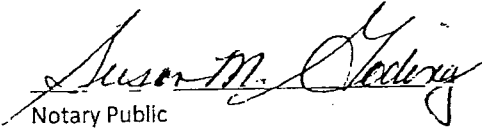
Notary Public

AMANDA DANIELS CARROLL  
Commissioner of Deeds  
City of Utica, New York  
Commission Expires Dec. 31, 20 16

State of New York )

County of Oneida ) ss:

On the 27<sup>th</sup> day of SEPTEMBER in the year 2015, before me, the undersigned, a notary public in and for said state, personally appeared **Robert M. Maciol**, 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 entity or individual upon behalf of which the individual acted, executed the instrument.



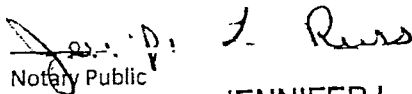
Notary Public

SUSAN M. GOLINO  
Notary Public, State of New York  
Reg. # 01G0003003  
Qualified in Oneida County  
My Commission Expires Jan. 16, 20 19

State of New York )

County of Oneida ) ss:

On the 3 day of September in the year 2015, before me, the undersigned, a notary public in and for said state, personally appeared **Patrick J. Baron**, 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 entity or individual upon behalf of which the individual acted, executed the instrument.



Notary Public

JENNIFER L. RUSS  
Notary Public, State of New York  
Qualified in Madison Co. No. 5027210  
Commission Expires May 2, 18 2018

Contract Addendum  
To Conform To New York State Education Law Section 2-d  
(Student Data, Pending Bill of Rights)

The parties to this Contract Addendum are the Madison-Oneida Board of Cooperative Educational Services ("BOCES"), the Oneida County Sheriff ("Sheriff"), and the County of Oneida ("County". All three collectively referred to as "Parties").

BOCES is an educational agency, as that term is used in Section 2-d of the New York State Education Law ("Section 2-d), and Sheriff and County are third party contractors, as that term is used in Section 2-d. BOCES and Vendor are parties to an agreement, dated concurrently with this Addendum ("the Underlying Agreement"), pursuant to which the designated employee of the Sheriff serving as the School Resource Officer ("SRO") in performing his duties will receive access to student data regulated by Section 2-d, from BOCES, from a participating school district or related educational agency sources.

The Parties hereby enter into this Contract Addendum to conform the terms of the Underlying Agreement to the requirements of Section 2-d. To the extent that any term of the Underlying Agreement conflicts with the terms of this Contract Addendum, the terms of this Contract Addendum shall apply and be given effect.


1. As used in this Contract Addendum, the term "student data" means personally identifiable information from student records that the SRO receives from BOCES, from a participating school district or related educational agency sources.
2. The Parties agree that the confidentiality of student data shall be maintained in accordance with state and federal laws that protect the confidentiality of personally identifiable information.
3. Sheriff agrees that any of its officers or employees, and any officers or employees of any assignee of Sheriff, who have access to personally identifiable information will receive training on the federal and state law governing confidentiality of such data prior to receiving access to that data. (Said training may be provided by BOCES or other appropriately qualified source.)
4. The exclusive purpose for which the SRO is being provided access to personally identifiable information is to carry out the duties of SRO as set forth in the Underlying Agreement. Student data received by the SRO, or by any assignee of Sheriff, from BOCES, from a participating school district or related educational agency sources shall not be sold or used for marketing purposes.
5. The SRO and Sheriff shall ensure that to the extent that it comes into possession of personally identifiable information, it will only share that personally identifiable information with additional third parties if those third parties are contractually bound to adhere to the data protection and security requirements set forth in this agreement.

6. This agreement commences on September 1, 2015 and expires June 30, 2018. It is expected that this agreement shall run concurrently with the term of the Underlying Agreement. Upon expiration of this agreement without a successor agreement in place, the Sheriff and SRO shall assist BOCES in exporting, in a usable format and to readable storage, all student data previously received from BOCES, from a participating school district or from related educational agency sources, and shall thereafter securely destroy any copy of the data remaining in Sheriff and SRO's possession. These obligations shall extend to student data provided to Sheriff and SRO and shared by them with any third party.
7. In the event that a parent, student, or eligible student wishes to challenge the accuracy of student data concerning that student or eligible student, that challenge shall be processed through the procedures provided by the student's district of enrollment for amendment of education records under the Family Educational Rights and Privacy Act (FERPA).
8. Student data transferred to Sheriff, SRO or County in electronic format will be stored in electronic memory (servers) owned and maintained by them in the United States. The measures that they will take to protect the privacy and security of student data while it is stored in that manner include, but are not necessarily limited to adherence to their security protocols and policies, use of encryption and other security technology.
9. Vendor acknowledges that under NY Education Law Section 2-d it and its assignees have the following obligations with respect to any personally identifiable information received from BOCES, from a participating school district or related educational agency sources, and any failure to fulfill one of these statutory obligations shall be a breach of this Contract Addendum and the Underlying Agreement :
- a) Sheriff, SRO and any assignees shall limit internal access to education records to those individuals that are determined to have a legitimate educational interest in those records;
  - b) Sheriff, SRO and any assignees shall not use education records for any purpose other than those explicitly authorized in this Agreement;
  - c) Sheriff, SRO and any assignees shall not disclose any personally identifiable information to a third party who is not an authorized representative of the Sheriff or County using the information to carry out Sheriff's obligations under this Agreement, unless (1) that other third party has the prior written consent of the parent or eligible student, or (ii) the disclosure is required by statute or court order, and notice of the disclosure is provided to the source of the information no later than the time of disclosure, unless such notice is expressly prohibited by the statute or court order;
  - d) Sheriff, SRO and any assignees shall maintain reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of personally identifiable information in its custody;

- e) Sheriff, SRO and any assignees shall use encryption technology to protect data while in motion or in its custody from unauthorized disclosure using a technology or methodology specified by the secretary of the U.S. Department of HHS in guidance issued under P.L. 111-5, Section 13402(H)(2); and
- f) Sheriff, SRO and any assignees shall notify the educational agency from which student data is received of any breach of security resulting in an unauthorized release of student data by the Vendor or its assignees in violation of state or federal law, or of contractual obligations relating to data privacy and security in the most expedient way possible and without unreasonable delay.


10. It is understood that a further Contract Addendum may be necessary to ensure compliance with Section 2-d, after certain regulations have been promulgated or amended by the New York State Education Department, and the parties agree to take such additional steps as may be necessary at that time.

For Oneida County:

  
Anthony J. Picente, Jr.  
County Executive


10/15/15  
Date

For the Oneida County Sheriff's Office:

  
Robert M. Maciol  
Oneida County Sheriff

Date

For Madison-Oneida BOCES

  
Patrick Baron  
President

9-3-15  
Date

Approved as to Form

  
Amanda J. Carter  
Oneida County Attorney



ONEIDA COUNTY  
DEPARTMENT OF EMERGENCY SERVICES  
FIRE COORDINATOR  
911 CENTER

ANTHONY J. PICENTE, JR.  
County Executive

KEVIN W. REVERE  
Director

120 Base Road ♦ Oriskany, New York 13424  
Phone: (315) 765-2526 ♦ Fax: (315) 765-2529

January 24, 2018

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

FN 20 18-067

**PUBLIC SAFETY**

**WAYS & MEANS**

Dear County Executive Picente,

This is a grant contract awarded to Oneida County under the FY2017 Emergency Management Performance Grant (EMPG). Funding for this grant is provided by the United States Department of Homeland Security, Federal Emergency Management Agency (FEMA). The grant covers the period from October 1, 2016 to September 30, 2018.

The purpose of the EMPG Program is to provide Federal funds to assist State and Local governments in preparing for all hazards. The Federal Government, through the EMPG Program, provides the necessary direction, coordination, and guidance to support a comprehensive all-hazards emergency preparedness system.

The amount of this grant to Oneida County is \$92,407.00, and requires a match from the County in an equal amount of \$92,407.00, bringing the total amount of this project to \$184,814.00.

In order to meet the match requirements of this grant, we request that a supplemental appropriation be approved in the amount of \$40,000.00 to Account #A3020.251. These funds are designated for a replacement emergency response vehicle, as described in the Grant Budget Summary. The remaining matching funds requirement will come from existing personnel expenses, already approved in the 2018 budget.

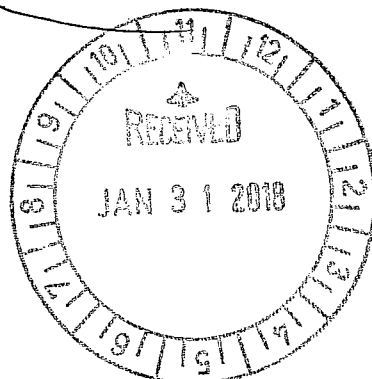
I respectfully request that this contract be submitted to the Board of Legislators for approval, and when approved, please have it electronically signed. If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "KWR", written over a horizontal line.

Kevin W. Revere  
Director

kmg



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

A handwritten signature in black ink, appearing to read "Anthony J. Picente, Jr.", written over a horizontal line.

Anthony J. Picente, Jr.  
County Executive

Date 1-31-18

Oneida Co. Department: Emergency Services

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

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

Name & Address of Vendor: New York State Division of Homeland Security  
And Emergency Services  
1220 Washington Avenue  
Bldg. 7A, Suite 710  
Albany, NY 12242

Title of Activity or Service: **FY-2017 Emergency Management Performance Grant  
(EMPG)**

Proposed Dates of Operation: 10/1/2016 – 9/30/2018

Client Population/Number to be Served: Oneida County

**Summary Statements**

- 1) **Narrative Description of Proposed Services:**  
Funding to assist in the operations of the Department of Emergency Services, and with the purchase of a replacement vehicle.
- 2) **Program/Service Objectives and Outcomes:**  
To support the development and maintenance of a comprehensive emergency management effort in the County.
- 3) **Program Design and Staffing:** N/A

**Total Funding Requested:** \$184,814.00                      **Account #**

**Oneida County Dept. Funding Recommendation:** \$184,814.00

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

State: \$92,407.00 (50%)                      County Match: \$92,407.00 (50%)

To meet the match requirement, the Department requests a supplemental appropriation be made in the amount of \$40,000.00 to Account #A3020.251.

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

**Past Performance Data:** N/A

**O.C. Department Staff Comments:** Yearly grant application that requires a County match of funds. Please note that electronic signature is required.

<p><b>STATE AGENCY</b>                  New York State Division of Homeland Security and Emergency Services                  1220 Washington Avenue                  Building 7A Suite 710                  Albany, NY 12242</p>	<p><b>NYS COMPTROLLER'S NUMBER:</b> C972075                  (Contract Number)   <b>ORIGINATING AGENCY CODE:</b> 01077</p>
<p><b>GRANTEE/CONTRACTOR:</b> (Name &amp; Address)                  Oneida County                  800 Park Avenue                  Utica, NY 13501</p>	<p><b>TYPE OF PROGRAMS:</b> WM2017 EMPG  <b>CFDA NUMBER:</b> 97.042  <b>DHSES NUMBERS:</b> WM17972075</p>
<p><b>FEDERAL TAX IDENTIFICATION NO:</b> 15-6000460  <b>MUNICIPALITY NO:</b> (if applicable) 300100000 000  <b>SFS VENDER NO:</b> 1000002595  <b>DUN &amp; BRADSTREET NO:</b> 075814186</p>	<p><b>INITIAL CONTRACT PERIOD:</b>                  FROM 10/01/2016 TO 09/30/2018  <b>FUNDING AMOUNT FOR INITIAL PERIOD:</b> \$92,407.00</p>
<p><b>STATUS:</b>                  Contractor is not a sectarian entry.                  Contractor is not a not-for-profit organization.</p>	<p><b>MULTI-YEAR TERM:</b> (if applicable)</p>
<p><b>CHARITIES REGISTRATION NUMBER:</b>                  _____                  (Enter number of Exempt)                  if "Exempt" is entered above, reason for exemption.  <u>0 - not exempt</u></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Contractor has _____ has not _____ timely filed with the Attorney General's Charities Bureau all required periodic or annual written reports.</p> </div>	<p><b>APPENDIX ATTACHED AND PART OF THIS AGREEMENT</b></p> <p><input type="checkbox"/> APPENDIX A Standard Clauses required by the Attorney General for all State contracts</p> <p><input checked="" type="checkbox"/> APPENDIX A1 Agency-specific Clauses</p> <p><input checked="" type="checkbox"/> APPENDIX B Budget</p> <p><input checked="" type="checkbox"/> APPENDIX C Payment and Reporting Schedule</p> <p><input checked="" type="checkbox"/> APPENDIX D Program Workplan and Special Conditions</p> <p><input type="checkbox"/> APPENDIX X Modification Agreement Form (to accompany modified appendices for changes in terms or considerations on an existing period or for renewal periods)</p> <p><input type="checkbox"/> DHSES-55 Budget Amendment/Grant Extension Request</p> <p><input type="checkbox"/> Other - Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion</p>
<p>IN WITNESS THEREOF, the parties hereto have electronically executed or approved this AGREEMENT on the dates of their signatures.</p>	
<p>NYS Division of Homeland Security and Emergency Services                  BY: _____ Date: _____  <b>State Agency Certification:</b> "In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract".                  GRANTEE:                  BY: Hon. Anthony J. Picente, Jr., County Executive Date: _____</p>	
<p><b>ATTORNEY GENERAL'S SIGNATURE</b>                  _____                  Title: _____                  Date: _____</p>	<p><b>COMPTROLLER'S SIGNATURE</b>                  _____                  Title: _____                  Date: _____</p>

1/24/2018

Award Contract

**Award Contract**

**EMPG**

**Project No.**

**Grantee Name**

01/24/2018

EM17-1044-D00

Oneida County



1/24/2018

Award Contract

**Award Contract**

**EMPG**

**Project No.**

**Grantee Name**

01/24/2018

EM17-1044-D00

Oneida County

**Award Contract****EMPG****Project No.**

EM17-1044-D00

**Grantee Name**

Oneida County

01/24/2018

NEW YORK STATE  
DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES  
GRANT CONTRACT

## APPENDIX A-1

The Contract is hereby made by and between the State of New York, acting by and through the New York State Division of Homeland Security and Emergency Services (DHSES or State Agency) and the public or private entity ('Contractor' or 'Subrecipient') identified on the face page hereof (Face Page).

## WITNESSETH:

WHEREAS, the State has the authority to regulate and provide funding for the establishment and operation of program services, design or the execution and performance of construction projects, as applicable and desires to contract with skilled parties possessing the necessary resources to provide such services or work, as applicable; and

WHEREAS, the Contractor is ready, willing and able to provide such program services or the execution and performance of construction projects and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services or work, as applicable, required pursuant to the terms of the Contract;

NOW THEREFORE, in consideration of the promises, responsibilities, and covenants herein, the State and the Contractor agree as follows:

## STANDARD TERMS AND CONDITIONS

## I. GENERAL TERMS AND CONDITIONS

A. Executory Clause: In accordance with Section 41 of the State Finance Law, the State shall have no liability under the Contract to the Contractor, or to anyone else, beyond funds appropriated and available for the Contract.

B. Required Approvals: In accordance with Section 112 of the State Finance Law (or, if the Contract is with the State University of New York (SUNY) or City University of New York (CUNY), Section 355 or Section 6218 of the Education Law), if the Contract exceeds \$50,000 (or \$85,000 for contracts let by the Office of General Services, or the minimum thresholds agreed to by the Office of the State Comptroller (OSC) for certain SUNY and CUNY contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount including, but not limited to, changes in amount, consideration, scope or contract term identified on the Face Page (Contract Term), it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the New York Attorney General Contract Approval Unit (AG) and OSC. If, by the Contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the AG and OSC.

Budget Changes: An amendment that would result in a transfer of funds among program activities or budget categories that does not affect the amount, consideration, scope or other terms of such contract may be subject to the approval of the Offices of the State Comptroller and Attorney General where the amount of such modification is, as a portion of the total value of the contract, equal to or greater than ten percent for contracts of less than five million dollars, or five percent for contracts of more than five million dollars; and, in addition, such amendment may be subject to prior approval by the applicable State Agency as detailed in Appendix C (Payment and Reporting Schedule).

C. Contract Parts: This Contract incorporates the face pages attached, this Appendix and all of the marked Appendices identified on the face page hereof.

D. Order of Precedence: In the event of a conflict among (i) the terms of the Contract (including any and all Appendices and amendments) or (ii) between the terms of the Contract and the original request for proposal, the program application or other Appendix that was completed and executed by the Contractor in connection with the Contract, the order of precedence is as follows:

1. Appendix A-1<sup>1</sup>
2. Modifications to the Face Page

3. Modifications to Appendices B, C and D

4. The Face Page

5. Appendices B, C and D

6. Other attachments, including, but not limited to, the request for proposal or program application

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

F. Funding: Funding for the entire Contract Period shall not exceed the funding amount specified as 'Funding Amount for the Initial Period' on the Face Page hereof or as subsequently revised to reflect an approved renewal or cost amendment. Funding for the initial and subsequent periods of the Contract shall not exceed the applicable amounts specified in the applicable Appendix B form (Budget).

G. Contract Period: The period of this Contract shall be as specified on the face page hereof.

H. Contract Performance: The Contractor shall perform all services or work, as applicable, and comply with all provisions of the Contract to the satisfaction of the State. The Contractor shall provide services or work, as applicable, and meet the program objectives summarized in Appendix D (Work Plan and Special Conditions) in accordance with the provisions of the Contract, relevant laws, rules and regulations, administrative, program and fiscal guidelines, and where applicable, operating certificate for facilities or licenses for an activity or program. For federally-funded grants, DHSES will conduct an evaluation to determine risks posted by Contractors in managing federal awards. Consistent with 2 CFR §200.331, the results of the evaluation may result in the imposition special conditions to this Contract including but not limited to increased monitoring, suspension of reimbursements and cancellation of the Contract.

I. Modifications: To modify the Contract, the parties shall revise or complete the appropriate appendix form(s). Any change in the amount of consideration to be paid, change in scope, or change in the term, is subject to the approval of the NYS Office of the State Comptroller. Any other modifications shall be processed in accordance with DHSES guidelines as stated in this Contract.

J. Severability: Any provision of the Contract that is held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof; provided, however, that the parties to the Contract shall attempt in good faith to reform the Contract in a manner consistent with the intent of any such ineffective provision for the purpose of carrying out such intent. If any provision is held void, invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

K. Interpretation: The headings in the Contract are inserted for convenience and reference only and do not modify or restrict any of the provisions herein. All personal pronouns used herein shall be considered to be gender neutral. The Contract has been made under the laws of the State of New York, and the venue for resolving any disputes hereunder shall be in a court of competent jurisdiction of the State of New York.

L. Notice:

1. All notices, except for notices of termination, shall be in writing and shall be transmitted either:

a. by certified or registered United States mail, return receipt requested;

b. by facsimile transmission;

c. by personal delivery;

d. by expedited delivery service; or

e. by e-mail.

2. Notices to the State shall be addressed to the Program Office.

3. Notices to the Contractor shall be addressed to the Contractor's designee.

4. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery services or certified or registered United States mail, as of the date of first attempted delivery at the address and in

the manner provided herein, or in the case of facsimile transmission or e-mail, upon receipt.

5. The parties may, from time to time, specify any new or different e-mail address, facsimile number or address in the United States as their address for purpose of receiving notice under the Contract by giving fifteen (15) calendar days prior written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under the Master Contract. Additional individuals may be designated in writing by the parties for purposes of implementation, administration, billing and resolving issues and/or disputes.

M. Service of Process: In addition to the methods of service allowed by the State Civil Practice Law & Rules (CPLR), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. The Contractor shall have thirty (30) calendar days after service hereunder is complete in which to respond.

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

O. Indemnification: The Contractor shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the Contractor or its subcontractors pursuant to this Contract. The Contractor shall indemnify and hold harmless the State and its officers and employees from claims, suits, actions, damages and cost of every nature arising out of the provision of services pursuant to the Contract.

P. Non-Assignment Clause: In accordance with Section 138 of the State Finance Law, the Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet, or otherwise disposed of without the State's previous written consent, and attempts to do so shall be considered to be null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract, let pursuant to Article XI of the State Finance Law, may be waived at the discretion of DHSES and with the concurrence of OSC, where the original contract was subject to OSC's approval, where the assignment is due to a reorganization, merger, or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that the merged contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless the Contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

Q. Legal Action: No litigation or regulatory action shall be brought against the federal government, the State of New York, DHSES or against any county or other local government entity with the funds provided under the Contract. The term 'litigation' shall include commencing or threatening to commence a lawsuit, joining or threatening to join as a party to ongoing litigation, or requesting any relief from any of the federal government, the State of New York, DHSES or any county or other local government entity. The term 'regulatory action' shall include commencing or threatening to commence a regulatory proceeding, or requesting any regulatory relief from any of the State of New York, the State Agency, or any county, or other local government entity.

R. No Arbitration: Disputes involving the Contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

S. Secular Purpose: Services performed pursuant to the Contract are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

T. Partisan Political Activity and Lobbying: Funds provided pursuant to the Contract shall not be used for any partisan political activity, or for activities that attempt to influence legislation or election or defeat of any candidate for public office.

U. Reciprocity and Sanctions Provisions: The Contractor is hereby notified that if its principal place of business is located in a country, nation, province, state, or political subdivision that penalizes New York State vendors, and if the goods or services it offers shall be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that it be denied contracts which it would otherwise obtain.<sup>2</sup>

V. Reporting Fraud and Abuse: Contractor acknowledges that it has reviewed information on how to prevent, detect, and report fraud, waste and abuse of public funds, including information about the federal False Claims Act, the New York State False Claims Act and whistleblower protections.

W. Non-Collusive Bidding: By submission of this bid, the Contractor and each person signing on behalf of the Contractor certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive binding certification on the Contractor's behalf.

X. Federally Funded Grants: All of the specific federal requirements that are applicable to the Contract are identified in Section V (FEDERALLY FUNDED GRANT REQUIREMENTS) of this Appendix. To the extent that the Contract is funded in whole or part with federal funds, (i) the provisions of the Contract that conflict with federal rules, federal regulations, or federal program specific requirements shall not apply and (ii) the Contractor agrees to comply with all applicable federal rules, regulations and program specific requirements including, but not limited to, those provisions that are set forth in Section V (FEDERALLY FUNDED GRANT REQUIREMENTS) of this Appendix. To the extent that section V (FEDERALLY FUNDED GRANT REQUIREMENTS) conflict with any other provisions of the Contract, the federal requirements of Section V shall supersede all other provisions of the Contract where required.

Y. The Contractor must meet the program objectives summarized in the Program Work Plan and Special Conditions (Appendix D) to the satisfaction of DHSES in accordance with provisions of the Contract, relevant laws, rules and regulations, administrative and fiscal guidelines and, where applicable, operating certificates for facilities or license for an activity or program.

## II. TERM, TERMINATION AND SUSPENSION

A. Term: The term of the Contract shall be as specified on the Face Page, unless terminated sooner as provided herein.

### B. Renewal:

1. General Renewal: The Contract may consist of successive periods on the same terms and conditions, as specified within the Contract (a 'Simplified Renewal Contract'). Each additional or superseding period shall be on the forms specified by the State and shall be incorporated in the Contract.

### 2. Renewal Notice to Not-for-Profit Contractors:

a. Pursuant to State Finance Law §179-t, if the Contract is with a not-for-profit Contractor and provides for a renewal option, the State shall notify the Contractor of the State's intent to renew or not to renew the Contract no later than ninety (90) calendar days prior to the end of the term of the Contract, unless funding for the renewal is contingent upon enactment of an appropriation. If funding for the renewal is contingent upon enactment of an appropriation, the State shall notify the Contractor of the State's intent to renew or not to renew the Contract the later of: (1) ninety (90) calendar days prior to the end of the term of the Contract, and (2) thirty (30) calendar days after the necessary appropriation becomes law. Notwithstanding the foregoing, in the event that the State is unable to comply with the time frames set forth in this paragraph due to unusual circumstances beyond the control of the State ('Unusual Circumstances'), no payment of interest shall be due to the not-for-profit Contractor. For purposes of State Finance Law §179-t, 'Unusual Circumstances' shall not mean the failure by the State to (i) plan for implementation of a program, (ii) assign sufficient staff resources to implement a program, (iii) establish a schedule for the implementation of a program or (iv) anticipate any other reasonably foreseeable circumstance.

b. Notification to the not-for-profit Contractor of the State's intent to not renew the Contract must be in writing in the form of a letter, with the reason(s) for the non-renewal included. If the State does not provide notice to the not-for-profit Contractor of its intent not to renew the Contract as required in this Section and State Finance Law §179-t, the Contract shall be deemed continued until the date the State provides the necessary notice to the Contractor, in accordance with State Finance Law §179-t. Expenses incurred by the not-for-profit Contractor during such extension shall be reimbursable under the terms of the Contract.

### C. Termination:

#### 1. Grounds:

a. Mutual Consent: The Contract may be terminated at any time upon mutual written consent of the State and the Contractor.

b. Cause: The State may terminate the Contract immediately, upon written notice of termination to the Contractor, if the

Contractor fails to comply with any of the terms and conditions of the Contract and/or with any laws, rules, regulations, policies, or procedures that are applicable to the Contract.

c. **Non-Responsibility:** In accordance with the provisions of this Contract, the State may make a final determination that the Contractor is non-responsible (Determination of Non-Responsibility). In such event, the State may terminate the Contract at the Contractor's expense, complete the contractual requirements in any manner the State deems advisable and pursue available legal or equitable remedies for breach.

d. **Convenience:** The State may terminate the Contract in its sole discretion upon thirty (30) calendar days prior written notice.

e. **Lack of Funds:** If for any reason the State or the Federal government terminates or reduces its appropriation to the applicable State Agency entering into the Contract or fails to pay the full amount of the allocation for the operation of one or more programs funded under this Contract, the Contract may be terminated or reduced at DHSES's discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to DHSES for payment of such costs. Upon termination or reduction of the Contract, all remaining funds paid to the Contractor that are not subject to allowable costs already incurred by the Contractor shall be returned to DHSES. In any event, no liability shall be incurred by the State (including DHSES) beyond monies available for the purposes of the Contract. The Contractor acknowledges that any funds due to DHSES or the State of New York because of disallowed expenditures after audit shall be the Contractor's responsibility.

f. **Force Majeure:** The State may terminate or suspend its performance under the Contract immediately upon the occurrence of a 'force majeure'. For purposes of the Contract, 'Force majeure' shall include, but not be limited to, natural disasters, war, rebellion, insurrection, riot, strikes, lockout and any unforeseen circumstances and acts beyond the control of the State which render the performance of its obligations impossible.

## 2. Notice of Termination:

a. **Service of notice:** Written notice of termination shall be sent by:

- i. personal messenger service; or
- ii. certified mail, return receipt requested and first class mail.

b. **Effective date of termination:** The effective date of the termination shall be the later of (i) the date indicated in the notice and (ii) the date the notice is received by the Contractor, and shall be established as follows:

- i. if the notice is delivered by hand, the date of receipt shall be established by the receipt given to the Contractor or by affidavit of the individual making such hand delivery attesting to the date of delivery; or
- ii. if the notice is delivered by registered or certified mail, by the receipt returned from the United States Postal Service, or if no receipt is returned, five (5) business days from the date of mailing of the first class letter, postage prepaid, in a depository under the care and control of the United States Postal Service.

## 3. Effect of Notice and Termination on State's Payment Obligations:

a. Upon receipt of notice of termination, the Contractor agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the State.

b. The State shall be responsible for payment on claims for services or work provided and costs incurred pursuant to the terms of the Contract. In no event shall the State be liable for expenses and obligations arising from the requirements of the Contract after its termination date.

## 4. Effect of Termination Based on Misuse or Conversion of State or Federal Property:

Where the Contract is terminated for cause based on Contractor's failure to use some or all of the real property or equipment purchased pursuant to the Contract for the purposes set forth herein, the State may, at its option, require:

- a. the repayment to the State of any monies previously paid to the Contractor; or
- b. the return of any real property or equipment purchased under the terms of the Contract; or
- c. an appropriate combination of clauses (a) and (b) of Section II(C)(4) herein.

Nothing herein shall be intended to limit the State's ability to pursue such other legal or equitable remedies as may be available.

D. Suspension: The State may, in its discretion, order the Contractor to suspend performance for a reasonable period of time. In the event of such suspension, the Contractor shall be given a formal written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor shall comply with the particulars of the notice. The State shall have no obligation to reimburse Contractor's expenses during such suspension period. Activities may resume at such time as the State issues a formal written notice authorizing a resumption of performance under the Contract.

### III. PAYMENT AND REPORTING

#### A. Terms and Conditions:

1. In full consideration of contract services to be performed, DHSES agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page.
2. The State has no obligation to make payment until all required approvals, including the approval of the AG and OSC, if required, have been obtained. Contractor obligations or expenditures that precede the start date of the Contract shall not be reimbursed.
3. The Contractor must provide complete and accurate billing invoices to the State in order to receive payment. Provided, however, the State may, at its discretion, automatically generate a voucher in accordance with an approved contract payment schedule. Billing invoices submitted to the State must contain all information and supporting documentation required by Appendix C (Payment and Reporting Schedule) and Section III(C) herein. The State may require the Contractor to submit billing invoices electronically.
4. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the head of DHSES, in the sole discretion of the head of such State Agency, due to extenuating circumstances. Such electronic payment shall be made in accordance with OSC's procedures and practices to authorize electronic payments. Authorization forms are available at the State Comptroller's website at [www.osc.state.ny.us/epay/index.htm](http://www.osc.state.ny.us/epay/index.htm), by email at [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us), or by telephone at (518) 474-4032. Contractor acknowledges that it will not receive payment on any vouchers submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Director has expressly authorized payment by paper check as set forth above.
5. If travel expenses are an approved expenditure under this Contract, travel expenses shall be reimbursed at the lesser of the rates set forth in the written standard travel policy of the Contractor, the OSC guidelines, or United States General Services Administration rates. No out-of-state travel costs shall be permitted unless specifically detailed and pre-approved by the State.
6. Timeliness of advance payments or other claims for reimbursement, and any interest to be paid to Contractor for late payment, shall be governed by Article 11-A of the State Finance Law to the extent required by law.
7. Article 11-B of the State Finance Law sets forth certain time frames for the Full Execution of contracts or renewal contracts with not-for-profit organizations and the implementation of any program plan associated with such contract. For purposes of this section, 'Full Execution' shall mean that the contract has been signed by all parties thereto and has obtained the approval of the AG and OSC. Any interest to be paid on a missed payment to the Contractor based on a delay in the Full Execution of the Master Contract shall be governed by Article 11-B of the State Finance Law.

#### B. Advance Payment and Recoupment:

1. Advance payments, which the State in its sole discretion may make to not-for-profit grant recipients, shall be made and recouped in accordance with State Finance Law Section 179(u), this Section and the provisions of Appendix C (Payment and Reporting Schedule).
2. Advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the first day of the Contract Term or, if renewed, in the period identified on the Face Page.
3. For subsequent contract years in multi-year contracts, Contractor will be notified of the scheduled advance payments for the upcoming contract year no later than 90 days prior to the commencement of the contract year. For simplified renewals, the payment schedule (Appendix C) will be modified as part of the renewal process.
4. Recoupment of any advance payment(s) shall be recovered by crediting the percentage of subsequent claims listed in Appendix C (Payment and Reporting Schedule) and Section III(C) herein and such claims shall be reduced until the



advance is fully recovered within the Contract Term. Any unexpended advance balance at the end of the Contract Term shall be refunded by the Contractor to the State.

5. If for any reason the amount of any claim is not sufficient to cover the proportionate advance amount to be recovered, then subsequent claims may be reduced until the advance is fully recovered.

#### C. Claims for Reimbursement:

1. The Contractor shall submit claims for the reimbursement of expenses incurred on behalf of the State under the Contract in accordance with this Section and the applicable claiming schedule in Appendix C (Payment and Reporting Schedule).

Vouchers submitted for payment shall be deemed to be a certification that the payments requested are for project expenditures made in accordance with the items as contained in the applicable Appendix B form (Budget) and during the Contract Term. When submitting a voucher, such voucher shall also be deemed to certify that: (i) the payments requested do not duplicate reimbursement from other sources of funding; and (ii) the funds provided herein do not replace funds that, in the absence of this grant, would have been made available by the Contractor for this program. Requirement (ii) does not apply to grants funded pursuant to a Community Projects Fund appropriation.

2. Consistent with the selected reimbursement claiming schedule in Appendix C (Payment and Reporting Schedule), the Contractor shall comply with the appropriate following provisions:

a. Quarterly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Appendix D (Work Plan and Special Conditions). The Contractor shall submit to DHSES quarterly voucher claims and supporting documentation. The Contractor shall submit vouchers to DHSES in accordance with the procedures set forth in Section III(A)(3) herein.

b. Monthly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Appendix D (Work Plan and Special Conditions). The Contractor shall submit to DHSES monthly voucher claims and supporting documentation. The Contractor shall submit vouchers to DHSES in accordance with the procedures set forth in Section III(A)(3) herein.

c. Biannual Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Appendix D (Work Plan and Special Conditions). The Contractor shall submit to DHSES biannually voucher claims and supporting documentation. The Contractor shall submit vouchers to DHSES in accordance with the procedures set forth in Section III(A)(3) herein.

d. Milestone/Performance Reimbursement:<sup>3</sup> Requests for payment based upon an event or milestone may be either severable or cumulative. A severable event/milestone is independent of accomplishment of any other event. If the event is cumulative, the successful completion of an event or milestone is dependent on the previous completion of another event. Milestone payments shall be made to the Contractor when requested in a form approved by the State, and at frequencies and in amounts stated in Appendix C (Payment and Reporting Schedule). DHSES shall make milestone payments subject to the Contractor's satisfactory performance.

e. Fee for Service Reimbursement:<sup>4</sup> Payment shall be limited to only those fees specifically agreed upon in the Contract and shall be payable no more frequently than monthly upon submission of a voucher by the contractor.

f. Rate Based Reimbursement:<sup>5</sup> Payment shall be limited to rate(s) established in the Contract. Payment may be requested no more frequently than monthly.

g. Scheduled Reimbursement:<sup>6</sup> DHSES shall generate vouchers at the frequencies and amounts as set forth in Appendix C (Payment and Reporting Schedule).

h. Interim Reimbursement: DHSES may generate vouchers on an interim basis and the amounts requested by the Contract as set forth in Attachment C (Payment and Reporting Schedule).

i. Fifth Quarter Payments:<sup>7</sup> Fifth quarter payment shall be paid to the Contractor at the conclusion of the final scheduled payment period of the preceding contract period. DHSES shall use a written directive for fifth quarter financing. DHSES shall generate a voucher in the fourth quarter of the current contract year to pay the scheduled payment for the next contract year.

3. The Contractor shall also submit supporting fiscal documentation for the expenses claimed.

4. The State reserves the right to withhold up to fifteen percent (15%) of the total amount of the Contract as security for the faithful completion of services or work, as applicable, under the Contract. This amount may be withheld in whole or in part from any single payment or combination of payments due under the Contract. In the event that such withheld



funds are insufficient to satisfy Contractor's obligations to the State, the State may pursue all available remedies, including the right of setoff and recoupment.

5. The State shall not be liable for payments on the Contract if it is made pursuant to a Community Projects Fund appropriation if insufficient monies are available pursuant to Section 99-d of the State Finance Law.

6. All vouchers submitted by the Contractor pursuant to the Contract shall be submitted to DHSES no later than thirty (30) calendar days after the end date of the period for which reimbursement is claimed. In no event shall the amount received by the Contractor exceed the budget amount approved by DHSES, and, if actual expenditures by the Contractor are less than such sum, the amount payable by DHSES to the Contractor shall not exceed the amount of actual expenditures.

7. All obligations must be incurred prior to the end date of the contract. Notwithstanding the provisions of Section III(C)(6) above, with respect to the final period for which reimbursement is claimed, so long as the obligations were incurred prior to the end date of the contract, the Contractor shall have up to ninety (90) calendar days after the contract end date to make expenditures; provided, however, that if the Contract is funded in whole or in part with federal funds, the Contractor shall have up to sixty (60) calendar days after the contract end date to make expenditures.

#### D. Identifying Information and Privacy Notification:

1. Every voucher or New York State Claim for Payment submitted to a State Agency by the Contractor, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property, must include the Contractor's Vendor Identification Number assigned by the Statewide Financial System, and any or all of the following identification numbers: (i) the Contractor's Federal employer identification number, (ii) the Contractor's Federal social security number, and/or (iii) DUNS number. Failure to include such identification number or numbers may delay payment by the State to the Contractor. Where the Contractor does not have such number or numbers, the Contractor, on its voucher or Claim for Payment, must provide the reason or reasons for why the Contractor does not have such number or numbers.

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

#### E. Refunds:

1. In the event that the Contractor must make a refund to the State for Contract-related activities, including repayment of an advance or an audit disallowance, payment must be made payable as set forth in this Appendix. The Contractor must reference the contract number with its payment and include a brief explanation of why the refund is being made. Refund payments must be submitted to the Office address listed in Appendix C.

2. If at the end or termination of the Contract, there remains any unexpended balance of the monies advanced under the Contract in the possession of the Contractor, the Contractor shall make payment within forty-five (45) calendar days of the end or termination of the Contract. In the event that the Contractor fails to refund such balance the State may pursue all available remedies.

F. Outstanding Amounts Owed to the State: Prior period overpayments (including, but not limited to, contract advances in excess of actual expenditures) and/or audit recoveries associated with the Contractor may be recouped against future payments made under this Contract to Contractor. The recoupment generally begins with the first payment made to the Contractor following identification of the overpayment and/or audit recovery amount. In the event that there are no payments to apply recoveries against, the Contractor shall make payment as provided in Section III(E) (Refunds) herein.

#### G. Program and Fiscal Reporting Requirements:

1. The Contractor shall submit required periodic reports in accordance with the applicable schedule provided in Appendix C (Payment and Reporting Schedule). All required reports or other work products developed pursuant to the Contract must be completed as provided by the agreed upon work schedule in a manner satisfactory and acceptable to DHSES in order for the Contractor to be eligible for payment.

2. Consistent with the selected reporting options in Appendix C (Payment and Reporting Schedule), the Contractor shall

comply with the following applicable provisions:

a. If the Expenditure Based Reports option is indicated in Appendix C (Payment and Reporting Schedule), the Contractor shall provide DHSES with one or more of the following reports as required by the following provisions and Appendix C (Payment and Reporting Schedule) as applicable:

i. Narrative/Qualitative Report: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Appendix C (Payment and Reporting Schedule), a report, in narrative form, summarizing the services rendered during the quarter. This report shall detail how the Contractor has progressed toward attaining the qualitative goals enumerated in Appendix D (Work Plan and Special Conditions). This report should address all goals and objectives of the project and include a discussion of problems encountered and steps taken to solve them.

ii. Statistical/Quantitative Report: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Appendix C (Payment and Reporting Schedule), a detailed report analyzing the quantitative aspects of the program plan, as appropriate (e.g., number of meals served, clients transported, patient/client encounters, procedures performed, training sessions conducted, etc.).

iii. Expenditure Report: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Appendix C (Payment and Reporting Schedule), a detailed expenditure report, by object of expense. This report shall accompany the voucher submitted for such period.

iv. Final Report: The Contractor shall submit a final report as required by the Contract, not later than the time period listed in Appendix C (Payment and Reporting Schedule) which reports on all aspects of the program and detailing how the use of funds were utilized in achieving the goals set forth in Appendix D (Work Plan and Special Conditions).

v. Consolidated Fiscal Report (CFR): The Contractor shall submit a CFR, which includes a year-end cost report and final claim not later than the time period listed in Appendix C (Payment and Reporting Schedule).

b. If the Performance-Based Reports option is indicated in Appendix C (Payment and Reporting Schedule), the Contractor shall provide DHSES with the following reports as required by the following provisions and Appendix C (Payment and Reporting Schedule) as applicable:

i. Progress Report: The Contractor shall provide DHSES with a written progress report using the forms and formats as provided by DHSES, summarizing the work performed during the period. These reports shall detail the Contractor's progress toward attaining the specific goals enumerated in Appendix D (Work Plan and Special Conditions). Progress reports shall be submitted in a format prescribed in the Contract.

ii. Final Progress Report: Final scheduled payment is due during the time period set forth in Appendix C (Payment and Reporting Schedule). The deadline for submission of the final report shall be the date set forth in Appendix C (Payment and Reporting Schedule). DHSES shall complete its audit and notify the Contractor of the results no later than the date set forth in Appendix C (Payment and Reporting Schedule). Payment shall be adjusted by DHSES to reflect only those services/expenditures that were made in accordance with the Contract. The Contractor shall submit a detailed comprehensive final progress report not later than the date set forth in Appendix C (Payment and Reporting Schedule), summarizing the work performed during the entire Contract Term (i.e., a cumulative report), in the forms and formats required.

3. In addition to the periodic reports stated above, the Contractor may be required (a) to submit such other reports as are required in Table 1 of Appendix C (Payment and Reporting Schedule), and (b) prior to receipt of final payment under the Contract, to submit one or more final reports in accordance with the form, content, and schedule stated in Table 1 of Appendix C (Payment and Reporting Schedule).

#### H. Notification of Significant Occurrences:

1. If any specific event or conjunction of circumstances threatens the successful completion of this project, in whole or in part, including where relevant, timely completion of milestones or other program requirements, the Contractor agrees to submit to DHSES within three (3) calendar days of becoming aware of the occurrence or of such problem, a written description thereof together with a recommended solution thereto.

2. The Contractor shall immediately notify in writing the program manager assigned to the Contract of any unusual incident, occurrence, or event that involves the staff, volunteers, directors or officers of the Contractor, any subcontractor or program participant funded through the Contract, including but not limited to the following: death or serious injury; an arrest or possible criminal activity that could impact the successful completion of this project; any destruction of property; significant damage to the physical plant of the Contractor; or other matters of a similarly serious nature.

#### IV. ADDITIONAL CONTRACTOR OBLIGATIONS, REPRESENTATIONS AND WARRANTIES

##### A. Contractor as an Independent Contractor/Employees:

1. The State and the Contractor agree that the Contractor is an independent contractor and not an employee of the State and may neither hold itself out nor claim to be an officer, employee, or subdivision of the State nor make any claim, demand, or application to or for any right based upon any different status. The Contractor shall be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries and management of its project personnel. These functions shall be carried out in accordance with the provisions of the Contract, and all applicable Federal and State laws and regulations.

2. The Contractor warrants that it, its staff, and any and all subcontractors have all the necessary licenses, approvals, and certifications currently required by the laws of any applicable local, state, or Federal government to perform the services or work, as applicable, pursuant to the Contract and/or any subcontract entered into under the Contract. The Contractor further agrees that such required licenses, approvals, and certificates shall be kept in full force and effect during the term of the Contract, or any extension thereof, and to secure any new licenses, approvals, or certificates within the required time frames and/or to require its staff and subcontractors to obtain the requisite licenses, approvals, or certificates. In the event the Contractor, its staff, and/or subcontractors are notified of a denial or revocation of any license, approval, or certification to perform the services or work, as applicable, under the Contract, Contractor shall immediately notify the State.

##### B. Subcontractors:

1. If the Contractor enters into subcontracts for the performance of work pursuant to the Contract, the Contractor shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the State under the Contract. No contractual relationship shall be deemed to exist between the subcontractor and the State.

2. If requested by the State, the Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, that are in excess of \$100,000 for the performance of the obligations contained herein until it has received the prior written permission of the State, which shall have the right to review and approve each and every subcontract in excess of \$100,000 prior to giving written permission to the Contractor to enter into the subcontract. All agreements between the Contractor and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of the Contract, (2) that nothing contained in the subcontract shall impair the rights of the State under the Contract, and (3) that nothing contained in the subcontract, nor under the Contract, shall be deemed to create any contractual relationship between the subcontractor and the State. In addition, subcontracts shall contain any other provisions which are required to be included in subcontracts pursuant to the terms herein.

3. If requested by the State, prior to executing a subcontract, the Contractor agrees to require the subcontractor to provide to the State the information the State needs to determine whether a proposed subcontractor is a responsible vendor.

4. If requested by the State, when a subcontract equals or exceeds \$100,000, the subcontractor must submit a Vendor Responsibility Questionnaire (Questionnaire).

5. If requested by the State, when a subcontract is executed, the Contractor must provide detailed subcontract information (a copy of subcontract will suffice) to the State within fifteen (15) calendar days after execution. The State may request from the Contractor copies of subcontracts between a subcontractor and its subcontractor.

6. The Contractor shall require any and all subcontractors to submit to the Contractor all financial claims for Services or work to DHSES, as applicable, rendered and required supporting documentation and reports as necessary to permit Contractor to meet claim deadlines and documentation requirements as established in Appendix C (Payment and Reporting Schedule) and Section III. Subcontractors shall be paid by the Contractor on a timely basis after submitting the required reports and vouchers for reimbursement of services or work, as applicable. Subcontractors shall be informed by the Contractor of the possibility of non-payment or rejection by the Contractor of claims that do not contain the required information, and/or are not received by the Contractor by said due date.

##### C. Use of Material, Equipment, or Personnel:

1. The Contractor shall not use materials, equipment, or personnel paid for under the Contract for any activity other than those provided for under the Contract, except with the State's prior written permission.

2. Any interest accrued on funds paid to the Contractor by the State shall be deemed to be the property of the State and shall either be credited to the State at the close-out of the Contract or, upon the written permission of the State, shall be expended on additional services or work, as applicable, provided for under the Contract.

##### D. Property:

1. Property is real property, equipment, or tangible personal property having a useful life of more than one year and an acquisition cost of \$1,000 or more per unit.
  - a. If an item of Property required by the Contractor is available as surplus to the State, the State at its sole discretion, may arrange to provide such Property to the Contractor in lieu of the purchase of such Property.
  - b. If the State consents in writing, the Contractor may retain possession of Property owned by the State, as provided herein, after the termination of the Contract to use for similar purposes. Otherwise, the Contractor shall return such Property to the State at the Contractor's cost and expense upon the expiration of the Contract.
  - c. In addition, the Contractor agrees to permit the State to inspect the Property and to monitor its use at reasonable intervals during the Contractor's regular business hours.
  - d. The Contractor shall be responsible for maintaining and repairing Property purchased or procured under the Contract at its own cost and expense. The Contractor shall procure and maintain insurance at its own cost and expense in an amount satisfactory to DHSES naming DHSES as an additional insured, covering the loss, theft or destruction of such equipment.
  - e. A rental charge to the Contract for a piece of Property owned by the Contractor shall not be allowed.
  - f. The State has the right to review and approve in writing any new contract for the purchase of or lease for rental of Property (Purchase/Lease Contract) operated in connection with the provision of the services or work, as applicable, as specified in the Contract, if applicable, and any modifications, amendments, or extensions of an existing lease or purchase prior to its execution. If, in its discretion, the State disapproves of any Purchase/Lease Contract, then the State shall not be obligated to make any payments for such Property.
  - g. No member, officer, director or employee of the Contractor shall retain or acquire any interest, direct or indirect, in any Property, paid for with funds under the Contract, nor retain any interest, direct or indirect, in such, without full and complete prior disclosure of such interest and the date of acquisition thereof, in writing to the Contractor and the State.
2. For non-Federally-funded contracts, unless otherwise provided herein, the State shall have the following rights to Property purchased with funds provided under the Contract:
  - a. For cost-reimbursable contracts, all right, title and interest in such Property shall belong to the State.
  - b. For performance-based contracts, all right, title and interest in such Property shall belong to the Contractor.
3. For Federally funded contracts, title to Property whose requisition cost is borne in whole or in part by monies provided under the Contract shall be governed by the terms and conditions of Section V (FEDERALLY FUNDED GRANT REQUIREMENTS) contained herein.
4. Upon written direction by the State, the Contractor shall maintain an inventory of all Property that is owned by the State as provided herein.
5. The Contractor shall execute any documents which the State may reasonably require to effectuate the provisions of this section.

#### E. Records and Audits:

##### 1. General:

- a. The Contractor shall establish and maintain, in paper or electronic format, complete and accurate books, records, documents, receipts, accounts, and other evidence directly pertinent to its performance under the Contract (collectively, Records).
- b. The Contractor agrees to produce and retain for the balance of the term of the Contract, and for a period of six years from the later of the date of (i) the Contract and (ii) the most recent renewal of the Contract, any and all Records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under the Contract. Such Records may include, but not be limited to, original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:
  - i. personal service expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, cash and check disbursement records including copies of money orders and the like, vouchers and invoices, records of contract labor, any and all records listing payroll and the money value of non-cash advantages provided to employees, time cards, work schedules and logs, employee personal history folders, detailed and general ledgers, sales

records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

ii. payroll taxes and fringe benefits: cancelled checks, copies of related bank statements, cash and check disbursement records including copies of money orders and the like, invoices for fringe benefit expenses, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

iii. non-personal services expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, cost allocation plans, and bid and procurement documentation, such as quotes, proposals and selection records, if applicable.

iv. receipt and deposit of advance and reimbursements: itemized bank stamped deposit slips, and a copy of the related bank statements.

c. The OSC, AG and any other person or entity authorized to conduct an examination, as well as DHSES or State Agencies involved in the Contract that provided funding, shall have access to the Records during the hours of 9:00 a.m. until 5:00 p.m., Monday through Friday (excluding State recognized holidays), at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.

d. The State shall protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records, as exempt under Section 87 of the Public Officers Law, is reasonable.

e. Nothing contained herein shall diminish, or in any way adversely affect, the State's rights in connection with its audit and investigatory authority or the State's rights in connection with discovery in any pending or future litigation.

## 2. Cost Allocation:

a. For non-performance based contracts, the proper allocation of the Contractor's costs must be made according to a cost allocation plan that meets the requirements of 2 CFR Part 200. Methods used to determine and assign costs shall conform to generally accepted accounting practices and shall be consistent with the method(s) used by the Contractor to determine costs for other operations or programs. Such accounting standards and practices shall be subject to approval of the State.

b. For performance based milestone contracts, or for the portion of the contract amount paid on a performance basis, the Contractor shall maintain documentation demonstrating that milestones were attained.

3. Federal Funds: For records and audit provisions governing Federal funds, please see Section V (FEDERALLY FUNDED GRANT REQUIREMENTS) of this Appendix A-1.

F. Confidentiality: The Contractor agrees that it shall use and maintain information relating to individuals who may receive services, and their families pursuant to the Contract, or any other information, data or records deemed confidential by the State (Confidential Information) only for the limited purposes of the Contract and in conformity with applicable provisions of State and Federal law. The Contractor (i) has an affirmative obligation to safeguard any such Confidential Information from unnecessary or unauthorized disclosure and (ii) must comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

## G. Publicity:

1. Publicity includes, but is not limited to: news conferences; news releases; public announcements; advertising; brochures; reports; discussions or presentations at conferences or meetings; and/or the inclusion of State materials, the State's name or other such references to the State in any document or forum. Publicity regarding this project may not be released without prior written approval from the State.

2. Any publications, presentations or announcements of conferences, meetings or trainings which are funded in whole or in part through any activity supported under the Contract may not be published, presented or announced without prior approval of the State. Any such publication, presentation or announcement shall:

a. Acknowledge the support of the State of New York and, if funded with Federal funds, the applicable Federal funding agency; and

b. State that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Contractor and do not necessarily represent the opinions, interpretations or policy of the State or if funded with Federal funds, the applicable Federal funding agency.

3. Notwithstanding the above, (i) if the Contractor is an educational research institution, the Contractor may, for scholarly or academic purposes, use, present, discuss, report or publish any material, data or analyses, other than Confidential Information, that derives from activity under the Master Contract and the Contractor agrees to use best efforts to provide copies of any manuscripts arising from Contractor's performance under this Master Contract, or if requested by the State, the Contractor shall provide the State with a thirty (30) day period in which to review each manuscript for compliance with Confidential Information requirements; or (ii) if the Contractor is not an educational research institution, the Contractor may submit for publication, scholarly or academic publications that derive from activity under the Master Contract (but are not deliverable under the Master Contract), provided that the Contractor first submits such manuscripts to the State forty-five (45) calendar days prior to submission for consideration by a publisher in order for the State to review the manuscript for compliance with confidentiality requirements and restrictions and to make such other comments as the State deems appropriate. All derivative publications shall follow the same acknowledgments and disclaimer as described in Section IV(G)(2) (Publicity) hereof.

H. Web-Based Applications-Accessibility: Any web-based intranet and Internet information and applications development, or programming delivered pursuant to the Contract or procurement shall comply with New York State Enterprise IT Policy NYS-P08-005, Accessibility Web-Based Information and Applications, and New York State Enterprise IT Standard NYS-S08-005, Accessibility of Web-Based Information Applications, as such policy or standard may be amended, modified or superseded, which requires that State Agency web-based intranet and Internet information and applications are accessible to person with disabilities. Web content must conform to New York State Enterprise IT Standards NYS-S08-005, as determined by quality assurance testing. Such quality assurance testing shall be conducted by DHSES and the results of such testing must be satisfactory to DHSES before web content shall be considered a qualified deliverable under the Contract or procurement.

I. Non-Discrimination Requirements: Pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional nondiscrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that the Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Contract. The Contractor shall be subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 of the Labor Law.

J. Equal Opportunities for Minorities and Women; Minority and Women Owned Business Enterprises: In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if the Contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting State Agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting State Agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting State Agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the Contractor certifies and affirms that (i) it is subject to Article 15-A of the Executive Law which includes, but is not limited to, those provisions concerning the maximizing of opportunities for the participation of minority and women-owned business enterprises and (ii) the following provisions shall apply and it is Contractor's equal employment opportunity policy that:

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



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

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

The Contractor shall include the provisions of subclauses 1 – 5 of this Section (IV)(J), in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (Work) except where the Work is for the beneficial use of the Contractor. Section 312 of the Executive Law does not apply to: (i) work, goods or services unrelated to the Contract; or (ii) employment outside New York State. The State shall consider compliance by the Contractor or a subcontractor with the requirements of any Federal law concerning equal employment opportunity which effectuates the purpose of this section. The State shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such Federal law and if such duplication or conflict exists, the State shall waive the applicability of Section 312 of the Executive Law to the extent of such duplication or conflict. The Contractor shall comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

K. Omnibus Procurement Act of 1992: It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises, as bidders, subcontractors and suppliers on its procurement contracts.

1. If the total dollar amount of the Contract is greater than \$1 million, the Omnibus Procurement Act of 1992 requires that by signing the Contract, the Contractor certifies the following:

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

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

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

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

L. Workers' Compensation Benefits:

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

2. If a Contractor believes they are exempt from the Workers Compensation insurance requirement they must apply for an exemption.

M. Unemployment Insurance Compliance: The Contractor shall remain current in both its quarterly reporting and payment of contributions or payments in lieu of contributions, as applicable, to the State Unemployment Insurance system as a condition of maintaining this grant.

The Contractor hereby authorizes the State Department of Labor to disclose to DHSES staff only such information as is necessary to determine the Contractor's compliance with the State Unemployment Insurance Law. This includes, but is not limited to, the following:

1. any records of unemployment insurance (UI) contributions, interest, and/or penalty payment arrears or reporting delinquency;

2. any debts owed for UI contributions, interest, and/or penalties;

3. the history and results of any audit or investigation; and

#### 4. copies of wage reporting information.

Such disclosures are protected under Section 537 of the State Labor Law, which makes it a misdemeanor for the recipient of such information to use or disclose the information for any purpose other than the performing due diligence as a part of the approval process for the Contract.

#### N. Vendor Responsibility:

1. If a Contractor is required to complete a Questionnaire, the Contractor covenants and represents that it has, to the best of its knowledge, truthfully, accurately and thoroughly completed such Questionnaire. Although electronic filing is preferred, the Contractor may obtain a paper form from the OSC prior to execution of the Contract. The Contractor further covenants and represents that as of the date of execution of the Contract, there are no material events, omissions, changes or corrections to such document requiring an amendment to the Questionnaire.

2. The Contractor shall provide to the State updates to the Questionnaire if any material event(s) occurs requiring an amendment or as new information material to such Questionnaire becomes available.

3. The Contractor shall, in addition, promptly report to the State the initiation of any investigation or audit by a governmental entity with enforcement authority with respect to any alleged violation of Federal or state law by the Contractor, its employees, its officers and/or directors in connection with matters involving, relating to or arising out of the Contractor's business. Such report shall be made within five (5) business days following the Contractor becoming aware of such event, investigation, or audit. Such report may be considered by the State in making a Determination of Vendor Non-Responsibility pursuant to this section.

4. The State reserves the right, in its sole discretion, at any time during the term of the Contract:

- a. to require updates or clarifications to the Questionnaire upon written request;
- b. to inquire about information included in or required information omitted from the Questionnaire;
- c. to require the Contractor to provide such information to the State within a reasonable timeframe; and
- d. to require as a condition precedent to entering into the Contract that the Contractor agree to such additional conditions as shall be necessary to satisfy the State that the Contractor is, and shall remain, a responsible vendor; and
- e. to require the Contractor to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity. By signing the Contract, the Contractor agrees to comply with any such additional conditions that have been made a part of the Contract.

5. The State, in its sole discretion, reserves the right to suspend any or all activities under the Contract, at any time, when it discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor shall be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the State issues a written notice authorizing a resumption of performance under the Contract.

6. The State, in its sole discretion, reserves the right to make a final Determination of Non-Responsibility at any time during the term of the Contract based on:

- a. any information provided in the Questionnaire and/or in any updates, clarifications or amendments thereof; or
- b. the State's discovery of any material information which pertains to the Contractor's responsibility.

7. Prior to making a final Determination of Non-Responsibility, the State shall provide written notice to the Contractor that it has made a preliminary determination of non-responsibility. The State shall detail the reason(s) for the preliminary determination, and shall provide the Contractor with an opportunity to be heard.

O. Charities Registration: If applicable, the Contractor agrees to (i) obtain not-for-profit status, a Federal identification number, and a charitable registration number (or a declaration of exemption) and to furnish DHSES with this information as soon as it is available, (ii) be in compliance with the OAG charities registration requirements at the time of the awarding of this Contract by the State and (iii) remain in compliance with the OAG charities registration requirements throughout the term of the Contract.

P. Consultant Disclosure Law:<sup>8</sup> If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and



mental health services, accounting, auditing, paralegal, legal, or similar services, then in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

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

R. Participation By Minority Group Members And Women With Respect To Grant Contracts: Requirements And Procedures (state-funded grants only)

### 1. General Provisions

a. The Division of Homeland Security and Emergency Services (DHSES) is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 ('MWBE Regulations') for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

b. The Contractor to the subject contract (the 'Contractor' and the 'Contract', respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the DHSES, to fully comply and cooperate with the DHSES in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women ('EEO') and contracting opportunities for certified minority and women-owned business enterprises ('MWBEs'). Contractor's demonstration of 'good faith efforts' pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the 'Human Rights Law') or other applicable federal, state or local laws.

c. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Appendix or enforcement proceedings as allowed by the Contract.

### 2. Contract Goals

a. For purposes of this contract, DHSES has established overall goals for Minority and Women-Owned Business Enterprises ('MWBE') participation which are specified in the contract work plan.

b. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in the contract work plan hereof, Contractor should reference the directory of New York State Certified MBWEs found at the following internet address: <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>. Additionally, Contractor is encouraged to contact the Division of Minority and Woman Business Development (518) 292-5250; (212) 803-2414; or (716) 846-8200 to discuss additional methods of maximizing participation by MWBEs on the Contract.

c. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document 'good faith efforts' to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the DHSES for liquidated or other appropriate damages, as set forth herein.

### 3. Equal Employment Opportunity (EEO)

a. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the 'Division'). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.

b. Contractor shall comply with the following provisions of Article 15-A:

i. Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

ii. The Contractor shall maintain an EEO policy statement and submit it to the DHSES if requested.

iii. If Contractor or Subcontractor does not have an existing EEO policy statement, Section 4 below may be used to develop one.

iv. The Contractor's EEO policy statement shall include the following, or similar, language:

a) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.

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

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

d) The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection (iv) and Paragraph 'e' of this Section 3, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

#### c. Staffing Plan

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Local Assistance MWBE Equal Employment Opportunity Staffing Plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

#### d. Workforce Employment Utilization Report

i. Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the DHSES of any changes to the previously submitted Local Assistance MWBE Equal Employment Opportunity Staffing Plan. This information is to be submitted annually or as otherwise required by the DHSES during the term of the contract, for the purpose of reporting the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Local Assistance MWBE Workforce Employment Utilization Report form must be used to report this information.

ii. Separate forms shall be completed by Contractor and any Subcontractor performing work on the Contract.

iii. In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Local Assistance MWBE Workforce Employment Utilization Report and indicate that the information provided relates to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Local Assistance MWBE Workforce Employment Utilization Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

e. Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

#### 4. MWBE Utilization Plan

a. The Contractor represents and warrants that Contractor has submitted a Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Form either prior to, or at the time of, the execution of the contract.

b. Contractor agrees to use such Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Form for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in the contract workplan.

c. Contractor further agrees that a failure to submit and/or use such Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Form shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, DHSES shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

## 5. Waivers

If the DHSES, upon review of the Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Plan, the Detailed Itemization Forms or the Local Assistance MWBE Workforce Employment Utilization Report determines that a Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the DHSES may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

## 6. MWBE Subcontractor Utilization Quarterly Report

Contractor is required to report MWBE Subcontractor utilization, as part of the quarterly claim process, to the DHSES by the last day of the month following the end of each calendar quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

## 7. Liquidated Damages - MWBE Participation

a. Where DHSES determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, such finding constitutes a breach of Contract and DHSES may withhold payment from the Contractor as liquidated damages and/or provide for other appropriate remedies.

b. Such liquidated damages shall be calculated as an amount equaling the difference between:  
 1) All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and  
 2) All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

c. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the DHSES, Contractor shall pay such liquidated damages to the DHSES within sixty (60) days after they are assessed by the DHSES unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the DHSES.

## 8. M/WBE AND EEO Policy Statement

a. The Contractor agrees to adopt the following policies or similar policies with respect to the project being developed or services rendered in this contract with the Division of Homeland Security and Emergency Services:

### M/WBE

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

(1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.

(2) Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.

(3) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.

(4) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.

(5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.

(6) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE

participation.

## EEO

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

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

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.

(d) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract.

Contractor agrees to comply with all MWBE and EEO contract goals reflected on the MWBE Utilization Plan and Staffing Plan respectively, that have been submitted with the application for this contract.

## S. Additional Terms

1. The Contractor agrees that if the project is not operational within 60 days of the execution date of the Contract, it will report by letter to DHSES the steps taken to initiate the project, the reasons for delay, and the expected starting date. If the project is not operational within 90 days of the execution date of the Contract, the Contractor will submit a second statement to DHSES explaining the delay. DHSES may either cancel the project and redistribute the funds or extend the implementation date of the project beyond the 90-day period when warranted by extenuating circumstances.

2. The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of DHSES, or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability prior performance, and financial capacity.

a. The DHSES Commissioner, or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when DHSES discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of the notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of DHSES, or his or her designee, issues a written notice authorizing a resumption of performance under the Contract.

b. Upon written notice to the Contractor, and a reasonable opportunity to be heard with the appropriate DHSES officials or staff, the Contract may be terminated by the DHSES Commissioner, or his or her designee at the Contractor's expense where the Contractor is determined by the DHSES Commissioner, or his or her designee, to be non-responsible. In such event, the Commissioner, or his or her designee, may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

3. DHSES shall make payments and any reconciliation in accordance with the Payment and Reporting Schedule (Appendix C). DHSES shall pay the Contractor for completed, approved projects, a sum not to exceed the amount noted on the Face Page hereof. The Contractor must not request payments or reimbursements that duplicate funding or reimbursement from any other source for Contractor costs and services pursuant to this Contract.

4. The Contractor shall submit detailed itemization forms or a form deemed acceptable to DHSES for personal service, fringe benefit and non-personal service expenditures with any voucher and fiscal cost report requesting reimbursement.

Grant-related expenditures shall be reported on Fiscal Cost Reports approved by DHSES. For Federally-funded awards, the detailed Itemization forms shall include the required certifications pursuant to 2 CFR §200.415. These reports must be prepared periodically and as defined in Appendix C of this Contract. All reported expenditures must reconcile to the program accounting records and the approved budget. Prior period adjustments shall be reported in the same accounting period that the correction is made.

5. The Contractor's request for travel, meals or lodging reimbursement shall be in accordance with Appendix B, Budget, and, unless written authorization has been received from DHSES, shall not exceed rates authorized by the NYS Office Of State Comptroller (Audit and Control). Rates may be viewed online at: <http://www.osc.state.ny.us/agencies/travel/travel.htm>.

6. The Contractor's employment of a consultant must be supported by a written Contract executed by the Contractor and the consultant. A consultant is defined as an individual or organization hired by the Contractor for the stated purpose of accomplishing a specific task relative to the funded project. All consultant services must be obtained in a manner that provides for fair and open competition. The Contractor shall retain copies of all solicitations seeking a consultant, written Contracts and documentation justifying the cost and selection of the consultant, and make them available to DHSES upon request. The Contractor further agrees that it shall assume sole and complete responsibility for fulfilling all the obligations set forth in the Contract and the Contractor must guarantee the work of the consultant as if it were its own. Failure to follow these guidelines may result in a disallowance of costs.

7. Additionally, Contractor must adhere to the following guidelines at a minimum when making all procurements, including consultant services. Failure to follow these guidelines may result in a disallowance of costs.

a. A Contractor who proposes to purchase goods or services from a particular vendor without competitive bidding must obtain the prior written approval of DHSES. The request for approval must be in writing and set forth, at a minimum, a detailed justification for selection and the basis upon which the price was determined to be reasonable. Further, such procurement must be in accordance with the guidelines, bulletins and regulations of the Office of the State Comptroller, State Procurement Council, and the U.S. Department of Homeland Security. A copy of DHSES' approval must also be submitted with the voucher for payment.

b. The rate for consultant services, and cost of equipment or goods, shall be reasonable and consistent with the amount paid for similar services or goods and equipment in the marketplace. Time and effort reports are required for consultants.

c. Written justification and documentation for all procurements must be maintained on file, and made available to DHSES upon request. All procurements must be made in a fair and open manner and in accordance with the pre-determined methodology established for evaluating bids (e.g., lowest responsible bidder or best value).

d. A Contractor that is a State entity must make all procurements in accordance with State Finance Law Article 11 and any other applicable regulations.

e. A Contractor that is a local government must make all procurements in accordance with General Municipal Law Article 5-A, and any other applicable regulations.

f. A Contractor that is a not-for-profit and all other entities that do not meet the descriptions in Section III(S)(7)(d) or (e) herein must make all procurements as noted below:

i. If the Contractor is eligible to purchase an item or service from a government contract or is able to purchase such item or service elsewhere at a lower than or equal price, then such purchase may be made immediately.

ii. A Contractor may purchase any single piece of equipment, single service or multiples of each that cost up to \$999 at its discretion.

iii. Before purchasing any piece of equipment, service or multiples of each that have an aggregate cost between \$1,000 and \$4,999, a Contractor must secure at least three telephone quotes and create a record for audit of such quotes.

iv. Before purchasing any piece of equipment, service or multiples of each that have an aggregate cost of between \$5,000 and \$9,999, the Contractor must secure at least three written quotes on a vendor's stationery and maintain a record of the competitive procurement process for audit purposes.

v. A Contractor spending in aggregate of \$10,000 and above must use a competitive bidding process. Guidance may be obtained from DHSES. At a minimum, the competitive bidding process must incorporate the following: open, fair advertisement of the opportunity to provide services; equal provision of information to all interested parties; reasonable deadlines; sealed bids opened at one time before a committee who will certify the process; establishment of the methodology for evaluating bids before the bids are opened; and maintenance of a record of competitive procurement process.

g. Acceptance of State support for interoperable and emergency communications projects, including funding through the Interoperable Emergency Communication Grant Program, requires that Contractors must use open-standard/vendor-neutral technologies to allow for other public safety/public service agencies (including State agencies and authorities) and jurisdictions in your region to operate on your radio system(s) when required, regardless of the total percentage of system funding from the State. This access for other agencies must be permitted to support operational and interoperable goals, and without restriction as to specific manufacturers' subscriber equipment. All reasonably compatible subscriber equipment must be permitted to be operated on your system by outside agencies, thus allowing coordinated efforts between local and state public safety/public service agencies and maximizing resources and capabilities.

h. DHSES reserves the right to suspend program funds if the Contractor is found to be in noncompliance with the provisions of this Contract or other grant Contracts between the Contractor and DHSES or, if the Contractor or principals of the Contractor are under investigation by a New York State or local law enforcement agency for noncompliance with State or federal laws or regulatory provisions or, if in DHSES' judgment, the services provided by the Contractor under the Contract are unsatisfactory or untimely.

i. DHSES shall provide the Contractor with written notice of noncompliance.

ii. Upon the Contractor's failure to correct or comply with the written notice by DHSES, DHSES reserves the right to terminate this Contract, recoup funds and recover any assets purchased with the proceeds of this Contract.

i. DHSES reserves the right to use approved grant related expenditures to offset disallowed expenditures from any grant funded through its offices upon appropriate notification to the Contractor, or upon reasonable assurance that the Contractor is not in compliance with these terms.

j. As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of 'persons' who are engaged in 'investment activities in Iran' (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act's effective date, at which time it will be posted on the OGS website.

i. By entering into this Contract, Contractor (or any assignee) certifies in accordance with State Finance Law §165-a that it is not on the 'Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012' ('Prohibited Entities List') posted at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>.

ii. Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

iii. During the term of the Contract, should DHSES receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

iv. DHSES reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

## V. FEDERALLY FUNDED GRANT REQUIREMENTS

A. Hatch Act. The Contractor agrees, as a material condition of the Contract, to comply with all applicable provisions of the Hatch Act (5 U.S.C. 1501 et seq.), as amended.

B. Requirement for System of Award Management: Unless you are exempted from this requirement under 2 CFR 25.110, you as the subrecipient must maintain the currency of your information in the System of Award Management (SAM) until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term. Pursuant to section 2 CFR §200.210(a)(2), Contractors must maintain a current unique entity identifier prior to and during the life of the Contract.

C. In accordance with 2 CFR §§200.112 and 200.113, Contractor understands and agrees that it must: (1) disclose in writing any potential conflict of interest to DHSES; and (2) disclose, in a timely manner, in writing to DHSES all violations of federal and state criminal law involving fraud, bribery, or gratuity violations potentially affecting the grant award. Failure to make



required disclosures can result in any remedy available to DHSES for Contractor's noncompliance, including suspension or debarment.

D. The Contractor must ensure that, for all contracts entered into by the Contractor, the contract provisions required by 2 CFR §200.326 (and Appendix II to 2 CFR Part 200) are included in such contracts. The Contractor further agrees to impose and enforce this requirement for any Contractor subaward agreements.

E. Where advance payments are approved by DHSES, the Contractor agrees to expend the advance payments in accordance with the purposes set forth in Appendix D and consistent with Appendix B. The advanced funds must be placed in an interest-bearing account and are subject to the rules outlined in 2 CFR Part 200, (Uniform Administrative Requirements for Grants and Cooperative Contracts to State and Local Governments) which require Contractors to promptly remit back to the federal government, through New York State Division of Homeland Security and Emergency Services, any interest earned on these advanced funds. The Contractor may keep interest earned up to \$500 per federal fiscal year for administrative expenses. This maximum limit is not per award; it is inclusive of all interest earned as the result of all federal grant program funds received per year. Interest must be reported on Fiscal Cost Reports and remitted to DHSES quarterly.

F. Audit Requirements. This Contract, and any sub-awards resulting from this Contract, may be subject to fiscal and program audits by DHSES, NYS Office of State Comptroller, pertinent federal agencies, and other designated entities to ascertain financial compliance with federal and/or State laws, regulations, and guidelines applicable to this Contract. The Contractor shall meet all audit requirements of the federal government and State of New York. Such audits may include review of the Contractor's accounting, financial, and reporting practices to determine compliance with the Contract and reporting requirements; maintenance of accurate and reliable original accounting records in accordance with governmental accounting standards as well as generally accepted accounting principles; and specific compliance with allowable cost and expenditure documentation standards prescribed by applicable federal, State, and DHSES guidelines.

G. Equipment Markings. The Contractor further agrees that, when practicable, any equipment purchased with grant funding shall be prominently marked as follows: 'Purchased with funds provided by the U.S. Department of Homeland Security.'

H. Administrative, Cost and Audit Requirements: The Contractor must comply with the most recent version of the Administrative Requirements, Cost Principles, and Audit requirements. Failure to do so may result in disallowance of costs upon audit. A list of regulations and guidance applicable to United States Department of Homeland Security (DHS) grants are listed below:

1. General Administrative Requirements:

- a. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

2. Cost Principles:

- a. 2 CFR Part 200, Subpart E

3. Audit Requirements:

- a. 2 CFR Part 200, Subpart F

I. Contracting with small and minority firms, women's business enterprise and labor surplus area firms.

1. Consistent with 2 CFR §200.321, the grantee and any subgrantees will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

2. Affirmative steps must include:

- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
- e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- f. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in subsections (2)(a) through (e) of this section.

J. Compliance with Laws, Regulations and Program Guidance. The Contractor shall ensure it is aware of and complies with

all applicable laws, regulations and program guidance. It is the responsibility of the Contractor to become familiar with and comply with all terms and conditions associated with acceptance of funds.

**K. Adequate Documentation:** The Contractor must ensure full compliance with all cost documentation requirements, including specific personal service documentation, as applicable directly to the Contractor, sub-recipient or collaborative agency/organization. The Contractor must maintain specific documentation as support for project related personal service expenditures as this Contract is supported by federal funds. Depending upon the nature or extent of personal service provided under this Contract, the Contractor shall maintain semi-annual (or more frequent) personal service certifications and/or an after-the-fact personnel activity reporting system (or equivalent) which complies with all applicable laws, regulations and program guidance. Failure to do so may result in disallowance of costs.

**L. Single Audit Requirements:** For audits of fiscal years beginning on or after December 26, 2014, recipients that expend \$750,000 or more from all federal funding sources during their fiscal year are required to submit an organization-wide financial and compliance audit report. The audit must be performed in accordance with the requirements of GAO's Government Auditing Standards, located at <http://www.gao.gov/govaud/ybk01.htm>, and the requirements of Subpart F of 2 C.F.R. Part 200, located at <http://www.ecfr.gov/cgi-bin/text-idx?SID=63811dc3410c008e2f8e28c325cdc09e&mc=true&node=sp2.1.200.f&rgn=div6> .

For audits of fiscal years beginning prior to December 26, 2014, recipients that expend \$500,000 or more from all federal funding sources during their fiscal year are required to submit an organization-wide financial and compliance audit report. The audit must be performed in accordance with GAO's Government Auditing Standards, located at <http://www.gao.gov/govaud/ybk01.htm>, and OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, located at [https://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133\\_revised\\_2007.pdf](https://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133_revised_2007.pdf).

The final report for such audit must be completed within nine months of the end of the Contractor's fiscal year. The Contractor must provide one copy of such audit report to DHSES within nine (9) months of the end of its fiscal year, or communicate in writing to DHSES that Contractor is exempt from such requirement.

**M. Program Income:** Program income earned by the Contractor during the grant funding Period must be reported in writing to DHSES, in addition to any other statutory reporting requirements. Program income consists of income earned by the grant recipient that is directly generated by a supported activity or earned as a result of the grant program. Program income includes, but is not limited to, income from fees for services performed, the use of rental or real or personal property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights and interest on loans made with federal award funds. For example, if the purpose of a grant is to conduct conferences, any training fees that are generated would be considered program income. Interest earned on grant funds is not considered program income unless specified in Appendix D. The Contractor agrees to report the receipt and expenditures of grant program income to DHSES. Program income (not to include interest earned), generated by the use of these grant funds will be used to enhance the grant project.

**N. Intellectual Property:** Any creative or literary work developed or commissioned by the Contractor with grant support provided by DHSES shall become the property of DHSES, entitling DHSES to assert a copyright therein, unless the parties have expressly agreed otherwise in a written instrument signed by them.

1. If DHSES shares its right to copyright such work with the Contractor, DHSES reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use: (a) the copyright in any work developed under a grant, sub-grant, or contract under a grant or sub-grant; and (b) any rights of copyright to which a Contractor, sub-Contractor, or a contractor purchases ownership with grant support.

2. If the grant support provided by DHSES is federally-sponsored, the federal awarding agency also reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use: (a) the copyright in any work developed under a grant, sub-grant or contract under a grant or sub-grant; and (b) any rights of copyright to which a Contractor, sub-Contractor, or a contractor purchases ownership with such grant support.

3. The Contractor shall submit one copy of all reports and publications resulting from this Contract to DHSES within thirty (30) calendar days of completion. Any document generated pursuant to this grant must contain the following language:

'This project was supported by a grant administered by the New York State Division of Homeland Security and Emergency Services and the U.S. Department of Homeland Security. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the New York State Division of Homeland Security and Emergency Services or the U.S. Department of Homeland Security.'

**O. Accounting for Grant Expenditures:**

1. Grant funds may be expended only for purposes and activities set forth in this Contract. Accordingly, the most important single requirement of accounting for this grant is the complete and accurate documentation of grant expenditures. If the



Contractor receives funding from two or more sources, all necessary steps must be taken to ensure that grant-related transactions are not commingled. This includes, but is not limited to, the establishment of unique budget codes, a separate cost center, or a separate chart of accounts. Expenditures must be cross-referenced to supporting source documents (purchase orders, contracts, real estate leases, invoices, vouchers, timesheets, mileage logs, etc.).

2. Contractor agrees that it shall maintain adequate internal controls and adhere to Generally Accepted Accounting Principles for Government or Generally Accepted Accounting Principles for Not-for-Profit Organizations.

3. None of the goals, objectives or tasks, as set forth in Appendix D, shall be sub-awarded to another organization without specific prior written approval by DHSES. Where the intention to make sub-awards is clearly indicated in the application, DHSES approval is deemed given, if these activities are funded, as proposed.

4. If this Contract makes provisions for the Contractor to sub-grant funds to other recipients, the Contractor agrees that all sub-Contractors shall be held accountable by the Contractor for all terms and conditions set forth in this Contract in its entirety. The Contractor further agrees that it shall assume sole and complete responsibility for fulfilling all the obligations set forth in the Contract and the Contractor must guarantee the work of any sub-Contractor as if it were its own.

5. The Contractor agrees that all sub-Contractor arrangements shall be formalized in writing between the parties involved. The writing must, at a minimum, include the following information:

- Activities to be performed;
- Time schedule;
- Project policies;
- Other policies and procedures to be followed;
- Dollar limitation of the Contract;
- Appendix A-1, Appendix C, Certified Assurances for Federally Supported Projects, Certification Regarding Lobbying, Debarment and Suspension and any special conditions set forth in the Contract;
- Applicable federal and/or State cost principles to be used in determining allowable costs; and
- Property Records or Equipment Inventory Reports.

P. The Contractor will not be reimbursed for sub-granted funds unless all expenditures by a sub-Contractor are listed on detailed itemization forms or a form deemed acceptable to DHSES. Backup documentation for such expenditures must be made available to DHSES upon request. All expenditures must be programmatically consistent with the goals and objectives of this Contract and with the Budget set forth in Appendix B.

Q. Space rental provided by this Contract must be supported by a written lease, maintained on file and made available by the Contractor upon request.

R. Equipment and Property:

1. Any equipment, furniture or supplies or other property purchased pursuant to this Contract is deemed to be the property of the State, except as may otherwise be governed by federal or State laws, rules or regulations or stated in this Contract.

2. Equipment means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A Contractor may use its own definition of equipment provided that such definition would at least include all equipment defined above. A copy of the property record(s) or equipment inventory report(s) with relevant purchasing and supporting documentation must be made available to DHSES upon request. Property records or equipment inventory reports must be maintained, by award, that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property. The Contractor must document receipt of all applicable equipment purchased with grant funds. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two (2) years.

3. Upon completion of all contractual requirements by the Contractor, DHSES will consider a request for continued use and possession of the equipment purchased with grant funds provided the equipment continues to be used in connection with a public security program. When disposing of equipment purchased with homeland security grant funding, a State agency must dispose of equipment in accordance with State Laws and procedures. All other Contractors shall dispose of equipment as follows:

a. Items of equipment with a current per unit market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.

b. Items of equipment with a current per unit fair market value of \$5,000 or more may be retained or sold. If sold, the awarding agency shall have a right to an amount calculated by multiplying the proceeds from the sale by the awarding

agency's share of the equipment. If retained, the current market value is to be used in the calculation. To remit payments, award recipients should contact DHSES at 1-866-837-9133 for guidance.

4. Upon completion of all contractual requirements by the Contractor under this Contract, DHSES shall accept a request for continued use and possession of the equipment purchased with grant funds providing the equipment continues to be used in accordance with the contracted activities and guidelines in this Contract.

5. The Contractor must conduct a physical inventory of property records at least once every two years to verify the existence, current utilization and continued need for the property. In the event the property is no longer required by the Contractor, this fact should be reported to DHSES as soon as possible and appropriate guidelines followed, as specified in this Appendix.

6. If Contractor disposes of any equipment purchased under this Contract during the active lifespan of said equipment, Contractor must reinvest any proceeds from the disposal into additional equipment items to continue Contractor's organization's activities subject to the guidelines of this Contract. If the Contractor does not reinvest proceeds to continue activities subject to this Contract, the percentage of the proceeds equal to the proportion of the original purchase price paid by funds for the Contract must be repaid to the State of New York.

#### ENDNOTES:

<sup>1</sup> To the extent that Section V-Federally Funding Grant Requirements conflict with any other provisions of the Contract, the Federal requirements of Section V shall supersede all other provisions of the Contract.

<sup>2</sup> As of October 9, 2012, the list of discriminatory jurisdictions subject to this provision includes the states of Alaska, Hawaii, Louisiana, South Carolina, West Virginia and Wyoming. Contact NYS Department of Economic Development for the most current list of jurisdictions subject to this provision.

<sup>3</sup> A milestone/performance payment schedule identifies mutually agreed-to payment amounts based on meeting contract events or milestones. Events or milestones must represent integral and meaningful aspects of contract performance and should signify true progress in completing the Contract effort.

<sup>4</sup> Fee for Service is a rate established by the Contractor for a service or services rendered.

<sup>5</sup> Rate based agreements are those agreements in which payment is premised upon a specific established rate per unit.

<sup>6</sup> Scheduled Reimbursement agreements provide for payments that occur at defined and regular intervals that provide for a specified dollar amount to be paid to the Contractor at the beginning of each payment period (i.e. quarterly, monthly or bi-annually). While these payments are related to the particular services and outcomes defined in the Contract, they are not dependent upon particular services or expenses in any one payment period and provide the Contractor with a defined and regular payment over the life of the contract.

<sup>7</sup> Fifth Quarter Payments occur where there are scheduled payments and where there is an expectation that services will be continued through renewals or subsequent contracts. Fifth Quarter Payments allow for the continuation of scheduled payments to a Contractor for the first payment period quarter of an anticipated renewal or new contract.

<sup>8</sup> Not applicable to not-for-profit entities

VER 07/15

Certified by - on

**Award Contract**

EMPG

**Project No.**

**Grantee Name**

EM17-1044-D00

Oneida County

01/24/2018

**Budget Summary by Participant**

Oneida County

Oneida County Emergency Services - Version 1

#	Personnel	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	Personnel Costs to Support Authorized Emergency Management Operations	1	\$144,814.00	\$144,814.00	\$52,407.00	\$92,407.00
Total				\$144,814.00	\$52,407.00	\$92,407.00

#	Equipment	AEL	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	Emergency Management Operations (Pick-Up) Vehicle	12VE-00-SPEC	1	\$40,000.00	\$40,000.00	\$40,000.00	\$0.00
Total					\$40,000.00	\$40,000.00	\$0.00

Total Project Costs	Total Cost	Grant Funds	Matching Funds
	\$184,814.00	\$92,407.00	\$92,407.00

Total Contract Costs	Total Cost	Grant Funds	Matching Funds
	\$184,814.00	\$92,407.00	\$92,407.00

**Award Contract****EMPG****Project No.**

EM17-1044-D00

**Grantee Name**

Oneida County

01/24/2018

## APPENDIX C

## PAYMENT AND REPORTING SCHEDULE

For All Contractors:

## I. PAYMENT PROVISIONS

1. In full consideration of contract services to be performed, DHSES agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page hereof. All payments shall be in accordance with the budget contained in the applicable Attachment B form (Budget), which is attached hereto.

## A. Payment and Recoupment Language

1. Contractor shall provide complete and accurate vouchers to DHSES in order to receive payment. Vouchers submitted to DHSES must contain all information and supporting documentation required by the Agreement, DHSES and the State Comptroller. Payment for vouchers submitted by the Contractor shall only be rendered electronically, unless a paper check is expressly authorized by the Director of DHSES, at the Director's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with the ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at [www.osc.state.ny.us/epay/index.htm](http://www.osc.state.ny.us/epay/index.htm), by email at [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us), or by telephone at (518) 474-4032. Contractor acknowledges that it will not receive payment on any vouchers submitted under this Agreement if it does not comply with the State Comptroller's electronic payment procedures, except where the Director has expressly authorized payment by paper check as set forth above.

2. The Contractor agrees that this is a reimbursement-based contract; an advance may be provided as specified in Appendix D. All requests for reimbursement must reflect actual costs that have been disbursed by the Contractor. Items or services not received are not eligible for reimbursement.

Reimbursement requests need to include the following documents:

- Signed Voucher and Fiscal Cost Report
- Detailed Itemization Forms or other forms deemed acceptable by DHSES of any budgeted category for which reimbursement is requested
- Written documentation of all required DHSES approvals, as appropriate

3. Vouchers shall be submitted in a format acceptable to DHSES and the Office of the State Comptroller. Vouchers submitted for payment shall be deemed to be a certification that the payments requested are for project expenditures made in accordance with the items as contained in the Project Budget (Appendix B) and during the contract period. Such voucher shall also be deemed to certify that: a) the payments requested do not duplicate reimbursement from other sources of funding; and b) the funds provided herein do not replace funds that, in the absence of this grant, would have been made available by the Contractor for this program.

## B. Interim and/or Final Claims for Reimbursement

1. Contractors must submit all required fiscal reports, supporting documentation and program progress reports. Failure to meet these requirements will result in the rejection of associated vouchers. Final vouchers, reimbursement requests and reports must be submitted within 30 days of the end of the grant contract period. Failure to voucher within this period may result in the loss of grant funds. The Contractor must also refund all unexpended advances and interest earned over \$500 on the advanced funds pursuant to 2 CFR Part 200, §200.305(b)(9). Property Records or Equipment Inventory Reports as defined in Appendix A-1, Section V, Paragraph R, must be available at the conclusion of the contract period and submitted to DHSES upon request.

2. If at the end of this contract there remain any monies (advanced or interest earned over \$500 on the advanced funds) associated with this contract in the possession of the Contractor, the Contractor shall submit a check or money order for that amount payable to the order of the New York State Division of Homeland Security and Emergency Services. Remit the check along with the final fiscal cost report within 30 days of termination of this grant contract to:

NYS Division of Homeland Security and Emergency Services  
 Federal Fiscal Unit  
 State Campus - Building 7A  
 1220 Washington Avenue  
 Albany, NY 12242

3. For purposes of prompt payment provisions, the Designated Payment Office for the processing of all vouchers is the Contract Unit of DHSES. Payment of grant vouchers shall be made in accordance with the provisions of Article XI-A of the State Finance Law. Payment shall be preceded by an inspection period of 15 business days which shall be excluded from calculations of the payment due date for purposes of determining eligibility for interest payments. The Contractor must notify the Federal Fiscal Unit in writing of a change of address in order to benefit from the prompt payment provision of the State Finance Law. When progress reports are overdue, vouchers will not be eligible for prompt payment.

4. Timely and properly completed New York State vouchers, with supporting documentation when required, shall be submitted to:

NYS Division of Homeland Security and Emergency Services  
 Attention: Contracts Unit  
 State Office Building Campus – Bldg. 7A  
 1220 Washington Avenue, Suite 610  
 Albany, NY 12242

## II. REPORTING PROVISIONS

### A. Required Reports:

#### Narrative/Qualitative Report (Progress Report)

The Contractor will submit, on a quarterly basis, not later than 30 days from the end of the quarter, the report described in Section III(G)(2)(a)(i) of Appendix A-1 of the Contract.

#### Expenditure Report (Fiscal Cost Report)

The Contractor will submit, on a quarterly basis, not later than 30 days after the end date for which reimbursement is being claimed, the report described in Section III, Paragraph G(2)(a)(iii) of the Appendix A-1 of the Contract.

#### Final Report

The Contractor will submit the final report as described in Section III, Paragraph G(2)(a)(iv) of Appendix A-1 of the Contract, no later than 30 days after the end of the contract period.

1. Fiscal cost reports must be submitted showing grant expenditures. They must also show the amount of interest earned to date on any advanced funds.

All submitted vouchers will reflect the Contractor's actual expenditures and will be accompanied by supporting detailed itemization forms or a form deemed acceptable to DHSES for personal service, fringe benefit and non-personal service expenditures or other documentation as required, and by a fiscal cost report for the reporting period. In the event that any expenditure for which the Contractor has been reimbursed by grant funds is subsequently disallowed, DHSES, in its sole discretion, may reduce the voucher payment by the amount disallowed. If necessary, the Contractor may be required to submit a final budget reallocation.

DHSES reserves the right not to release subsequent grant awards pending Contractor compliance with this Agreement.

2. The Contractor will submit program progress reports and one final report to DHSES on a prescribed form provided by DHSES as well as any additional information or amended data as required.

Progress reports will be due within 30 days of the last day of each calendar quarter or on an alternate schedule as prescribed in Appendix D. Progress reports will be due within 30 days of the last day of the calendar quarter from the start date of the program and the final report will be due upon completion of the project or termination of this Agreement. Calendar quarters, for the purposes of making program progress reports, shall be as follows:

Calendar Quarter: January 1 - March 31 -- Report Due: April 30  
 Calendar Quarter: April 1 - June 30 -- Report Due: July 30  
 Calendar Quarter: July 1 - September 30 -- Report Due: October 30  
 Calendar Quarter: October 1 - December 31 -- Report Due: January 30

The final report, or where applicable interim progress reports, will summarize the project's achievements as well as describe activities for that quarter.

Rev. 07/2015

Certified by - on

**Award Contract****EMPG****Project No.**

EM17-1044-D00

**Grantee Name**

Oneida County

01/24/2018

**Work Plan****Goal**

To assist local governments in preparing for all hazards.

**Objective #1**

G & T Workplan Code - 24. Develop/enhance homeland security/emergency management organization and structure.

Investment Justification - Emergency Management Performance Grant

**Target Capability**

Primary - Planning

To build and sustain emergency management capabilities.

**Task #1 for Objective #1**

Purchase allowable Emergency Management Operations Vehicle. Train appropriate personnel in the proper use of the equipment and place the equipment into service

**# Performance Measure**

1 Identify equipment ordered and received. Provide a brief narrative on the training of personnel and the deployment of equipment. Describe how the project enhanced emergency management capabilities in the jurisdiction. Equipment accountability records are properly maintained. Provide explanation if equipment is received but not deployed, and include deployment plans as appropriate.

**Task #2 for Objective #1**

Conduct organizational activities to support all-hazards emergency management operations.

**# Performance Measure**

1 Organizational activities conducted. Provide brief narrative reporting activities completed and describe how the project enhanced emergency management operations in the jurisdiction.

**Task #3 for Objective #1**

Conduct allowable planning activities to enhance emergency management capabilities.

**# Performance Measure**

1 Planning activities conducted. Provide brief narrative reporting planning activities completed and describe how the project enhanced emergency management capabilities in the jurisdiction.

**Task #4 for Objective #1**

Design, develop, conduct and/or participate in exercises in compliance with HSEEP guidelines to identify deficiencies within response capabilities to all hazard events. This in turn will help to identify training curriculum gaps. EMPG funded personnel must participate in at least three exercises per year. Report scheduled exercises to DHSES Office of Emergency Management (OEM) Training and Exercise Section 60 days prior to the start of the exercise. Submit After Action Reports/Improvement Plans to DHSES within 60 days of exercise completion. Notification and AAR/IPs must be submitted in NY Responds.

**# Performance Measure**

1 DHSES notified of scheduled exercise; exercise conducted and After Action Reports/Improvement Plans completed and submitted to DHSES within 60 days of exercise completion. Complete and attach Exercise Data Report quarterly in e-grants. Provide brief narrative and report number of personnel involved, the disciplines involved and the jurisdictions participating; describe how the project enhanced the preventions, response or recovery capabilities in the jurisdiction. Notification and AAR/IPs submitted in NY Responds.

**Task #5 for Objective #1**

Conduct assessment to identify training needs related to emergency management capabilities. Provide authorized training to appropriate personnel. EMPG funded personnel complete required NIMS and Professional Development Series training courses.

**# Performance Measure**

Training conducted. Provide brief narrative on type of training conducted, roster of attendees maintained on file. Complete 1 and attach Training Data report quarterly in e-grants. Describe how the project enhanced emergency management capabilities in the jurisdiction.



**Award Contract****EMPG****Project No.****Grantee Name**

EM17-1044-D00

Oneida County

01/24/2018

**Special Conditions****I. ALL GRANT FUNDS:**

Federal grant funds provided are a subaward of Emergency Management Performance Grant (EMPG) funds awarded to the New York State Division of Homeland Security and Emergency Services (DHSES) from the U.S. Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA).

**A. Permissible Use of Funding**

1. EMPG funds must be used in accordance with the guidelines set forth in the EMPG Notice of Funding Opportunity, which can be located at <http://www.fema.gov/preparedness-non-disaster-grants>.
2. All expenditures under this grant must support the Goals and Objectives outlined in the 2017-2020 NYS Homeland Security Strategy and approved investment justifications. New York State's Homeland Security Strategy can be located on the DHSES website at <http://www.dhSES.ny.gov/planning/#strat>.

**B. Record Requirements**

1. Subrecipients shall keep an agenda and meeting minutes on file for all meetings conducted regarding EMPG funded activities.
2. Any documents produced as a result of these meetings such as plans, schedules, or procedures, will also be kept on file and be made available to DHSES, upon request.

**C. Equipment Purchases**

1. Equipment purchased with grant funds must fall within the allowable equipment categories for EMPG as listed on the Authorized Equipment List (AEL) (<https://www.fema.gov/authorized-equipment-list>).
2. Subrecipients are responsible to request a determination of eligibility from the U.S. Department of Homeland Security (DHS), through DHSES, for any equipment item in question. Unless otherwise stated in the program guidance, equipment must meet all mandatory regulatory and/or DHS adopted standards to be eligible for purchase using EMPG funds.
3. The New York State Communication Interoperability Plan (SCIP), as well as DHS Grant Guidance for grant funding, requires that all interoperable communications equipment must be on the Authorized Equipment List (AEL) and that the use of APCO P-25 compliant equipment is a recommended technology to achieve emergency interoperable communications.

**D. Training & Exercise Related Activities**

1. Any non DHS training course to be supported by this award must be submitted in advance to DHSES for written approval.
2. All exercises conducted must be managed and executed in accordance with the Homeland Security Exercise and Evaluation Program (HSEEP). Report scheduled exercises to the DHSES Office of Emergency Management (OEM) Training and Exercise Section using NY Responds 60 days prior to the start of the exercise. An After Action Report/Improvement Plan (AAR/IP) must be prepared and submitted to DHSES following every exercise, regardless of type or scope. AAR/IPs must conform to the HSEEP format and must be submitted within 60 days of completion of the exercise.
3. Subrecipients are required to be NIMS compliant. DHSES requires that subrecipients contact their county point of contact to determine how the particular county requires reporting. Subrecipients are expected to provide DHSES upon request any data required for annual NIMS certification purposes.

**E. EHP Requirements**

1. Subrecipients shall comply with all applicable federal, State, and local environmental and historic preservation (EHP) requirements and shall provide any information requested by FEMA to ensure compliance with applicable laws including: National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, and Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898).
2. Failure of subrecipients to meet federal, State, and local EHP requirements and obtain applicable permits may jeopardize federal funding. Subrecipients shall not undertake any project having the potential to impact EHP resources without the prior approval of FEMA, including but not limited to communications towers, physical security enhancements, new construction, and modifications to buildings. Subrecipients must comply with all conditions placed on the project as the result of the EHP review.
3. Any change to the approved project scope of work will require reevaluation for compliance with these EHP requirements.
4. If ground disturbing activities occur during project implementation, subrecipients must ensure monitoring of ground disturbance and if any potential archeological resources are discovered, such subrecipient will immediately cease construction in that area and notify FEMA and the appropriate State Historic Preservation Office.
5. Any activities requiring environmental and historic preservation review that have been initiated prior to FEMA approval could result in a non-compliance finding. For your convenience, the screening form is available at:  
<http://www.dhSES.ny.gov/grants/eph.cfm>

#### F. Equipment Maintenance Requirements

1. Subrecipients must track grant funds used for maintenance contracts, warranties, repair or replacement costs and upgrades, and report such expenditures in fiscal and program reports.

#### G. New York State Emergency Management Certification and Training Program

1. Participation in, and successful completion of, the New York State Emergency Management Certification and Training Program (EMC Training Program) is a mandatory requirement under this Contract and a condition of funding. The EMC Training Program will be made available to, and required for, DHSES specified county and city government officials in order to ensure a consistent emergency management preparedness and response strategy across the State. Attendee substitutions, except as expressly approved by DHSES, shall not be permitted or deemed to be in compliance with this requirement.
2. To fulfill the EMC Training Program requirement of the Contract and in order to be eligible for funding under this Contract, subrecipients must arrange for DHSES specified subrecipient employees to receive and acknowledge receipt of EMC Training no later than 180 days after execution of this Contract. Copies of the training certificates for each required participant must be submitted to DHSES upon execution of the Contract, or, in the event that training is scheduled, but not yet complete, the subrecipient will be required to submit a signed statement indicating the scheduled future dates of attendance, and no later than thirty (30) days after the training is complete, forward such training certificates to DHSES. Continued compliance with the EMC Training Program also requires an annual refresher training of one day per 365 day cycle from the date of initial training for previously trained individuals if such person remains employed by the subrecipient and fulfilling the same functions as he or she fulfilled during the initial training. Should a new employee be designated to serve in the DHSES specified positions, then he or she must come into compliance with the EMC Training Program requirements not later than 180 days after taking office.
3. Subrecipient must commit to active participation in a DHSES Annual Capabilities Assessment as a condition of funding. Active participation includes making reasonable staff, records, information, and time resources available to DHSES to perform the Annual Capabilities Assessment and meet the objectives and goals of the program. Subrecipients must be aware that the process of conducting a DHSES Annual Risk Assessment is an ongoing process and requires a continued commitment on the part of the subrecipient to ensure that it is effective.
4. All subrecipients funded through this program agree to provide DHSES, upon request at any time during the life of the grant contract, such cooperation and information deemed necessary by DHSES to ascertain: (1) the nature and extent of any threats or hazards that may pose a risk to the subrecipient; and (2) the status of any corresponding subrecipient plans, capabilities, or other resources for preventing, protecting against, mitigating, responding to, and recovering from such threats or hazards.
5. Additionally, pursuant to Article 26 of the NYS Executive law, DHSES is authorized to undertake periodic drills and simulations designed to assess and prepare responses to terrorist acts or threats and other natural and man made disasters. Funded subrecipients agree to attend and participate in any DHSES sponsored conferences, training, workshops or meetings (excluding those identified by DHSES as voluntary) that may be conducted, by and at the request of DHSES, during the life of the grant contract.

6. Failure to comply with any of the requirements, as listed above, may result in sanctions up to and including the immediate suspension and/or revocation of the grant award.



ONEIDA COUNTY  
 DEPARTMENT OF EMERGENCY SERVICES  
 FIRE COORDINATOR  
 911 CENTER

ANTHONY J. PICENTE, JR.  
 County Executive

KEVIN W. REVERE  
 Director

120 Base Road ♦ Oriskany, New York 13424  
 Phone: (315) 765-2526 ♦ Fax: (315) 765-2529

December 19, 2017

FN 20 18-068

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

PUBLIC SAFETY

WAYS & MEANS

Dear County Executive Picente,

The 911 Center seeks to enter into a renewal of the maintenance agreement Oneida County currently has with Tiburon, Inc. for an additional one (1) year period. This renewal will be in effect from January 1, 2018 through December 31, 2018. The maintenance agreement will provide 24/7 access to our customer call center for product support, and includes help desk and software updates for the CAD system. It will also provide on-site and remote diagnostic capabilities. The cost of this maintenance agreement is \$100,293.00 and will be supported with County dollars.

If you agree with this request, I respectfully ask that the agreement is forwarded to the Board of Legislators for approval to enter into this agreement.

If I can be of further assistance, please feel free to contact me.

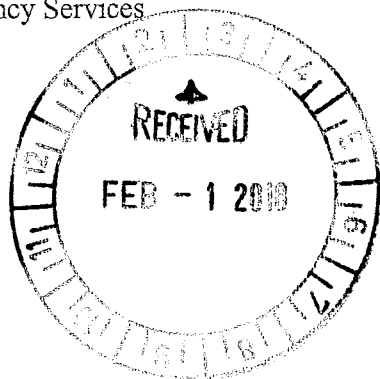
Sincerely

Kevin W. Revere  
 Director of Emergency Services

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

Anthony J. Picente, Jr.  
 County Executive

Date 2-1-18



KWR/kmg

Oneida Co. Department Emergency Services

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

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

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

Other     X    

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

**Name & Address of Vendor:** Tiburon, Inc.  
3000 Executive Parkway  
Suite 500  
San Ramon, CA 94583

**Title of Activity or Services:** Renewal of Annual Maintenance Agreement

**Proposed Dates of Operations:** 1/1/2018 – 12/31/2018

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

**SUMMARY STATEMENTS**

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

Services designed to provide 24/7 access to our customer call center for product support. This agreement includes help desk and software updates for the CAD system.

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

To provide on-site and remote diagnostic capabilities.

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

**Total Funding Requested:** \$100,293.00

**Account:** A3020.493

**Oneida County Dept. Funding Recommendation:** \$100,293.00

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

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

**Past performance Served:** N/A

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



Maintenance Renewal

For

Oneida County, NY

19-Dec-17



A TriTech Software Systems company

**Maintenance (Help Desk & Software Updates) for 13 DispatchNow CAD licenses, NYSPI State Interface, 1 ProQA Interface, and 3 CAD Queries**

<b>Item</b>	<b>Price</b>
Maintenance DispatchNow CAD: 1/1/2018 - 12/31/2018	<b>\$90,633</b>
Maintenance State Interface: 1/1/2018 - 12/31/2018	<b>\$6,340</b>
Maintenance ProQA Interface: 1/1/2018 - 12/31/2018	<b>\$2,393</b>
Maintenance CAD Queries: 1/1/2018 - 12/31/2018	<b>\$810</b>
Maintenance CAD Queries: 11/8/2017 - 12/31/2017	<b>\$117</b>
<hr/>	
<b>Total</b>	<b>\$100,293</b>

**\*\*\*The prices indicated above do not include installation and/or configuration of 3rd party software and/or hardware\*\*\***

**\*\*\*Tiburon requires remote VPN access to the customer site (minimum 1Mbps)\*\*\***



A TriTech Software Systems company

**Terms**

**PRICING** All prices are in U.S. Funds.  
Taxes, if applicable, are extra.

**PAYMENT** Payable 100% at signature

**VALIDITY** 60 days

- Services will be performed in accordance with the attached Maintenance and Support Guidelines, which are incorporated herein.

**Approval Signature**

By signing in the space provided below, I am representing that I am authorized to sign on behalf of Customer:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**For TIBURON, Inc.**

\_\_\_\_\_  
12/19/2017

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date





A TriTech Software Systems company

## Revision History

Revision Level	Reason for Revision	Date Revised
-	Original	November 17, 2017
A	Adjust pro-rated dates for 3 additional CAD queries (last line)	December 19, 2017

## **Standard Oneida County Contract Addendum**

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

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

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

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

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

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

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

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

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

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

complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

- d. Notifying the employee in the statement required by paragraph (a) that as a condition of employment under the Contract, the employee will:
    - 1. Abide by the terms of the statement; and
    - 2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
  - e. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
  - f. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted;
    - 1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the Requirements of the rehabilitation Act of 1973, as amended; or
    - 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, State or local health, law enforcement, or other appropriate agency;
  - g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (0), (0), (d), (0), (f).
- 2. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.
  - 3. Place of Performance (street, address, city, county, state, zip code).
- d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F. for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
    - 1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
    - 2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.
4. **Health Insurance Portability and Accountability Act (HIPAA).** When applicable to the services provided pursuant to the Contract:

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

9. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by the Contractor on behalf of, the County that the Contractor still maintains in any form and retain no copies of such information or, if such return or destruction is not feasible, extend the protections of this Contract to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
  1. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
  2. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
  3. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.
5. **Non-Assignment Clause.** In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and attempts to do so are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.
6. **Worker's Compensation Benefits.** In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
7. **Non-Discrimination Requirements.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

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

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

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

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

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

- b. **Privacy Notification.** (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.
12. **Conflicting Terms.** In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.
13. **Governing Law.** This Contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.
14. **Prohibition on Purchase of Tropical Hardwoods.**
- a. The Contractor certifies and warrants that all wood products to be used under this Contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the Contractor to establish to meet with the approval of the County.
- b. In addition, when any portion of this Contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the County.
15. **Compliance with New York State Information Security Breach and Notification Act.** The Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa).
16. **Gratuities and Kickbacks.**
- a. **Gratuities.** It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim,



or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

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

**17. Audit.**

- a. The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to or permit the County to examine or obtain copies of any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.
- b. If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a Federal financial assistance program from a Federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

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

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

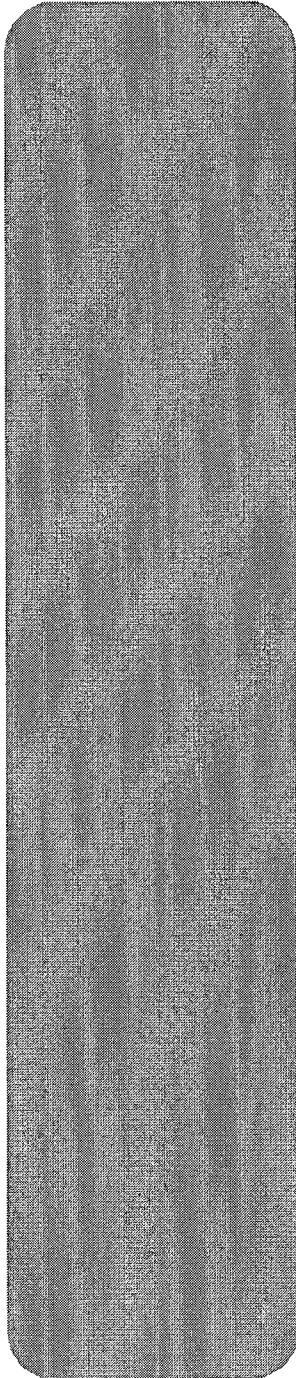
days after the determination of such violation, then the County shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor in default.

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

**TIBURON**<sup>®</sup>

A TriTech Software Systems Company

Board  
Copies



# **Warranty & Maintenance Support - Guidelines & Options**

**Version 8.3**

**December 29, 2016**

Tiburon, Inc.  
A TriTech Software Systems Company  
9477 Waples Street, Suite 100  
San Diego, CA 92121

# Table of Contents

1.	INTRODUCTION .....	3
2.	DEFINITIONS.....	4
2.1	ACCOUNT EXECUTIVE .....	4
2.2	AUTHORIZED CLIENT REPRESENTATIVE .....	4
2.3	CLIENT.....	4
2.4	CLIENT SUPPORT CENTER (CSC).....	4
2.4.1	CSC Engineer .....	4
2.4.2	Client Liaison.....	4
2.4.3	Director – Client Service & Support.....	5
2.4.4	Helpdesk Specialist.....	5
2.5	INSTALLATION SERVICES TEAM.....	5
2.6	DIRECTOR, OPERATIONS DIVISION .....	5
2.7	ENGINEERING .....	5
2.8	MASTER SUPPORT AGREEMENT (MSA).....	5
2.9	PRIORITY .....	5
2.10	PROJECT.....	6
2.11	PROJECT MANAGER.....	6
2.12	STATEMENT OF WORK (SOW).....	6
2.13	SYSTEM ASSURANCE REVIEW (SAR) .....	6
2.14	TECHNICAL SUPPORT COORDINATOR .....	6
2.15	TIBURON SERVICE REQUEST (TSR).....	6
2.16	WARRANTY / MAINTENANCE SUPPORT .....	7
3.	TRANSITION FROM PROJECT (OPERATIONS) TO SUPPORT (CSC) .....	8
4.	WORKING WITH THE SUPPORT CENTER (CSC).....	9
4.1	SUBMITTING A TSR.....	9
4.2	“24x7” SUPPORT.....	9
4.3	TSR PRIORITIES .....	10
4.3.1	CAD, Mobile, State Interface, Critical CAD Interfaces .....	10
4.3.1.1	Response Time SLAs.....	10
4.3.1.2	Resolution Time SLAs.....	12
4.3.1.3	Special Note # 1 .....	13
4.3.1.4	Special Note #2:.....	14
4.3.2	All Records, Field Based Reporting, Jail Records, Fire Records, Web Query .....	16
4.3.2.1	Response Time SLAs.....	16
4.3.2.2	Resolution Time SLAs.....	18
4.3.2.3	Special Note #1 .....	19
4.3.2.4	Special Note #2 .....	20
4.4	REPORTING A TSR .....	21
4.5	EMERGENCY AFTER HOURS ASSISTANCE .....	21
4.6	CLIENT RESPONSIBILITIES .....	21
4.7	SERVICE REQUEST LIFECYCLE.....	22
4.7.1	TSR Status .....	23
4.7.2	Case Escalation.....	24
4.7.3	Case Closure .....	24
5.	THIRD PARTY PRODUCT SUPPORT .....	25
6.	OTHER SERVICES .....	26
6.1	SOFTWARE UPDATE SERVICES.....	26
6.2	PRODUCT MODIFICATION REQUESTS .....	26
6.3	STEERING COMMITTEE ISSUES .....	27
6.4	PRODUCT SPECIALIST AND TRAINING REQUESTS.....	27
6.5	DBA AND SYSTEM ADMINISTRATION SUPPORT SERVICES .....	27
6.5.1	Level 1 Database Administration (DBA) Support.....	27
6.5.2	Level 1 System Administration Support.....	27

7.	EXCLUSIONS TO TECHNICAL SUPPORT SERVICES.....	28
8.	OPTIONAL MAINTENANCE PROGRAMS .....	29
8.1	DATABASE ADMINISTRATION (DBA) SERVICES / SYSTEM ADMINISTRATION (SA) SERVICES.....	29
9.	ADDITIONAL INFORMATION.....	31
9.1	DOCUMENTATION LIBRARY (COMING SOON) .....	31
9.2	CRYSTAL REPORT / SSRS REPORT SHARING POOL (COMING SOON) .....	31
9.3	CLIENT TSR REPORTS (COMING SOON).....	31
9.4	KNOWLEDGE BASE (COMING SOON) .....	31
9.5	CUSTOMER FORUM (COMING SOON) .....	31
9.6	TIBURON USER GROUP .....	31
9.7	PRODUCT STEERING COMMITTEES.....	32

# 1. INTRODUCTION

This document provides a description of the service programs available to Tiburon's warranty and maintenance Clients with a current and valid Master Support Agreement (MSA). This document defines both standard and optional support programs, and outlines the process for working with Tiburon to report, track, and resolve issues.

**NOTE:** The service programs and the terms and conditions contained herein are those available as of the date of this document; these service offerings, as well as terms and conditions are subject to change without notice.

## **2. DEFINITIONS**

The following terms are used throughout this document:

### **2.1 ACCOUNT EXECUTIVE**

The Tiburon Account Manager Program has been established to enhance the relationship between our public safety Client base and the Tiburon public safety organization. The Account Executive reports to the Director, Corporate Development and Customer Advocacy - Tiburon, and provides a proactive approach to Client interaction, enhancing the communications between Tiburon and our Clients. The Account Executive is the regular avenue for communication of emerging technologies and programs from Tiburon that have a positive impact on our Clients. Through this relationship Tiburon is able to better understand our Clients' current and future environment and strategic direction and is better able to align both organizations strategic goals to ensure continued success.

### **2.2 AUTHORIZED CLIENT REPRESENTATIVE**

The Authorized Client Representative is a named Client representative who has the authority to request a change to the Client's Tiburon applications or databases. This person must be identified by name and position to Tiburon. Any change to the Authorized Client Representative must be reported to Tiburon in writing within 10 business days.

### **2.3 CLIENT**

A Client is an agency or authorized representative of an agency who has contracted with Tiburon for software or services as described in a Contract, Statement of Work or Master Support Agreement.

### **2.4 CLIENT SUPPORT CENTER (CSC)**

The Client Support Center (CSC) provides 24 x 7 support services to all Tiburon Clients with a valid and current Master Support Agreement (MSA). CSC staff is comprised of Helpdesk Specialists, CSC Engineers, Client Liaisons, and Director, Client Service and Support.

#### **2.4.1 CSC ENGINEER**

CSC Engineers report to a Team Lead in the CSC who reports to the Director – Client Service & Support. CSC Engineers are responsible for resolving all issues reported to the CSC and communicating with the Client. If additional expertise is needed to resolve an issue, it may be assigned to an individual outside of the CSC for resolution.

#### **2.4.2 CLIENT LIAISON**

A Client Liaison is assigned to Clients with a valid and current Master Support Agreement, and reports to the Director – Client Service & Support. The Client Liaison is the first point of escalation for all Client issues reported to the CSC. The Client Liaison works hand-in-hand with each assigned Client to ensure that Tiburon is addressing issues reported to the CSC in a manner that addresses the Client's needs in a reasonable manner as agreed to by Tiburon and the Client. The Client Liaison conducts regularly scheduled TSR review meetings with Clients as agreed upon by Tiburon and the Client. The Client

Liaison also works with technical staff in the CSC and in other Tiburon departments as needed for issue resolution.

### **2.4.3 DIRECTOR – CLIENT SERVICE & SUPPORT**

The Director – Client Service & Support is a member of the Leadership Team for the Tiburon Group and reports to the Vice President / General Manager, Tiburon Group. The Director – Client Service & Support creates policies and procedures related to Client Service and Support, and directs the efforts of all support personnel. The Director – Client Service & Support is the second point of escalation for all issues reported to the CSC. If there is a change in the Tiburon Client Service Management Team or the Client Liaison, Tiburon shall notify the Client in writing of the changes within 10 business days.

### **2.4.4 HELPDESK SPECIALIST**

The Helpdesk Specialists field all telephone calls placed to the CSC and process all email sent to [CustomerService@TriTech.com](mailto:CustomerService@TriTech.com). They log all issues and updates received in the third party application used by Tiburon to support all Clients, and assign the issues based on established protocols. The Helpdesk Specialists report to the Director – Client Service & Support.

## **2.5 INSTALLATION SERVICES TEAM**

Tiburon's Installation Services Team is responsible for the installation and configuration of Tiburon software on designated Client servers as defined in the contract and Statement of Work.

## **2.6 DIRECTOR, OPERATIONS DIVISION**

A Tiburon Operations Director is the manager for the Project Management staff. The Operations Director is the second level of escalation, (first being Project Manager) for any Project, Add On or Product Modification activity. The Operations Director is responsible for management of all contract compliance issues.

## **2.7 ENGINEERING**

Tiburon Engineering is comprised of several teams of software architects, software engineers and software quality assurance engineers. The Engineering teams are responsible for the creation of all baseline and custom software and tailoring.

## **2.8 MASTER SUPPORT AGREEMENT (MSA)**

A Master Support Agreement (MSA) is an agreement between a Tiburon and a Client for the provision of Warranty and/or Maintenance support to a Client. It includes terms and conditions governing the agreement, and may include exhibits to further define the covered systems, Warranty and Maintenance Guidelines and Options, Software License terms, etc. Previous versions of this document may have been referred to as an Extended Support Agreement (ESA).

## **2.9 PRIORITY**

Priority refers to the operational criticality of a specific service request. Tiburon uses a P1 – P5 convention with a Priority1 issue being defined as an application or server failure that prevents continued use or operation of the System, impacts all or substantially all operators using the System, halts or severely



impacts critical System operations or endangers the integrity of one or more database files. Complete priority descriptions can be found in section 4.2 of this document.

## **2.10 PROJECT**

A Project is an activity governed by a contract or contract amendment and a Statement of Work. It can be a new implementation for a new Client, an upgrade for an existing Client, a product modification, or add-on application or interface for an existing Client.

## **2.11 PROJECT MANAGER**

A Tiburon Project Manager is assigned to all projects defined above. The Project Manager is responsible for the successful delivery of all services related to the contract or contract amendment. The Project Manager schedules and coordinates the participation of all Tiburon resources needed to deliver on the contract. The Tiburon Project Manager reports to a Director in Tiburon's Operations Division.

## **2.12 STATEMENT OF WORK (SOW)**

The Statement of Work (SOW) is an exhibit to a contract that describes the contract deliverables, tasks, responsibilities, and completion criteria for the delivery of a Tiburon Project to a Client.

## **2.13 SYSTEM ASSURANCE REVIEW (SAR)**

The System Assurance review is a Tiburon process which occurs during a project, to assure that all proper steps per the Statement of Work have been completed. This is a monitoring function within the Project Managers responsibility.

## **2.14 TECHNICAL SUPPORT COORDINATOR**

A Technical Support Coordinator is a Client representative who has received training in each Tiburon application. The Technical Support Coordinator is responsible for the review and triage of all issues reported by Client representatives prior to submitting the issue to Tiburon as a TSR. The Technical Support Coordinator is responsible for ensuring that sufficient detail has been provided on a reported issue so that it can be reproduced, diagnosed, and repaired by Tiburon. Each covered application should have, at a minimum, one (1) Technical Support Coordinator who meets with Tiburon's Client Liaison as described in this document. There can be one or more Technical Support Coordinators for each covered application, however, all client Technical Support Coordinators must participate each review meeting with the Client Liaison. The Technical Support Coordinator(s) must have the authority to confirm closure on a TSR.

## **2.15 TIBURON SERVICE REQUEST (TSR)**

Issues reported to the Client Support Center (CSC) are referred to as Tiburon Service Requests (TSRs). Each TSR is recorded in the third party application used by Tiburon to record Client issues and assigned to the Tiburon team responsible for supporting the Client and the system at the time the issue is reported. Priority 1 TSRs are assigned down to an individual resource based on the Tiburon on-call list maintained by the CSC. Other priority issues are discussed between the Client Liaison and the Client to ensure that the Client's needs are addressed in a reasonable fashion, as agreed to between Tiburon and the Client.

## **2.16 WARRANTY / MAINTENANCE SUPPORT**

When a Project is completed as deemed in the Statement of Work, the support transitions to a warranty or maintenance support level as defined by the contract. When the Project is completed as deemed in the Statement of Work, the Project Manager conducts an internal turnover of the Client and associated applications to the assigned Client Liaison and the Client Support Center (CSC).

### **3. TRANSITION FROM PROJECT (OPERATIONS) TO SUPPORT (CSC)**

When a project is completed as deemed in the Statement of Work, the Client systems transition from the project phase to the warranty or maintenance programs. Leading up to this major milestone, Tiburon staff members, including the Project Manager, Client Liaison, Account Executive, Engineering, Installation Services, and CSC Engineering resources participate in an internal System Assurance Review (SAR). This ensures that all parties are aware of the Client configuration, connection information, applications installed, cutover plan and schedule, as well as other information specific to the Client implementation. This information is logged in the third party application used by Tiburon for Client Support, currently Salesforce.

When the project is completed as deemed in the Statement of Work, the system(s) are stable and there are a nominal number of TSRs not closed for each system, there is a final internal System Assurance Review between Operations, Engineering, Installation Services, and Client Support to transition the support of the Client systems from Operations / Project mode to CSC / Support mode. The Project Manager also schedules a turnover meeting with the Client to introduce the Client Liaison to the Client.

## **4. WORKING WITH THE SUPPORT CENTER (CSC)**

The CSC functions as the single point of contact for ongoing Client support issues once project is completed as deemed in the Statement of Work and support for the systems has been turned over to the CSC. Tiburon's Client Liaisons oversee the CSC activities for their assigned Clients. The Client Liaison also works closely with the Client's Tiburon Account Executive in order to keep them updated on overall service needs.

### **4.1 SUBMITTING A TSR**

Client may contact the CSC to report an issue by telephone, email, or via the third party Self Service application provided for this purpose. Priority 1 and Priority 2 issues must be reported by telephone 24 x 7 to ensure optimal response to the issue.

### **4.2 "24x7" SUPPORT**

"24x7" support is standard for all CAD, Jail Records, and State Message Switch products. It is optionally available for all other products for an additional cost. For assistance in adding this support for other systems, Clients should contact their Account Executive.

## 4.3 TSR PRIORITIES

When submitting a TSR, Tiburon asks that Clients use the priority definitions below.

### 4.3.1 CAD, MOBILE, STATE INTERFACE, CRITICAL CAD INTERFACES

#### 4.3.1.1 RESPONSE TIME SLAS

Priority	Issue Definition	Response Time
<b>Priority 1 - Critical Priority</b>	<p>24x7 Support for live operations on the production system: A system down event which severely impacts the ability of Users to dispatch emergency units. This is defined as the following:</p> <ul style="list-style-type: none"> <li>• CAD, Mobile, State Interface or critical CAD interfaces are down as further defined in the Special Note #1 below.</li> <li>• Critical servers inoperative, as listed in Special Note #1.</li> <li>• Complete interruption of call taking and/or dispatch operations.</li> <li>• Loss of transactional data &amp; transactional data corruption</li> </ul> <p>This means one or more critical server components are non-functional disabling CAD, or Mobile workstations. These Software Errors are defined in <i>Special Note #1</i>, below.</p>	<p>Normal Customer Service Hours (8:00 am – 5:30 pm in the customer's time zone): Telephone calls to 800-987-0911 Option #6 will be immediately answered and assigned to the designated representative within 10 minutes or receipt of call.</p> <p>After Normal Customer Service Hours: Thirty (30) minute callback after Customer telephone contact to 800-987-0911 Option #6.</p> <p>Priority 1 issues must be called in via 800-987-0911 Option #6 in order to receive this level of response.</p>
<b>Priority 2 - Urgent Priority</b>	<p>24x7 Support for live operations on the production system: A serious Software Error with no workaround, not meeting the criteria of a Critical Priority, but which severely impacts the ability of Users to enter incoming calls for service and/or dispatch emergency units. Such errors will be consistent and reproducible.</p> <p>A significant number of the CAD or Mobile workstations are negatively impacted by this error (e.g., does not apply to a minimal set of CAD or Mobile workstations). These Software Errors are defined in more detail in Special Note #2, below.</p>	<p>Normal Customer Service Hours (8:00 am – 5:30 pm in the customer's time zone): Telephone calls to 800-987-0911 Option #6 will be answered and assigned to the designated representative within 30 minutes of receipt of call.</p> <p>After Normal Customer Service Hours: Sixty (60) minute callback after customer telephone contact to 800-987-0911 Option #6.</p> <p>Priority 2 issues must be called in via 800-987-0911 Option #6 in order to receive this level of response.</p>

Priority	Issue Definition	Response Time
<b>Priority 3 - High Priority</b>	<p>Normal Customer Service Hours Support: A Software Error not meeting the criteria of a Priority 1 - Critical or Priority 2 - Urgent Priority, has a workaround available, but which does negatively impact the User from entering incoming calls for service and/or dispatching emergency units, or perform a common call taking or dispatch function. Such errors will be consistent and reproducible.</p> <p>A significant number of CAD or Mobile workstations are negatively impacted by this error (e.g., does not apply to a minimal set of workstations).</p>	<p>Normal Customer Service Hours (8:00 am – 5:30 pm in the customer's time zone): Telephone calls to 800-987-0911 Option #6 will be answered and assigned to the designated team within 30 minutes of receipt of the initial phone call.</p> <p>High Priority issues may also be reported via <a href="mailto:customerservice@tritech.com">customerservice@tritech.com</a> or via the Self Service portal through the Client login on TriTech's website. Email and Self Service reports are entered and assigned within 30 minutes at the start of the next business day.</p> <p>High Priority Issues are not managed after Normal Customer Service Hours.</p>
<b>Priority 4 – Medium Priority</b>	<p>Normal Customer Service Hours Support: A Software Error related to a user function which does not negatively impact the User from entering incoming calls for service and/or dispatch emergency units, or perform a common call taking or dispatch function. This includes system administrator functions.</p>	<p>Normal Customer Service Hours (8:00 am – 5:30 pm in the customer's time zone): Telephone calls to 800-987-0911 Option #6 will be answered and assigned to the designated team within 30 minutes of receipt of the initial phone call.</p> <p>Medium Priority issues may also be reported via <a href="mailto:customerservice@tritech.com">customerservice@tritech.com</a> or via the Self Service portal through the Client login on TriTech's website. Email and Self Service reports are entered and assigned within 30 minutes at the start of the next business day.</p> <p>Medium Priority issues are not managed after Normal Customer Service Hours.</p>
<b>Priority 5 – Low Priority</b>	<p>Normal Customer Service Hours Support: Cosmetic or Documentation errors, including Customer technical questions, product modification or add-on requests, steering committee requests, and usability questions.</p>	<p>Normal Customer Service Hours (8:00 am – 5:30 pm in the customer's time zone): Telephone calls to 800-987-0911 Option #6 will be answered and assigned to the designated team within 30 minutes of receipt of the initial phone call.</p> <p>Low Priority issues may also be reported via <a href="mailto:customerservice@tritech.com">customerservice@tritech.com</a> or via the Self Service portal through the Client login on TriTech's website. Email and Self Service reports are entered and assigned within 30 minutes at the start of the next business day.</p> <p>Low Priority issues are not managed after Normal Customer Service Hours.</p>

### 4.3.1.2 RESOLUTION TIME SLAS

Priority	Resolution Process	Resolution Time
<b>Priority 1 - Critical Priority</b>	Tiburon will provide a procedural or configuration workaround or a code correction that allows the Customer to resume live operations on the production system.	Tiburon will work continuously (including after hours) to provide the Customer with a solution that allows the Customer to resume live operations on the production system.  Tiburon will use commercially reasonable efforts to resolve the issue as soon as possible and not later than 12 hours after notification.
<b>Priority 2 - Urgent Priority</b>	Tiburon will provide a procedural or configuration workaround or a code correction that allows the Customer to resume normal operations on the production system.	Tiburon will work continuously (including after hours) to provide the Customer with a solution that allows the Customer to resume normal operations on the production system.  Tiburon will use commercially reasonable efforts to resolve the issue as soon as possible and not later than 36 hours after notification.
<b>Priority 3 - High Priority</b>	Tiburon will provide a procedural or configuration workaround that allows the Customer to resolve the problem.	Tiburon will work to provide the Customer with a resolution which may include a workaround or code correction within a timeframe that takes into consideration the impact of the issue on the Customer and Tiburon's User base. Priority 3 issues have priority scheduling in a subsequent release.
<b>Priority 4 - Medium Priority</b>	If Tiburon determines that a reported Medium Priority error requires a code correction, such issues will be addressed in a subsequent release when applicable.	Tiburon will work to provide the Customer with a resolution which may include a workaround or code correction in a future release of the software. Priority 4 issues have no guaranteed resolution time.
<b>Priority 5 - Low Priority</b>	Low Priority issues are logged by Tiburon and addressed at the company's discretion according to Tiburon's roadmap planning process.	There is no guaranteed resolution time for Low Priority issues.

### 4.3.1.3 SPECIAL NOTE # 1

**Priority 1 - Critical Priority issues meeting the previously noted criteria are defined as follows:**

#### 4.3.1.3.1 CAD

- a. CAD System is down and all workstations will not launch or function. This will include fragment notifications, site-to-site connection failure, etc.
- b. CAD System is inoperable due to transactional data corruption caused by Tiburon Software. This will include in-ability to enter commands from the Command Window.
- c. CAD Reporting and Archiving Server is down and the system is configured to use the Reporting Server for dispatching functions (e. g., Premise History). This will include "Lost connection to Database" message

#### 4.3.1.3.2 Mobile

- a. The Mobile System is down and all mobile devices are unable to log in or function.
- b. The Mobile System is inoperable due to data corruption caused by Tiburon Software.

#### 4.3.1.3.3 State Interface

- a. Law enforcement users are unable to send or receive justice queries (this priority applies if the functionality is available through no other available methods).



### 4.3.1.4 SPECIAL NOTE #2:

**Priority 2 - Urgent Priority issues, meeting the previously noted criteria, are defined as follows:**

#### 4.3.1.4.1 CAD

CAD users are severely impacted due to one of the following conditions on one or more essential positions:

- a. One or more essential CAD positions cannot be accessed by users.
- b. The system is operating in local sharing or disconnected mode
- c. Unable to enter new requests for service via the emergency or scheduled call-taking screen (using all available methods).
- d. A user is unable to verify an address from within the emergency or scheduled call-taking screen.
- e. The inability to add or view premise or caution note information.
- f. The inability to send and receive text messaging (within CAD, CAD to Mobile, or Mobile to Mobile).
- g. The system does not perform unit recommendations.
- h. Inability to assign a unit to an incident (using all available methods).
- i. Inability to change a unit's status (using all available methods).
- j. Inability to close an incident (using all available methods).
- k. Inability to view incident information needed to dispatch an incident (using all available methods). This includes "Lost Connection to Database" errors.
- l. Disaster Recovery System, following a test failover, is inoperable for more than one (1) business day.

#### 4.3.1.4.2 Mobile

Several Mobile users are severely impacted due to one of the following conditions:

- a. Inability to receive new requests for service from CAD (using all available methods).
- b. Inability to view incident information needed to dispatch an incident (using all available methods).
- c. The inability to send and receive text messaging (within CAD, CAD to Mobile, or Mobile to Mobile).
- d. Inability to enter a traffic stop or on-view incident.
- e. The inability to view premise or caution note information.
- f. Disaster Recovery System, following a test failover, is inoperable for more than one (1) business day.

#### 4.3.1.4.3 CAD/Mobile Interfaces:

Several CAD or Mobile users are severely impacted due to one of the following conditions:

- a. CAD Station Alerting Interface is down or CAD Station Alerting Interface repeatedly fails to process a station alert, as part of a unit assignment, or if there is a reoccurring significant delay in the interface processing a station alert as part of a unit assignment (once it is diagnosed that is not being caused by the station alerting system).
- b. CAD Paging Interface is down.
- c. An interface used for personnel rostering is down.

- d. A CAD-to-CAD interface is down or repeatedly fails to process information into an incident.
- e. CAD Paging Interface repeatedly fails to process a unit alert as part of a unit assignment.
- f. An ANI/ALI interface repeatedly fails to process information into an incident.
- g. An interface to an external rostering system used to logon units is down.
- h. AVL interface fails to process updates for over 50% of units.
- i. Mobile interface repeatedly fails to process incident or status change information.
- j. A Standard CAD to External System Incident Data Transfer Interface License (RMS) is down. This would include transfer of data to the CAD Data Warehouse or any UDS interface.
- k. Email / fax / paging notifications down for all destinations.

## 4.3.2 ALL RECORDS, FIELD BASED REPORTING, JAIL RECORDS, FIRE RECORDS, WEB QUERY

### 4.3.2.1 RESPONSE TIME SLAS

Priority	Issue Definition	Response Time
<b>Priority 1 – Critical Priority</b>	<p>24x7 Support for live operations on the production system: A system down event which severely impacts the ability of Users to log on the system, or severely impacts the ability of Users to book or release inmates. This is defined as the following:</p> <ul style="list-style-type: none"> <li>All Records applications, to include Jail Records, Field Based Reporting, and Fire Records server software inoperative</li> <li>Loss of ability for all Records, Jail Records, Field Based Reporting, or Fire Records users to log on to system</li> <li>Jail Records system down</li> <li>Loss of transactional data &amp; transactional data corruption</li> </ul> <p>This means one or more critical server components are non-functional disabling Records, Jail Records, Field Based Reporting or Fire Records workstations. These Software Errors are defined in <i>Special Note #1</i>, below.</p>	<p>Normal Customer Service Hours (8:00 am – 5:30 pm in the customer's time zone): Telephone calls to 800-987-0911 Option #6 will be immediately answered and assigned to the designated representative within 10 minutes or receipt of call.</p> <p>After Normal Customer Service Hours: Thirty (30) minute callback after Customer telephone contact to 800-987-0911 Option #6.</p> <p>Priority 1 issues must be called in via 800-987-0911 Option #6 in order to receive this level of response.</p> <p><b>All Jail Records systems default to 24 x 7 support for Priority 1 issues.</b></p> <p><b>After Normal Customer Service Hours: Unless optional 24x7 support is contracted, support for Records, Field Based Reporting and Fire Records is not managed after Normal Customer Service Hours.</b></p>
<b>Priority 2 – Urgent Priority</b>	<p>Normal Customer Service Hours Support for live operations on the production system: A serious Software Error with no workaround not meeting the criteria of a Critical Priority, but which severely impacts the ability of all Users from performing a common function, or severely impacts the ability of Users to book or release inmates. Such errors will be consistent and reproducible.</p> <ul style="list-style-type: none"> <li>Loss of ability for All Records, Field Based Reporting, Jail Records or Fire Records users to enter Case (Incident, Arrest and Custody) records into the system</li> <li>Loss of ability to transfer Field Based Reporting reports (ARS, Copperfire, CAD to RMS Transfer)</li> <li>Unable to book or release inmates</li> </ul> <p>A significant number of the Records, Field Based Reporting, Jail Records or Fire Records workstations are negatively impacted by this error (e.g., does not apply to a minimal set of Records, Field Based Reporting, Jail Records or Fire Records workstations). These Software Errors are defined in more detail in <i>Special Note #2</i>, below.</p>	<p>Normal Customer Service Hours (8:00 am – 5:30 pm in the customer's time zone): Telephone calls to 800-987-0911 Option #6 will be answered and assigned to the designated representative within 30 minutes of receipt of call.</p> <p>After Normal Customer Service Hours: Sixty (60) minute callback after customer telephone contact to 800-987-0911 Option #6.</p> <p>Priority 2 issues must be called in via 800-987-0911 Option #6 in order to receive this level of response.</p> <p><b>All Jail Records systems default to 24 x 7 support for Priority 2 issues.</b></p> <p><b>After Normal Customer Service Hours: Unless optional 24x7 support is contracted, support for Records, Field Based Reporting, and Fire Records is not managed after Normal Customer Service Hours.</b></p>

Priority	Issue Definition	Response Time
<b>Priority 3 - High Priority</b>	<p>Normal Customer Service Hours Support: A Software Error not meeting the criteria of a Priority 1 - Critical or Priority 2 - Urgent Priority, has a workaround available, but which does negatively impact the User from performing a common Records, Field Based Reporting, Jail Records, or Fire Records function. Errors will be consistent and reproducible.</p> <ul style="list-style-type: none"> <li>• Loss of Non-Critical Data (with “Non-Critical” being defined as not causing an error classified as a P1 or P2 error (above).</li> <li>• NIBRS State reporting issues that causes agency reports to exceed State error submission limits</li> <li>• UCR reporting multiple occurrence of inaccurate data</li> </ul> <p>A significant number of Records, Field Based Reporting, Jail Records, or Fire Records workstations are negatively impacted by this error (e.g., does not apply to a minimal set of workstations).</p>	<p>Normal Customer Service Hours (8:00 am – 5:30 pm in the customer’s time zone): Telephone calls to 800-987-0911 Option #6 will be answered and assigned to the designated team within 30 minutes of receipt of the initial phone call.</p> <p>High Priority issues may also be reported via <a href="mailto:customerservice@tritech.com">customerservice@tritech.com</a> or via the Self Service portal through the Client login on TriTech’s website. Email and Self Service reports are entered and assigned within 30 minutes at the start of the next business day.</p> <p>High Priority Issues are not managed after Normal Customer Service Hours.</p>
<b>Priority 4 – Medium Priority</b>	<p>Normal Customer Service Hours Support: A Software Error related to a user function which does not negatively impact the User from performing a common Records, Field Based Reporting, Jail Records, or Fire Records function. Errors will be consistent and reproducible. This includes system administrator functions.</p>	<p>Normal Customer Service Hours (8:00 am – 5:30 pm in the customer’s time zone): Telephone calls to 800-987-0911 Option #6 will be answered and assigned to the designated team within 30 minutes of receipt of the initial phone call.</p> <p>Medium Priority issues may also be reported via <a href="mailto:customerservice@tritech.com">customerservice@tritech.com</a> or via the Self Service portal through the Client login on TriTech’s website. Email and Self Service reports are entered and assigned within 30 minutes at the start of the next business day.</p> <p>Medium Priority issues are not managed after Normal Customer Service Hours.</p>
<b>Priority 5 – Low Priority</b>	<p>Normal Customer Service Hours Support: Cosmetic or Documentation errors, including Customer technical questions, product modification or add-on requests, steering committee requests, and usability questions.</p>	<p>Normal Customer Service Hours (8:00 am – 5:30 pm in the customer’s time zone): Telephone calls to 800-987-0911 Option #6 will be answered and assigned to the designated team within 30 minutes of receipt of the initial phone call.</p> <p>Low Priority issues may also be reported via <a href="mailto:customerservice@tritech.com">customerservice@tritech.com</a> or via the Self Service portal through the Client login. Email and Self Service reports are entered and assigned within 30 minutes at the start of the next business day.</p> <p>Low Priority issues are not managed after Normal Customer Service Hours.</p>

### 4.3.2.2 RESOLUTION TIME SLAS

Priority	Resolution Process	Resolution Time
<b>Priority 1 - Critical Priority</b>	Tiburon will provide a procedural or configuration workaround or a code correction that allows the Customer to resume live operations on the production system.	Tiburon will work continuously (including after hours) to provide the Customer with a solution that allows the Customer to resume live operations on the production system.  Tiburon will use commercially reasonable efforts to resolve the issue as soon as possible and not later than 12 hours after notification.
<b>Priority 2 - Urgent Priority</b>	Tiburon will provide a procedural or configuration workaround or a code correction that allows the Customer to resume normal operations on the production system.	Tiburon will work continuously (including after hours) to provide the Customer with a solution that allows the Customer to resume normal operations on the production system.  Tiburon will use commercially reasonable efforts to resolve the issue as soon as possible and not later than 36 hours after notification.
<b>Priority 3 - High Priority</b>	Tiburon will provide a procedural or configuration workaround that allows the Customer to resolve the problem.	Tiburon will work to provide the Customer with a resolution which may include a workaround or code correction within a timeframe that takes into consideration the impact of the issue on the Customer and Tiburon's User base. Priority 3 issues have priority scheduling in a subsequent release.
<b>Priority 4 - Medium Priority</b>	If Tiburon determines that a reported Medium Priority error requires a code correction, such issues will be addressed in a subsequent release when applicable.	Tiburon will work to provide the Customer with a resolution which may include a workaround or code correction in a future release of the software. Priority 4 issues have no guaranteed resolution time.
<b>Priority 5 - Low Priority</b>	Low Priority issues are logged by Tiburon and addressed at the company's discretion according to Tiburon's roadmap planning process.	There is no guaranteed resolution time for Low Priority issues.

### 4.3.2.3 SPECIAL NOTE #1

Priority 1 - Critical Priority issues meeting the previously noted criteria are defined as follows:

#### 4.3.2.3.1 Records, Field Based Reporting, Jail Records, Fire Records, Web Query

Records users are severely impacted due to one of the following conditions:

- a. System completely down
- b. All users getting 'unable to login or no connection to server'
- c. Unable to log on to Records, Jail Records.
- d. All users getting 'No response from ComDIR' or 'lost connection to server'
- e. Cannot book or release any inmate.
- f. All users getting 'NETWORK UNAVAILABLE' or 'DISCONNECTED FROM SERVER' in red text on the bottom status bar of TE.
- g. All users are unable to load a module list such as the Event list, Case list, Arrest list.
- h. All users are unable to save a new record (event, case, arrest)
- i. All users are unable to load any existing record (event, case, arrest)
- j. Inability of any users to launch or log on to Web Query.
- k. All Web Query users getting 'Invalid response from GETO', 'Not Connect to Server', 'Unable to read data from transport connection.'

## 4.3.2.4 SPECIAL NOTE #2

Priority 2 - Urgent Priority issues, meeting the previously noted criteria, are defined as follows:

### 4.3.2.4.1 Records, Field Based Reporting, Jail Records, Fire Records, Web Query

Records users are severely impacted due to one of the following conditions:

- a. Unable to run a Warrant Check
- b. Jail Headcount is off.
- c. Training environment is down and client is actively conducting a training class with several students.
- d. No additional users can log on to WebQuery.
- e. Inability to run Name or Location searches.
- f. Inability to run CAD Queries.
- g. An error which prevents users from completing their normal business function for which no reasonable workaround exists.
- h. Data corruption issues that prevent processing of inmates or reports, but not including general data cleanup.
- i. Inoperable external interfaces such as Livescan, Mugshot, Commissary, for which no reasonable workaround exists.
- j. Individual workstation or user issues only if no alternate means of completing the work exist (i.e – another user or workstation is available).

## 4.4 REPORTING A TSR

The preferred method of contact for CSC for Client issues is outlined in the table below:

Issue Priority	Service Hours	Preferred Contact Method	Contact Details
Priority 1 & Priority 2	24 hours a day, 7 days a week, 365 days a year	Must contact the CSC via telephone	CSC Telephone: 800-987-0911 Option #6
Priority 3 thru Priority 5	8 am-5 pm in the Client's time zone	Submit a case via telephone, email, or the third party Self Service application provided.	If for any reason Clients cannot reach us on the toll free number, Clients can reach us on our backup phones. Please call the alternate number(s) in the order listed.  Email: <a href="mailto:CustomerService@tritech.com">CustomerService@tritech.com</a>

## 4.5 EMERGENCY AFTER HOURS ASSISTANCE

Emergency assistance after regular business hours is subject to the following special condition:

“24x7” support is standard for all CAD, Corrections, and Message Switch systems. If a Client selects the “24x7” service option for any other Tiburon applications, remote support for Priority 1 and Priority 2 TSRs for those applications is also provided on a 24 x 7 basis. If a Client requests after hours support for an application without “24x7” coverage, support is subject to a call-out fee in addition to time and materials charges.

Once an issue has been determined to be out of scope, an Authorized Client Representative will be contacted by Tiburon and advised that additional charges may be incurred. The Client Representative must approve this out of scope effort before work will resume. The call out fee is based on Tiburon's then current hourly rate and is calculated based on every hour expended by any Tiburon staff member to resolve the issue. Time is calculated to the nearest whole hour.

## 4.6 CLIENT RESPONSIBILITIES

In order to provide maintenance support services to Clients, Tiburon requires that Clients:

- Limit TSRs to one reported problem in each TSR logged.
- Include enough detail in a reported problem so that Tiburon can effectively reproduce and diagnose it, to include steps to reproduce the error, error messages received, and screen shots if applicable.
- Provide continuous remote access to the system(s), and have a technical resource reachable afterhours that Tiburon staff can contact should the need arise for Priority 1 issues
- Maintain continuous remote access along with the ability to upload and download files to server(s) without third-party interaction.



- Restrict the use of CAD workstations to Tiburon Applications only, eliminating internet connectivity and the use of things like streaming media, internet games and other applications that can negatively interact with the CAD system.
- Ensure that maintenance and back-up activities relating to the Covered Applications and the System, including, without limitation, backing up databases and journal logs, purging out of data records, running reports, and performing diagnostics, are carried out in accordance with the schedule and methodology laid out by Tiburon.
- Ensure that the System conforms to the “Site System and Network Specifications” as established during the project implementation.
- Maintain a system to ensure that only authorized personnel have the ability to make changes to the Client’s database and that a list of all such authorized personnel (and any updates thereto) be promptly delivered to the Tiburon Client Support Center. Each request for any change to a Client’s database shall be accompanied by a signed letter of authorization from the Client’s Authorized Client Representative, and shall contain all details of the requested change. Tiburon will not assist Client personnel with database change requests other than those on the most current authorized personnel list.
- Designate a single individual to act as the Client’s authorized representative who is (a) authorized to act on the Client’s behalf with respect to all matters relating to this Agreement; (b) shall ensure the Client’s compliance with its responsibilities under this Agreement; and (c) shall coordinate appropriate schedules in connection with Tiburon’s services under this Agreement. The Client may change the individual designated hereunder by providing Tiburon written notice designating a new individual authorized to act as the Client Representative within ten business days.
- Ensure that Technical Support Coordinators and other personnel have received sufficient training on all aspects of the Tiburon system that they are supporting, and have the experience to perform its obligations.

## 4.7 SERVICE REQUEST LIFECYCLE

The TSR lifecycle can vary depending on the complexity of the issue being reported. Some TSRs will move from “New” to “In Progress” and “Closed” without a need for validation. Other TSRs require a validation step where the TSR is first “fixed” in the Client’s Training system and validated with the Client before moving to Production and then placed in “Test Request” status for final Client confirmation prior to closure. Our CSC team works with Clients to not only validate the resolution of the case, but to confirm the resolution prior to closing it.

## 4.7.1 TSR STATUS

As a TSR moves through Tiburon's service request lifecycle the overall case status will change. The statuses and definitions below are those currently in use:

Case Status	Definition
<b>New</b>	Default status used for all 'new' cases coming into the CSC. TSRs in "New" status reflect no one is currently assigned to research or resolve the issue. Once the Project Manager or Client Liaison discusses new issues with their Client, the issue is prioritized for resolution and the appropriate Team Leader is notified for assignment.
<b>In Progress</b>	Status used to indicate TSR has been assigned to an individual for resolution.
<b>Need Info</b>	Status used to indicate that the additional information is needed to resolve the TSR. Information needed is detailed in the Status / Solution field.  <i>A TSR in NEED INFO status for 30 or more calendar days without any update will be closed. If the issue occurs again, it should be reported as a new issue with supporting information and screen shots if applicable.</i>
<b>On Hold</b>	Status used to place TSR in a HOLD state pending action by Tiburon or action by the Client. Pending action will be detailed in the Status / Solution field.  <i>A TSR in ON HOLD status for 30 or more calendar days without any update will be closed with Client approval. If the issue occurs again, it should be reported as a new issue with supporting information and screen shots if applicable</i>
<b>Monitor</b>	Status used to indicate TSR is currently in 30-day monitor period. Usually used to monitor recurrence of an issue after implementation of a fix (typically when complete validation is not feasible). Also used when issue cannot be readily investigated pending occurrence of another event.  <i>A TSR in MONITOR status for 30 or more calendar days without any update will be closed. If the issue occurs again, it should be reported as a new issue with supporting information and screen shots if applicable.</i>
<b>Test in TRN</b>	Status used to indicate that a fix has been implemented in Client's training system. Testing by Client and confirmation of fix is required before fix will be moved to Client's production environment  <i>It is important that TSRs in this status are addressed by Client within 30 calendar days so that untested fixes do not remain in the Client's system for an unreasonable period of time. It is impossible to manage clean code lines with potential fixes that have not been tested as requested.</i>
<b>Test Request</b>	Status used to indicate that fix has been applied in the Client's production system. Validation of fix by the Client is required, however,  <i>A TSR in TEST Request status for 30 or more calendar days without any update will be closed. If the issue occurs again, it should be reported as a new issue with supporting information and screen shots if applicable.</i>
<b>Closed</b>	Status used to indicate that the TSR has been closed with the concurrence of the Client (or 30 calendar days have passed with no further communication from the Client, as noted above). Once in Closed status, a TSR is no longer editable to any other status.

## 4.7.2 CASE ESCALATION

Tiburon shall provide regular status updates to designated Client contact until the issue is resolved. Tiburon will document appropriate items, which may include root cause analysis, customer impacts, countermeasures and resolution. Failure to meet the stated resolution times will result in the escalation of these calls. Escalation path is as follows:

- Client Liaison
- Director, Client Service & Support – Tiburon Group
- Vice President / General Manager – Tiburon Group
- COO – TriTech Software Systems
- CEO – TriTech Software Systems

## 4.7.3 CASE CLOSURE

The CSC staff will work with Clients to validate TSR resolution prior to closure. Once an issue has been validated by the Client, Tiburon will confirm and close the case.

*If after 30 calendar days there has been no communication from the Client advising that the issue has not been resolved, the CSC staff will close the case.*

## **5. THIRD PARTY PRODUCT SUPPORT**

Unless otherwise agreed, the Customer shall obtain, pay for and maintain in effect during the term of this Agreement the technical support contracts for certain third party products as specified by Service Provider, and shall ensure that, in addition to authorizing the Customer to request support services there under, each such support contract also expressly authorizes Service Provider to request support services there under on the Customer's behalf.

## 6. OTHER SERVICES

### 6.1 SOFTWARE UPDATE SERVICES

If the Customer has purchased the Software Updates Program, the Customer will be entitled to receive new General Availability (GA) releases of the Service Provider licensed software products purchased by the Customer as they may become available.

The Software Updates Program provided hereunder does not include any of the following:

1. Installation, configuration and training services. Upon reasonable notice from the Customer, Service Provider will provide a Quote Document to the Customer on a time and materials basis at Service Provider's then current rates for such services;
2. Modifications or customization of the Software other than corrections of Defects made or provided under these Maintenance and Support Guidelines;
3. Consultation for new programs or equipment;
4. Correction of problems, and assistance regarding problems, caused by operator errors, including but not limited to the entry of incorrect data and the maintenance of inadequate backup copies and improper procedures; and/or
5. Correction of errors attributable to software other than the licensed Software.

Upgrade of the Customer's Hardware, Operating System, and/or third party software may be required from time to time to support New Releases, Maintenance Releases or Upgrades of the Software. The Customer shall be solely responsible for the cost of such upgrades unless expressly stated otherwise.

### 6.2 PRODUCT MODIFICATION REQUESTS

Product Modification Requests may be identified in several ways:

- In evaluating a TSR, it is determined that the existing solution is functioning as designed.
- A Client wants to extend their Tiburon solution or obtain additional optional services, and requests a quote for new functionality.

Once a TSR is identified as a product modification request, the case is updated to reflect this and assigned to the Client Liaison. The Client Liaison contacts and advises the Client of the new classification. The TSR is then assigned to the Account Executive and the TSR is closed. Once the Account Executive is notified of this request, the following actions occur:

- The Account Executive works with the Client to clarify the request and produce the requirements for Engineering to quote the request
- Engineering and/or Operations evaluates the request, determining the mix of customized development, configuration, testing and documentation required to deliver the request
- The Account Executive takes the information from Engineering and produces a quote for the Client

- The Client is asked to review and either accept or reject the proposed enclosed product modification and quote.
- Once the product modification proposal is accepted and signed by an authorized client representative, the delivery is handled by Tiburon's Operations Department.

## **6.3 STEERING COMMITTEE ISSUES**

Clients can submit a Steering Committee request for discussion and potential inclusion in Tiburon's baseline when they encounter a situation where a system change or additional feature would enhance the functionality of the system. Steering Committee requests can be submitted via the Self Service application using the Call Type of Steering Committee.

Steering Committee cases are assigned to a Tiburon Product Manager and the TSR is placed in an ON HOLD status. After the issue is vetted at the Tiburon User Group, the issue is updated with the recommendations of the Steering Committee and Closed.

## **6.4 PRODUCT SPECIALIST AND TRAINING REQUESTS**

Tiburon's Training Team is available to work with Clients. Each member on Tiburon's Training Team is a subject matter expert in specific Product. They support the implementation of each Client solution through configuration, validation, testing and training. After the Tiburon Applications are live, and the project is completed as deemed in the Statement of Work, Clients who have additional needs for training should work with their Tiburon Account Executive to create a custom, fee-based program.

## **6.5 DBA AND SYSTEM ADMINISTRATION SUPPORT SERVICES**

### **6.5.1 LEVEL 1 DATABASE ADMINISTRATION (DBA) SUPPORT**

Level 1 Database Administration (DBA) Support is a standard feature of Tiburon's Master Support Agreement (MSA). Level 1 DBA Support services include the creation of production and training databases to be used by the Tiburon applications for Clients that do not have their own database administration (DBA) capabilities. Database services offered as part of the Level 1 DBA Support do not include preventive monitoring of the Client's databases. The Client's DBA is responsible for periodic database backups, backup functionality monitoring, periodic database maintenance, and database recoveries in the event of disaster. During the project phase, before "go live," Tiburon is available to assist with the database backup configuration. Thereafter, Tiburon will be available primarily for consultation to diagnosis/resolve database problems that are directly related to the Tiburon applications.

### **6.5.2 LEVEL 1 SYSTEM ADMINISTRATION SUPPORT**

Tiburon provides Level 1 System Administration (SA) Support as a standard feature of the Master Support Agreement (MSA). For Clients who have qualified System Administrators, this plan provides the minimum assistance needed to ensure that operating systems, hardware, and networking function properly to support the Tiburon applications. Tiburon will provide support ranging from information-only, to applying minor changes (designation of minor change reserved to Tiburon), to providing resolution only for problems that may be encountered by supported Tiburon applications.

## 7. EXCLUSIONS TO TECHNICAL SUPPORT SERVICES

The following services are outside the scope of the Technical Support Services provided by Service Provider and may result in additional charges, on a time and material basis:

- (a) Repair of damage or the increase in service time due to any cause external to the System which adversely affects its operability or serviceability, including but not be limited to, fire, flood, water, wind, lightning, and transportation of the System from one location to another.
- (b) Repair of damage or the increase in service time caused by failure to continually provide a suitable installation environment, including, but not limited to, the failure to provide adequate electrical power, air conditioning or humidity control, or Customer's improper use, management or supervision of the System including, without limitation, the use of supplies and accessories. Proper use and environmental requirements are determined by the Product documentation.
- (c) Repair of problems caused by the use of the System for purposes other than for which it is designed.
- (d) Repair of problems caused by changes to the Hardware and/or the network made without obtaining Service Provider's prior approval.
- (e) Repair or replacement of any item of the System which has been repaired by others, abused or improperly handled, improperly stored, altered or used with third party material, software or equipment, which material, software or equipment may be defective, of poor quality or incompatible with the System, and Service Provider shall not be obligated to repair or replace any component of the System which has not been installed by Service Provider or a Service Provider authorized technician.
- (f) Removal, relocation and/or reinstallation of the System or any component thereof.
- (g) Diagnosis time directly related to unauthorized components and/or misuse of the System, whether intentional or not.
- (h) Any design consultation such as, but not limited to, reconfiguration analysis, consultation with Customer for modifications and upgrades which are not directly related to a problem correction.
- (i) Provision of any operational supplies, including by not limited to, printer paper, printer ribbons, toner, printer cartridges, photographic paper, magnetic tape and any supplies beyond those delivered with the System.
- (j) Repair of problems caused by computer / network security breaches and/or virus attacks.
- (k) Repair or replacement of any Hardware not purchased from Service Provider and explicitly covered by a Service Provider warranty or maintenance program.

## 8. OPTIONAL MAINTENANCE PROGRAMS

Tiburon's Account Executive will work with the Client to identify the support programs that meet Client needs and to develop associated pricing. The matrix below describes the standard Level 1 services as well as the Level 2 and Level 3 services offered.

### 8.1 DATABASE ADMINISTRATION (DBA) SERVICES / SYSTEM ADMINISTRATION (SA) SERVICES

Tiburon offers optional added-cost Database Administration Support and System Administration service plans including Level 2 and Level 3 Extended Services. These Service Levels are compared side by side in the matrix below.

Database Services	Level 1	Level 2	Level 3
Set up application databases	✓	✓	✓
Set up database backup to disk	✓	✓	✓
Expand database disk space allocations as needed	✓	✓	✓
Support for Database Issues on Tiburon Applications	Business Day (8x5)	24x7	24x7
Maintain Database Backup Scripts		✓	✓
24x7 Support for Database Issues on Tiburon Applications		✓	✓
Disaster Recovery Planning and Set-Up		✓	✓
Perform Database Recovery Procedures		✓	✓
Monthly Report		✓	✓
Maintain database system accounts and passwords		✓	✓
3 <sup>rd</sup> Party support login access		✓	✓
Twice Monthly Database Health Check & Maintenance		✓	✓
Database Upgrade Support		✓	✓
Monitoring of Backup Logs		Monthly	2x Monthly
Examination of Backup Tapes		Monthly	2x Monthly
Database Health Check & Maintenance		Monthly	2x Monthly
Database Tuning & Performance Monitoring		Monthly	2x Monthly
Rebuild Indexes		Annually	2x Annually
Recovery Dry Run		Annually	2x Annually



<b>Systems Administration Services</b>	<b>Level 1</b>	<b>Level 2</b>	<b>Level 3</b>
Backup Planning Consultation and Scripts (UNIX only)	✓	✓	✓
Set-Up of Backup Scripts (UNIX only)	✓	✓	✓
High-Availability Cluster Application Restart	✓	✓	✓
Expansion of File system Disk space Allocations		✓	✓
Application of Operating System Patches for Tiburon Applications		✓	✓
Remote Monitoring for System Health		Business Day (8x5)	24x7 Support
Perform Application Backup Activities		Business Day (8x5)	24x7 Support
Operating Systems, Hardware and Networking Assistance		Business Day (8x5)	24x7 Support
Remote System Administration			24x7 Support
Perform Performance Analysis, Report and Adjustments to System Performance Parameters			Annually
Review of Hardware and operating System on Named Services and Provide a Written Report			Monthly

## **9. ADDITIONAL INFORMATION**

**NOTE:** As these become available there will be no additional cost to client to utilize.

### **9.1 DOCUMENTATION LIBRARY (COMING SOON)**

All current-version baseline documentation is posted in the Documentation Library for Client access and download. This includes documentation for all current product version baseline releases. A link to this Documentation Library can be found on the Tiburon Support Website.

### **9.2 CRYSTAL REPORT / SSRS REPORT SHARING POOL (COMING SOON)**

Clients can submit Crystal Reports or SSRS Reports to be posted in the Sharing Pool, which will be accessible by all Tiburon Clients.

### **9.3 CLIENT TSR REPORTS (COMING SOON)**

Standard SSRS Reports are available for Clients to obtain a formatted report of their TSRs or a non-formatted report in csv format. Reports may include all Open Cases (not closed) or All Cases regardless of status.

### **9.4 KNOWLEDGE BASE (COMING SOON)**

Clients can submit a string search against Call Description and Status/Solution data in the Salesforce database to see if an issue had been submitted and a resolution is available to a common issue. The inquiry can also be filtered by System Type.

### **9.5 CUSTOMER FORUM (COMING SOON)**

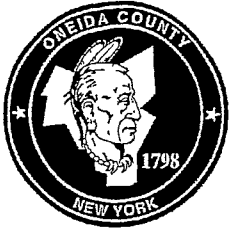
The Customer Forum will allow communications between Tiburon Clients on common issues or topics.

### **9.6 TIBURON USER GROUP**

The Tiburon User Group provides an important vehicle for communicating with other users and Tiburon staff. Each year, Tiburon hosts a User Group conference, offering training sessions, presentations and product demonstrations. The annual conference enhances communication among users, introduces new products and product upgrades, and provides working sessions focused on specific areas of user interest. Each agency can send as many representatives to the annual conference as desired, at the then current per attendee registration fee. The attendee fees help to offset a portion of the expenses we incur to ensure a high-quality event for our Clients.

## 9.7 PRODUCT STEERING COMMITTEES

Product Steering Committees allow Tiburon Clients to participate in product development and direction for all major Tiburon applications. Each Product Steering Committee is composed of a chairperson elected by the Tiburon User Group, and up to five additional members selected by the chairperson. The Product Steering Committee members solicit input from Tiburon Clients licensed for each product line, and compile suggested product changes to discuss at the annual Product Steering Committee meetings, which are held in the spring. A Tiburon product advocate and Tiburon product technical lead attend the annual Product Steering Committee meetings. Each session begins with a full demonstration of the current product version, followed by a discussion of potential changes and/or product modifications. As a result of these discussions, the Product Steering Committees determine which changes will be applied to the next product version.



ONEIDA COUNTY  
DEPARTMENT OF EMERGENCY SERVICES  
FIRE COORDINATOR  
911 CENTER

ANTHONY J. PICENTE, JR.  
County Executive

KEVIN W. REVERE  
Director

120 Base Road ♦ Oriskany, New York 13424  
Phone: (315) 765-2526 ♦ Fax: (315) 765-2529

October 3, 2017

FN 20 18-069

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

**PUBLIC SAFETY**

**WAYS & MEANS**

Dear County Executive Picente,

Attached is an amendment to a grant from the New York State Department of Homeland Security that awarded Oneida County \$64,000.00 through its FY2016 Haz-Mat Grant Program.

This amendment to the original FY2016 Haz-Mat Grant will allow Oneida County to redistribute the funds and use them in a more effective plan than originally outlined. The grant will be used to update Haz-Mat equipment.

No County dollars will be necessary for this project.

If you agree with this request, I would appreciate your approval and the Board's approval for the proposed amendment.

If you have any questions, please contact me. Thank you for your help.

Sincerely,

Kevin W. Revere  
Director

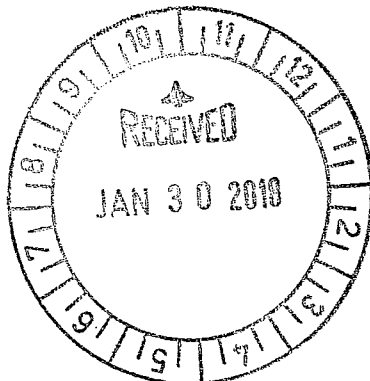
Cc: Tom Keeler, Budget Director  
Sheryl Brown, Office of the Comptroller

kmg

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

Anthony J. Picente, Jr.  
County Executive

Date 1-29-18



Oneida Co. Department: Emergency Services

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

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name & Address of Vendor:** New York State Division of Homeland Security and  
Emergency Services  
1220 Washington Avenue  
Building 7A, Suite 710  
Albany, NY 12242

**Title of Activity or Service:** Amendment to 2016 Haz Mat Grant

**Proposed Dates of Operation:** 9/1/2016 – 8/31/2019

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

**Summary Statements**

**1) Narrative Description of Proposed Services**

This is an amendment to the FY2016 Haz-Mat Grant that will allow Oneida County to redistribute funding from the State in a more effective way than originally outlined in the 2016 grant. This funding will be used to update Haz-Mat equipment.

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

Grant to Oneida County to fund upgrading Haz-Mat equipment.

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

**Total Funding Requested:** \$64,000.00 (requested in 2016- no additional funding required for this amendment)  
**Account # H-548 (Capital)**

**Oneida County Dept. Funding Recommendation:** \$64,000.00 (requested in 2016- no additional funding required for this amendment)

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

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

**Past Performance Data:** N/A

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

<p><b>STATE AGENCY</b>                  New York State Division of Homeland Security and Emergency Services                  1220 Washington Avenue                  Building 7A Suite 710                  Albany, NY 12242</p>	<p><b>NYS COMPTROLLER'S NUMBER:</b> C150469                  (Contract Number)   <b>ORIGINATING AGENCY CODE:</b> 01077</p>
<p><b>GRANTEE/CONTRACTOR:</b> (Name &amp; Address)                  Oneida County                  800 Park Avenue                  Utica, NY 13501</p>	<p><b>TYPE OF PROGRAMS:</b>  <b>CFDA NUMBER:</b>  <b>DHSES NUMBERS:</b> WM16150469</p>
<p><b>FEDERAL TAX IDENTIFICATION NO:</b> 15-6000460  <b>MUNICIPALITY NO:</b> (if applicable) 300100000 000  <b>SFS VENDER NO:</b> 1000002595  <b>DUN &amp; BRADSTREET NO:</b> 075814186</p>	<p><b>INITIAL CONTRACT PERIOD:</b>                  FROM 09/01/2016 TO 08/31/2019  <b>FUNDING AMOUNT FOR INITIAL PERIOD:</b> \$64,000.00</p>
<p><b>STATUS:</b>                  Contractor is not a sectarian entry.                  Contractor is not a not-for-profit organization.</p>	<p><b>MULTI-YEAR TERM:</b> (if applicable)</p>
<p><b>CHARITIES REGISTRATION NUMBER:</b>   <input type="text"/>                  (Enter number of Exempt)                  if "Exempt" is entered above, reason for exemption.  <u>0 - not exempt</u></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Contractor has ____ has not ____ timely filed with the Attorney General's Charities Bureau all required periodic or annual written reports.</p> </div>	<p><b>APPENDIX ATTACHED AND PART OF THIS AGREEMENT</b></p> <p><input type="checkbox"/> APPENDIX A Standard Clauses required by the Attorney General for all State contracts</p> <p><input checked="" type="checkbox"/> APPENDIX A1 Agency-specific Clauses</p> <p><input checked="" type="checkbox"/> APPENDIX B Budget</p> <p><input checked="" type="checkbox"/> APPENDIX C Payment and Reporting Schedule</p> <p><input checked="" type="checkbox"/> APPENDIX D Program Workplan and Special Conditions</p> <p><input checked="" type="checkbox"/> APPENDIX X Modification Agreement Form (to accompany modified appendices for changes in terms or considerations on an existing period or for renewal periods)</p> <p><input type="checkbox"/> DHSES-55 Budget Amendment/Grant Extension Request</p> <p><input type="checkbox"/> Other - Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion</p>
<p>IN WITNESS THEREOF, the parties hereto have electronically executed or approved this AGREEMENT on the dates of their signatures.</p>	
<p>NYS Division of Homeland Security and Emergency Services                  BY: _____, Date: _____  <b>State Agency Certification:</b> "In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract".                  GRANTEE:                  BY: Hon. Anthony J. Picente jr., County Executive Date: _____</p>	
<p><b>ATTORNEY GENERAL'S SIGNATURE</b>                   _____                  Title: _____                  Date: _____</p>	<p><b>COMPTROLLER'S SIGNATURE</b>                   _____                  Title: _____                  Date: _____</p>

**Award Contract**

**Project No.**

HM16-1003-D01

**Grantee Name**

Oneida County

10/03/2017

**Award Contract**

**Project No.**

HM16-1003-D01

**Grantee Name**

Oneida County

10/03/2017



**Award Contract****Project No.**

HM16-1003-D01

**Grantee Name**

Oneida County

10/03/2017

NEW YORK STATE  
DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES  
GRANT CONTRACT

## APPENDIX A-1

The Contract is hereby made by and between the State of New York, acting by and through the New York State Division of Homeland Security and Emergency Services (DHSES or State Agency) and the public or private entity ('Contractor' or 'Subrecipient') identified on the face page hereof (Face Page).

## WITNESSETH:

WHEREAS, the State has the authority to regulate and provide funding for the establishment and operation of program services, design or the execution and performance of construction projects, as applicable and desires to contract with skilled parties possessing the necessary resources to provide such services or work, as applicable; and

WHEREAS, the Contractor is ready, willing and able to provide such program services or the execution and performance of construction projects and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services or work, as applicable, required pursuant to the terms of the Contract;

NOW THEREFORE, in consideration of the promises, responsibilities, and covenants herein, the State and the Contractor agree as follows:

## STANDARD TERMS AND CONDITIONS

## I. GENERAL TERMS AND CONDITIONS

A. Executory Clause: In accordance with Section 41 of the State Finance Law, the State shall have no liability under the Contract to the Contractor, or to anyone else, beyond funds appropriated and available for the Contract.

B. Required Approvals: In accordance with Section 112 of the State Finance Law (or, if the Contract is with the State University of New York (SUNY) or City University of New York (CUNY), Section 355 or Section 6218 of the Education Law), if the Contract exceeds \$50,000 (or \$85,000 for contracts let by the Office of General Services, or the minimum thresholds agreed to by the Office of the State Comptroller (OSC) for certain SUNY and CUNY contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount including, but not limited to, changes in amount, consideration, scope or contract term identified on the Face Page (Contract Term), it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the New York Attorney General Contract Approval Unit (AG) and OSC. If, by the Contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the AG and OSC.

Budget Changes: An amendment that would result in a transfer of funds among program activities or budget categories that does not affect the amount, consideration, scope or other terms of such contract may be subject to the approval of the Offices of the State Comptroller and Attorney General where the amount of such modification is, as a portion of the total value of the contract, equal to or greater than ten percent for contracts of less than five million dollars, or five percent for contracts of more than five million dollars; and, in addition, such amendment may be subject to prior approval by the applicable State Agency as detailed in Appendix C (Payment and Reporting Schedule).

C. Contract Parts: This Contract incorporates the face pages attached, this Appendix and all of the marked Appendices identified on the face page hereof.

D. Order of Precedence: In the event of a conflict among (i) the terms of the Contract (including any and all Appendices and amendments) or (ii) between the terms of the Contract and the original request for proposal, the program application or other Appendix that was completed and executed by the Contractor in connection with the Contract, the order of precedence is as follows:

1. Appendix A-1<sup>1</sup>
2. Modifications to the Face Page
3. Modifications to Appendices B, C and D
4. The Face Page
5. Appendices B, C and D
6. Other attachments, including, but not limited to, the request for proposal or program application

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

F. Funding: Funding for the entire Contract Period shall not exceed the funding amount specified as 'Funding Amount for the Initial Period' on the Face Page hereof or as subsequently revised to reflect an approved renewal or cost amendment. Funding for the initial and subsequent periods of the Contract shall not exceed the applicable amounts specified in the applicable Appendix B form (Budget).

G. Contract Period: The period of this Contract shall be as specified on the face page hereof.

H. Contract Performance: The Contractor shall perform all services or work, as applicable, and comply with all provisions of the Contract to the satisfaction of the State. The Contractor shall provide services or work, as applicable, and meet the program objectives summarized in Appendix D (Work Plan and Special Conditions) in accordance with the provisions of the Contract, relevant laws, rules and regulations, administrative, program and fiscal guidelines, and where applicable, operating certificate for facilities or licenses for an activity or program. For federally-funded grants, DHSES will conduct an evaluation to determine risks posted by Contractors in managing federal awards. Consistent with 2 CFR §200.331, the results of the evaluation may result in the imposition special conditions to this Contract including but not limited to increased monitoring, suspension of reimbursements and cancellation of the Contract.

I. Modifications: To modify the Contract, the parties shall revise or complete the appropriate appendix form(s). Any change in the amount of consideration to be paid, change in scope, or change in the term, is subject to the approval of the NYS Office of the State Comptroller. Any other modifications shall be processed in accordance with DHSES guidelines as stated in this Contract.

J. Severability: Any provision of the Contract that is held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof; provided, however, that the parties to the Contract shall attempt in good faith to reform the Contract in a manner consistent with the intent of any such ineffective provision for the purpose of carrying out such intent. If any provision is held void, invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

K. Interpretation: The headings in the Contract are inserted for convenience and reference only and do not modify or restrict any of the provisions herein. All personal pronouns used herein shall be considered to be gender neutral. The Contract has been made under the laws of the State of New York, and the venue for resolving any disputes hereunder shall be in a court of competent jurisdiction of the State of New York.

L. Notice:

1. All notices, except for notices of termination, shall be in writing and shall be transmitted either:
    - a. by certified or registered United States mail, return receipt requested;
    - b. by facsimile transmission;
    - c. by personal delivery;
    - d. by expedited delivery service; or
    - e. by e-mail.
  2. Notices to the State shall be addressed to the Program Office.
  3. Notices to the Contractor shall be addressed to the Contractor's designee.
  4. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery services or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or e-mail, upon receipt.
  5. The parties may, from time to time, specify any new or different e-mail address, facsimile number or address in the United States as their address for purpose of receiving notice under the Contract by giving fifteen (15) calendar days prior written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under the Master Contract. Additional individuals may be designated in writing by the parties for purposes of implementation, administration, billing and resolving issues and/or disputes.
- M. Service of Process: In addition to the methods of service allowed by the State Civil Practice Law & Rules (CPLR), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. The Contractor shall have thirty (30) calendar days after service hereunder is complete in which to respond.
- N. Set-Off Rights: The State shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold, for the purposes of set-off, any moneys due to the Contractor under the Contract up to any amounts due and owing to the State with regard to the Contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of the Contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of setoff pursuant to an audit, the finalization of such audit by DHSES, its representatives, or OSC.
- O. Indemnification: The Contractor shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the Contractor or its subcontractors pursuant to this Contract. The Contractor shall indemnify and hold harmless the State and its officers and employees from claims, suits, actions, damages and cost of every nature arising out of the provision of services pursuant to the Contract.
- P. Non-Assignment Clause: In accordance with Section 138 of the State Finance Law, the Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet, or otherwise disposed of without the State's previous written consent, and attempts to do so shall be considered to be null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract, let pursuant to Article XI of the State Finance Law, may be waived at the discretion of DHSES and with the concurrence of OSC, where the original contract was subject to OSC's approval, where the assignment is due to a reorganization, merger, or consolidation of the Contractor's business entity or enterprise. The State retains its

right to approve an assignment and to require that the merged contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless the Contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

Q. Legal Action: No litigation or regulatory action shall be brought against the federal government, the State of New York, DHSES or against any county or other local government entity with the funds provided under the Contract. The term 'litigation' shall include commencing or threatening to commence a lawsuit, joining or threatening to join as a party to ongoing litigation, or requesting any relief from any of the federal government, the State of New York, DHSES or any county or other local government entity. The term 'regulatory action' shall include commencing or threatening to commence a regulatory proceeding, or requesting any regulatory relief from any of the State of New York, the State Agency, or any county, or other local government entity.

R. No Arbitration: Disputes involving the Contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

S. Secular Purpose: Services performed pursuant to the Contract are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

T. Partisan Political Activity and Lobbying: Funds provided pursuant to the Contract shall not be used for any partisan political activity, or for activities that attempt to influence legislation or election or defeat of any candidate for public office.

U. Reciprocity and Sanctions Provisions: The Contractor is hereby notified that if its principal place of business is located in a country, nation, province, state, or political subdivision that penalizes New York State vendors, and if the goods or services it offers shall be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that it be denied contracts which it would otherwise obtain.<sup>2</sup>

V. Reporting Fraud and Abuse: Contractor acknowledges that it has reviewed information on how to prevent, detect, and report fraud, waste and abuse of public funds, including information about the federal False Claims Act, the New York State False Claims Act and whistleblower protections.

W. Non-Collusive Bidding: By submission of this bid, the Contractor and each person signing on behalf of the Contractor certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive binding certification on the Contractor's behalf.

X. Federally Funded Grants: All of the specific federal requirements that are applicable to the Contract are identified in Section V (FEDERALLY FUNDED GRANT REQUIREMENTS) of this Appendix. To the extent that the Contract is funded in whole or part with federal funds, (i) the provisions of the Contract that conflict with federal rules, federal regulations, or federal program specific requirements shall not apply and (ii) the Contractor agrees to comply with all applicable federal rules, regulations and program specific requirements including, but not limited to, those provisions that are set forth in Section V (FEDERALLY FUNDED GRANT REQUIREMENTS) of this Appendix. To the extent that section V (FEDERALLY FUNDED GRANT REQUIREMENTS) conflict with any other provisions of the Contract, the federal requirements of Section V shall supersede all other provisions of the Contract where required.

Y. The Contractor must meet the program objectives summarized in the Program Work Plan and Special Conditions (Appendix D) to the satisfaction of DHSES in accordance with provisions of the Contract, relevant laws, rules and regulations, administrative and fiscal guidelines and, where applicable, operating certificates for facilities or license for an activity or program.

## II. TERM, TERMINATION AND SUSPENSION

A. Term: The term of the Contract shall be as specified on the Face Page, unless terminated sooner as provided herein.

B. Renewal:

1. General Renewal: The Contract may consist of successive periods on the same terms and conditions, as specified within the Contract (a 'Simplified Renewal Contract'). Each additional or superseding period shall be on the forms specified by the State and shall be incorporated in the Contract.

2. Renewal Notice to Not-for-Profit Contractors:

a. Pursuant to State Finance Law § 179-t, if the Contract is with a not-for-profit Contractor and provides for a renewal option, the State shall notify the Contractor of the State's intent to renew or not to renew the Contract no later than ninety (90) calendar days prior to the end of the term of the Contract, unless funding for the renewal is contingent upon enactment of an appropriation. If funding for the renewal is contingent upon enactment of an appropriation, the State shall notify the Contractor of the State's intent to renew or not to renew the Contract the later of: (1) ninety (90) calendar days prior to the end of the term of the Contract, and (2) thirty (30) calendar days after the necessary appropriation becomes law. Notwithstanding the foregoing, in the event that the State is unable to comply with the time frames set forth in this paragraph due to unusual circumstances beyond the control of the State ('Unusual Circumstances'), no payment of interest shall be due to the not-for-profit Contractor. For purposes of State Finance Law § 179-t, 'Unusual Circumstances' shall not mean the failure by the State to (i) plan for implementation of a program, (ii) assign sufficient staff resources to implement a program, (iii) establish a schedule for the implementation of a program or (iv) anticipate any other reasonably foreseeable circumstance.

b. Notification to the not-for-profit Contractor of the State's intent to not renew the Contract must be in writing in the form of a letter, with the reason(s) for the non-renewal included. If the State does not provide notice to the not-for-profit Contractor of its intent not to renew the Contract as required in this Section and State Finance Law § 179-t, the Contract shall be deemed continued until the date the State provides the necessary notice to the Contractor, in accordance with State Finance Law § 179-t. Expenses incurred by the not-for-profit Contractor during such extension shall be reimbursable under the terms of the Contract.

C. Termination:

1. Grounds:

a. Mutual Consent: The Contract may be terminated at any time upon mutual written consent of the State and the Contractor.

b. Cause: The State may terminate the Contract immediately, upon written notice of termination to the Contractor, if the Contractor fails to comply with any of the terms and conditions of the Contract and/or with any laws, rules, regulations, policies, or procedures that are applicable to the Contract.

c. Non-Responsibility: In accordance with the provisions of this Contract, the State may make a final determination that the Contractor is non-responsible (Determination of Non-Responsibility). In such event, the State may terminate the Contract at the Contractor's expense, complete the contractual requirements in any manner the State deems advisable and pursue available legal or equitable remedies for breach.

d. Convenience: The State may terminate the Contract in its sole discretion upon thirty (30) calendar days prior written notice.

e. Lack of Funds: If for any reason the State or the Federal government terminates or reduces its appropriation to the applicable State Agency entering into the Contract or fails to pay the full amount of the allocation for the operation of one or more programs funded under this Contract, the Contract may be terminated or reduced at DHSES's discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to DHSES for payment of such costs. Upon termination or reduction of the Contract, all remaining funds paid to the Contractor that are not subject to allowable costs already incurred by the Contractor shall be returned to DHSES. In any event, no liability shall be incurred by the

State (including DHSES) beyond monies available for the purposes of the Contract. The Contractor acknowledges that any funds due to DHSES or the State of New York because of disallowed expenditures after audit shall be the Contractor's responsibility.

f. Force Majeure: The State may terminate or suspend its performance under the Contract immediately upon the occurrence of a 'force majeure'. For purposes of the Contract, 'Force majeure' shall include, but not be limited to, natural disasters, war, rebellion, insurrection, riot, strikes, lockout and any unforeseen circumstances and acts beyond the control of the State which render the performance of its obligations impossible.

## 2. Notice of Termination:

a. Service of notice: Written notice of termination shall be sent by:

- i. personal messenger service; or
- ii. certified mail, return receipt requested and first class mail.

b. Effective date of termination: The effective date of the termination shall be the later of (i) the date indicated in the notice and (ii) the date the notice is received by the Contractor, and shall be established as follows:

- i. if the notice is delivered by hand, the date of receipt shall be established by the receipt given to the Contractor or by affidavit of the individual making such hand delivery attesting to the date of delivery; or
- ii. if the notice is delivered by registered or certified mail, by the receipt returned from the United States Postal Service, or if no receipt is returned, five (5) business days from the date of mailing of the first class letter, postage prepaid, in a depository under the care and control of the United States Postal Service.

## 3. Effect of Notice and Termination on State's Payment Obligations:

a. Upon receipt of notice of termination, the Contractor agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the State.

b. The State shall be responsible for payment on claims for services or work provided and costs incurred pursuant to the terms of the Contract. In no event shall the State be liable for expenses and obligations arising from the requirements of the Contract after its termination date.

## 4. Effect of Termination Based on Misuse or Conversion of State or Federal Property:

Where the Contract is terminated for cause based on Contractor's failure to use some or all of the real property or equipment purchased pursuant to the Contract for the purposes set forth herein, the State may, at its option, require:

- a. the repayment to the State of any monies previously paid to the Contractor; or
- b. the return of any real property or equipment purchased under the terms of the Contract; or
- c. an appropriate combination of clauses (a) and (b) of Section II(C)(4) herein.

Nothing herein shall be intended to limit the State's ability to pursue such other legal or equitable remedies as may be available.

D. Suspension: The State may, in its discretion, order the Contractor to suspend performance for a reasonable period of time. In the event of such suspension, the Contractor shall be given a formal written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor shall comply with the particulars of the notice. The State shall have no obligation to reimburse Contractor's expenses during such suspension period. Activities may resume at such time as the State issues a formal written notice authorizing a resumption of performance under the Contract.

### III. PAYMENT AND REPORTING

#### A. Terms and Conditions:

1. In full consideration of contract services to be performed, DHSES agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page.
2. The State has no obligation to make payment until all required approvals, including the approval of the AG and OSC, if required, have been obtained. Contractor obligations or expenditures that precede the start date of the Contract shall not be reimbursed.
3. The Contractor must provide complete and accurate billing invoices to the State in order to receive payment. Provided, however, the State may, at its discretion, automatically generate a voucher in accordance with an approved contract payment schedule. Billing invoices submitted to the State must contain all information and supporting documentation required by Appendix C (Payment and Reporting Schedule) and Section III(C) herein. The State may require the Contractor to submit billing invoices electronically.
4. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the head of DHSES, in the sole discretion of the head of such State Agency, due to extenuating circumstances. Such electronic payment shall be made in accordance with OSC's procedures and practices to authorize electronic payments. Authorization forms are available at the State Comptroller's website at [www.osc.state.ny.us/epay/index.htm](http://www.osc.state.ny.us/epay/index.htm), by email at [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us), or by telephone at (518) 474-4032. Contractor acknowledges that it will not receive payment on any vouchers submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Director has expressly authorized payment by paper check as set forth above.
5. If travel expenses are an approved expenditure under this Contract, travel expenses shall be reimbursed at the lesser of the rates set forth in the written standard travel policy of the Contractor, the OSC guidelines, or United States General Services Administration rates. No out-of-state travel costs shall be permitted unless specifically detailed and pre-approved by the State.
6. Timeliness of advance payments or other claims for reimbursement, and any interest to be paid to Contractor for late payment, shall be governed by Article 11-A of the State Finance Law to the extent required by law.
7. Article 11-B of the State Finance Law sets forth certain time frames for the Full Execution of contracts or renewal contracts with not-for-profit organizations and the implementation of any program plan associated with such contract. For purposes of this section, 'Full Execution' shall mean that the contract has been signed by all parties thereto and has obtained the approval of the AG and OSC. Any interest to be paid on a missed payment to the Contractor based on a delay in the Full Execution of the Master Contract shall be governed by Article 11-B of the State Finance Law.

#### B. Advance Payment and Recoupment:

1. Advance payments, which the State in its sole discretion may make to not-for-profit grant recipients, shall be made and recouped in accordance with State Finance Law Section 179(u), this Section and the provisions of Appendix C (Payment and Reporting Schedule).
2. Advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the first day of the Contract Term or, if renewed, in the period identified on the Face Page.
3. For subsequent contract years in multi-year contracts, Contractor will be notified of the scheduled advance payments for the upcoming contract year no later than 90 days prior to the commencement of the contract year. For simplified renewals, the payment schedule (Appendix C) will be modified as part of the renewal process.
4. Recoupment of any advance payment(s) shall be recovered by crediting the percentage of subsequent claims listed in Appendix C (Payment and Reporting Schedule) and Section III(C) herein and such claims shall be reduced until the advance is fully recovered within the Contract Term. Any unexpended advance balance at the

end of the Contract Term shall be refunded by the Contractor to the State.

5. If for any reason the amount of any claim is not sufficient to cover the proportionate advance amount to be recovered, then subsequent claims may be reduced until the advance is fully recovered.

#### C. Claims for Reimbursement:

1. The Contractor shall submit claims for the reimbursement of expenses incurred on behalf of the State under the Contract in accordance with this Section and the applicable claiming schedule in Appendix C (Payment and Reporting Schedule).

Vouchers submitted for payment shall be deemed to be a certification that the payments requested are for project expenditures made in accordance with the items as contained in the applicable Appendix B form (Budget) and during the Contract Term. When submitting a voucher, such voucher shall also be deemed to certify that: (i) the payments requested do not duplicate reimbursement from other sources of funding; and (ii) the funds provided herein do not replace funds that, in the absence of this grant, would have been made available by the Contractor for this program. Requirement (ii) does not apply to grants funded pursuant to a Community Projects Fund appropriation.

2. Consistent with the selected reimbursement claiming schedule in Appendix C (Payment and Reporting Schedule), the Contractor shall comply with the appropriate following provisions:

a. Quarterly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Appendix D (Work Plan and Special Conditions). The Contractor shall submit to DHSES quarterly voucher claims and supporting documentation. The Contractor shall submit vouchers to DHSES in accordance with the procedures set forth in Section III(A)(3) herein.

b. Monthly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Appendix D (Work Plan and Special Conditions). The Contractor shall submit to DHSES monthly voucher claims and supporting documentation. The Contractor shall submit vouchers to DHSES in accordance with the procedures set forth in Section III(A)(3) herein.

c. Biannual Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Appendix D (Work Plan and Special Conditions). The Contractor shall submit to DHSES biannually voucher claims and supporting documentation. The Contractor shall submit vouchers to DHSES in accordance with the procedures set forth in Section III(A)(3) herein.

d. Milestone/Performance Reimbursement:<sup>3</sup> Requests for payment based upon an event or milestone may be either severable or cumulative. A severable event/milestone is independent of accomplishment of any other event. If the event is cumulative, the successful completion of an event or milestone is dependent on the previous completion of another event. Milestone payments shall be made to the Contractor when requested in a form approved by the State, and at frequencies and in amounts stated in Appendix C (Payment and Reporting Schedule). DHSES shall make milestone payments subject to the Contractor's satisfactory performance.

e. Fee for Service Reimbursement:<sup>4</sup> Payment shall be limited to only those fees specifically agreed upon in the Contract and shall be payable no more frequently than monthly upon submission of a voucher by the contractor.

f. Rate Based Reimbursement:<sup>5</sup> Payment shall be limited to rate(s) established in the Contract. Payment may be requested no more frequently than monthly.

g. Scheduled Reimbursement:<sup>6</sup> DHSES shall generate vouchers at the frequencies and amounts as set forth in Appendix C(Payment and Reporting Schedule).

h. Interim Reimbursement: DHSES may generate vouchers on an interim basis and the amounts requested by the Contract as set forth in Attachment C (Payment and Reporting Schedule).

i. Fifth Quarter Payments:<sup>7</sup> Fifth quarter payment shall be paid to the Contractor at the conclusion of the final scheduled payment period of the preceding contract period. DHSES shall use a written directive for fifth quarter



financing. DHSES shall generate a voucher in the fourth quarter of the current contract year to pay the scheduled payment for the next contract year.

3. The Contractor shall also submit supporting fiscal documentation for the expenses claimed.

4. The State reserves the right to withhold up to fifteen percent (15%) of the total amount of the Contract as security for the faithful completion of services or work, as applicable, under the Contract. This amount may be withheld in whole or in part from any single payment or combination of payments otherwise due under the Contract. In the event that such withheld funds are insufficient to satisfy Contractor's obligations to the State, the State may pursue all available remedies, including the right of setoff and recoupment.

5. The State shall not be liable for payments on the Contract if it is made pursuant to a Community Projects Fund appropriation if insufficient monies are available pursuant to Section 99-d of the State Finance Law.

6. All vouchers submitted by the Contractor pursuant to the Contract shall be submitted to DHSES no later than thirty (30) calendar days after the end date of the period for which reimbursement is claimed. In no event shall the amount received by the Contractor exceed the budget amount approved by DHSES, and, if actual expenditures by the Contractor are less than such sum, the amount payable by DHSES to the Contractor shall not exceed the amount of actual expenditures.

7. All obligations must be incurred prior to the end date of the contract. Notwithstanding the provisions of Section III(C)(6) above, with respect to the final period for which reimbursement is claimed, so long as the obligations were incurred prior to the end date of the contract, the Contractor shall have up to ninety (90) calendar days after the contract end date to make expenditures; provided, however, that if the Contract is funded in whole or in part with federal funds, the Contractor shall have up to sixty (60) calendar days after the contract end date to make expenditures.

#### D. Identifying Information and Privacy Notification:

1. Every voucher or New York State Claim for Payment submitted to a State Agency by the Contractor, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property, must include the Contractor's Vendor Identification Number assigned by the Statewide Financial System, and any or all of the following identification numbers: (i) the Contractor's Federal employer identification number, (ii) the Contractor's Federal social security number, and/or (iii) DUNS number. Failure to include such identification number or numbers may delay payment by the State to the Contractor. Where the Contractor does not have such number or numbers, the Contractor, on its voucher or Claim for Payment, must provide the reason or reasons for why the Contractor does not have such number or numbers.

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

#### E. Refunds:

1. In the event that the Contractor must make a refund to the State for Contract-related activities, including repayment of an advance or an audit disallowance, payment must be made payable as set forth in this Appendix. The Contractor must reference the contract number with its payment and include a brief explanation of why the refund is being made. Refund payments must be submitted to the Office address listed in Appendix C.

2. If at the end or termination of the Contract, there remains any unexpended balance of the monies advanced under the Contract in the possession of the Contractor, the Contractor shall make payment within forty-five (45)

calendar days of the end or termination of the Contract. In the event that the Contractor fails to refund such balance the State may pursue all available remedies.

F. Outstanding Amounts Owed to the State: Prior period overpayments (including, but not limited to, contract advances in excess of actual expenditures) and/or audit recoveries associated with the Contractor may be recouped against future payments made under this Contract to Contractor. The recoupment generally begins with the first payment made to the Contractor following identification of the overpayment and/or audit recovery amount. In the event that there are no payments to apply recoveries against, the Contractor shall make payment as provided in Section III(E) (Refunds) herein.

G. Program and Fiscal Reporting Requirements:

1. The Contractor shall submit required periodic reports in accordance with the applicable schedule provided in Appendix C (Payment and Reporting Schedule). All required reports or other work products developed pursuant to the Contract must be completed as provided by the agreed upon work schedule in a manner satisfactory and acceptable to DHSES in order for the Contractor to be eligible for payment.

2. Consistent with the selected reporting options in Appendix C (Payment and Reporting Schedule), the Contractor shall comply with the following applicable provisions:

a. If the Expenditure Based Reports option is indicated in Appendix C (Payment and Reporting Schedule), the Contractor shall provide DHSES with one or more of the following reports as required by the following provisions and Appendix C (Payment and Reporting Schedule) as applicable:

i. Narrative/Qualitative Report: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Appendix C (Payment and Reporting Schedule), a report, in narrative form, summarizing the services rendered during the quarter. This report shall detail how the Contractor has progressed toward attaining the qualitative goals enumerated in Appendix D (Work Plan and Special Conditions). This report should address all goals and objectives of the project and include a discussion of problems encountered and steps taken to solve them.

ii. Statistical/Quantitative Report: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Appendix C (Payment and Reporting Schedule), a detailed report analyzing the quantitative aspects of the program plan, as appropriate (e.g., number of meals served, clients transported, patient/client encounters, procedures performed, training sessions conducted, etc.).

iii. Expenditure Report: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Appendix C (Payment and Reporting Schedule), a detailed expenditure report, by object of expense. This report shall accompany the voucher submitted for such period.

iv. Final Report: The Contractor shall submit a final report as required by the Contract, not later than the time period listed in Appendix C (Payment and Reporting Schedule) which reports on all aspects of the program and detailing how the use of funds were utilized in achieving the goals set forth in Appendix D (Work Plan and Special Conditions).

v. Consolidated Fiscal Report (CFR): The Contractor shall submit a CFR, which includes a year-end cost report and final claim not later than the time period listed in Appendix C (Payment and Reporting Schedule).

b. If the Performance-Based Reports option is indicated in Appendix C (Payment and Reporting Schedule), the Contractor shall provide DHSES with the following reports as required by the following provisions and Appendix C (Payment and Reporting Schedule) as applicable:

i. Progress Report: The Contractor shall provide DHSES with a written progress report using the forms and formats as provided by DHSES, summarizing the work performed during the period. These reports shall detail the Contractor's progress toward attaining the specific goals enumerated in Appendix D (Work Plan and Special Conditions). Progress reports shall be submitted in a format prescribed in the Contract.

ii. Final Progress Report: Final scheduled payment is due during the time period set forth in Appendix C (Payment and Reporting Schedule). The deadline for submission of the final report shall be the date set forth in

Appendix C (Payment and Reporting Schedule). DHSES shall complete its audit and notify the Contractor of the results no later than the date set forth in Appendix C (Payment and Reporting Schedule). Payment shall be adjusted by DHSES to reflect only those services/expenditures that were made in accordance with the Contract. The Contractor shall submit a detailed comprehensive final progress report not later than the date set forth in Appendix C (Payment and Reporting Schedule), summarizing the work performed during the entire Contract Term (i.e., a cumulative report), in the forms and formats required.

3. In addition to the periodic reports stated above, the Contractor may be required (a) to submit such other reports as are required in Table 1 of Appendix C (Payment and Reporting Schedule), and (b) prior to receipt of final payment under the Contract, to submit one or more final reports in accordance with the form, content, and schedule stated in Table 1 of Appendix C (Payment and Reporting Schedule).

#### H. Notification of Significant Occurrences:

1. If any specific event or conjunction of circumstances threatens the successful completion of this project, in whole or in part, including where relevant, timely completion of milestones or other program requirements, the Contractor agrees to submit to DHSES within three (3) calendar days of becoming aware of the occurrence or of such problem, a written description thereof together with a recommended solution thereto.

2. The Contractor shall immediately notify in writing the program manager assigned to the Contract of any unusual incident, occurrence, or event that involves the staff, volunteers, directors or officers of the Contractor, any subcontractor or program participant funded through the Contract, including but not limited to the following: death or serious injury; an arrest or possible criminal activity that could impact the successful completion of this project; any destruction of property; significant damage to the physical plant of the Contractor; or other matters of a similarly serious nature.

#### IV. ADDITIONAL CONTRACTOR OBLIGATIONS, REPRESENTATIONS AND WARRANTIES

##### A. Contractor as an Independent Contractor/Employees:

1. The State and the Contractor agree that the Contractor is an independent contractor and not an employee of the State and may neither hold itself out nor claim to be an officer, employee, or subdivision of the State nor make any claim, demand, or application to or for any right based upon any different status. The Contractor shall be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries and management of its project personnel. These functions shall be carried out in accordance with the provisions of the Contract, and all applicable Federal and State laws and regulations.

2. The Contractor warrants that it, its staff, and any and all subcontractors have all the necessary licenses, approvals, and certifications currently required by the laws of any applicable local, state, or Federal government to perform the services or work, as applicable, pursuant to the Contract and/or any subcontract entered into under the Contract. The Contractor further agrees that such required licenses, approvals, and certificates shall be kept in full force and effect during the term of the Contract, or any extension thereof, and to secure any new licenses, approvals, or certificates within the required time frames and/or to require its staff and subcontractors to obtain the requisite licenses, approvals, or certificates. In the event the Contractor, its staff, and/or subcontractors are notified of a denial or revocation of any license, approval, or certification to perform the services or work, as applicable, under the Contract, Contractor shall immediately notify the State.

##### B. Subcontractors:

1. If the Contractor enters into subcontracts for the performance of work pursuant to the Contract, the Contractor shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the State under the Contract. No contractual relationship shall be deemed to exist between the subcontractor and the State.

2. If requested by the State, the Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, that are in excess of \$100,000 for the performance of the obligations contained herein until it has received the prior written permission of the State, which shall have the right to review and approve each and every subcontract in excess of \$100,000 prior to giving written permission to the Contractor to enter into the

subcontract. All agreements between the Contractor and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of the Contract, (2) that nothing contained in the subcontract shall impair the rights of the State under the Contract, and (3) that nothing contained in the subcontract, nor under the Contract, shall be deemed to create any contractual relationship between the subcontractor and the State. In addition, subcontracts shall contain any other provisions which are required to be included in subcontracts pursuant to the terms herein.

3. If requested by the State, prior to executing a subcontract, the Contractor agrees to require the subcontractor to provide to the State the information the State needs to determine whether a proposed subcontractor is a responsible vendor.

4. If requested by the State, when a subcontract equals or exceeds \$100,000, the subcontractor must submit a Vendor Responsibility Questionnaire (Questionnaire).

5. If requested by the State, when a subcontract is executed, the Contractor must provide detailed subcontract information (a copy of subcontract will suffice) to the State within fifteen (15) calendar days after execution. The State may request from the Contractor copies of subcontracts between a subcontractor and its subcontractor.

6. The Contractor shall require any and all subcontractors to submit to the Contractor all financial claims for Services or work to DHSES, as applicable, rendered and required supporting documentation and reports as necessary to permit Contractor to meet claim deadlines and documentation requirements as established in Appendix C (Payment and Reporting Schedule) and Section III. Subcontractors shall be paid by the Contractor on a timely basis after submitting the required reports and vouchers for reimbursement of services or work, as applicable. Subcontractors shall be informed by the Contractor of the possibility of non-payment or rejection by the Contractor of claims that do not contain the required information, and/or are not received by the Contractor by said due date.

#### C. Use of Material, Equipment, or Personnel:

1. The Contractor shall not use materials, equipment, or personnel paid for under the Contract for any activity other than those provided for under the Contract, except with the State's prior written permission.

2. Any interest accrued on funds paid to the Contractor by the State shall be deemed to be the property of the State and shall either be credited to the State at the close-out of the Contract or, upon the written permission of the State, shall be expended on additional services or work, as applicable, provided for under the Contract.

#### D. Property:

1. Property is real property, equipment, or tangible personal property having a useful life of more than one year and an acquisition cost of \$1,000 or more per unit.

a. If an item of Property required by the Contractor is available as surplus to the State, the State at its sole discretion, may arrange to provide such Property to the Contractor in lieu of the purchase of such Property.

b. If the State consents in writing, the Contractor may retain possession of Property owned by the State, as provided herein, after the termination of the Contract to use for similar purposes. Otherwise, the Contractor shall return such Property to the State at the Contractor's cost and expense upon the expiration of the Contract.

c. In addition, the Contractor agrees to permit the State to inspect the Property and to monitor its use at reasonable intervals during the Contractor's regular business hours.

d. The Contractor shall be responsible for maintaining and repairing Property purchased or procured under the Contract at its own cost and expense. The Contractor shall procure and maintain insurance at its own cost and expense in an amount satisfactory to DHSES naming DHSES as an additional insured, covering the loss, theft or destruction of such equipment.

e. A rental charge to the Contract for a piece of Property owned by the Contractor shall not be allowed.

f. The State has the right to review and approve in writing any new contract for the purchase of or lease for rental of Property (Purchase/Lease Contract) operated in connection with the provision of the services or work, as applicable, as specified in the Contract, if applicable, and any modifications, amendments, or extensions of an existing lease or purchase prior to its execution. If, in its discretion, the State disapproves of any Purchase/Lease Contract, then the State shall not be obligated to make any payments for such Property.

g. No member, officer, director or employee of the Contractor shall retain or acquire any interest, direct or indirect, in any Property, paid for with funds under the Contract, nor retain any interest, direct or indirect, in such, without full and complete prior disclosure of such interest and the date of acquisition thereof, in writing to the Contractor and the State.

2. For non-Federally-funded contracts, unless otherwise provided herein, the State shall have the following rights to Property purchased with funds provided under the Contract:

a. For cost-reimbursable contracts, all right, title and interest in such Property shall belong to the State.

b. For performance-based contracts, all right, title and interest in such Property shall belong to the Contractor.

3. For Federally funded contracts, title to Property whose requisition cost is borne in whole or in part by monies provided under the Contract shall be governed by the terms and conditions of Section V (FEDERALLY FUNDED GRANT REQUIREMENTS) contained herein.

4. Upon written direction by the State, the Contractor shall maintain an inventory of all Property that is owned by the State as provided herein.

5. The Contractor shall execute any documents which the State may reasonably require to effectuate the provisions of this section.

#### E. Records and Audits:

##### 1. General:

a. The Contractor shall establish and maintain, in paper or electronic format, complete and accurate books, records, documents, receipts, accounts, and other evidence directly pertinent to its performance under the Contract (collectively, Records).

b. The Contractor agrees to produce and retain for the balance of the term of the Contract, and for a period of six years from the later of the date of (i) the Contract and (ii) the most recent renewal of the Contract, any and all Records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under the Contract. Such Records may include, but not be limited to, original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:

i. personal service expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, cash and check disbursement records including copies of money orders and the like, vouchers and invoices, records of contract labor, any and all records listing payroll and the money value of non-cash advantages provided to employees, time cards, work schedules and logs, employee personal history folders, detailed and general ledgers, sales records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

ii. payroll taxes and fringe benefits: cancelled checks, copies of related bank statements, cash and check disbursement records including copies of money orders and the like, invoices for fringe benefit expenses, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

iii. non-personal services expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, cost allocation plans, and bid and procurement documentation, such as quotes, proposals and selection records, if applicable.

iv. receipt and deposit of advance and reimbursements: itemized bank stamped deposit slips, and a copy of the

related bank statements.

c. The OSC, AG and any other person or entity authorized to conduct an examination, as well as DHSES or State Agencies involved in the Contract that provided funding, shall have access to the Records during the hours of 9:00 a.m. until 5:00 p.m., Monday through Friday (excluding State recognized holidays), at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.

d. The State shall protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records, as exempt under Section 87 of the Public Officers Law, is reasonable.

e. Nothing contained herein shall diminish, or in any way adversely affect, the State's rights in connection with its audit and investigatory authority or the State's rights in connection with discovery in any pending or future litigation.

## 2. Cost Allocation:

a. For non-performance based contracts, the proper allocation of the Contractor's costs must be made according to a cost allocation plan that meets the requirements of 2 CFR Part 200. Methods used to determine and assign costs shall conform to generally accepted accounting practices and shall be consistent with the method(s) used by the Contractor to determine costs for other operations or programs. Such accounting standards and practices shall be subject to approval of the State.

b. For performance based milestone contracts, or for the portion of the contract amount paid on a performance basis, the Contractor shall maintain documentation demonstrating that milestones were attained.

3. Federal Funds: For records and audit provisions governing Federal funds, please see Section V (FEDERALLY FUNDED GRANT REQUIREMENTS) of this Appendix A-1.

F. Confidentiality: The Contractor agrees that it shall use and maintain information relating to individuals who may receive services, and their families pursuant to the Contract, or any other information, data or records deemed confidential by the State (Confidential Information) only for the limited purposes of the Contract and in conformity with applicable provisions of State and Federal law. The Contractor (i) has an affirmative obligation to safeguard any such Confidential Information from unnecessary or unauthorized disclosure and (ii) must comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

## G. Publicity:

1. Publicity includes, but is not limited to: news conferences; news releases; public announcements; advertising; brochures; reports; discussions or presentations at conferences or meetings; and/or the inclusion of State materials, the State's name or other such references to the State in any document or forum. Publicity regarding this project may not be released without prior written approval from the State.

2. Any publications, presentations or announcements of conferences, meetings or trainings which are funded in whole or in part through any activity supported under the Contract may not be published, presented or announced without prior approval of the State. Any such publication, presentation or announcement shall:

a. Acknowledge the support of the State of New York and, if funded with Federal funds, the applicable Federal funding agency; and

b. State that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Contractor and do not necessarily represent the opinions, interpretations or policy of the State or if funded with Federal funds, the applicable Federal funding agency.

3. Notwithstanding the above, (i) if the Contractor is an educational research institution, the Contractor may, for scholarly or academic purposes, use, present, discuss, report or publish any material, data or analyses, other

than Confidential Information, that derives from activity under the Master Contract and the Contractor agrees to use best efforts to provide copies of any manuscripts arising from Contractor's performance under this Master Contract, or if requested by the State, the Contractor shall provide the State with a thirty (30) day period in which to review each manuscript for compliance with Confidential Information requirements; or (ii) if the Contractor is not an educational research institution, the Contractor may submit for publication, scholarly or academic publications that derive from activity under the Master Contract (but are not deliverable under the Master Contract), provided that the Contractor first submits such manuscripts to the State forty-five (45) calendar days prior to submission for consideration by a publisher in order for the State to review the manuscript for compliance with confidentiality requirements and restrictions and to make such other comments as the State deems appropriate. All derivative publications shall follow the same acknowledgments and disclaimer as described in Section IV(G)(2) (Publicity) hereof.

H. Web-Based Applications-Accessibility: Any web-based intranet and Internet information and applications development, or programming delivered pursuant to the Contract or procurement shall comply with New York State Enterprise IT Policy NYS-P08-005, Accessibility Web-Based Information and Applications, and New York State Enterprise IT Standard NYS-S08-005, Accessibility of Web-Based Information Applications, as such policy or standard may be amended, modified or superseded, which requires that State Agency web-based intranet and Internet information and applications are accessible to person with disabilities. Web content must conform to New York State Enterprise IT Standards NYS-S08-005, as determined by quality assurance testing. Such quality assurance testing shall be conducted by DHSES and the results of such testing must be satisfactory to DHSES before web content shall be considered a qualified deliverable under the Contract or procurement.

I. Non-Discrimination Requirements: Pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional nondiscrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that the Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Contract. The Contractor shall be subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 of the Labor Law.

J. Equal Opportunities for Minorities and Women; Minority and Women Owned Business Enterprises: In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if the Contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting State Agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting State Agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting State Agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the Contractor certifies and affirms that (i) it is subject to Article 15-A of the Executive Law which includes, but is not limited to, those provisions concerning the maximizing of opportunities for the participation of minority and women-owned business enterprises and (ii) the following provisions shall apply and it is Contractor's equal employment opportunity policy that:

1. The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status;

2. The Contractor shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts;
3. The Contractor shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;
4. At the request of the State, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative shall not discriminate on the basis of race, creed, color, national origin sex, age, disability or marital status and that such union or representative shall affirmatively cooperate in the implementation of the Contractor's obligations herein; and
5. The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants shall be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

The Contractor shall include the provisions of subclauses 1 & 5 of this Section (IV)(J), in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (Work) except where the Work is for the beneficial use of the Contractor. Section 312 of the Executive Law does not apply to: (i) work, goods or services unrelated to the Contract; or (ii) employment outside New York State. The State shall consider compliance by the Contractor or a subcontractor with the requirements of any Federal law concerning equal employment opportunity which effectuates the purpose of this section. The State shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such Federal law and if such duplication or conflict exists, the State shall waive the applicability of Section 312 of the Executive Law to the extent of such duplication or conflict. The Contractor shall comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

K. Omnibus Procurement Act of 1992: It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises, as bidders, subcontractors and suppliers on its procurement contracts.

1. If the total dollar amount of the Contract is greater than \$1 million, the Omnibus Procurement Act of 1992 requires that by signing the Contract, the Contractor certifies the following:
  - a. The Contractor has made reasonable efforts to encourage the participation of State business enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
  - b. The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
  - c. The Contractor agrees to make reasonable efforts to provide notification to State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and
  - d. The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of the Contract and agrees to cooperate with the State in these efforts.

L. Workers' Compensation Benefits:

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



2. If a Contractor believes they are exempt from the Workers Compensation insurance requirement they must apply for an exemption.

M. Unemployment Insurance Compliance: The Contractor shall remain current in both its quarterly reporting and payment of contributions or payments in lieu of contributions, as applicable, to the State Unemployment Insurance system as a condition of maintaining this grant.

The Contractor hereby authorizes the State Department of Labor to disclose to DHSES staff only such information as is necessary to determine the Contractor's compliance with the State Unemployment Insurance Law. This includes, but is not limited to, the following:

1. any records of unemployment insurance (UI) contributions, interest, and/or penalty payment arrears or reporting delinquency;
2. any debts owed for UI contributions, interest, and/or penalties;
3. the history and results of any audit or investigation; and
4. copies of wage reporting information.

Such disclosures are protected under Section 537 of the State Labor Law, which makes it a misdemeanor for the recipient of such information to use or disclose the information for any purpose other than the performing due diligence as a part of the approval process for the Contract.

N. Vendor Responsibility:

1. If a Contractor is required to complete a Questionnaire, the Contractor covenants and represents that it has, to the best of its knowledge, truthfully, accurately and thoroughly completed such Questionnaire. Although electronic filing is preferred, the Contractor may obtain a paper form from the OSC prior to execution of the Contract. The Contractor further covenants and represents that as of the date of execution of the Contract, there are no material events, omissions, changes or corrections to such document requiring an amendment to the Questionnaire.

2. The Contractor shall provide to the State updates to the Questionnaire if any material event(s) occurs requiring an amendment or as new information material to such Questionnaire becomes available.

3. The Contractor shall, in addition, promptly report to the State the initiation of any investigation or audit by a governmental entity with enforcement authority with respect to any alleged violation of Federal or state law by the Contractor, its employees, its officers and/or directors in connection with matters involving, relating to or arising out of the Contractor's business. Such report shall be made within five (5) business days following the Contractor becoming aware of such event, investigation, or audit. Such report may be considered by the State in making a Determination of Vendor Non-Responsibility pursuant to this section.

4. The State reserves the right, in its sole discretion, at any time during the term of the Contract:

- a. to require updates or clarifications to the Questionnaire upon written request;
- b. to inquire about information included in or required information omitted from the Questionnaire;
- c. to require the Contractor to provide such information to the State within a reasonable timeframe; and
- d. to require as a condition precedent to entering into the Contract that the Contractor agree to such additional conditions as shall be necessary to satisfy the State that the Contractor is, and shall remain, a responsible vendor; and
- e. to require the Contractor to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity. By signing the Contract, the Contractor agrees to comply with any such additional conditions that have been made a part of the Contract.

5. The State, in its sole discretion, reserves the right to suspend any or all activities under the Contract, at any time, when it discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor shall be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the State issues a written notice authorizing a resumption of performance under the Contract.

6. The State, in its sole discretion, reserves the right to make a final Determination of Non-Responsibility at any time during the term of the Contract based on:

- a. any information provided in the Questionnaire and/or in any updates, clarifications or amendments thereof; or
- b. the State's discovery of any material information which pertains to the Contractor's responsibility.

7. Prior to making a final Determination of Non-Responsibility, the State shall provide written notice to the Contractor that it has made a preliminary determination of non-responsibility. The State shall detail the reason(s) for the preliminary determination, and shall provide the Contractor with an opportunity to be heard.

O. Charities Registration: If applicable, the Contractor agrees to (i) obtain not-for-profit status, a Federal identification number, and a charitable registration number (or a declaration of exemption) and to furnish DHSES with this information as soon as it is available, (ii) be in compliance with the OAG charities registration requirements at the time of the awarding of this Contract by the State and (iii) remain in compliance with the OAG charities registration requirements throughout the term of the Contract.

P. Consultant Disclosure Law:<sup>8</sup> If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services, then in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

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

R. Participation By Minority Group Members And Women With Respect To Grant Contracts: Requirements And Procedures (state-funded grants only)

#### 1. General Provisions

a. The Division of Homeland Security and Emergency Services (DHSES) is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 ('MWBE Regulations') for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

b. The Contractor to the subject contract (the 'Contractor' and the 'Contract', respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the DHSES, to fully comply and cooperate with the DHSES in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women ('EEO') and

contracting opportunities for certified minority and women-owned business enterprises ('MWBEs'). Contractor's demonstration of 'good faith efforts' pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the 'Human Rights Law') or other applicable federal, state or local laws.

c. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Appendix or enforcement proceedings as allowed by the Contract.

## 2. Contract Goals

a. For purposes of this contract, DHSES has established overall goals for Minority and Women-Owned Business Enterprises ('MWBE') participation which are specified in the contract work plan.

b. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in the contract work plan hereof, Contractor should reference the directory of New York State Certified MBWEs found at the following internet address:

<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>. Additionally, Contractor is encouraged to contact the Division of Minority and Woman Business Development (518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

c. Where MWBE goals have been established herein, pursuant to 5 NYCRR § 142.8, Contractor must document 'good faith efforts' to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR § 142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the DHSES for liquidated or other appropriate damages, as set forth herein.

## 3. Equal Employment Opportunity (EEO)

a. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the 'Division'). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.

b. Contractor shall comply with the following provisions of Article 15-A:

i. Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

ii. The Contractor shall maintain an EEO policy statement and submit it to the DHSES if requested.

iii. If Contractor or Subcontractor does not have an existing EEO policy statement, Section 4 below may be used to develop one.

iv. The Contractor's EEO policy statement shall include the following, or similar, language:

a) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.

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

c) The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color,

national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

d) The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection (iv) and Paragraph 'e' of this Section 3, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

#### c. Staffing Plan

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Local Assistance MWBE Equal Employment Opportunity Staffing Plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

#### d. Workforce Employment Utilization Report

i. Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the DHSES of any changes to the previously submitted Local Assistance MWBE Equal Employment Opportunity Staffing Plan. This information is to be submitted annually or as otherwise required by the DHSES during the term of the contract, for the purpose of reporting the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Local Assistance MWBE Workforce Employment Utilization Report form must be used to report this information.

ii. Separate forms shall be completed by Contractor and any Subcontractor performing work on the Contract.

iii. In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Local Assistance MWBE Workforce Employment Utilization Report and indicate that the information provided relates to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Local Assistance MWBE Workforce Employment Utilization Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

e. Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

#### 4. MWBE Utilization Plan

a. The Contractor represents and warrants that Contractor has submitted a Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Form either prior to, or at the time of, the execution of the contract.

b. Contractor agrees to use such Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Form for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in the contract workplan.

c. Contractor further agrees that a failure to submit and/or use such Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Form shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, DHSES shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

#### 5. Waivers

If the DHSES, upon review of the Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Plan, the Detailed Itemization Forms or the Local Assistance MWBE Workforce Employment Utilization Report determines that a Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the DHSES may issue a notice of deficiency to the Contractor. The Contractor

must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

#### 6. MWBE Subcontractor Utilization Quarterly Report

Contractor is required to report MWBE Subcontractor utilization, as part of the quarterly claim process, to the DHSES by the last day of the month following the end of each calendar quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

#### 7. Liquidated Damages - MWBE Participation

a. Where DHSES determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, such finding constitutes a breach of Contract and DHSES may withhold payment from the Contractor as liquidated damages and/or provide for other appropriate remedies.

b. Such liquidated damages shall be calculated as an amount equaling the difference between:

- 1) All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
- 2) All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

c. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the DHSES, Contractor shall pay such liquidated damages to the DHSES within sixty (60) days after they are assessed by the DHSES unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the DHSES.

#### 8. M/WBE AND EEO Policy Statement

a. The Contractor agrees to adopt the following policies or similar policies with respect to the project being developed or services rendered in this contract with the Division of Homeland Security and Emergency Services:

##### M/WBE

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
- (2) Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.
- (3) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
- (4) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
- (5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
- (6) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

##### EEO

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

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

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.

(d) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract.

Contractor agrees to comply with all MWBE and EEO contract goals reflected on the MWBE Utilization Plan and Staffing Plan respectively, that have been submitted with the application for this contract.

#### S. Additional Terms

1. The Contractor agrees that if the project is not operational within 60 days of the execution date of the Contract, it will report by letter to DHSES the steps taken to initiate the project, the reasons for delay, and the expected starting date. If the project is not operational within 90 days of the execution date of the Contract, the Contractor will submit a second statement to DHSES explaining the delay. DHSES may either cancel the project and redistribute the funds or extend the implementation date of the project beyond the 90-day period when warranted by extenuating circumstances.

2. The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of DHSES, or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability prior performance, and financial capacity.

a. The DHSES Commissioner, or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when DHSES discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of the notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of DHSES, or his or her designee, issues a written notice authorizing a resumption of performance under the Contract.

b. Upon written notice to the Contractor, and a reasonable opportunity to be heard with the appropriate DHSES officials or staff, the Contract may be terminated by the DHSES Commissioner, or his or her designee at the Contractor's expense where the Contractor is determined by the DHSES Commissioner, or his or her designee, to be non-responsible. In such event, the Commissioner, or his or her designee, may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

3. DHSES shall make payments and any reconciliation in accordance with the Payment and Reporting Schedule (Appendix C). DHSES shall pay the Contractor for completed, approved projects, a sum not to exceed the

amount noted on the Face Page hereof. The Contractor must not request payments or reimbursements that duplicate funding or reimbursement from any other source for Contractor costs and services pursuant to this Contract.

4. The Contractor shall submit detailed itemization forms or a form deemed acceptable to DHSES for personal service, fringe benefit and non-personal service expenditures with any voucher and fiscal cost report requesting reimbursement. Grant-related expenditures shall be reported on Fiscal Cost Reports approved by DHSES. For Federally-funded awards, the detailed Itemization forms shall include the required certifications pursuant to 2 CFR 200.415. These reports must be prepared periodically and as defined in Appendix C of this Contract. All reported expenditures must reconcile to the program accounting records and the approved budget. Prior period adjustments shall be reported in the same accounting period that the correction is made.

5. The Contractor's request for travel, meals or lodging reimbursement shall be in accordance with Appendix B, Budget, and, unless written authorization has been received from DHSES, shall not exceed rates authorized by the NYS Office Of State Comptroller (Audit and Control). Rates may be viewed online at: <http://www.osc.state.ny.us/agencies/travel/travel.htm>.

6. The Contractor's employment of a consultant must be supported by a written Contract executed by the Contractor and the consultant. A consultant is defined as an individual or organization hired by the Contractor for the stated purpose of accomplishing a specific task relative to the funded project. All consultant services must be obtained in a manner that provides for fair and open competition. The Contractor shall retain copies of all solicitations seeking a consultant, written Contracts and documentation justifying the cost and selection of the consultant, and make them available to DHSES upon request. The Contractor further agrees that it shall assume sole and complete responsibility for fulfilling all the obligations set forth in the Contract and the Contractor must guarantee the work of the consultant as if it were its own. Failure to follow these guidelines may result in a disallowance of costs.

7. Additionally, Contractor must adhere to the following guidelines at a minimum when making all procurements, including consultant services. Failure to follow these guidelines may result in a disallowance of costs.

a. A Contractor who proposes to purchase goods or services from a particular vendor without competitive bidding must obtain the prior written approval of DHSES. The request for approval must be in writing and set forth, at a minimum, a detailed justification for selection and the basis upon which the price was determined to be reasonable. Further, such procurement must be in accordance with the guidelines, bulletins and regulations of the Office of the State Comptroller, State Procurement Council, and the U.S. Department of Homeland Security. A copy of DHSES' approval must also be submitted with the voucher for payment.

b. The rate for consultant services, and cost of equipment or goods, shall be reasonable and consistent with the amount paid for similar services or goods and equipment in the marketplace. Time and effort reports are required for consultants.

c. Written justification and documentation for all procurements must be maintained on file, and made available to DHSES upon request. All procurements must be made in a fair and open manner and in accordance with the pre-determined methodology established for evaluating bids (e.g., lowest responsible bidder or best value).

d. A Contractor that is a State entity must make all procurements in accordance with State Finance Law Article 11 and any other applicable regulations.

e. A Contractor that is a local government must make all procurements in accordance with General Municipal Law Article 5-A, and any other applicable regulations.

f. A Contractor that is a not-for-profit and all other entities that do not meet the descriptions in Section III(S)(7)(d) or (e) herein must make all procurements as noted below:

i. If the Contractor is eligible to purchase an item or service from a government contract or is able to purchase such item or service elsewhere at a lower than or equal price, then such purchase may be made immediately.

ii. A Contractor may purchase any single piece of equipment, single service or multiples of each that cost up to \$999 at its discretion.

iii. Before purchasing any piece of equipment, service or multiples of each that have an aggregate cost between \$1,000 and \$4,999, a Contractor must secure at least three telephone quotes and create a record for audit of such quotes.

iv. Before purchasing any piece of equipment, service or multiples of each that have an aggregate cost of between \$5,000 and \$9,999, the Contractor must secure at least three written quotes on a vendor's stationery and maintain a record of the competitive procurement process for audit purposes.

v. A Contractor spending in aggregate of \$10,000 and above must use a competitive bidding process. Guidance may be obtained from DHSES. At a minimum, the competitive bidding process must incorporate the following: open, fair advertisement of the opportunity to provide services; equal provision of information to all interested parties; reasonable deadlines; sealed bids opened at one time before a committee who will certify the process; establishment of the methodology for evaluating bids before the bids are opened; and maintenance of a record of competitive procurement process.

g. Acceptance of State support for interoperable and emergency communications projects, including funding through the Interoperable Emergency Communication Grant Program, requires that Contractors must use open-standard/vendor-neutral technologies to allow for other public safety/public service agencies (including State agencies and authorities) and jurisdictions in your region to operate on your radio system(s) when required, regardless of the total percentage of system funding from the State. This access for other agencies must be permitted to support operational and interoperable goals, and without restriction as to specific manufacturers' subscriber equipment. All reasonably compatible subscriber equipment must be permitted to be operated on your system by outside agencies, thus allowing coordinated efforts between local and state public safety/public service agencies and maximizing resources and capabilities.

h. DHSES reserves the right to suspend program funds if the Contractor is found to be in noncompliance with the provisions of this Contract or other grant Contracts between the Contractor and DHSES or, if the Contractor or principals of the Contractor are under investigation by a New York State or local law enforcement agency for noncompliance with State or federal laws or regulatory provisions or, if in DHSES' judgment, the services provided by the Contractor under the Contract are unsatisfactory or untimely.

i. DHSES shall provide the Contractor with written notice of noncompliance.

ii. Upon the Contractor's failure to correct or comply with the written notice by DHSES, DHSES reserves the right to terminate this Contract, recoup funds and recover any assets purchased with the proceeds of this Contract.

i. DHSES reserves the right to use approved grant related expenditures to offset disallowed expenditures from any grant funded through its offices upon appropriate notification to the Contractor, or upon reasonable assurance that the Contractor is not in compliance with these terms.

j. As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of 'persons' who are engaged in 'investment activities in Iran' (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act's effective date, at which time it will be posted on the OGS website.

i. By entering into this Contract, Contractor (or any assignee) certifies in accordance with State Finance Law § 165-a that it is not on the 'Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012' ('Prohibited Entities List') posted at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>.

ii. Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.



iii. During the term of the Contract, should DHSES receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

iv. DHSES reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

## V. FEDERALLY FUNDED GRANT REQUIREMENTS

A. Hatch Act. The Contractor agrees, as a material condition of the Contract, to comply with all applicable provisions of the Hatch Act (5 U.S.C. 1501 et seq.), as amended.

B. Requirement for System of Award Management: Unless you are exempted from this requirement under 2 CFR 25.110, you as the subrecipient must maintain the currency of your information in the System of Award Management (SAM) until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term. Pursuant to section 2 CFR § 200.210(a)(2), Contractors must maintain a current unique entity identifier prior to and during the life of the Contract.

C. In accordance with 2 CFR §§ 200.112 and 200.113, Contractor understands and agrees that it must: (1) disclose in writing any potential conflict of interest to DHSES; and (2) disclose, in a timely manner, in writing to DHSES all violations of federal and state criminal law involving fraud, bribery, or gratuity violations potentially affecting the grant award. Failure to make required disclosures can result in any remedy available to DHSES for Contractor's noncompliance, including suspension or debarment.

D. The Contractor must ensure that, for all contracts entered into by the Contractor, the contract provisions required by 2 CFR § 200.326 (and Appendix II to 2 CFR Part 200) are included in such contracts. The Contractor further agrees to impose and enforce this requirement for any Contractor subaward agreements.

E. Where advance payments are approved by DHSES, the Contractor agrees to expend the advance payments in accordance with the purposes set forth in Appendix D and consistent with Appendix B. The advanced funds must be placed in an interest-bearing account and are subject to the rules outlined in 2 CFR Part 200, (Uniform Administrative Requirements for Grants and Cooperative Contracts to State and Local Governments) which require Contractors to promptly remit back to the federal government, through New York State Division of Homeland Security and Emergency Services, any interest earned on these advanced funds. The Contractor may keep interest earned up to \$500 per federal fiscal year for administrative expenses. This maximum limit is not per award; it is inclusive of all interest earned as the result of all federal grant program funds received per year. Interest must be reported on Fiscal Cost Reports and remitted to DHSES quarterly.

F. Audit Requirements. This Contract, and any sub-awards resulting from this Contract, may be subject to fiscal and program audits by DHSES, NYS Office of State Comptroller, pertinent federal agencies, and other designated entities to ascertain financial compliance with federal and/or State laws, regulations, and guidelines applicable to this Contract. The Contractor shall meet all audit requirements of the federal government and State of New York. Such audits may include review of the Contractor's accounting, financial, and reporting practices to determine compliance with the Contract and reporting requirements; maintenance of accurate and reliable original accounting records in accordance with governmental accounting standards as well as generally accepted accounting principles; and specific compliance with allowable cost and expenditure documentation standards prescribed by applicable federal, State, and DHSES guidelines.

G. Equipment Markings. The Contractor further agrees that, when practicable, any equipment purchased with grant funding shall be prominently marked as follows: 'Purchased with funds provided by the U.S. Department of Homeland Security.'

H. Administrative, Cost and Audit Requirements: The Contractor must comply with the most recent version of the Administrative Requirements, Cost Principles, and Audit requirements. Failure to do so may result in disallowance of costs upon audit. A list of regulations and guidance applicable to United States Department of Homeland Security (DHS) grants are listed below:

1. General Administrative Requirements:

a. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

2. Cost Principles:

a. 2 CFR Part 200, Subpart E

3. Audit Requirements:

a. 2 CFR Part 200, Subpart F

I. Contracting with small and minority firms, women's business enterprise and labor surplus area firms.

1. Consistent with 2 CFR §200.321, the grantee and any subgrantees will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

2. Affirmative steps must include:

- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
- e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- f. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in subsections (2)(a) through (e) of this section.

J. Compliance with Laws, Regulations and Program Guidance. The Contractor shall ensure it is aware of and complies with all applicable laws, regulations and program guidance. It is the responsibility of the Contractor to become familiar with and comply with all terms and conditions associated with acceptance of funds.

K. Adequate Documentation: The Contractor must ensure full compliance with all cost documentation requirements, including specific personal service documentation, as applicable directly to the Contractor, sub-recipient or collaborative agency/organization. The Contractor must maintain specific documentation as support for project related personal service expenditures as this Contract is supported by federal funds. Depending upon the nature or extent of personal service provided under this Contract, the Contractor shall maintain semi-annual (or more frequent) personal service certifications and/or an after-the-fact personnel activity reporting system (or equivalent) which complies with all applicable laws, regulations and program guidance. Failure to do so may result in disallowance of costs.

L. Single Audit Requirements: For audits of fiscal years beginning on or after December 26, 2014, recipients that expend \$750,000 or more from all federal funding sources during their fiscal year are required to submit an organization-wide financial and compliance audit report. The audit must be performed in accordance with the requirements of GAO's Government Auditing Standards, located at <http://www.gao.gov/govaud/ybk01.htm>, and the requirements of Subpart F of 2 C.F.R. Part 200, located at <http://www.ecfr.gov/cgi-bin/text-idx?SID=63811dc3410c008e2f8e28c325cdc09e&mc=true&node=sp2.1.200.f&rgn=div6>.

For audits of fiscal years beginning prior to December 26, 2014, recipients that expend \$500,000 or more from

all federal funding sources during their fiscal year are required to submit an organization-wide financial and compliance audit report. The audit must be performed in accordance with GAO's Government Auditing Standards, located at <http://www.gao.gov/govaud/ybk01.htm>, and OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, located at [https://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133\\_revised\\_2007.pdf](https://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133_revised_2007.pdf).

The final report for such audit must be completed within nine months of the end of the Contractor's fiscal year. The Contractor must provide one copy of such audit report to DHSES within nine (9) months of the end of its fiscal year, or communicate in writing to DHSES that Contractor is exempt from such requirement.

M. Program Income: Program income earned by the Contractor during the grant funding Period must be reported in writing to DHSES, in addition to any other statutory reporting requirements. Program income consists of income earned by the grant recipient that is directly generated by a supported activity or earned as a result of the grant program. Program income includes, but is not limited to, income from fees for services performed, the use of rental or real or personal property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights and interest on loans made with federal award funds. For example, if the purpose of a grant is to conduct conferences, any training fees that are generated would be considered program income. Interest earned on grant funds is not considered program income unless specified in Appendix D. The Contractor agrees to report the receipt and expenditures of grant program income to DHSES. Program income (not to include interest earned), generated by the use of these grant funds will be used to enhance the grant project.

N. Intellectual Property: Any creative or literary work developed or commissioned by the Contractor with grant support provided by DHSES shall become the property of DHSES, entitling DHSES to assert a copyright therein, unless the parties have expressly agreed otherwise in a written instrument signed by them.

1. If DHSES shares its right to copyright such work with the Contractor, DHSES reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use: (a) the copyright in any work developed under a grant, sub-grant, or contract under a grant or sub-grant; and (b) any rights of copyright to which a Contractor, sub-Contractor, or a contractor purchases ownership with grant support.

2. If the grant support provided by DHSES is federally-sponsored, the federal awarding agency also reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use: (a) the copyright in any work developed under a grant, sub-grant or contract under a grant or sub-grant; and (b) any rights of copyright to which a Contractor, sub-Contractor, or a contractor purchases ownership with such grant support.

3. The Contractor shall submit one copy of all reports and publications resulting from this Contract to DHSES within thirty (30) calendar days of completion. Any document generated pursuant to this grant must contain the following language:

'This project was supported by a grant administered by the New York State Division of Homeland Security and Emergency Services and the U.S. Department of Homeland Security. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the New York State Division of Homeland Security and Emergency Services or the U.S. Department of Homeland Security.'

O. Accounting for Grant Expenditures:

1. Grant funds may be expended only for purposes and activities set forth in this Contract. Accordingly, the most important single requirement of accounting for this grant is the complete and accurate documentation of grant expenditures. If the Contractor receives funding from two or more sources, all necessary steps must be taken to ensure that grant-related transactions are not commingled. This includes, but is not limited to, the establishment of unique budget codes, a separate cost center, or a separate chart of accounts. Expenditures must be cross-referenced to supporting source documents (purchase orders, contracts, real estate leases, invoices, vouchers, timesheets, mileage logs, etc.).

2. Contractor agrees that it shall maintain adequate internal controls and adhere to Generally Accepted Accounting Principles for Government or Generally Accepted Accounting Principles for Not-for-Profit

## Organizations.

3. None of the goals, objectives or tasks, as set forth in Appendix D, shall be sub-awarded to another organization without specific prior written approval by DHSES. Where the intention to make sub-awards is clearly indicated in the application, DHSES approval is deemed given, if these activities are funded, as proposed.

4. If this Contract makes provisions for the Contractor to sub-grant funds to other recipients, the Contractor agrees that all sub-Contractors shall be held accountable by the Contractor for all terms and conditions set forth in this Contract in its entirety. The Contractor further agrees that it shall assume sole and complete responsibility for fulfilling all the obligations set forth in the Contract and the Contractor must guarantee the work of any sub-Contractor as if it were its own.

5. The Contractor agrees that all sub-Contractor arrangements shall be formalized in writing between the parties involved. The writing must, at a minimum, include the following information:

- ¿ Activities to be performed;
- ¿ Time schedule;
- ¿ Project policies;
- ¿ Other policies and procedures to be followed;
- ¿ Dollar limitation of the Contract;
- ¿ Appendix A-1, Appendix C, Certified Assurances for Federally Supported Projects, Certification Regarding Lobbying, Debarment and Suspension and any special conditions set forth in the Contract;
- ¿ Applicable federal and/or State cost principles to be used in determining allowable costs; and
- ¿ Property Records or Equipment Inventory Reports.

P. The Contractor will not be reimbursed for sub-granted funds unless all expenditures by a sub-Contractor are listed on detailed itemization forms or a form deemed acceptable to DHSES. Backup documentation for such expenditures must be made available to DHSES upon request. All expenditures must be programmatically consistent with the goals and objectives of this Contract and with the Budget set forth in Appendix B.

Q. Space rental provided by this Contract must be supported by a written lease, maintained on file and made available by the Contractor upon request.

## R. Equipment and Property:

1. Any equipment, furniture or supplies or other property purchased pursuant to this Contract is deemed to be the property of the State, except as may otherwise be governed by federal or State laws, rules or regulations or stated in this Contract.

2. Equipment means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A Contractor may use its own definition of equipment provided that such definition would at least include all equipment defined above. A copy of the property record(s) or equipment inventory report(s) with relevant purchasing and supporting documentation must be made available to DHSES upon request. Property records or equipment inventory reports must be maintained, by award, that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property. The Contractor must document receipt of all applicable equipment purchased with grant funds. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two (2) years.

3. Upon completion of all contractual requirements by the Contractor, DHSES will consider a request for continued use and possession of the equipment purchased with grant funds provided the equipment continues to be used in connection with a public security program. When disposing of equipment purchased with homeland security grant funding, a State agency must dispose of equipment in accordance with State Laws and procedures. All other Contractors shall dispose of equipment as follows:

a. Items of equipment with a current per unit market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.

b. Items of equipment with a current per unit fair market value of \$5,000 or more may be retained or sold. If sold, the awarding agency shall have a right to an amount calculated by multiplying the proceeds from the sale by the awarding agency's share of the equipment. If retained, the current market value is to be used in the calculation. To remit payments, award recipients should contact DHSES at 1-866-837-9133 for guidance.

4. Upon completion of all contractual requirements by the Contractor under this Contract, DHSES shall accept a request for continued use and possession of the equipment purchased with grant funds providing the equipment continues to be used in accordance with the contracted activities and guidelines in this Contract.

5. The Contractor must conduct a physical inventory of property records at least once every two years to verify the existence, current utilization and continued need for the property. In the event the property is no longer required by the Contractor, this fact should be reported to DHSES as soon as possible and appropriate guidelines followed, as specified in this Appendix.

6. If Contractor disposes of any equipment purchased under this Contract during the active lifespan of said equipment, Contractor must reinvest any proceeds from the disposal into additional equipment items to continue Contractor's organization's activities subject to the guidelines of this Contract. If the Contractor does not reinvest proceeds to continue activities subject to this Contract, the percentage of the proceeds equal to the proportion of the original purchase price paid by funds for the Contract must be repaid to the State of New York.

#### ENDNOTES:

<sup>1</sup> To the extent that Section V-Federally Funding Grant Requirements conflict with any other provisions of the Contract, the Federal requirements of Section V shall supersede all other provisions of the Contract.

<sup>2</sup> As of October 9, 2012, the list of discriminatory jurisdictions subject to this provision includes the states of Alaska, Hawaii, Louisiana, South Carolina, West Virginia and Wyoming. Contact NYS Department of Economic Development for the most current list of jurisdictions subject to this provision.

<sup>3</sup> A milestone/performance payment schedule identifies mutually agreed-to payment amounts based on meeting contract events or milestones. Events or milestones must represent integral and meaningful aspects of contract performance and should signify true progress in completing the Contract effort.

<sup>4</sup> Fee for Service is a rate established by the Contractor for a service or services rendered.

<sup>5</sup> Rate based agreements are those agreements in which payment is premised upon a specific established rate per unit.

<sup>6</sup> Scheduled Reimbursement agreements provide for payments that occur at defined and regular intervals that provide for a specified dollar amount to be paid to the Contractor at the beginning of each payment period (i.e. quarterly, monthly or bi-annually). While these payments are related to the particular services and outcomes defined in the Contract, they are not dependent upon particular services or expenses in any one payment period and provide the Contractor with a defined and regular payment over the life of the contract.

<sup>7</sup> Fifth Quarter Payments occur where there are scheduled payments and where there is an expectation that services will be continued through renewals or subsequent contracts. Fifth Quarter Payments allow for the continuation of scheduled payments to a Contractor for the first payment period quarter of an anticipated renewal or new contract.

<sup>8</sup> Not applicable to not-for-profit entities

VER 07/15

Certified by - Anthony Picente on 12/15/2016

**Award Contract**

**Project No.**

HM16-1003-D01

**Grantee Name**

Oneida County

10/03/2017

**Budget Summary by Participant**

Oneida County

Oneida County Emergency Services - Version 1

#	Equipment	AEL	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	HazMat Response Trailers (CBRNE Operational Equipment)	12TR-00-TEQP	1	\$64,000.00	\$64,000.00	\$64,000.00	\$0.00
Total					\$64,000.00	\$64,000.00	\$0.00

Total Project Costs	Total Cost	Grant Funds	Matching Funds
	\$64,000.00	\$64,000.00	\$0.00

Herkimer County

Total Contract Costs	Total Cost	Grant Funds	Matching Funds
	\$64,000.00	\$64,000.00	\$0.00

**Award Contract****Project No.**

HM16-1003-D01

**Grantee Name**

Oneida County

10/03/2017

## APPENDIX C

## PAYMENT AND REPORTING SCHEDULE

For All Contractors:

## I. PAYMENT PROVISIONS

1. In full consideration of contract services to be performed, DHSES agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page hereof. All payments shall be in accordance with the budget contained in the applicable Attachment B form (Budget), which is attached hereto.

## A. Payment and Recoupment Language

1. Contractor shall provide complete and accurate vouchers to DHSES in order to receive payment. Vouchers submitted to DHSES must contain all information and supporting documentation required by the Agreement, DHSES and the State Comptroller. Payment for vouchers submitted by the Contractor shall only be rendered electronically, unless a paper check is expressly authorized by the Director of DHSES, at the Director's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with the ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at [www.osc.state.ny.us/epay/index.htm](http://www.osc.state.ny.us/epay/index.htm), by email at [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us), or by telephone at (518) 474-4032. Contractor acknowledges that it will not receive payment on any vouchers submitted under this Agreement if it does not comply with the State Comptroller's electronic payment procedures, except where the Director has expressly authorized payment by paper check as set forth above.

2. The Contractor agrees that this is a reimbursement-based contract; an advance may be provided as specified in Appendix D. All requests for reimbursement must reflect actual costs that have been disbursed by the Contractor. Items or services not received are not eligible for reimbursement.

Reimbursement requests need to include the following documents:

- ¿ Signed Voucher and Fiscal Cost Report
- ¿ Detailed Itemization Forms or other forms deemed acceptable by DHSES of any budgeted category for which reimbursement is requested
- ¿ Written documentation of all required DHSES approvals, as appropriate

3. Vouchers shall be submitted in a format acceptable to DHSES and the Office of the State Comptroller. Vouchers submitted for payment shall be deemed to be a certification that the payments requested are for project expenditures made in accordance with the items as contained in the Project Budget (Appendix B) and during the contract period. Such voucher shall also be deemed to certify that: a) the payments requested do not duplicate reimbursement from other sources of funding; and b) the funds provided herein do not replace funds that, in the absence of this grant, would have been made available by the Contractor for this program.

## B. Interim and/or Final Claims for Reimbursement

1. Contractors must submit all required fiscal reports, supporting documentation and program progress reports. Failure to meet these requirements will result in the rejection of associated vouchers. Final vouchers, reimbursement requests and reports must be submitted within 30 days of the end of the grant contract period. Failure to voucher within this period may result in the loss of grant funds. The Contractor must also refund all unexpended advances and interest earned over \$500 on the advanced funds pursuant to 2 CFR Part 200, ¿200.305(b)(9). Property Records or Equipment Inventory Reports as defined in Appendix A-1, Section V, Paragraph R, must be available at the conclusion of the contract period and submitted to DHSES upon request.

2. If at the end of this contract there remain any monies (advanced or interest earned over \$500 on the advanced funds) associated with this contract in the possession of the Contractor, the Contractor shall submit



a check or money order for that amount payable to the order of the New York State Division of Homeland Security and Emergency Services. Remit the check along with the final fiscal cost report within 30 days of termination of this grant contract to:

NYS Division of Homeland Security and Emergency Services  
Federal Fiscal Unit  
State Campus - Building 7A  
1220 Washington Avenue  
Albany, NY 12242

3. For purposes of prompt payment provisions, the Designated Payment Office for the processing of all vouchers is the Contract Unit of DHSES. Payment of grant vouchers shall be made in accordance with the provisions of Article XI-A of the State Finance Law. Payment shall be preceded by an inspection period of 15 business days which shall be excluded from calculations of the payment due date for purposes of determining eligibility for interest payments. The Contractor must notify the Federal Fiscal Unit in writing of a change of address in order to benefit from the prompt payment provision of the State Finance Law. When progress reports are overdue, vouchers will not be eligible for prompt payment.

4. Timely and properly completed New York State vouchers, with supporting documentation when required, shall be submitted to:

NYS Division of Homeland Security and Emergency Services  
Attention: Contracts Unit  
State Office Building Campus 2 Bldg. 7A  
1220 Washington Avenue, Suite 610  
Albany, NY 12242

## II. REPORTING PROVISIONS

### A. Required Reports:

#### Narrative/Qualitative Report (Progress Report)

The Contractor will submit, on a quarterly basis, not later than 30 days from the end of the quarter, the report described in Section III(G)(2)(a)(i) of Appendix A-1 of the Contract.

#### Expenditure Report (Fiscal Cost Report)

The Contractor will submit, on a quarterly basis, not later than 30 days after the end date for which reimbursement is being claimed, the report described in Section III, Paragraph G(2)(a)(iii) of the Appendix A-1 of the Contract.

#### Final Report

The Contractor will submit the final report as described in Section III, Paragraph G(2)(a)(iv) of Appendix A-1 of the Contract, no later than 30 days after the end of the contract period.

1. Fiscal cost reports must be submitted showing grant expenditures. They must also show the amount of interest earned to date on any advanced funds.

All submitted vouchers will reflect the Contractor's actual expenditures and will be accompanied by supporting detailed itemization forms or a form deemed acceptable to DHSES for personal service, fringe benefit and non-personal service expenditures or other documentation as required, and by a fiscal cost report for the reporting period. In the event that any expenditure for which the Contractor has been reimbursed by grant funds is subsequently disallowed, DHSES, in its sole discretion, may reduce the voucher payment by the amount disallowed. If necessary, the Contractor may be required to submit a final budget reallocation.

DHSES reserves the right not to release subsequent grant awards pending Contractor compliance with this Agreement.

2. The Contractor will submit program progress reports and one final report to DHSES on a prescribed form provided by DHSES as well as any additional information or amended data as required.

Progress reports will be due within 30 days of the last day of each calendar quarter or on an alternate schedule as prescribed in Appendix D. Progress reports will be due within 30 days of the last day of the calendar quarter from the start date of the program and the final report will be due upon completion of the project or termination of this Agreement. Calendar quarters, for the purposes of making program progress reports, shall be as follows:

Calendar Quarter: January 1 - March 31 -- Report Due: April 30

Calendar Quarter: April 1 - June 30 -- Report Due: July 30

Calendar Quarter: July 1 - September 30 -- Report Due: October 30

Calendar Quarter: October 1 - December 31 -- Report Due: January 30

The final report, or where applicable interim progress reports, will summarize the project's achievements as well as describe activities for that quarter.

Rev. 07/2015

Certified by - Anthony Picente on 12/15/2016

**Award Contract**

**Project No.**

HM16-1003-D01

**Grantee Name**

Oneida County

10/03/2017

**Work Plan**

**Goal**

To promote the development of regional partnerships among the State HazMat community; to build sustainable CBRNE Detection, Response and Decontamination Capabilities; and to enhance the standing of the State's HazMat teams within FEMA's typing system.

**Objective #1**

G & T Workplan Code - 05. Establish/enhance regional response teams.

Investment Justification - CBRNE Detection, Response and Decontamination

Target Capability

Primary - WMD/HazMat Response and Decontamination

To enhance regional response teams.

**Task #1 for Objective #1**

Purchase allowable CBRNE/Hazmat response (HazMat Trailers) equipment. Train appropriate personnel in the proper use of the equipment and place the equipment into service.

**# Performance Measure**

1 Identify equipment ordered and received. Provide a brief narrative on the training of personnel and the deployment of equipment. Describe how the project enhanced regional response team capabilities in the region. Equipment accountability records are properly maintained. Provide explanation if equipment is received but not deployed, and include deployment plans as appropriate.

**Award Contract****Project No.**

HM16-1003-D01

**Grantee Name**

Oneida County

10/03/2017

## Prior Contract Terms

Contract Start Date - 09/01/2016

Contract End Date - 08/31/2019

Contract Amount - \$64,000.00

## APPENDIX X

## AMENDMENT OF GRANT CONTRACT TERMS

Agency Code: 01077

This is an Appendix (Appendix X) to the AGREEMENT between THE STATE OF NEW YORK, acting by and through the New York State Division of Homeland Security and Emergency Services (DHSES), and represents an amendment to the grant contract executed between DHSES and the Grantee Agency indicated in the E-Grants Participant Module (the Parties).

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

All Certified Assurances for federal programs, and DHSES Contract Appendices are also available online for download at <http://www.dhSES.ny.gov/grants/>

Certified by - on

**Award Contract****Project No.**

HM16-1003-D01

**Grantee Name**

Oneida County

10/03/2017

---

**Special Conditions****I. ALL GRANT FUNDS:**

Federal grant funds provided are a subaward of Homeland Security Grant Program (HSGP) funds awarded to the New York State Division of Homeland Security and Emergency Services (DHSES) from the U.S. Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA).

**A. Permissible Use of Funding**

1. HSGP funds must be used in accordance with the guidelines set forth in the HSGP Notice of Funding Opportunity, which can be located at <http://www.fema.gov/preparedness-non-disaster-grants>.

2. All expenditures under this grant must support the Goals and Objectives outlined in the 2014-2016 NYS Homeland Security Strategy and approved investment justifications. New York State's Homeland Security Strategy can be located on the DHSES website at <http://www.dhSES.ny.gov/planning/#strat>.

3. Designated Urban Areas under the Urban Areas Security Initiative (UASI) must have a charter document on file with the Federal Emergency Management Agency (FEMA) prior to drawing down UASI funding. The charter must address critical issues such as membership, governance structure, voting rights, grant management and administration responsibilities, and funding allocation methodologies.

**B. Record Requirements**

1. Subrecipients shall keep an agenda and meeting minutes on file for all meetings conducted regarding HSGP funded activities.

2. Any documents produced as a result of these meetings such as plans, schedules, or procedures, will also be kept on file and be made available to DHSES, upon request.

**C. Equipment Purchases**

1. Equipment purchased with grant funds must fall within the allowable equipment categories for HSGP as listed on the Authorized Equipment List (AEL) (<https://www.fema.gov/authorized-equipment-list>).

2. Subrecipients are responsible to request a determination of eligibility from the U.S. Department of Homeland Security (DHS), through DHSES, for any equipment item in question. Unless otherwise stated in the program guidance, equipment must meet all mandatory regulatory and/or DHS adopted standards to be eligible for purchase using HSGP funds.

3. The New York State Communication Interoperability Plan (SCIP), as well as DHS Grant Guidance for grant funding, requires that all interoperable communications equipment must be on the Authorized Equipment List (AEL) and that the use of APCO P 25 compliant equipment is a recommended technology to achieve emergency interoperable communications.

**D. Training & Exercise Related Activities**

1. Any non DHS training course to be supported by this award must be submitted in advance to DHSES for written approval.

2. All exercises conducted must be managed and executed in accordance with the Homeland Security Exercise and Evaluation Program (HSEEP). Report scheduled exercises to DHSES through the Master Exercise and Training Information System (METIS - <https://metis.nj.gov/>) 60 days prior to the start of the exercise. An After Action Report/Improvement Plan (AAR/IP) must be prepared and submitted to DHSES following every exercise, regardless of type or scope. AAR/IPs must conform to the HSEEP format and must

be submitted within 60 days of completion of the exercise.

3. Subrecipients are required to be NIMS compliant. DHSES requires that subrecipients contact their county point of contact to determine how the particular county requires reporting. Subrecipients are expected to provide DHSES upon request any data required for annual NIMS certification purposes.

#### E. Law Enforcement Requirements

1. Subrecipients that are law enforcement agencies agree that such funding shall be utilized for prevention, preparedness, and response initiatives consistent with the New York State Homeland Security Strategy, and with Counter Terrorism Zone (CTZ) efforts at the State and local level. This will ensure that fiscal resources are used for seamless and effective counter terrorism planning, training, information sharing, investigation, equipment acquisition, and response functions.

2. Particular attention must be paid to equipment and technology acquisitions, and, where similar technology already exists in the State's law enforcement communities, subrecipients will ensure that interoperability between and among existing law enforcement systems, and the New York State Intelligence Center (NYSIC), is accomplished.

3. Subrecipients further agree to consult with the NYSIC to ensure agency participation and inclusion in New York State's Field Intelligence Officer (FIO) Program.

#### F. EHP Requirements

1. Subrecipients shall comply with all applicable federal, State, and local environmental and historic preservation (EHP) requirements and shall provide any information requested by FEMA to ensure compliance with applicable laws including: National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, and Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898).

2. Failure of subrecipients to meet federal, State, and local EHP requirements and obtain applicable permits may jeopardize federal funding. Subrecipients shall not undertake any project having the potential to impact EHP resources without the prior approval of FEMA, including but not limited to communications towers, physical security enhancements, new construction, and modifications to buildings. Subrecipients must comply with all conditions placed on the project as the result of the EHP review.

3. Any change to the approved project scope of work will require re evaluation for compliance with these EHP requirements.

4. If ground disturbing activities occur during project implementation, subrecipients must ensure monitoring of ground disturbance and if any potential archeological resources are discovered, such subrecipient will immediately cease construction in that area and notify FEMA and the appropriate State Historic Preservation Office.

5. Any construction activities that have been initiated prior to the full environmental and historic preservation review could result in non compliance finding. For your convenience, the screening form is available at: <http://www.dhSES.ny.gov/grants/eph.cfm>.

#### G. Equipment Maintenance Requirements

1. Subrecipients must track grant funds used for maintenance contracts, warranties, repair or replacement costs and upgrades, and report such expenditures in fiscal and program reports.

#### H. New York State Emergency Management Certification and Training Program

1. Participation in and successful completion of the New York State Emergency Management Certification and Training Program (EMC Training Program) is a mandatory requirement under this Contract and a condition of funding. The EMC Training Program will be made available to, and required for, DHSES specified county and

city government officials in order to ensure a consistent emergency management preparedness and response strategy across the State. Attendee substitutions, except as expressly approved by DHSES, shall not be permitted or deemed to be in compliance with this requirement.

2. To fulfill the EMC Training Program requirement of the Contract and in order to be eligible for funding under this Contract, subrecipients must arrange for DHSES specified subrecipient employees to receive and acknowledge receipt of EMC Training no later than 180 days after execution of this Contract. Copies of the training certificates for each required participant must be submitted to DHSES upon execution of the Contract, or, in the event that training is scheduled, but not yet complete, the subrecipient will be required to submit a signed statement indicating the scheduled future dates of attendance, and no later than thirty (30) days after the training is complete, forward such training certificates to DHSES. Continued compliance with the EMC Training Program also requires an annual refresher training of one day per 365 day cycle from the date of initial training for previously trained individuals if such person remains employed by the subrecipient and fulfilling the same functions as he or she fulfilled during the initial training. Should a new employee be designated to serve in the DHSES specified positions, then he or she must come into compliance with the EMC Training Program requirements not later than 180 days after taking office.

3. Subrecipient must commit to active participation in a DHSES Annual Capabilities Assessment as a condition of funding. Active participation includes making reasonable staff, records, information, and time resources available to DHSES to perform the Annual Capabilities Assessment and meet the objectives and goals of the program. Subrecipients must be aware that the process of conducting a DHSES Annual Risk Assessment is an ongoing process and requires a continued commitment on the part of the subrecipient to ensure that it is effective.

4. All subrecipients funded through this program agree to provide DHSES, upon request at any time during the life of the grant contract, such cooperation and information deemed necessary by DHSES to ascertain: (1) the nature and extent of any threats or hazards that may pose a risk to the subrecipient ; and (2) the status of any corresponding subrecipient plans, capabilities, or other resources for preventing, protecting against, mitigating, responding to, and recovering from such threats or hazards.

5. Additionally, pursuant to Article 26 of the NYS Executive law, DHSES is authorized to undertake periodic drills and simulations designed to assess and prepare responses to terrorist acts or threats and other natural and man made disasters. Funded subrecipients agree to attend and participate in any DHSES sponsored conferences, training, workshops or meetings (excluding those identified by DHSES as voluntary) that may be conducted, by and at the request of DHSES, during the life of the grant contract.

6. Failure to comply with any of the requirements, as listed above, may result in sanctions up to and including the immediate suspension and/or revocation of the grant award.

Project #: HM16-1003-D01 HazMat Project Status: Pending Signatures  
 Participant: Oneida County

Home Open Locked	<b>General</b>	<b>Participants</b>	<b>Work Plan</b>	<b>Budget</b>	<b>Funding Allocation</b>	<b>Questions</b>	<b>Conditions</b>	<b>Acceptance</b>
------------------------	----------------	---------------------	----------------------	---------------	-------------------------------	------------------	-------------------	-------------------

**Certify the Appendix X statement.**

Go to  
 Attachment  
 Progress  
 Site  
 Review  
 Financial  
 Property

Appendix X

Amendment Type - Reallocation/Workplan  
 Contract Start Date - 09/01/2016  
 Contract End Date - 08/31/2019  
 Contract Amount - \$64,000.00  
 This appendix displays the values created for this Amendment. Cancel if the values are not correct.

Reports  
 Application  
 Deficiency  
 Draft  
 Contract

Prior Contract Terms  
 Contract Start Date - 09/01/2016  
 Contract End Date - 08/31/2019  
 Contract Amount - \$64,000.00

**APPENDIX X  
 AMENDMENT OF GRANT CONTRACT TERMS**

Help  
 Logout

Agency Code: 01077

Login ID:  
 cooneida

This is an Appendix (Appendix X) to the AGREEMENT between THE STATE OF NEW YORK, acting by and through the New York State Division of Homeland Security and Emergency Services (DHSES), and represents an amendment to the grant contract executed between DHSES and the Grantee Agency indicated in the E-Grants Participant Module (the Parties).

4.2.24a

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

All Certified Assurances for federal programs, and DHSES Contract Appendices are also available online for download at <http://www.dhSES.ny.gov/grants/>

Cancel

(Your User Profile must have the Signatory Role to Certify an Appendix.)



Please attach (6) six signed, notarized originals of this form to the Budget Amendment/Grant Extension (DHSES-55)  
Please note: Each original signature requires an original notary.

**APPENDIX X**

Agency Code: 01077

Contract No.: \_\_\_\_\_  
Period: \_\_\_\_\_ (new contract period, if applicable)  
Funding Amount for Period: \$ \_\_\_\_\_

This is an AGREEMENT between THE STATE OF NEW YORK, acting by and through **the New York State Division of Homeland Security and Emergency Services**, having its principal office at **1220 Washington Ave, State Office Campus, Building 7A, Suite 610, Albany, NY 12242** (hereinafter referred to as the STATE), and \_\_\_\_\_ (hereinafter referred to as the GRANTEE/CONTRACTOR), for modification of Contract Number \_\_\_\_\_, as amended in attached: DHSES-55

All other provisions of said AGREEMENT shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the dates appearing next to their signatures.

**GRANTEE SIGNATURE:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: SIGNATORY  
Title:

State of New York )  
 )ss.  
County of \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came \_\_\_\_\_, to me known, who being duly sworn, did depose and say that (s)he resides in \_\_\_\_\_, that (s)he is the \_\_\_\_\_ of the \_\_\_\_\_, the Grantee described in and which executed the foregoing instrument; that it was so executed by the authority of the Grantee, and that (s)he signed his/her name thereto by like order.

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

**STATE AGENCY SIGNATURE:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Michele R. Wahrlich, Contracts Manager

State Agency Certification: "In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract."

**STATE COMPTROLLER'S SIGNATURE:**

\_\_\_\_\_

Anthony J. Picente Jr.  
Oneida County Executive



John P. Talerico  
Commissioner of Personnel

**ONEIDA COUNTY DEPARTMENT OF PERSONNEL**

County Office Building 800 Park Avenue Utica, New York 13501-2986  
Phone: (315) 798-5725 Fax: (315) 798-6490 Email: [personnel@ocgov.net](mailto:personnel@ocgov.net)  
Web site: [www.ocgov.net](http://www.ocgov.net)

January 26, 2018

FN 20 18 - 070 Reviewed and Approved for submittal to the  
Oneida County Board of Legislators by

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

GOVERNMENT OPERATIONS

Date 1-26-18

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

**WAYS & MEANS**

Dear County Executive Picente:

Attached for your review is correspondence from Randall J. Van Wagoner, President of Mohawk Valley Community College requesting reallocation of salary grades for UPSEU members in the Mohawk Valley Community College Department of Public Safety in the titles of Public Safety Officer (to Gr 16B), Senior Public Safety Officer (to Gr 28B) and Supervising Public Safety Officers (to Gr 31B). The upgrades to these positions represent a two grade increase for each.

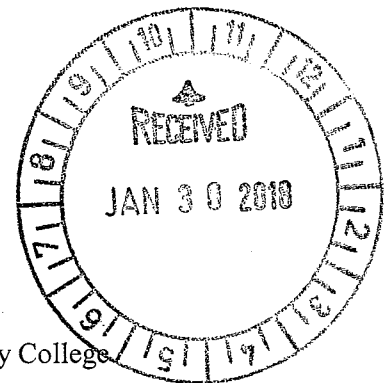
The reason for the request is two-fold: the personnel in the Department have taken on additional responsibilities and Public Safety has experienced a higher than average volume of turnover in these positions. The Senior Public Safety Officers and the Supervising Public Safety Officers began carrying firearms during 2017. All officers have received active shooter training, been involved in emergency management efforts and have been trained to administer opioid overdose antidote. These additional responsibilities are the justification for the increase in these salaries.

President VanWagoner believes the higher salary grade will help the College not only recruit quality officers, but retain them. I agree with President Van Wagoner's request and recommend they be implemented.

This action will require Board of Legislators approval.

Sincerely,

John P. Talerico  
Commissioner of Personnel



Copy: Randall J. Van Wagoner, President of Mohawk Valley Community College  
Kimberly Evans-Dame, Executive Director of Human Resources  
Thomas G. Squires, Vice President for Administrative Services



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

Office of the President  
(315) 792-5333  
Fax (315) 792-5678

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

January 5, 2018

Dear Hon. Picente:

I write to request a reallocation of salary grade for UPSEU members serving in the MVCC Department of Public Safety in the titles of Public Safety Officer (to grade 16), Senior Public Safety Officer (to grade 28) and Supervising Public Safety Officer (to grade 31). These reallocations represent an upgrade of two steps each.

The reason for this request is two-fold: the personnel in the Department have taken on additional responsibilities and we have experienced higher than average turnover in the positions. The Senior Public Safety Officers and Supervising Public Safety Officers began carrying firearms during 2017. Currently 7 of the 11 officers in those titles are carrying firearms and we are awaiting permit approval on the remainder. All officers have received active shooter training, been involved in emergency management efforts and have been trained to administer opioid overdose antidote. I believe this increase in responsibility justifies an increase in salary.

In the prior two years, we have lost several officers who have left for employment with the Utica Police Department, SUNY Upstate, SUNY Binghamton, SUNY Poly and several other agencies. In almost all cases, the salary has been cited as one of the reasons for leaving, and in at least a couple of cases it was the sole reason given. My hope is a higher salary grade will help the College not only recruit but also retain quality officers.

Funding for these increases has been included in the College's 2017-18 budget.

If you have any questions or need additional information, please do not hesitate to call.

Sincerely,

A handwritten signature in black ink that reads "Randall J. VanWagoner". The signature is written in a cursive style.

Randall J. VanWagoner, Ph.D.  
President

cc: John P. Talerico, Commissioner of Personnel  
Kim Evans-Dame, Executive Director of Human Resources  
Thomas G. Squires, Vice President for Administrative Services

Anthony J. Picente Jr.  
Oneida County Executive



John P. Talerico  
Commissioner

**ONEIDA COUNTY  
DEPARTMENT OF PERSONNEL**

County Office Building ♦ 800 Park Avenue ♦ Utica, New York 13501-2986  
Phone: (315) 798-5726 ♦ Fax: (315) 798-6490  
E-mail: labor@ocgov.net

FN 20 18-071

December 15, 2017

GOVERNMENT OPERATIONS

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

**WAYS & MEANS**

Re: Catalog and Commerce Solutions, LLC dba Discover E-Gov 2018-2022

Dear County Executive Picente:

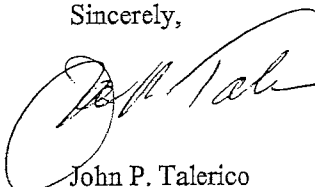
Attached for your review and approval is a contract between the County of Oneida and Catalog and Commerce Solutions, Limited Liability Company d/b/a Discover E-Gov. They will provide a software system to ensure we are in compliance with New York State Civil Service Laws and the Oneida County Civil Service Rules.

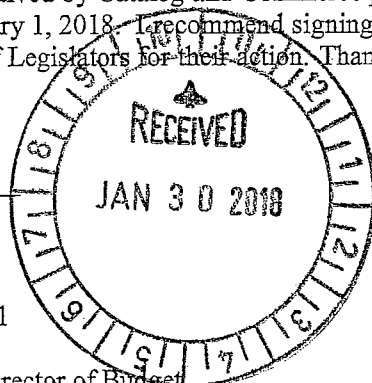
The current personnel/civil service software provider, Pstek Inc, has become unresponsive and is believed to have gone out of business. Unable to obtain any support for the current system, Personnel issued an RFP in August of 2017 for Personnel/Civil Service Software. Catalog and Commerce Solutions, LLC was the only respondent to the RFP.

The new software offered by Catalog and Commerce Solutions will replace the current platform, for which support is no longer available. In addition, the new platform will allow for countless new features and upgrades which include the electronic submission of paperwork by appointing authorities, the ability to apply for positions and exams online, online payments, and the ability to view eligible lists online.

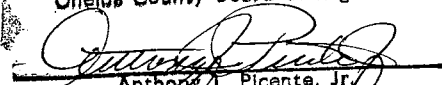
The cost of purchasing the software, \$29,750.00 has been budgeted for in Capital Projects and the yearly maintenance fee, \$5,700.00, will come out of the Personnel Department budget. The first year maintenance fee will be waived by Catalog and Commerce pending commitment to the agreement with a project start date of February 1, 2018. I recommend signing this agreement. If you agree, please forward this request to the Board of Legislators for their action. Thank you for your attention to this matter.

Sincerely,

  
John P. Talerico  
Commissioner of Personnel



cc: Thomas Keeler, Director of Budget  
Amanda Cortese, Special Assistant Count Attorney

Reviewed and Approved for submittal to the  
Oneida County Board of Legislators by  
  
Anthony J. Picente, Jr.  
County Executive  
Date 1-29-18

Oneida Co. Department: Personnel

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

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name & Address of Vendor:** Catalog & Commerce Solutions  
263 East Street  
Pittsford, New York 14534

**Title of Activity or Service:** Personnel- Civil Service Software

**Proposed Dates of Operation:** February 1, 2018 – December 31, 2022

**Client Population/Number to be Served:** Civil Service applicants and employees

**Summary Statements**

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

This system will provide a portal for online applicant registration, a jobs portal, management of job listings and specific qualifications for processing applications, user management and processing administration, applicant New York State Civil Service exam processing and training and experience exam processing, and employee and position tracking. Additionally, technical support will be provided.

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

To ensure compliance with New York State Civil Service Laws and the Oneida County Civil Service Rules.

**3) Program Design and Staffing:**

Software system will be developed by Catalog & Commerce Solutions and used by personnel staff to carry out personnel and civil service functions. Support will be provided by Catalog & Commerce Solutions.

**Total Funding Requested:** \$52,550                      **Account #** A1430.492

**Oneida County Dept. Funding Recommendation:** \$52,550

**Proposed Funding Sources (Federal \$/ State \$/County \$):** 100% County

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

**Past Performance Data:** N/A

**O.C. Department Staff Comments:** This company was chosen per RFP 2017-204 as the winning proposal.

## AGREEMENT

This Agreement, made this \_\_\_\_\_ day of \_\_\_\_\_, 2018, is by and between the **COUNTY OF ONEIDA**, a municipal corporation organized and existing under the laws of the State of New York, with its principal offices located at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as "County," and **CATALOG AND COMMERCE SOLUTIONS, LIMITED LIABILITY COMPANY**, a limited liability company organized and existing under the laws of the State of Pennsylvania and authorized to do business in the State of New York under the assumed name **DISCOVER E-GOV**, with its principal offices located at 263 East Street, Pittsford, New York 14534, hereinafter referred to as "Contractor."

**WHEREAS**, the Oneida County Personnel Department is in need of a digital and automated system to handle the processing of Civil Service Job Applications. The system shall include: online applicant registration, a jobs portal, management of job listings and specific qualifications for processing applications, user management and processing administration, applicant New York State Civil Service exam processing and training and experience exam processing, and employee and position tracking in order to ensure compliance with New York State Civil Service Laws and the Oneida County Civil Service Rules (hereinafter the "Software System"); and

**WHEREAS**, the Contractor is able to provide the Software System to the County;

**NOW, THEREFORE**, in consideration of the mutual promises and covenants herein contained, the parties do hereby agree as follows:

### **I. TERM AND TERMINATION.**

A. This Agreement shall be effective on February 1, 2018 and shall continue until December 31, 2022 (hereinafter the "Initial Term").

B. The County shall have the option to renew this Agreement under the same terms and conditions for one (1) additional five (5) year term beginning on January 1, 2023 and continuing in effect until December 31, 2027 (hereinafter the "Renewal Term").

C. The County may terminate this Agreement upon thirty (30) days advance written notice to the Contractor.

1. In the event of such termination, Contractor shall be entitled to compensation for services rendered to the date of termination.

JAN 19 2018

## II. SCOPE OF SERVICES.

### A. SOFTWARE SYSTEM DEVELOPMENT.

#### 1. PROJECT DEFINITION.

1.1. The Software System shall include three (3) distinct processing units: the application/account management for users (hereinafter "Applicants"), the interface of the application and the specific job posting to qualify the candidate, and the administration of the Software System. The intent is to automate the qualification process using specific fields (attributes) of the candidate as compared to specific fields defined as "minimum qualifications" required for the job. The job variables are specific fields that are hard coded and will streamline the prequalification of Applicants.

1.2. The Software System shall interface seamlessly with the County's payroll system. All Contractor work necessary for the Software System interface to the County's payroll system is covered in the terms of this Agreement.

1.3. The Software System must be a cloud-based managed solution.

1.4. The Software System shall allow the County to interact with Towns, Schools, Villages, Libraries and Special Districts (hereinafter "Agencies").

#### 2. PROCESS STEPS FOR DEVELOPMENT.

##### 2.1. Software System Development.

a. The Software System shall be developed in a web-based environment to allow potential Applicants' access to Civil Service exam lists within the Oneida County website.

b. The Software System shall be developed with a simple dashboard format and shall feature a graphic user interface (GUI) that is easy to understand and follow through each process step.

c. The Software System shall allow for an easy understanding of the process flow and provide access to "help" text while interacting with the Software System.

d. The Software System shall feature a simplified flow that will be logical and include key fields and responses that are required as part of the qualification process.

JAN 19 2018

e. The intent is to automate as much of the qualification process and reduce the reliance on manual intervention.

## 2.2. Conversion and Document Formats.

a. The Software System shall provide an easy to follow format flow for filling out the application in a logical sequence of steps.

b. The application will be segmented into processing steps that will build out the Civil Service application and will have key fields that will be used in the qualification process. These specific questions and responses will be validated against the job posting and the minimum requirements of the position.

c. The absence of a physical signature shall be replaced with mandatory confirmation acknowledgements ("I agree/acknowledge") that will be mandatory to proceed.

d. The process shall mimic the existing system flow and terminology, include existing forms (either documents or HTML versions) and provide printed output in a similar fashion to what exists today.

e. The intent is to automate as much of the qualification process as possible, while still allowing for manual intervention where needed.

## 2.3. System Access.

a. The Software System shall be accessible to the public via the current Oneida County website.

b. The Civil Service online application shall be subject to a registration process that requires a user account that will drive the access to manage a profile as well as process an application.

c. The registered user will have access to current open applications as well as an archived history of applications.

d. The County's Personnel Department personnel shall be able to process and monitor the Software System both in the office and from home via secured access using county methodology to existing processes from outside the network.

e. The Software System shall provide searchable, indexed job listings that will follow a structured format for automated search by job posting sites.



3. CONTRACTOR RESPONSIBILITIES. The Contractor shall be responsible for:

3.1. Software System Development. The Contractor shall develop the Software System for processing online applications and managing the listing of jobs and specific qualifications for processing applications. The programs and Software System development shall be done working with the County's Personnel Department or its designee(s) to develop and test the system throughout product development. This shall include the development of a secure shopping cart and processing through the credit card gateway if the County chooses to implement this software feature.

3.2. Software and hardware. The Contractor shall install all necessary hardware and software.

a. The expense of all software used in the development and deployment of the Software System shall be the sole responsibility of the Contractor.

b. The hardware necessary shall be leased to the County and the expense of the same shall be included in the ongoing monthly fee.

3.3. Training. The Contractor shall provide unlimited training sessions to County personnel and shall provide training documentation for use by County personnel.

a. In addition to this in-person training, the Contractor shall provide unlimited online training.

3.4. Hosting/Maintenance and Management. The equipment, communication and management of the Software System tool shall be the sole responsibility of the Contractor. This includes Software System documentation, training documentation and the ongoing management of the Software System for the County. The provisions for ongoing management and any future system changes are contained herein below.

3.5. Interface with the County's payroll system: The Contractor shall provide the programming necessary to Import/Export data from the County's payroll system. The Contractor shall provide programming services and ongoing management of the interface.

3.6. Data Migration: The Contractor shall migrate all data into the final Software System as provided by the County on or before the "Go-Live" date.

4. COUNTY RESPONSIBILITIES. The County shall be responsible for:

4.1. Process Review. The logic and process steps require approval by the County prior to development to validate the approach. This includes a clear understanding

of the categories of minimum requirements that could be used in the processing of applications.

4.2. Materials Audit. The County shall supply digital versions of the final wording for the actual Civil Service application and related documents that will be programmed. This includes the versions of outgoing correspondence and delivery methods.

4.3. Payment/Processing Gateway. If the County chooses to implement credit card processing for application fees, the County shall provide credit card processing gateway information.

4.4. Internal Software System Users. The County shall provide a roster of all processing personnel and shall outline all levels of access to the Software System to include, but not limited to: "Super User" (access to everything), "System Administrator" (manage users and process), "System Manager" (manage positions and Operators who can access/approve applications), and "Operators" (access/approve applications).

a. There may be need for "View only" (access to view only).

4.5. System Inputs/Outputs. The County shall supply a complete audit and understanding of the desired import feeds from outside systems that will be used in the Software System. This includes a complete list of the information fields needed as well as the format. In addition, the County shall supply a complete understanding of the export feed to outside systems, as well as provide specific formats to be used.

## 5. TIMELINE.

5.1. The Contractor shall begin work pursuant to this Agreement on February 1, 2018.

5.2. Software System development shall be completed on or before May 31, 2018

a. This timeline may be shortened based on County involvement.

b. At the end of the Software System development period, the County shall have a fully-functioning system and shall be able to process applications online.

5.3. Phase 1.

a. The deliverables for Phase 1 are as follows:

- i. Develop a wire-schema of the Software System.
- ii. Software System processing overview and Software System input/outputs defined.
- iii. Audit existing forms and update.
- iv. Sign-off on the concept and components prior to programming.

b. The target date for completion of Phase 1 is March 2, 2018.

5.4. Phase 2.

a. The deliverables for Phase 2 are as follows:

- i. Software System protosite.
- ii. Leased Hardware and Software System installation.
- iii. Testing criteria and test period sign-off.

b. The target date for completion of Phase 2 is April 1, 2018.

5.5. Phase 3.

a. The deliverables for Phase 3 are as follows:

- i. Software System Training documentation.
- ii. Software System Training Sessions - Online.
- iii. The "Go Live Date" (the date that the Software System is ready for use by the County).

b. The target date for completion of Phase 3 is May 31, 2018.

**B. SOFTWARE SYSTEM AND EQUIPMENT STORAGE AND BACKUP.**

1. The Software System shall reside on a shared server to be housed at an off-site Tier-3 facility and managed/supported by Contractor's personnel pursuant to the terms of this Agreement.

2. Equipment/Storage/Backup. The Software System shall be subject to the normal practices of the County and the Contractor as it pertains to the management and security of the Software System.

2.1. In instances where the normal practices of the County and the normal practices of the Contractor as it pertains to the management and security of the Software System differ, the normal practices of the County shall prevail.

2.2. The web application shall reside on Contractor-managed servers at its 1861 facility in Philadelphia, Pennsylvania.

2.3. The servers and data shall reside at the Contractor's primary facility in Philadelphia, Pennsylvania, and are backed-up to Contractor's secondary center in Lenexa, Kansas.

### C. SOFTWARE SYSTEM MAINTENANCE AND SUPPORT.

1. POST-IMPLEMENTATION SUPPORT. Commencing on the Go Live Date, the Contractor shall provide support and maintenance (hereinafter "Software System Maintenance and Support") as follows:

- 1.1. Unlimited upgrades and new releases to the software.
- 1.2. Unlimited software fixes.
- 1.3. Unlimited basic revisions to the software.
- 1.4. Unlimited technical and customer support available 24/7/365.
- 1.5. Unlimited access to the Contractor's Help Desk.
- 1.6. User group meetings.
- 1.7. Servers (on a 2-year refresh cycle).
- 1.8. Equipment redundancy.
- 1.9. Unlimited communications and bandwidth.
- 1.10. Security software with unlimited patches and updates.
- 1.11. All-inclusive ongoing training and all online training documentation
- 1.12. All usability improvements.

John S. [unclear]

## 2. ONGOING SOFTWARE SYSTEM TESTING AND TRAINING.

2.1. The Contractor shall provide unlimited ongoing Software System training for County personnel and its designees, and personnel of the Agencies.

a. In addition to this in-person training, the Contractor shall provide unlimited online training.

2.2. The Contractor shall provide "Train the Trainer" training to any individual(s) designated by the County so that those individuals can guide personnel.

2.3. The Contractor shall provide unlimited "Training Refresh Sessions" on demand.

## D. CHANGE ORDERS.

1. The County may request custom programming that the Contractor may provide via a "Change Order." All Change Orders shall be in writing and executed by both parties prior to the start of any work on a Change Order.

2. The Change Order request shall be defined by the County and the Contractor will provide a "not to exceed" cost estimate.

## III. COMPENSATION.

### A. COMPENSATION FOR SOFTWARE SYSTEM DEVELOPMENT.

1. Compensation for Software System Development shall be Twenty-Nine Thousand Seven Hundred Fifty Dollars (\$29,750.00), payable as follows:

1.1. Forty percent (40%), or Eleven Thousand Nine Hundred Dollars (\$11,900), due upon execution of this Agreement.

1.2. Forty percent (40%), or Eleven Thousand Nine Hundred Dollars (\$11,900), due upon completion of Phase 2.

1.3. Fifteen percent (15%), or Four Thousand Four Hundred Sixty-Two Dollars and Fifty Cents (\$4,462.50), due upon completion of Phase 3.

1.4. Five percent (5%), or One Thousand Four Hundred Eighty-Seven Dollars and Fifty Cents (\$1,487.50), due thirty (30) days after completion of Phase 3.

2. The compensation detailed herein includes compensation for the cost of implementation/consulting, development costs, installation (during Software System development, not to exceed 120 days), conversion of existing data (all-inclusive mapping

to the Software System), all necessary software and unlimited user licenses for the same, interface with the County's payroll system, online Software System training, and travel expenses.

**B. COMPENSATION FOR SOFTWARE SYSTEM MAINTENANCE AND APPLICATION HOSTING.**

1. The Contractor shall be compensated for the Software System maintenance and application hosting of the Software System by the Contractor during the Initial Term as follows:

1.1. The Contractor shall provide the Software System maintenance and application hosting of the Software System by the Contractor from the Go Live Date through December 31, 2018 free of charge.

1.2. Five Thousand Seven Hundred Dollars (\$5,700.00) payable on January 1, 2019, for the period of January 1, 2019 through December 31, 2019.

1.3. Five Thousand Seven Hundred Dollars (\$5,700.00) payable on January 1, 2020, for the period of January 1, 2020 through December 31, 2020.

1.4. Five Thousand Seven Hundred Dollars (\$5,700.00) payable on January 1, 2021, for the period of January 1, 2021 through December 31, 2021.

1.5. Five Thousand Seven Hundred Dollars (\$5,700.00) payable on January 1, 2022, for the period of January 1, 2022 through December 31, 2022.

2. In the event that the County exercises its option to renew this Agreement, the Contractor shall be compensated for the Software System maintenance and application hosting of the Software System by the Contractor during the Renewal Term as follows:

2.1. Five Thousand Nine Hundred Dollars (\$5,900.00) payable on January 1, 2023, for the period of January 1, 2023 through December 31, 2023.

2.2. Six Thousand One Hundred Dollars (\$6,100.00) payable on January 1, 2024, for the period of January 1, 2024 through December 31, 2024.

2.3. Six Thousand Three Hundred Dollars (\$6,300.00) payable on January 1, 2025, for the period of January 1, 2025 through December 31, 2025.

2.4. Six Thousand Five Hundred Dollars (\$6,500.00) payable on January 1, 2026, for the period of January 1, 2026 through December 31, 2026.

2.5. Six Thousand Seven Hundred Dollars (\$6,700.00) payable on January 1, 2027, for the period of January 1, 2027 through December 31, 2027.

3. Nothing herein shall be construed as to require the County to exercise its option for the Renewal Term.

4. The compensation detailed herein includes compensation for the cost of all services detailed in Section II(C) hereinabove, as well as any and all travel costs.

#### C. COMPENSATION FOR CHANGE ORDERS.

3.1. Custom programming for Change Orders shall be billed at One Hundred Twenty-Five Dollars (\$125.00) per hour.

3.2. Compensation for each Change Order shall be payable as follows:

a. Fifty percent (50%) upon execution of the Change Order.

b. Fifty percent (50%) upon completion of the work contained in the Change Order.

#### IV. PERFORMANCE OF SERVICES.

A. The Contractor represents that it has the qualifications, the specialized skill(s), the experience and the ability to properly perform pursuant to this Agreement. The Contractor shall use its best efforts to perform pursuant to this Agreement such that the results are satisfactory to the County.

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 pursuant to this Agreement (collectively, the "Assistants"). The Contractor shall be solely responsible and shall remain liable for performance pursuant to this Agreement by the Assistants in a manner satisfactory to the County, in compliance with any and all applicable Federal, State or Local Laws and Regulations. The Contractor shall expressly advise the Assistants of the terms of this Agreement.

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

#### V. INDEPENDENT CONTRACTOR STATUS.

A. It is expressly agreed that the relationship of the Contractor and its Assistants to the County shall be that of independent contractors. The Contractor's Assistants shall not be considered nor deemed to be employees of the County for any purpose including, but not limited to, claims for unemployment insurance, Workers' Compensation insurance, retirement benefits, health benefits or other County employee 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 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 his or her services available to the public.

C. The Contractor shall be paid pursuant to IRS Form 1099, and 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 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 insurance, disability insurance or social security insurance (FICA).

1. 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.

D. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's or 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.

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

## **VI. EXPENSES.**

Contractor is solely responsible for paying all of its business expenses related to its performance pursuant to this Agreement, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating expenses separate and apart from that which is specifically detailed herein.

## **VII. INSURANCE AND INDEMNIFICATION.**

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



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

1.1. 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.

1.2. Oneida County shall be included as an additional insured. 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. Coverage for the additional insured shall include completed operations.

2. Professional Liability coverage with limits of \$1,000,000 each occurrence and \$2,000,000 annual aggregate.

3. Business Auto Liability coverage with limits of at least \$1,000,000 each accident.

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

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

4. Workers' Compensation and Employer's Liability coverage.

4.1. Statutory limits apply.

B. WAIVER OF SUBROGATION. 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 Commercial General Liability, Professional Liability, Automobile Liability, or Workers' Compensation and Employer's Liability insurance maintained per requirements stated above.

C. CERTIFICATES OF INSURANCE. Prior to the start of any work the Contractor shall provide a certificate of insurance to the County. Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of the Contractor's policy. 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 30 days' prior written notice has been given to Oneida County.

JAN 19 2011

D. INDEMNIFICATION. The Contractor agrees that it shall defend, indemnify and hold harmless the County from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the negligent performance of services by Contractor and its subcontractors, agents, servants, or employees, and from any loss or damage arising, occurring or resulting from the negligent acts or failure to act or any default or negligence by the Contractor and its subcontractors or failure on the part of the Contractor and its subcontractors to comply with any of the covenants, terms or conditions of this Agreement.

#### **VIII. NO ASSIGNMENT**

Contractor shall have no right to assign, transfer, convey, pledge or otherwise dispose of Contractor's interest in this Agreement without the prior express written consent of the County.

#### **IX. NONDISCLOSURE**

Contractor hereby agrees that any and all data, recommendations, reports and other materials developed in the performance of this Agreement are strictly confidential and that Contractor is prohibited from revealing or disclosing such data, recommendations or reports, in whole or in part, to any third party without first obtaining the express written consent of County. This covenant of non-disclosure shall survive the termination or expiration of this Agreement.

#### **X. CHOICE OF LAW, VENUE, PERSONAL JURISDICTION AND SERVICE OF PROCESS**

A. This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of New York. In the event that any term, condition or provision contained herein shall be deemed invalid by any Court of competent jurisdiction, it shall not result in the invalidation of any other term, condition or provision contained herein, all of which shall continue in full force and effect.

B. 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 court of competent jurisdiction in Oneida County, New York.

C. Contractor expressly consents to personal jurisdiction in New York State.

D. Contractor expressly agrees that in the event an action is filed in a court of competent jurisdiction in Oneida County, New York, service of said action shall be made in accordance with New York State Civil Practice Law and Rules Section 311, New York State Business Corporation Law Section 306, and/or New York State Business Corporation Law Section 307, and such service shall be deemed good and sufficient.

MAY 9 2016

## **XI. ONEIDA COUNTY STANDARD TERMS AND CONDITIONS**

A. The Contractor agrees to be bound by the Oneida County Standard Contract Terms and Conditions annexed hereto and marked as **Addendum A**.

B. The Contractor agrees to be bound by the Oneida County Software and Hardware Service and Maintenance Agreement Standard Terms and Conditions annexed hereto and marked as **Addendum B**.

C. The Contractor agrees to be bound by the Oneida County Software-as-a-Service Terms and Conditions annexed hereto and marked as **Addendum C**.

## **XII. ENTIRE AGREEMENT**

This Agreement represents the entire understanding between the parties. No waiver or modification of this Agreement shall be legally binding and/or enforceable unless such waiver and/or modification is set forth in writing and subscribed by the parties hereto with the same formality as this Agreement.

## **XIII. 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.

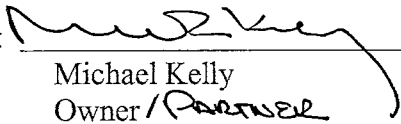
*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]*

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date or dates hereinafter mentioned.

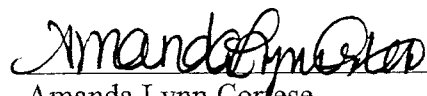
**COUNTY OF ONEIDA**

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

**CATALOG AND COMMERCE SOLUTIONS, LIMITED LIABILITY COMPANY, d/b/a  
DISCOVER E-GOV**

By:   
Michael Kelly  
Owner / *Partner*

Approved:

  
Amanda Lynn Cortese  
Special Assistant County Attorney



**ADDENDUM A**

**Oneida County Standard Contract Terms and Conditions**

**THIS ADDENDUM**, entered into on this \_\_\_ day of \_\_\_\_\_, 2018, between the County of Oneida, hereinafter known as **COUNTY**, and **CATALOG AND COMMERCE SOLUTIONS, LIMITED LIABILITY COMPANY**, authorized to do business in the State of New York under the assumed name **DISCOVER E-GOV** hereinafter known as **CONTRACTOR**.

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

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

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

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

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

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

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

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

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal Grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.
2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.

b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,

1. The Contractor certifies that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - b. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contracts under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1(b) of this certification; and
  - d. Have not within a three-year period, preceding this Contract, had one or more public transactions (Federal, State, or local) for cause or default; and

JAN 19 2018

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

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

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

JAN 1 2018

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).

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

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

---

---

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

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

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

When applicable to the services provided pursuant to the Contract:

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

1. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
2. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access protected health information electronically; and



3. Utilize an adequate amount of physical hardware, including but not limited to filing cabinets, and locks on drawers, cabinets, and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.

b. This Contract does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

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

c. The Contractor shall:

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

d. The Contractor agrees that this Contract may be amended if any of the following events occurs:

1. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
2. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
3. There is a material change in the business practices and procedures of the County.

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

#### **5. Non-Assignment Clause.**

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

#### **6. Workers' Compensation Benefits.**

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

#### **7. Non-Discrimination Requirements.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**13. Governing Law.**

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

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

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

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

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

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

**16. Gratuities and Kickbacks.**

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

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

## **17. Audit**

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

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

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

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

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

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

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

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

## **Addendum B**

### **Oneida County Software and Hardware Service and Maintenance Agreement Standard Terms and Conditions**

#### **1. Definitions:**

a. **“Authorized Persons”** means the service provider’s employees, contractors, subcontractors or other agents who need to access to Oneida County’s data to enable the service provider to perform the services required.

b. **“Data Breach”** means unauthorized access that results in the use, disclosure or theft of Oneida County’s data.

c. **“Hardware”** includes computers, defined as devices that compute, often programmable machines which can perform a programmed list of instructions and respond to new instructions given to them. An electronic computer accepts data, manipulates data, produces results, and stores results. For the purposes of this document, “Hardware” will also include any other component or machine provided to Oneida County by the vendor that is a part of, connected to, or interacts with computers or software in any way, as well as any on premise or removable storage device.

d. **“Individually Identifiable Health Information”** means Information that is a subset of health information, including demographic information collected from an individual, and (1) is created or received by a health care provider, health plan, employer or health care clearinghouse; and (2) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (a) that identifies the individual; or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.<sup>1</sup>

e. **“Non-Public Data”** means data, other than personal data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by Oneida County because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information. All Oneida County data in the possession of the SaaS provider is considered “Non-Public Data” unless expressly noted under the terms of this contract.

f. **“Oneida County Data”** means all data created or in any way originating with Oneida County, and all data that is the output of computer processing of or other electronic manipulation of any data that was created by or in any way originated with the Oneida County, whether such data or output is stored on the Oneida County’s hardware, the service provider’s hardware or exists in any system owned, maintained or otherwise controlled by Oneida County or by the service provider.

g. **“Oneida County Identified Contact”** means the person or persons designated in writing by Oneida County to receive security incident or breach notification.



**h. “Personal Data”** means data that includes information relating to a person that identifies the person by name and has any of the following personally identifiable information (PII): government-issued identification numbers (e.g., Social Security, driver’s license, passport), financial account information, including account number, credit or debit card numbers, or protected health information (PHI) relating to a person.

**i. “Protected Health Information” (PHI)** means individually identifiable health information transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium. PHI excludes education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended, 20 U.S.C. 1232g, records described at 20 U.S.C. 1232g(a)(4)(B)(iv), and employment records held by a covered entity in its role as employer.<sup>ii</sup>

**j. “Security Incident”** means the potentially unauthorized access to data the service provider believes could reasonably result in the use, disclosure or theft of Oneida County’s that data within the possession or control of the service provider. A security incident may or may not turn into a data breach.

**k. “Service Level Agreement” (SLA)** means a written agreement between Oneida County and the service provider that is subject to the terms and conditions in this document that unless otherwise agreed to includes (1) the technical service level performance promises, (i.e. metrics for performance and intervals for measure), (2) description of service quality, (3) identification of roles and responsibilities, (4) security responsibilities and notice requirements, (5) how disputes are discovered and addressed, and (6) any remedies for performance failures.

**l. “Service Provider” (SP)** means the contractor and its employees, subcontractors, agents and affiliates who are providing the services agreed to under the contract.

**m. “Software”** as it is defined by 48 CFR Section 2.101 means (i) Computer programs that comprise a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations; and (ii) Recorded information comprising source code listings, design details, algorithms, processes, flow charts, formulas, and related material that would enable the computer program to be produced, created, or compiled.

**n. “Software-as-a-Service” (SaaS)** means the capability provided to Oneida County to use the provider’s applications running on a cloud Software. The applications are accessible from various client devices through a thin-client interface such as a Web browser (e.g., Web-based email) or a program interface. Oneida County does not manage or control the underlying cloud Software including network, servers, operating systems, storage or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.<sup>iii</sup>

**o. “Statement of Work”** means a written statement in a solicitation document or contract that describes the Oneida County’s service needs and expectations.

**2. Data Ownership:** Oneida County will own all right, title and interest in its data that is related to the services provided by this contract. The service provider shall not access Oneida County user accounts, or Oneida County data, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of this contract, or (4) at the County's written request.

**3. Data Protection:** Protection of personal privacy and data shall be an integral part of the business activities of the service provider to ensure there is no inappropriate or unauthorized use of Oneida County information at any time. To this end, the service provider shall safeguard the confidentiality, integrity and availability of Oneida County information within its control and comply with the following conditions:

**a.** The service provider shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of Oneida County data within its control. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the service provider applies to its own personal data and non-public data of similar kind.

**b.** All data obtained by the service provider within its control in the performance of this contract shall become and remain property of Oneida County.

**c.** Unless otherwise stipulated, any Oneida County data that is transmitted or stored in either a cloud-based or other off-premise location or device by the vendor shall be encrypted at rest and in transit with controlled access. The service level agreement (SLA) and contract document will specify which party is responsible for encryption and access control of the Oneida County data for the service model under contract.

**d.** Unless otherwise stipulated, all Oneida County data in possession of the vendor is considered non-public data to the service provider. Therefore, the level of protection and encryption for all Oneida County data shall be identified and made a part of this contract.

**e.** At no time shall any data or processes – which either belong to or are intended for the use of Oneida County or its officers, agents or employees – be copied, disclosed or retained by the service provider or any party related to the service provider for subsequent use in any transaction that does not include Oneida County.

**f. Defective Media Retention:** In the event of Hardware or media failure, any equipment used to store Oneida County Data shall not be returned to the vendor until all Oneida County Data contained therein has been deleted, destroyed or made otherwise irretrievable, to the satisfaction of the Oneida County Director of Central Services.

**4. Data Location:** The service provider shall provide its services to Oneida County and its end users solely from data centers in the United States (U.S.). Storage of Oneida County data at rest shall be located solely in data centers in the U.S. The service provider shall not allow its personnel or contractors to store Oneida County data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. The service provider shall permit its personnel and contractors to access Oneida County data remotely only as required to provide technical support.

**5. Security Incident or Data Breach Notification:** The service provider shall inform the Oneida County of any security incident or data breach related to Oneida County data within the

possession or control of the service provider and related to the service provided under this contract.

**a. Security Incident Reporting Requirements:** Unless otherwise stipulated, the service provider shall immediately report a security incident related to its service under the contract to the Director of Oneida County Central Services

**b. Breach Reporting Requirements:** If the service provider has actual knowledge of a confirmed data breach that affects the security of any Oneida County content that is subject to applicable data breach notification law, the service provider shall (1) promptly notify the Oneida County Director of Central Services within 24 hours or sooner, unless shorter time is required by applicable law, and (2) take commercially reasonable measures to address the data breach in a timely manner.

**6. Breach Responsibilities:** This section applies when a data breach occurs with data within the possession or control of a service provider and related to service provided under this contract.

**a.** The service provider, unless stipulated otherwise, shall immediately notify the Oneida County Director of Central Services by telephone in accordance with the agreed upon security plan or security procedures if it reasonably believes there has been a security incident.

**b.** The service provider, unless stipulated otherwise, shall promptly notify the Oneida County Director of Central Services within 24 hours or sooner by telephone, unless shorter time is required by applicable law, if it confirms that there is or reasonably believes that there has been a data breach. The service provider shall (1) cooperate with the Oneida County Director of Central Services as reasonably requested County to investigate and resolve the data breach; (2) promptly implement necessary remedial measures, if necessary; and (3) document responsive actions taken related to the data breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.

**c.** Unless otherwise stipulated, if a data breach is a direct result of the service provider's breach of its contract obligation to encrypt data or otherwise prevent its release, the service provider shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifications to individuals, regulators or others required by state law; (3) providing credit monitoring service required by state (or federal) law; (4) establishing a website or a toll-free number and call center for affected individuals required by state law; and (5) complete all corrective actions as reasonably determined by the service provider based on root cause; all [(1) through (5)] subject to this contract's limitation of liability.

**7. Notification of Legal Requests:** The service provider shall contact the Oneida County Director of Central Services upon receipt of any electronic discovery, litigation holds, discovery searches and expert testimonies related to Oneida County's data under this contract, or which in any way might reasonably require access to the data of the Oneida County. The service provider shall not respond to subpoenas, service of process and other legal requests related to Oneida County without first notifying the Oneida County, unless prohibited by law from providing such notice.

## **8. Termination and Suspension of Service:**

**a.** In the event of an early termination of the contract, the service provider shall allow for the Oneida County to retrieve its digital content and provide for the subsequent secure disposal of Oneida County digital content.

**b.** During any period of suspension, the service provider shall not take any action to intentionally erase any Oneida County digital content.

**c.** In the event of early termination of any services or agreement in entirety, the service provider shall not take any action to intentionally erase any Oneida County data for a period of 1) 45 days after the effective date of termination, if the termination is for convenience; or 2) 60 days after the effective date of termination, if the termination is for cause. After such day period, the service provider shall have no obligation to maintain or provide any Oneida County data and shall thereafter, unless legally prohibited, delete all Oneida County data in its systems or otherwise in its possession or under its control. In the event of either termination for cause, the service provider will impose no fees for access and retrieval of digital content to the customer.

**d.** After termination of the contract and the prescribed retention period, the provider shall securely dispose of all digital content in all of its forms, such as disk, CD/DVD, backup tape and paper. Oneida County's digital content shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST) approved methods. Certificates of destruction shall be provided to Oneida County.

**9. Background Checks:** The service provider shall conduct criminal background checks and not utilize any staff, including subcontractors, to fulfill the obligations of the contract who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or any misdemeanor offense for which incarceration for up to 1 year is an authorized penalty. The service provider shall promote and maintain an awareness of the importance of securing the Oneida County's information among the service provider's employees and agents.

## **10. Access to Security Logs and Reports:**

**a.** The service provider shall provide reports to the Oneida County Director of Central Services directly related to the Software or Hardware that the service provider controls upon which the Oneida County account resides. Unless otherwise agreed to in the SLA, the service provider shall provide the Oneida County's Director of Central Services a history or all API calls for the Oneida County account that includes the identity of the API caller, the time of the API call, the source IP address of the API caller, the request parameters and the response elements returned by the service provider. The report will be sufficient to enable Oneida County to perform security analysis, resource change tracking and compliance auditing.

**b.** The service provider and Oneida County recognize that security responsibilities are shared. The service provider is responsible for providing both secure Software and Hardware. Oneida County is responsible for its secure guest operating system, firewalls and other logs captured within the guest operating system. Specific shared responsibilities are identified within the SLA.

**11. Contract Audit:** The service provider shall allow Oneida County to audit conformance to the contract terms. Oneida County may perform this audit or contract with a third party at its discretion and at Oneida County's expense.

**12: Data Center Audit:** The service provider shall perform an independent audit of all of its data centers in use with respect to any Oneida County Data at least annually and at its own expense, and provide a redacted version of the audit report upon request to the Oneida County Director of Central Services. The service provider may remove its proprietary information from the redacted version. For example, a Service Organization Control (SOC) 2 audit report would be sufficient.

**13. Change Control and Advance Notice:** The service provider shall give advance notice (to be determined at contract time and included in the SLA) to Oneida County of any upgrades (e.g., major upgrades, minor upgrades, system changes) that may impact service availability and performance. A major upgrade is a replacement of hardware, software or firmware with a newer or better version in order to bring the system up to date or to improve its characteristics. It usually includes a new version number.

**14. Security:** The service provider shall disclose its non-proprietary security processes and technical limitations to Oneida County such that adequate protection and flexibility can be attained between the Oneida County and the service provider. For example: virus checking and port sniffing – Oneida County and the service provider shall understand each other's roles and responsibilities.

**15. Non-Disclosure and Separation of Duties:** The service provider shall enforce separation of job duties, require commercially reasonable non-disclosure agreements and limit staff knowledge of customer data to that which is absolutely necessary to perform job duties.

**16. Import and Export of Data:** Oneida County shall have the ability to import or export data in piecemeal or in entirety at its discretion without interference from the service provider. This includes the ability for Oneida County to import or export data to/from other service providers.

**17. Responsibilities and Uptime Guarantee:** The service provider shall be responsible for the acquisition and operation of all hardware, software and network support related to the services being provided. The technical and professional activities required for establishing, managing and maintaining the environment is the responsibility of the service provider. The system shall be available 24/7/365 (with agreed-upon maintenance downtime), and provide service to customers as defined in the SLA.

**18. Sub-Contractor Disclosure:** The service provider shall identify all of its strategic business partners related to services provided under this contract, including but not limited to all subcontractors or other entities or individuals who may be a party to a joint venture or similar agreement with the service provider, and who shall be involved in any application development and/or operations.

**19. Right to Remove Individuals:** Oneida County shall have the right at any time to require that the service provider remove from interaction with Oneida County any service provider representative who the Oneida County believes is detrimental to its working relationship with the service provider. Oneida County shall provide the service provider with notice of its determination, and the reasons it requests the removal. If Oneida County signifies that a potential security violation exists with respect to the request, the service provider shall immediately remove such individual. The service provider shall not assign the person to any aspect of the contract or future work orders without Oneida County's consent.

**20. Business Continuity and Disaster Recovery:** If applicable, the service provider shall provide a business continuity and disaster recovery plan upon request and ensure that Oneida County's recovery time objective (RTO) is met.

**21. Compliance with Accessibility Standards:** The service provider shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973.

**22. Web Services:** If applicable, the service provider shall use Web services exclusively to interface with the public jurisdiction's data in near real time when possible.

**23. Encryption of Data at Rest:** With respect to any Oneida County Data in its possession, the service provider shall ensure hard drive encryption consistent with validated cryptography standards as referenced in FIPS 140-2, Security Requirements for Cryptographic Modules for all personal data, unless the public jurisdiction approves the storage of personal data on a service provider portable device in order to accomplish work as defined in the statement of work.

---

<sup>i</sup> HIPAA Privacy Rule, Definitions, U.S. Department of Health and Human Services, National Institute of Health.

<sup>ii</sup> U.S. Department of Health and Human Services, National Institute of Health, HIPAA Privacy Rule, Definitions.

<sup>iii</sup> Special Publication 800-146, "Cloud Computing Synopsis and Recommendations" National Institute of Standards and Technology, May 2012.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]*

## Addendum C

### Oneida County Software-as-a-Service Terms and Conditions

#### 1. Definitions:

a. **“Authorized Persons”** means the service provider’s employees, contractors, subcontractors or other agents who need to access to Oneida County’s data to enable the service provider to perform the services required.

b. **“Data Breach”** means unauthorized access that results in the use, disclosure or theft of Oneida County’s data.

c. **“Individually Identifiable Health Information”** means Information that is a subset of health information, including demographic information collected from an individual, and (1) is created or received by a health care provider, health plan, employer or health care clearinghouse; and (2) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (a) that identifies the individual; or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.<sup>i</sup>

d. **“Software-as-a-Service” (SaaS)** means the capability provided to Oneida County to use the provider’s applications running on a cloud Software. The applications are accessible from various client devices through a thin-client interface such as a Web browser (e.g., Web-based email) or a program interface. Oneida County does not manage or control the underlying cloud Software including network, servers, operating systems, storage or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.<sup>ii</sup>

e. **“Non-Public Data”** means data, other than personal data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by Oneida County because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information. All Oneida County data in the possession of the SaaS provider is considered “Non-Public Data” unless expressly noted under the terms of this contract.

f. **“Personal Data”** means data that includes information relating to a person that identifies the person by name and has any of the following personally identifiable information (PII): government-issued identification numbers (e.g., Social Security, driver’s license, passport), financial account information, including account number, credit or debit card numbers, or protected health information (PHI) relating to a person.

g. **“Protected Health Information” (PHI)** means individually identifiable health information transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium. PHI excludes education records

covered by the Family Educational Rights and Privacy Act (FERPA), as amended, 20 U.S.C. 1232g, records described at 20 U.S.C. 1232g(a)(4)(B)(iv), and employment records held by a covered entity in its role as employer.<sup>iii</sup>

**h. "Oneida County Data"** means all data created or in any way originating with Oneida County, and all data that is the output of computer processing of or other electronic manipulation of any data that was created by or in any way originated with the Oneida County, whether such data or output is stored on the Oneida County's hardware, the service provider's hardware or exists in any system owned, maintained or otherwise controlled by Oneida County or by the service provider.

**i. "Oneida County Identified Contact"** means the person or persons designated in writing by Oneida County to receive security incident or breach notification.

**j. "Security Incident"** means the potentially unauthorized access to data the service provider believes could reasonably result in the use, disclosure or theft of Oneida County's that data within the possession or control of the service provider. A security incident may or may not turn into a data breach.

**k. "Service Level Agreement" (SLA)** means a written agreement between Oneida County and the service provider that is subject to the terms and conditions in this document that unless otherwise agreed to includes (1) the technical service level performance promises, (i.e. metrics for performance and intervals for measure), (2) description of service quality, (3) identification of roles and responsibilities, (4) security responsibilities and notice requirements, (5) how disputes are discovered and addressed, and (6) any remedies for performance failures.

**l. "Service Provider" (SP)** means the contractor and its employees, subcontractors, agents and affiliates who are providing the services agreed to under the contract.

**m. "Statement of Work"** means a written statement in a solicitation document or contract that describes the Oneida County's service needs and expectations.

**2. Data Ownership:** Oneida County will own all right, title and interest in its data that is related to the services provided by this contract. The service provider shall not access Oneida County user accounts, or Oneida County data, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of this contract, or (4) at the County's written request.

**3. Data Protection:** Protection of personal privacy and data shall be an integral part of the business activities of the service provider to ensure there is no inappropriate or unauthorized use of Oneida County information at any time. To this end, the service provider shall safeguard the confidentiality, integrity and availability of Oneida County information within its control and comply with the following conditions:

**a.** The service provider shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access,



disclosure or theft of Oneida County data within its control. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the service provider applies to its own personal data and non-public data of similar kind.

**b.** All data obtained by the service provider within its control in the performance of this contract shall become and remain property of Oneida County.

**c.** Unless otherwise stipulated, Oneida County data shall be encrypted at rest and in transit with controlled access. The service level agreement (SLA) and contract document will specify which party is responsible for encryption and access control of the Oneida County data for the service model under contract.

**d.** Unless otherwise stipulated, all Oneida County data in possession of the vendor is considered non-public data to the service provider. Therefore, the level of protection and encryption for all Oneida County data shall be identified and made a part of this contract.

**e.** At no time shall any data or processes – which either belong to or are intended for the use of Oneida County or its officers, agents or employees – be copied, disclosed or retained by the service provider or any party related to the service provider for subsequent use in any transaction that does not include Oneida County.

**4. Data Location:** The service provider shall provide its services to Oneida County and its end users solely from data centers in the United States (U.S.). Storage of Oneida County data at rest shall be located solely in data centers in the U.S. The service provider shall not allow its personnel or contractors to store Oneida County data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. The service provider shall permit its personnel and contractors to access Oneida County data remotely only as required to provide technical support.

**5. Security Incident or Data Breach Notification:** The service provider shall inform the Oneida County of any security incident or data breach related to Oneida County data within the possession or control of the service provider and related to the service provided under this contract.

**a. Security Incident Reporting Requirements:** Unless otherwise stipulated, the service provider shall immediately report a security incident related to its service under the contract to the Director of Oneida County Central Services

**b. Breach Reporting Requirements:** If the service provider has actual knowledge of a confirmed data breach that affects the security of any Oneida County content that is subject to applicable data breach notification law, the service provider shall (1) promptly notify the Oneida County Director of Central Services within 24 hours or sooner, unless shorter time is required by applicable law, and (2) take commercially reasonable measures to address the data breach in a timely manner.

**6. Breach Responsibilities:** This section applies when a data breach occurs with data within the possession or control of a service provider and related to service provided under this contract.

**a.** The service provider, unless stipulated otherwise, shall immediately notify the Oneida County Director of Central Services by telephone in accordance with the agreed upon security plan or security procedures if it reasonably believes there has been a security incident.

b. The service provider, unless stipulated otherwise, shall promptly notify the Oneida County Director of Central Services within 24 hours or sooner by telephone, unless shorter time is required by applicable law, if it confirms that there is or reasonably believes that there has been a data breach. The service provider shall (1) cooperate with the Oneida County Director of Central Services as reasonably requested County to investigate and resolve the data breach; (2) promptly implement necessary remedial measures, if necessary; and (3) document responsive actions taken related to the data breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.

c. Unless otherwise stipulated, if a data breach is a direct result of the service provider's breach of its contract obligation to encrypt data or otherwise prevent its release, the service provider shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifications to individuals, regulators or others required by state law; (3) providing credit monitoring service required by state (or federal) law; (4) establishing a website or a toll-free number and call center for affected individuals required by state law; and (5) complete all corrective actions as reasonably determined by the service provider based on root cause; all [(1) through (5)] subject to this contract's limitation of liability.

**7. Notification of Legal Requests:** The service provider shall contact the Oneida County Director of Central Services upon receipt of any electronic discovery, litigation holds, discovery searches and expert testimonies related to Oneida County's data under this contract, or which in any way might reasonably require access to the data of the Oneida County. The service provider shall not respond to subpoenas, service of process and other legal requests related to Oneida County without first notifying the Oneida County, unless prohibited by law from providing such notice.

**8. Termination and Suspension of Service:**

a. In the event of an early termination of the contract, the service provider shall allow for the Oneida County to retrieve its digital content and provide for the subsequent secure disposal of Oneida County digital content.

b. During any period of suspension, the service provider shall not take any action to intentionally erase any Oneida County digital content.

c. In the event of early termination of any services or agreement in entirety, the service provider shall not take any action to intentionally erase any Oneida County data for a period of 1) 45 days after the effective date of termination, if the termination is for convenience; or 2) 60 days after the effective date of termination, if the termination is for cause. After such day period, the service provider shall have no obligation to maintain or provide any Oneida County data and shall thereafter, unless legally prohibited, delete all Oneida County data in its systems or otherwise in its possession or under its control. In the event of either termination for cause, the service provider will impose no fees for access and retrieval of digital content to the customer.

d. After termination of the contract and the prescribed retention period, the provider shall securely dispose of all digital content in all of its forms, such as disk, CD/DVD, backup tape and paper. Oneida County's digital content shall be permanently deleted and shall

not be recoverable, according to National Institute of Standards and Technology (NIST) approved methods. Certificates of destruction shall be provided to Oneida County.

**9. Background Checks:** The service provider shall conduct criminal background checks and not utilize any staff, including subcontractors, to fulfill the obligations of the contract who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or any misdemeanor offense for which incarceration for up to 1 year is an authorized penalty. The service provider shall promote and maintain an awareness of the importance of securing the Oneida County's information among the service provider's employees and agents.

**10. Access to Security Logs and Reports:**

a. The service provider shall provide reports to the Oneida County Director of Central Services directly related to the Software that the service provider controls upon which the Oneida County account resides. Unless otherwise agreed to in the SLA, the service provider shall provide the Oneida County's Director of Central Services a history or all API calls for the Oneida County account that includes the identity of the API caller, the time of the API call, the source IP address of the API caller, the request parameters and the response elements returned by the service provider. The report will be sufficient to enable Oneida County to perform security analysis, resource change tracking and compliance auditing.

b. The service provider and Oneida County recognize that security responsibilities are shared. The service provider is responsible for providing a secure Software. Oneida County is responsible for its secure guest operating system, firewalls and other logs captured within the guest operating system. Specific shared responsibilities are identified within the SLA.

**11. Contract Audit:** The service provider shall allow Oneida County to audit conformance to the contract terms. Oneida County may perform this audit or contract with a third party at its discretion and at Oneida County's expense.

**12: Data Center Audit:** The service provider shall perform an independent audit of its data centers at least annually and at its own expense, and provide a redacted version of the audit report upon request to the Oneida County Director of Central Services. The service provider may remove its proprietary information from the redacted version. For example, a Service Organization Control (SOC) 2 audit report would be sufficient.

**13. Change Control and Advance Notice:** The service provider shall give advance notice (to be determined at contract time and included in the SLA) to Oneida County of any upgrades (e.g., major upgrades, minor upgrades, system changes) that may impact service availability and performance. A major upgrade is a replacement of hardware, software or firmware with a newer or better version in order to bring the system up to date or to improve its characteristics. It usually includes a new version number.

**14. Security:** The service provider shall disclose its non-proprietary security processes and technical limitations to Oneida County such that adequate protection and flexibility can be

attained between the Oneida County and the service provider. For example: virus checking and port sniffing – Oneida County and the service provider shall understand each other's roles and responsibilities.

**15. Non-Disclosure and Separation of Duties:** The service provider shall enforce separation of job duties, require commercially reasonable non-disclosure agreements and limit staff knowledge of customer data to that which is absolutely necessary to perform job duties.

**16. Import and Export of Data:** Oneida County shall have the ability to import or export data in piecemeal or in entirety at its discretion without interference from the service provider. This includes the ability for Oneida County to import or export data to/from other service providers.

**17. Responsibilities and Uptime Guarantee:** The service provider shall be responsible for the acquisition and operation of all hardware, software and network support related to the services being provided. The technical and professional activities required for establishing, managing and maintaining the environment is the responsibility of the service provider. The system shall be available 24/7/365 (with agreed-upon maintenance downtime), and provide service to customers as defined in the SLA.

**18. Sub-Contractor Disclosure:** The service provider shall identify all of its strategic business partners related to services provided under this contract, including but not limited to all subcontractors or other entities or individuals who may be a party to a joint venture or similar agreement with the service provider, and who shall be involved in any application development and/or operations.

**19. Right to Remove Individuals:** Oneida County shall have the right at any time to require that the service provider remove from interaction with Oneida County any service provider representative who the Oneida County believes is detrimental to its working relationship with the service provider. Oneida County shall provide the service provider with notice of its determination, and the reasons it requests the removal. If Oneida County signifies that a potential security violation exists with respect to the request, the service provider shall immediately remove such individual. The service provider shall not assign the person to any aspect of the contract or future work orders without Oneida County's consent.

**20. Business Continuity and Disaster Recovery:** The service provider shall provide a business continuity and disaster recovery plan upon request and ensure that Oneida County's recovery time objective (RTO) of XXX hours/days is met. (XXX shall be negotiated by both parties.)

**21. Compliance with Accessibility Standards:** The service provider shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973.

**22. Web Services:** The service provider shall use Web services exclusively to interface with the public jurisdiction's data in near real time when possible.

**23. Encryption of Data at Rest:** The service provider shall ensure hard drive encryption consistent with validated cryptography standards as referenced in FIPS 140-2, Security

Requirements for Cryptographic Modules for all personal data, unless the public jurisdiction approves the storage of personal data on a service provider portable device in order to accomplish work as defined in the statement of work.

---

<sup>i</sup> HIPAA Privacy Rule, Definitions, U.S. Department of Health and Human Services, National Institute of Health.

<sup>ii</sup> Special Publication 800-146, "Cloud Computing Synopsis and Recommendations" National Institute of Standards and Technology, May 2012.

<sup>iii</sup> U.S. Department of Health and Human Services, National Institute of Health, HIPAA Privacy Rule, Definitions.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]*

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

**Colleen Fahy-Box**  
Interim Commissioner



**ONEIDA COUNTY DEPARTMENT OF SOCIAL SERVICES**

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

January 22, 2018

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

FN 20 18 072

HEALTH & HUMAN SERVICES

**WAYS & MEANS**

Dear Mr. Picente:

I am submitting the following Purchase of Services Agreement for review and approval by the Board of Legislators between the Neighborhood Center, Inc. and the Department of Social Services for Day Care registration, certification and training, inspection, and recruitment services.

The Department has contracted with the Neighborhood Center since 1992 for recruitment of potential providers, the certification and training of Family Day Care homes and other childcare providers, to conduct required inspections, and to manage Day Care eligibility, determination, and registration processes.

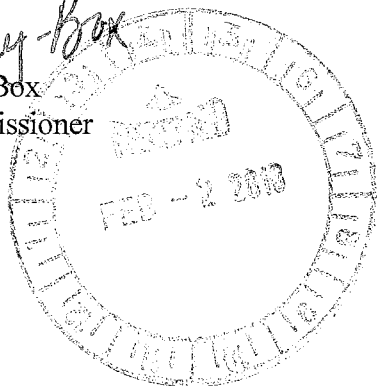
The term for this Purchase of Services Agreement with the Neighborhood Center is January 1, 2018 through December 31, 2018. The \$ 230,297.00 agreement with the Neighborhood Center, Inc. will be funded 100 % through a New York State Office of Children and Family Services grant.

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

Sincerely,

*Colleen Fahy-Box*  
Colleen Fahy-Box  
Interim Commissioner

CFB/vlc  
Attachment



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

*Anthony J. Picente, Jr.*  
Anthony J. Picente, Jr.  
County Executive  
Date 2/2/18

**Oneida Co. Department Social Services**

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

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

**Name of Proposing Organization:** Neighborhood Center  
624 Elizabeth Street  
Utica, New York 13501

**Title of Activity or Services:** Day Care Registration/Inspection

**Proposed Dates of Operations:** January 1, 2018 – December 31, 2018

**Client Population/Number to be Served:** Individuals in Oneida County interested in or currently providing child care in a residence.

**SUMMARY STATEMENTS**

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

The Neighborhood Center, Inc. provides recommendations for the registration/and renewal for those individuals satisfactorily completing a Family Day Care initial/renewal application. The program provides the following services: technical assistance to potential and current providers regarding application and regulations, regularly scheduled orientation sessions throughout Oneida County, inspection/investigation of registered homes in response to a complaint or a request by provider for additional school age children, or for failure to meet training requirements. The program proposes to complete annual random inspections on 50% of existing providers, as well as responding to complaints on non-regulated child care providers. The contract now includes performance standards for: initial registrations, renewal registration, complaint investigations, safety assessments, inspections, on-site registration, and case management review.

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

This service proposes to increase the number of Registered Family Day Care & School Age Day Care homes throughout Oneida County and to ensure through the inspection process that they meet the standards set forth in the NYS Regulations.

**3). Program Design and Staffing Level -**

- (1) Program Coordinator
- (4) Caseworkers
- (1) Program Assistant
- (1) Clerk

**Total Funding Requested:** \$230,297.00

**Oneida County Dept. Funding Recommendation:** Account # A6055.495

**Mandated or Non-mandated:** Mandated service

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

<b>Federal</b>	<b>10 0 %</b>	<b>\$230,297.00</b>
<b>State</b>	<b>0 %</b>	<b>\$ 0</b>
<b>County</b>	<b>0 %</b>	<b>\$ 0</b>

**Cost Per Client Served:** This contract uses federal funds and is reimbursed through a Memorandum of Understanding with the State of New York.

**Past performance Served:** The Department has contracted with this provider since June 1, 1992. In 2007, the county contract instituted performance measures that must be met in order for the contractor to receive full reimbursement. The cost of the contract in 2017 was \$ 230,297.00.

**O.C. Department Staff Comments:** There is no local share to support this effort.



## AGREEMENT

**THIS AGREEMENT**, made and entered into between Oneida County, a municipal corporation organized and existing under the laws of the State of New York and having its principal offices at the Oneida County Office Building, 800 Park Avenue, Utica, New York 13501, by and through its Department of Social Services, (hereinafter individually called the “Department,” Oneida County and the Department shall be collectively referred to as the “County”) and The Neighborhood Center, Inc., a not-for-profit corporation incorporated under the laws of New York State, and having its principal offices located at 624 Elizabeth Street, Utica, New York 13501 (hereinafter called the “Contractor”).

**WHEREAS**, New York State has established a state-wide system of family day care registration and inspection; and

**WHEREAS**, the New York State Office of Children and Family Services (“OCFS”) has decided to contract with the Department for processing family day care registration and conducting family day care home inspections such that the Department may locate appropriate subcontractors and execute contracts for said services; and

**WHEREAS**, New York State has certified entities as being able to provide this service to local Social Services Departments; and

**WHEREAS**, the Department has determined it to be in the Department’s best interest to subcontract for these services; and

**WHEREAS**, the Contractor is the local agency certified by New York State to provide this service to the Department;

**NOW, THEREFORE**, it is mutually agreed upon between the Contractor and the Department that this purchase of services agreement (hereinafter called “Agreement”) be entered into as a sub-contract for a New York State grant activity.

### SECTION I: DEFINITIONS

- A. Family Day Care Homes. Family day care homes (hereinafter called “Homes”) shall be defined as homes regulated under Section 390 of the Social Services Law and Title 18 of the New York Code of Rules and Regulations (NYCRR), Parts 413 and 417, which define a family day care home as “a program caring for children for more than three hours per day per child in which child day care is provided in a family home for three to six children.”

- B. Certification. Certification shall be defined as the gathering of required documents, scheduling and arranging of required inspections, and issuing the necessary instruction in accordance with OCFS regulations and Department policy.

#### SECTION II: TERM OF AGREEMENT

- A. The term of this Agreement (a sub-contract under OCFS grant) shall be from January 1, 2018 through December 31, 2018.
- B. The option to renew this Agreement is at the sole discretion of the County and notice to the Contractor shall be provided prior to the end of the term of this Agreement.

#### SECTION III: SCOPE OF SERVICES

The Contractor shall perform Certification, re-certification, and inspection activities for the Department. The Contractor shall perform these activities in the following manner:

- A. Activity 1: Processing Registration Applications. This activity includes the following functions:
1. Conducting regularly-scheduled orientation sessions for potential new applicants. Orientation sessions shall be conducted using an OCFS-supplied curriculum. Orientation sessions shall be held at times and locations on an as-needed basis to be determined by the volume of new applicants. Individuals attending orientation shall be provided with proof of attendance.
  2. Providing application packets at orientation sessions and other times, upon request.
  3. Providing technical assistance to help potential and current providers understand and comply with applicable regulations, complete the application (either original or renewal), and submit appropriate documentation. Additional supportive information shall be made available to child day care providers.
  4. Reviewing applications, including all supporting documentation, for completeness and compliance with applicable regulations. This includes acting upon those portions of the application which require further action (e.g. reviewing references, validating documentation).
  5. Notifying providers of application status, including initial notice within five (5) days of receipt of original application or renewal application as well as notice of outstanding or incomplete documentation.

6. Mailing renewal application packets to providers at least ninety (90) days prior to the expiration of their registrations.
7. Recommending approval or disapproval of all applications to OCFS Division of Child Care Services (“DCCS”) Regional Office.
8. Submitting monthly reports regarding orientation sessions. The reports shall include: the number of orientation sessions held; the program category (family day care or school-age child care); the location and number of potential providers attending; the number of providers by category; the number of original applications and the number of renewal applications pending due to outstanding documentation; and the number of applications which have been pending for more than sixty (60) days.

B. Activity 2: Conducting Inspections. This activity shall include the following functions:

1. Inspecting at least fifty percent (50%) of registered providers annually with a priority on inspecting providers not licensed or certified prior to the implementation of registration. To the maximum extent possible, the Department shall identify the providers to inspect. A full compliance study shall be made at each of these unannounced inspection visits. All violations identified must be corrected, or the providers referred to the DCCS Regional Office for enforcement action.
2. Investigating all complaints that if true would indicate lack of compliance with statutory or regulatory requirements. If the complaint indicates that children may be in imminent danger, an unannounced site inspection shall be made no later than the next day of program operation. In all other cases, inspection visits shall be made within fifteen (15) days of receiving the complaint, except for those complaints solely alleging the failure to register. In addition to investigating the complaint, a full compliance study shall be made if conditions suggest it is necessary.
3. Investigating all Homes where application has been made to provide care for an additional one or two children who are school age, provided that an inspection has not already been made for another reason, and thereafter recommending approval or disapproval of the application to serve one or two additional children to the Department. A full compliance study shall be made if conditions suggest it is

necessary. All violations identified must be corrected, or the providers referred to the DCCS Regional Office for enforcement action.

4. Inspecting, upon receipt of the renewal application, all providers who have failed to meet the training requirement or who have unresolved regulatory violations or complaints.
5. Maintaining inspection reports and documentation of compliance or corrective actions in the file of each inspected provider.
6. Liaison: The Contractor shall serve as the liaison between the Department and the Homes. In this capacity the Contractor shall handle all problems that may arise, including payment clarification between the Homes and the Department.
7. Documentation: The Contractor shall maintain all required documentation including the case records of all day care clients and records of all applicants seeking to become Homes in the event documentation is needed for a fair hearing, and shall attach the following reports to their monthly billing to the Department; these reports shall include, at a minimum:
  - a. A monthly itemized breakdown of expenditures;
  - b. A monthly list of all Homes that are
    - i. Certified,
    - ii. In process of certification, and
    - iii. No longer active, or have been denied certification;
  - c. A monthly list of all client families and children detailing where they are placed;
  - d. A monthly list of participants in the nutrition program; and
  - e. A monthly statistical report and any reporting requirements from OCFS.

- f. All documentation shall be prepared by the Contractor and submitted to the Department per the forms and requirements of the Department and the OCFS.
8. Mandated Reports: All Contractor staff performing work under the terms of this Agreement are designated as mandated child abuse reporters, and as such, they are required by law to report any cases of suspected child abuse. As a mandated reporting agency, all instances of suspected child abuse, neglect, and/or maltreatment, shall be reported to the Statewide Central Register as required by law. These verbal reports shall be followed by submission of completed 2221A to the Department. The family shall be informed in advance of the Contractor's decision to file a report with the Statewide Central Register.
9. The liaisons for this program shall be:
  - a. Department: Philip Martini
  - b. Contractor: Sandra Soroka
10. OCFS requires that individuals performing the services detailed herein undergo certain State-sponsored trainings. Throughout the term of this Agreement, the Contractor's employees, representatives, assistants, and assigns that will be providing the services required under this Agreement shall be required to undergo periodic and regular training pursuant to the State requirements. Such training shall be arranged, scheduled, and provided by OCFS, through its DCCS Regional Office.
11. The Department and the Contractor's representatives shall meet at a minimum of once every three (3) months, at times mutually agreeable to the parties, to review programmatic and systemic issues and to evaluate the program.

C. Changes in the New York State Day Care Home Certification Process may result in changes in the scope and nature of services under this Agreement. Both parties shall meet to review these changes and make such adjustments and/or amendments to this Agreement as it becomes necessary and is deemed warranted by the Department.

D. All information contained in the Contractor's files (or those of its sub-contractors) shall be held confidential pursuant to the applicable provision of the Social Services Law and any regulations promulgated thereunder, including, but not limited, to 18 NYCRR Sec. 357.5 and 423.7, as well as any applicable federal laws and any regulations promulgated thereunder and shall not be disclosed except as authorized by law.

SECTION IV: REIMBURSEMENT AND CLAIMING PROCEDURES

A. The Department shall reimburse a total cost for services provided not to exceed \$230,297.00 for an acceptable level of compliance for all Quarterly Standard Performance Levels as specified in this Agreement for the period of January 1, 2018 through December 31, 2018. Reimbursement shall be made according to a budget approved by OCFS, a copy of which is attached hereto and made a part hereof. Reimbursement shall be made quarterly, minus any applicable penalty as detailed below, upon submission of the appropriate County voucher with all supporting documentation deemed necessary by the Department, including, but not limited to the DCCS Quarterly Standard Performance Level determination detailed below.

B. A quarterly program review will be conducted by the DCCS, after the end of the applicable quarter, to determine if the Contractor has reached an acceptable level of compliance for the quarter. The determination of whether the Contractor met an acceptable level of compliance for each Quarterly Standard Performance Level will be based on the Contractor's compliance with all applicable timelines, operating procedures and other requirements as set forth in the DCCS Regional Office regulations and policies and the Child Care Facility System (CCFS) Users' Manual, which are deemed to be incorporated herein by reference.

C. If the DCCS Regional Office determines that the Contractor has not met the acceptable Quarterly Standard Performance Level for a particular activity during a quarter, the applicable percentage set forth herein for that Quarterly Standard Performance Level will be withheld and the amount paid to the Contractor for the quarter shall be reduced accordingly. The DCCS Regional Office may completely waive the reduction for a particular unmet Quarterly Standard Performance Level based upon a written request submitted by the Contractor demonstrating that such failure was due to extraordinary or unforeseen circumstances. The DCCS Regional Office shall notify the Contractor in writing of the DCCS Regional Office's approval or disapproval of any such waiver request, and in the event of disapproval, shall delineate the reasons for such disapproval.

D. The following standard performance levels must be met quarterly or the corresponding penalty will be administered:

1. Quarterly Standard Performance Level – Initial Registrations: The Contractor shall process and resolve initial registration applications within ninety (90) days of receipt, including providing applicants with all appropriate notifications regarding the status of the applications. The acceptable resolution categories are: approved, withdrawn, and referred to enforcement for denial. The

Quarterly Standard Performance Level for initial registrations for an acceptable level of compliance is 95%. The acceptable level of compliance will be determined by DCCS upon review of quarterly data from CCFS. If a level of at least 95% compliance of the previous quarter's Quarterly Standard Performance Level for initial registrations and licenses is not met, a 2% penalty shall be assessed and withheld from the quarterly payment.

2. Quarterly Standard Performance Level – Renewals of Registrations: The Contractor shall process and resolve completed applications for renewals of registrations, including providing providers with all appropriate notifications regarding the renewal process, prior to the applicable registration lapse date, or initiate enforcement action. The renewals of the Family and School-Age Child Care registrations shall include a renewal inspection as required by regulations. The Quarterly Standard Performance Level for renewals of registrations for an acceptable level of compliance is 95%. The acceptable level of compliance will be determined by DCCS upon review of quarterly data from CCFS. If a level of at least 95% compliance of the previous quarter's Quarterly Standard Performance Level for renewal registrations is not met, a 2% penalty shall be assessed and withheld from the quarterly payment.
3. Quarterly Standard Performance Level – Complaint Investigations: The Contractor shall initiate complaint investigations within the required time frames and make determinations on the complaints within sixty (60) days. The Quarterly Standard Performance Level for complaint investigations for an acceptable level of compliance is 95%. The acceptable level of compliance will be determined by DCCS upon review of quarterly data from CCFS. If a level of at least 95% compliance of the previous quarter's Quarterly Standard Performance Level for complaint investigations is not met, a 2% penalty shall be assessed and withheld from the quarterly payment.
4. Quarterly Standard Performance Level – Safety Assessments: The Contractor shall conduct safety assessments based on the categories of arrests and convictions and submit the assessments to DCCS within the required time frames. The Quarterly Standard Performance Level for safety assessments for an acceptable level of compliance is 100%. The acceptable level of compliance will be determined by DCCS upon review of quarterly data from CCFS. If a level of at least 100% compliance of the previous quarter's Quarterly Standard Performance Level for safety assessments is not met, a 2% penalty shall be assessed and withheld from the quarterly payment.

5. Quarterly Standard Performance Level – 50% Inspections: The Contractor shall conduct the required number of annual 50% inspections for family day care and school age child care, and complete all required documentation. If a level of at least 90% compliance of the Performance Level for 50% inspections is not met at the completion of the four quarters, a 2% penalty shall be assessed and withheld from the final quarterly payment.
6. Quarterly Standard Performance Level – Mid-Point Inspections: The Contractor shall process and resolve completed reviews of mid-point documentation including providing providers with all appropriate notifications regarding the mid-point requirements. The Contractor shall conduct mid-point inspections for family day care and school age child care programs and complete all required documentation within the required timeframes pursuant to current policy and procedures. The Quarterly Standard Performance Level for mid-point inspections for an acceptable level of compliance is 95%. The acceptable level of compliance will be determined by DCCS upon review of quarterly data from CCFS. If a level of at least 95% compliance of the Performance Level for Mid-Point inspections is not met each quarter, a 2% penalty shall be assessed and withheld from the quarterly payment.
7. Quarterly Standard Performance Level – On-Site Case and Management Review: The Contractor shall provide appropriate registration and monitoring activities, maintain appropriate case files and make appropriate entries into CCFS in the time, manner and form required by the DCCS Regional Office. The Contractor shall not revise or alter OCFS policy or procedures, or create its own policies or procedures without receiving prior approval in writing from the DCCS Regional Office. The acceptable level of compliance will be determined by DCCS based on quarterly case files and management reviews.
  - a. The case review shall include a review of a sample of case files regarding initial applications, renewal applications, mid-point requirements, 50% inspections, complaint investigations and other investigations chosen in accordance with a consistent sampling framework to determine whether:
    - i. Office policies, procedures, and regulations are applied accurately;
    - ii. Required observations are made during inspections and investigations;
    - iii. All applicable entries are made in case files and/or CCFS;



- iv. Proper notification is given to providers and parents, where applicable, within the required time frames; this includes issuance of the final CCFS inspection report within ten (10) days after the inspection being conducted
  - v. Each facility has the necessary active fingerprint files and the files are then entered into CCFS upon receipt;
  - vi. Inspections are conducted along with exit interviews with the provider prior to inspector's departure, when appropriate, to verify compliance with any corrective action plans and/or continued regulatory violations;
  - vii. Appropriate and timely enforcement referrals are made and appropriate and timely follow-up activities are conducted in accordance with DCCS Regional Office policies and directions including cooperating with the DCCS Regional Office's Legal Division on enforcement activities and, when determined necessary by OCFS, testifying at fair hearings and/or court proceedings and assisting OCFS in responding to litigation.
- b. The management review shall include a review of other documentation to determine whether identified registration staff have:
- i. Participated in any mandatory training as required by the DCCS Regional Office related to the performance of registration duties and participated in management and supervisory sessions on a regional and statewide basis, as required;
  - ii. Provided technical assistance in regard to the start-up of new programs and compliance with existing programs and information on available training and funding resources applicable to family day care and school-age child care programs; and
  - iii. Provide parents and the general public with access to information regarding the compliance/complaint history of all regulated providers, as required.

- iv. Not less than annually, the Contactor shall report to OCFS the evidence risk based assessment outcomes for identified programs, if applicable. In addition, the Contractor shall participate in OCFS Quality Indicator initiatives and any inter-rater reliability studies conducted by OCFS.
  - c. The approved quarterly registration case file and management reviews for an acceptable level of compliance is 90%. If a level of at least 90% compliance of the previous quarter's Quarterly Standard Performance Level for the case files and management review is not met, a 2% penalty shall be assessed and withheld from the quarterly payment.
  - d. The Quarterly Standard Performance Level for applying accurately required COFS policies, procedures and regulation is 100%. If a level of at least 100% compliance of OCFS mandated procedures are not completed pursuant to all policy and procedures, a 2% penalty shall be assessed and withheld from the quarterly payment.
8. Quarterly Standard Performance Level – Approved Staffing Plan: The Contractor staffing plan, including the percentage of time each staff member works on the project, shall be approved by the DCCS Regional Office and shall be maintained during the quarter. In addition, the DCCS Regional Office's respective DCCS Regional Office Manager shall be notified by the Contractor of the registration and inspections coverage plan when the registrar's office is unavailable during regular business hours. In the event of a staff vacancy, the Contractor shall be allowed a three (3) month period from the date the vacancy was created to fill the vacancy and bring staffing back up to the approved level. The Contractor shall provide DCCS with the names of the staff assigned to register day care programs, as well as the percentage of time those staff work on the program. In addition, the DCCS Regional Office will review the qualifications of those staff members as part of the quarterly case and management review and when otherwise requested by DCCS to determine if the qualifications are reasonable for providing the registration and inspection services. The approved staffing plan for an acceptable level of compliance at the end of each quarter is 100%, with the exception of any vacancies that are less than three (3) months old at the end of the quarter. The acceptable level of compliance will be determined by DCCS based upon the quarterly case and management review. If a level of at least 100% compliance of the previous quarter's Quarterly Standard Performance Level for the approved staffing plan is not met at the end of the quarter, not counting vacancies that are less than

three (3) months old at the end of the quarter, a 2% penalty shall be assessed and withheld from the quarterly payment. However, the amount withheld may not exceed the value of the personnel costs for the unfilled position(s). At the time the quarterly voucher is submitted, the Contractor may provide proof of the value of the personnel costs for the unfilled position(s) for accurate assessment of the penalty.

9. The Contractor agrees that the equipment purchased under this Agreement is the property of the Department and shall revert to the Department upon any termination or failure to renew this Agreement. This Agreement shall be considered null and void should OCFS grant funds become unavailable for any reason. The Department shall reimburse the Contractor for those services provided through the agreed-upon termination date at the Department's usual reimbursement rate.

#### SECTION V: INSURANCE AND INDEMNIFICATION

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

1. Commercial General Liability (CGL) coverage with limits of insurance of not less than \$1,000,000 each occurrence and \$2,000,000 annual aggregate.

- i. CGL coverage shall be written on ISO Occurrence form CG 00 01 1001 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contracts, products-completed operations, and personal and advertising injury.
- ii. Abuse and Molestation coverage must be included.
- iii. Oneida County, and all other parties required by Oneida 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 insureds. Coverage for the additional insureds shall include completed operations.

2. Automobile Liability

- i. Business Auto Liability with limits of at least \$1,000,000 each

accident.

- ii. Business Auto coverage must include coverage for liability arising out of all owned, leased, hired and non-owned automobiles.
- iii. Oneida County shall be included as an additional insured on the auto policy. Coverage for the additional insured shall be on a primary and non-contributing basis.

3. Commercial Umbrella

- i. Umbrella limits must be at least \$5,000,000.
- ii. Umbrella coverage must include as additional insureds all entities that are additional insureds on the CGL.
- iii. Umbrella coverage for such additional insureds shall apply as primary and non-contributing before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by or provided to the additional insureds.

4. Workers' Compensation and Employer's Liability

- i. Statutory limits apply.

**B. Waiver of Subrogation:** The Contractor waives all rights against Oneida County and its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by CGL, Professional Liability, Automobile Liability, Umbrella Liability or Workers' Compensation and Employer's Liability insurance maintained per requirements stated above.

**C. Certificates of Insurance:** Prior to the start of any work the Contractor shall provide certificates of insurance to Oneida County. Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of the Contractor's CGL Policy. These certificates and the insurance policies required above shall contain a provision that coverage afforded under the policies shall not be canceled or allowed to expire until at least thirty (30) days prior written notice has been given to Oneida County.

**D. Indemnification:** The Contractor shall defend, indemnify, and hold harmless the County from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the negligent performance of services by the Contractor and its sub-consultants, agents, servants, or employees, and from any loss or damage arising, occurring or resulting from the negligent acts or failure to act or any default or negligence by the Contractor and its sub-consultants or failure on the part of the Contractor and its sub-consultants to comply with any of the

covenants, terms or conditions of this Agreement.

#### SECTION VI: 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 required of it in this Agreement. 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 determining the method, details, and means of performing the services, except where federal, State or local laws and regulations impose specific requirements on performance of the same.
- 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 required of it in this Agreement (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 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. The Contractor shall expressly advise the Assistants of the terms of this Agreement.
- 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.

#### SECTION VII: 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 shall conduct themselves in accordance with such status, and 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 officers or employees 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, an absence due to normal vacation, an absence due to attendance at school or special training, or a professional convention or meeting.
- D. The Contractor acknowledges and agrees that its Assistants shall not 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 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 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, the Department of Labor, or any other governmental agency questions or challenges the Contractor's Independent Contractor status, it is agreed that both the County and the Contractor shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.
- H. The Contractor shall comply with federal and state laws as supplemented in the Department of Labor regulations and any other regulations of the federal and state entities relating to such employment and civil rights requirements.

#### SECTION VIII: 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 or other general operating expenses.

SECTION IX: TRAINING

The Contractor shall be fully responsible for any training necessary for its Assistants to maintain any licenses or certifications to perform the services described herein, and shall be solely responsible for the cost of the same.

SECTION X: MISCELLANEOUS

- A. This Agreement cannot be assigned by the Contractor without obtaining written approval of the Department.
- B. Should the OCFS grant to the County currently being processed be disapproved, unfunded, withdrawn or otherwise become unavailable, for any reason, this Agreement shall be considered null and void.
- C. This Agreement may be terminated by the Department upon thirty (30) day written notice of intent to cancel submitted to the Contractor.
- D. 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. No waiver, alterations or modifications of and provisions of this Agreement shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

SECTION XI: CHOICE OF LAW / VENUE

- 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 the accordance with the laws of the State of New York.

SECTION XII: 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 hereto have executed this Agreement on the day and year first above written.

\*\*\*\*\*

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

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

\*\*\*\*\*

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

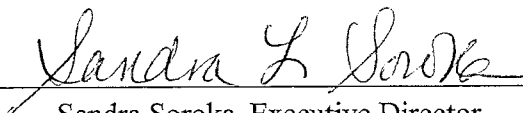
\*\*\*\*\*

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

Oneida County Department of Social Services: \_\_\_\_\_  
Colleen Fahy-Box, Interim Commissioner

\*\*\*\*\*

Date: 1/25/18

The Neighborhood Center, Inc.:   
Sandra Soroka, Executive Director

\*\*\*\*\*



**ATTACHMENT A**

**BUDGET**

(approved by New York Office of Children and Family Services)  
(Oneida County Department of Social Services is a pass-through for this funding)

Neighborhood Center, Inc.  
# 14502 Day Care Registration and Inspection Program  
January 1, 2018 – December 31, 2018

**Personnel Services**

Assistant Divisional Director ( 3%)	\$1,440
Program Director-Jennifer Benn (60%)	\$24,722
Caseworker II-Melissa Darnell (100%)	\$26,000
Caseworker II-Victoria Walker ( 100%)	\$26,000
Caseworker II-Heather Laribee (100%)	\$26,780
Caseworker II-Brianna Gagnon (100%)	\$27,320
Program Assistant-Barbara Pelzer (70%)	\$19,042
Accounting Specialist-Louise Fabian ( 2%)	\$680.00
Maintenance Worker-Gregory Williams (3%)	\$807.00
Personnel Salaries	\$ 152,791
Fringe Benefits	<u>\$ 55,005</u>
<b>Personnel Services Total</b>	<b>\$ 207,796</b>

**Non-Personnel Services**

Contractual/Consultant (IT Services, Copier)	\$ 1,156
Staff Travel/Per Diem	\$ 4,575
Equipment	\$ 0
Supplies	\$ 2,517

*The Neighborhood Center, Inc.*  
*New York State Family Day Care Registration*

*#14502*  
*January 1-2018– December 31, 2018*

Other Expenses		<u>\$ 14,253</u>
Utilities	\$ 4,588	
Telecommunications	\$ 5,093	
Repairs/Maintenance	\$ 3,177	
Insurance	\$ 1,395	
<b>Non-Personnel Services</b>		<u><b>\$ 22,501</b></u>
<b>Contract Total</b>		<b>\$ 230,297</b>

ATTACHMENT B

MONTHLY DAY CARE REPORT  
for the month of \_\_\_\_\_.

Certification:

Total Day Care Homes Certified at Start of Month \_\_\_\_\_.

Total Day Care Homes Leaving the Program \_\_\_\_\_.  
Terminated \_\_\_\_\_.

Withdraw \_\_\_\_\_.

Moved \_\_\_\_\_.

Other \_\_\_\_\_.

Total Day Care Homes Certified at the end of Month

Home-finding:

Total Home Studies Pending at start of month \_\_\_\_\_.

New Home Study Referrals \_\_\_\_\_.

Home Studies Terminated \_\_\_\_\_.

W/R \_\_\_\_\_.

Home Studies - Certified \_\_\_\_\_.

at end of Month \_\_\_\_\_.

Recruitment Report: (list recruitment efforts,

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

Signed \_\_\_\_\_.

## ATTACHMENT C

### NEW YORK STATE REGULATIONS

The parties to the attached contract further agree to be bound by the following, which are hereby made a part of said contract.

- I. This contract may not be assigned by the contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or disposed of without the previous consent, in writing, of the Department and the State of New York.
- II. This contract shall be deemed executory only to the extent of money available to the State for the performance of the terms hereof and no liability on account thereof shall be incurred by the State of New York beyond monies available for the purpose thereof.
- III. The contractor specifically agrees, as required by NY Labor Law, Sections 220 and 220-d, as amended that:
  - A. No laborer, workman or mechanic, in the employ of the contractor, subcontractor or other person doing or contracting to do the whole or any part of the work contemplated by the contract shall be permitted or required to work more than eight hours in any one calendar day or more than five days in any one week, except in the emergencies set forth in NY Labor Law.
  - B. The wages paid for a legal day's work shall be not less than the prevailing rate of wages as defined by law.
  - C. The minimum hourly rate of wages to be paid shall not be less than that stated in the specifications, and any redetermination of the prevailing rate of wages after the contract is approved shall be deemed to be incorporated herein by reference as of the effective date of redetermination and shall form a part of these contract documents.
  - D. NY Labor Law provides that the contract may be forfeited and no sum paid for any work done thereunder on a second conviction for willfully paying less than:
    1. The stipulated wage scale as provided in NY Labor Law, Section 220, subdivision 3, as amended or
    2. Less than the stipulated minimum hourly wage scale as provided in NY Labor Law, Section 220-d, as amended.

IV. The contractor specifically agrees, as required by the provisions of the NY Labor Law, Section 220-e, as amended, that:

- A. In hiring of employees for the performance of work under this contract or any subcontract hereunder, or for the manufacture, sale or distribution of materials, equipment or supplies hereunder, no contractor, subcontractor, shall by reason of race, creed, color, sex or national origin discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates.
- B. No contractor, subcontractor, nor any person acting on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this contract on the account of race, creed, color, sex or national origin.
- C. There may be deducted from the amount payable to the contractor by the State under this contract a penalty of fifty dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the contract, and
- D. This contract may be cancelled or terminated by the State or municipality and all moneys due or to become due hereunder may be forfeited for a second or any subsequent violation of the terms or conditions of this section of the contract, and
- E. The aforesaid provisions of this section covering every contract for or on behalf of the State or a municipality for the manufacture, sale or distribution of materials, equipment or supplies shall be limited to operations performed within the territorial limits of the State of New York.

V. The contractor specifically agrees, as required by Executive Order # 45, dated Jan. 4, 1977, effective February 4, 1977, that:

- A. The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake programs of affirmative action to insure that they are afforded equal employment opportunities without discrimination. Such action shall be taken with reference, but not limited to: recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.

- B. If the contractor is directed to do so by the contracting agency or the Office of State Contract Compliance (hereafter OSCC). The contractor shall request each employment agency, labor union, or authorized representative of workers, with which he has a collective bargaining or other agreement or understanding, to furnish him with a written statement that such employment agency, labor union or representative will not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations hereunder and the purposes of Executive Order # 45 (1977).
- C. The contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the contractor, that all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
- D. The contractor will comply with all the provisions of Executive Order # 45 (1977) and of rules, regulations and orders issued pursuant thereto and will furnish all information and reports required by said Executive Order or such rules, regulations and orders, and will permit access to its books, records, and accounts and to its premises by the contracting agency or the OSCC for the purposes of ascertaining compliance with said Executive Order and such rules, regulations and orders.
- E. If the contractor does not comply with the equal opportunity provisions of this contract, with Executive Order # 45 (1977), or with such rules, regulations, or orders, this contract or any portion thereof, may be cancelled, terminated or suspended or payments thereon withheld, or the contractor may be declared ineligible for future State or State-assisted contracts, in accordance with procedures authorized in Executive Order #45 (1977), and such other sanctions may be imposed and remedies invoked as are provided in said Executive Order or by rule, regulation or order issued pursuant thereto, or as otherwise provided by law.
- F. The contractor will include the provisions of clauses (A) through (E) above and all contract provisions promulgated by OSCC pursuant to Section 1.3 (b) of Executive Order # 45 (1977), in every non-exempt subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its work force within the State of New York. The contractor will take such action in enforcing such provisions of such subcontract or purchase order as the contracting agency or the OSCC may direct, including sanctions or remedies for noncompliance. If the contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction, the contractor shall promptly so

notify the Attorney General, requesting him to intervene and protect the interests of the State of New York.

VI. The contractor will comply with the provisions of Sections 291-299 of the Executive Law and the Civil Rights Law, will furnish all information and reports deemed necessary by the State Division of Human Rights under the Law, and will permit access to its books, records and accounts by the State Industrial Commissioner for the purposes of investigation to ascertain compliance with the non-discrimination clauses, the Executive Law and Civil Rights Law.

VII. Bidding:

- 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 of perjury, that to the best of his knowledge and belief:
1. The prices in this bid have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
  2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder, and will not be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor;
  3. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.
- B. A bid shall not be considered for award nor shall any award be made where (A) (1) (2) and (3) above have not been complied with provided, however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. Where (A) (1) (2) and (3) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the State, public department or agency to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.
- C. The fact that bidder (1) has published price lists, rates, or tariffs covering items being procured, (2) has informed prospective customers of proposed or pending publication

of new or revised price lists for such items, or (3) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of sub-paragraph VII (A)

VIII: All reference to the above Rules and Regulations refer to those Rules and Regulations in effect as of the date of the solicitation of bids relative to this contract.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]*



## ATTACHMENT D

### STANDARD CLAUSES FOR ALL ONEIDA COUNTY DEPARTMENT OF SOCIAL SERVICES CONTRACTS

#### I. PERSONNEL:

- A. The Contractor agrees to be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries and management of its project personnel. These functions shall be carried out in accordance with the provisions of this Agreement, and all applicable Federal, State and County laws and regulations.
- B. It is the policy of the Department to encourage the employment of qualified applicants for, or recipients of public assistance by, both public organization and private enterprises who are under contractual Agreement to the Department for the provision of goods and services. Contractors will be expected to make best efforts in this area.
- C. The Contractor agrees to identify, in writing, the person or persons who will be responsible for directing the work to be done under this Agreement. No change or substitution of such responsible person(s) will be made without prior approval in writing from the Department, to the degree that such change is within the reasonable control of the Contractor

#### II. NOTICES:

- A. All notices permitted or required hereunder shall be in writing and shall be transmitted either:
  - 1. By certified or registered United States mail, return receipt requested;
  - 2. By Facsimile transmission;
  - 3. By personal delivery;
  - 4. By expedited delivery service; or
  - 5. By e-mail.

- B. Notices to the Department shall be addressed to the Commissioner of Social Services at the Address, Telephone Number, Facsimile Number or E-mail Address provided to the Contractor during contract development, or to such different Program Manager as the Department may from time-to-time designate.
- C. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first-attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.
- D. The parties may, from time-to-time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The Parties agree to mutually designate individuals as their respective representatives for the purposes of implementation, administration, billing, resolving issues and problems and/or for dispute resolution.

### III. OFFICE SERVICES:

- A. The contractor shall be responsible for the provision of necessary equipment and services for Contractor's staff, pursuant to and described in the narratives and budgets contained in the Agreement.
- B. For federally funded contracts, title to real property and non-expendable personal property whose requisition cost is borne in whole or in part by monies proved under this Agreement shall be determined between the Contractor and the Department, pursuant to Federal Regulations 45 CFR 92, *et seq.*, unless such authority is otherwise inappropriate. Title to all equipment, supplies and material purchased with funds under this Agreement under contracts which are not federally funded shall be in the State of New York and the property shall not be transferred, conveyed, or disposed of without written approval of the Department. Upon expiration or termination of this Agreement, all property purchased with funds under this Agreement shall be returned to the Department, unless the Department has given direction for, or approval of, an alternative means of disposition in writing.
- C. Upon written direction by the Department, the Contractor shall maintain an inventory of those properties that are subject to the provisions of sub-paragraph b of this section.

IV. GENERAL TERMS AND CONDITIONS:

- A. The contractor agrees to comply in all respects with the provisions of this Agreement and the amendments and attachments hereto. The Contractor specifically agrees to perform services according to the objectives, tasks, work plan and staffing plan contained in the Agreement. Any modifications to the tasks or work plan contained in Agreement must be mutually agreed to by both parties in writing before the additional or modified tasks or work plan shall commence.
- B. If any specific event or conjunction of circumstances threatens the successful completion of the project, in whole or in part, including where relevant, timely completion of milestones, the Contractor agrees to submit to the Department within three (3) days of occurrence or discovery of such a problem, a written description thereof together with a recommended solution thereto.
- C. The Contractor immediately shall notify in writing the Department Program Manager assigned to this contract of any unusual incident, occurrence or event that involves the staff, volunteers or officers of the Contractor, and subcontractor or Program participant funded through this contract. These incidents, occurrences or events shall include, but not be limited to, the following: death or serious injury, an arrest or possible criminal activity, destruction of property, significant damage to the physical plant of the Contractor, or other matters of a similarly serious nature.
- D. In providing these services, the Contractor hereby agrees to be responsible for designing and operating these services, and otherwise performing, so as to maximize Federal financial participation to the Department under the Federal Social Security Act.
- E. If funds from this contract will be used to pay any costs associated with the provision of legal services of any sort, the following shall apply;
  - 1. No litigation shall be brought against the State of New York, the New York State Office of Children and Family Services or against Oneida County or the Department or other local government or local social services district with funds provided under this contract. The term "litigation" shall include commencing or threatening to commence a lawsuit joining or threatening to join as a party to ongoing litigation, or requesting any relief from either the State of New York, the New York State Office of Children and Family Services or Oneida County or other local government or local social services district, based upon any agreement

between such agency in litigation with another party and such party, during pendency of the litigation.

2. Opinions prepared by consultant law firms construing the statutes or Constitution of the State of New York do not constitute the view of the State unless the prior written approval of the Attorney General is obtained. Requests for said approval shall be submitted to the Solicitor General, The Division of Appeals and Opinions, Office of the Attorney General, The Capitol, Albany, New York 12224
  3. The Contractor shall provide to the Department in a format provided by the Department such additional information concerning the provision of legal services as the Department shall require.
- F. The Department will designate a contract manager who shall have authority relating to the technical services and operational functions of this Agreement and activities completed or contemplated there under. The contract manager and those individuals designated by him/her in writing shall have the prerogative to make announced or unannounced on-site visits to the project. Project reports and issues of interpretation or direction relating to this Agreement shall be directed to the contract manager.
- G. Except where the Department otherwise authorizes or directs in writing, the Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, for the performance of the obligations contained herein until it has received the prior written approval of the Department. The Department shall have the right to review and approve each and every subcontract prior to giving written approval to the contractor to enter into the subcontract. All Agreements between the Contractor and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions specifying (1) that the work performed by the subcontractor must be in accordance with the terms of this Agreement, (2) that nothing contained in the subcontract shall infringe upon or impair the rights of the Department under this Agreement, (3) that nothing contained in the subcontract, nor under this Agreement, shall be deemed to create any contractual relationship between the subcontractor and the Department, and (4) incorporating all provisions regarding the rights of the Department as set forth in this Agreement, where applicable. The Contractor specifically agrees that he Contractor shall be fully responsible to the Department for the acts and omissions of subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by the Contractor.

- H. The Contractor warrants that it, its staff and any and all subcontractors which must be approved by the Department, have all the necessary licenses, approvals and certifications currently required by the laws and regulations of any applicable local, state or federal government to perform the services pursuant to this Agreement and/or subcontract entered into under this Agreement. The contractor further agrees such required licenses, approvals and certificates will be kept in full force and effect during the term of this Agreement, or any extension thereof, and to secure any new licenses, approvals or certificates within the required time frames and/or to require its staff and subcontractors to obtain any requisite licenses, approvals or certificates. In the event the contractor, its staff, and/or subcontractors are notified of a denial or revocation of any license, approval or certification to perform the services under the Agreement, Contractor will immediately notify the Department.
- I. This Agreement cannot be assigned by the Contractor to a subcontractor without obtaining written approval of the Department. Prior to executing a subcontract agreement the Contractor agrees to provide the Department with the information the Department needs to determine whether a proposed subcontractor is a responsible vendor. The Department's determination of vendor responsibility will be made in accordance with Section O of Part IV of this Agreement, General Terms and Conditions, below.
- J. If the Contractor intends to use materials, equipment or personnel paid for under this contract in a revenue generating activity, the Contractor shall report such intentions to the Department forthwith and shall be subject to the direction of the Department as to the disposition of such revenue.
- K. Any interest accrued on funds paid to the Contractor by the Department shall be deemed to be the property of the Department and shall either be credited to the Department at the termination of this Agreement, or shall be expended on additional services provided for under this Agreement.
- L. The Contractor ensures that the grounds, structures, building and furnishings at the program site(s) used under this Agreement are maintained in good repair and free from any danger to health or safety and that any building or structure used for program services complies with all applicable zoning, building, health, sanitary, and fire codes.
- M. The Contractor agrees to produce, and retain for the balance of the calendar year in which produced, and for a period of six years thereafter, any and all records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under

this contract. Such records shall include, but not be limited to, original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:

1. Payroll Expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, employee personal history folders, and cost allocation plans, if applicable.
  2. Payroll Taxes and Fringe Benefits: cancelled checks, copies of related bank statements, reporting forms, and invoices for Fringe Benefit expenses.
  3. Non-Personal Services Expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, and cost allocation plans, if applicable.
  4. Receipt and Deposit of Advance and Reimbursements: itemized bank-stamped deposit slips, and a copy of the related bank statements.
  5. Equipment: the Contractor agrees that any equipment purchased with funds under this agreement is the property of the Department and will remain with or will be returned to the Department in the event of the termination of this Agreement,
- N. Although not required, the Department recommends that the Contractor retain records directly pertinent to this contract for a period of ten (10) years after the end of the calendar year in which they were made, as the statute of limitations for the New York False Claims Act is ten years.
- O. By signing this contract, the Contractor certifies that within the past three years the contractor has engaged in no actions that would establish a basis for a finding by the Department that the contractor is a non-responsible vendor or, if the contractor has engaged in any such action or actions, that all such actions have been disclosed to the Department prior to entering into this Contract. The actions that would potentially establish a basis for a finding by the Department that the contractor is a non-responsible vendor include:
1. The Contractor has had a license or contract suspended, revoked or terminated by a governmental agency.
  2. The Contractor has had a claim, lien, fine, or penalty imposed or secured against the Contractor by a governmental agency.

3. The Contractor has initiated a bankruptcy proceeding or such a proceeding has been initiated against the Contractor.
  4. The Contractor has been issued a citation, notice, or violation order by a governmental agency finding the Contractor to be in violation of any local, state, or federal laws.
  5. The Contractor has been advised by a governmental agency that a determination to issue a citation, notice or violation order finding the Contractor to be in violation of any local, state or federal laws is pending before a governmental agency.
  6. The contractor has not paid all due and owed local, state and federal taxes to the proper authorities.
  7. The contractor has engaged in any other actions of a similarly serious nature.
- P. Where the Contractor has disclosed any of the above to the Department, the Department may require as a condition precedent to entering into the contract that the Contractor agree to such additional conditions as will be necessary to satisfy the Department that the vendor is and will remain a responsible vendor. By signing this contract, the Contractor agrees to comply with any such additional conditions that have been made a part of this contract.
- Q. By signing this contract, the contractor also agrees that during the term of the contract, the Contractor will promptly notify the Department if the Contractor engages in any actions that would establish a basis for a finding by the Department that the Contractor is a non-responsible vendor, as described above.
- R. By signing this contract, the contractor agrees to comply with State Tax Law section 5-a.
- S. Contractors must maintain Workers' Compensation Insurance in accordance with the Workers' Compensation Law. If a contractor believes they are exempt from the Workers' Compensation insurance requirement then they must apply for an exemption. Contractors can apply for the exemption online through the New York State Workers' Compensation Board website at:  
[http://www.wcb.ny.gov/content/ebiz/wc\\_db\\_exemptions/requestExemptionOverview.jsp](http://www.wcb.ny.gov/content/ebiz/wc_db_exemptions/requestExemptionOverview.jsp)

- T. All organizations that receive federal financial assistance under social service programs are prohibited from discriminating against beneficiaries or prospective beneficiaries of the social service programs on the basis of religion or religious belief. Accordingly, organizations, in providing services supported in whole or in part with federal financial assistance, and in their outreach activities related to such services, are not allowed to discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.
- U. Organizations that engage in explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization) must perform such activities and offer such services outside of programs that are supported with direct federal financial assistance (including through prime awards or sub-awards), separately in time or location from any such programs or services supported with direct federal financial assistance, and participation in any such explicitly religious activities must be voluntary for the beneficiaries of the social service program supported with such federal financial assistance.

#### V. REPORTS AND DELIVERABLES:

- A. The Contractor shall prepare and submit all reports, documents, and projects required by this Agreement to the Department's contract manager for review and approval. These reports shall be in structure, form and frequency as required by the Department and as necessary to meet state, federal and county requirements.
- B. The Contractor shall complete contract evaluations as required by the Department as well as provide any and all statistical data as needed by the Department and New York State to meet the reporting requirements.

#### VI. CONFIDENTIALITY AND PROTECTION OF HUMAN SUBJECTS:

- A. The Contractor agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this project. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this Agreement in conformity with the provisions of applicable state, federal, and county laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this Agreement by the Department.



- B. Any Contractor who will provide goods and/or services to a residential facility or program operated by Department agrees to require all of its employees and volunteers who will have the potential for regular and substantial contact with youth in the care or custody of the Department to sign an Employee Confidentiality Certification and Employee Background Certification before any such employees and volunteers are permitted access to youth in the care or custody of the Department, or have access to any financial or client-identifiable information concerning such youth. Additionally, the Department will require a database check of the Statewide Central Register of Child Abuse and Maltreatment (SCR) of each employee and volunteer of the Contractor who has the potential for regular and substantial contract with children in the care or custody of the Department. Any other Contractor whose employees and volunteers will have access to financial or client-identifiable information concerning youth in the care or custody of the Department agrees to require all such employees and volunteers to sign an Employee Confidentiality Certification before any such employees and volunteers are permitted access to any financial or client-identifiable information concerning such youth.
- C. Contractor and any subsequent subcontractor shall not discriminate or refuse assistance to individuals with AIDS or an HIV infection or an HIV-related illness.
- D. Pursuant to Part 403 of Title 18 of the NYCRR and Section 2782 of the Public Health Law, the Contractor and any subsequent subcontractor agrees that any of their staff to whom confidential HIV-related information may be given as a necessity for providing services are fully informed of the consequences, penalties and fines for re-disclosure in violations of State Law and Regulations.
- E. The Contractor and any subsequent subcontractor must include the following written statement when disclosing any confidential HIV-related information:
- "This information has been disclosed to you from confidential records which are protected by State Law. State Law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State Law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for further disclosure."
- F. All information contained in the Contractor's files, or those of its subcontractors, shall be held confidential pursuant to the applicable provisions of the Social Services

Law and any State Department Regulations promulgated thereunder, including 18 NY CRR §§ 357.5 and 423.7, as well as any applicable federal laws and any regulations promulgated thereunder and shall not be disclosed except as authorized by law.

- G. The Contractor and all contract staff that are granted access to the Oneida County computer systems and databases shall complete the Oneida County Department of Social Services Confidentiality and Non-Disclosure Agreement provided with this agreement and shall submit forms to the following address:

**Oneida County Department of Social Services  
Contract Administration Office, 4th Floor  
800 Park Ave  
Utica, New York, 13501**

VII. PUBLICATIONS AND COPYRIGHTS:

- A. The results of any activity supported under this Agreement may not be published without prior written approval of the Department. Any publications for which approval is given by the Department shall (1) acknowledge the support of the Department and the County and, if funded with federal funds, the applicable federal funding agency, and (2) state that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Contractor and do not necessarily represent the opinions, interpretation or policy of the Department or Oneida County.
- B. The Department and Oneida County expressly reserve the right to a royalty-free, non-exclusive and irrevocable license to reproduce, publish, distribute or otherwise use, in perpetuity, any and all copyrighted or copyrightable material resulting from this Agreement or from any activity supported by this Agreement. All publications by the Contractor covered by this Agreement shall expressly acknowledge the Department's and Oneida County's right to such license.
- C. All of the license rights so reserved to the Department and Oneida County under this paragraph are equally reserved to the United States Department of Health and Human Services and subject to the provisions on copyrights contained in 45 CFR 92 if the Agreement is, in whole or in part, federally funded.
- D. The Contractor agrees that at the completion of any scientific or statistical study, report or analysis prepared pursuant to this Agreement, it will provide to the Department at no additional cost a copy of any and all data supporting the scientific or statistical study, report or analysis, together with the full name and business

address of the principal(s) producing the scientific or statistical study, report or analysis. The Contractor agrees and acknowledges the right of the Department, subject to applicable confidentiality restrictions, to release the full name and business address of the principal(s) producing the scientific or statistical study, report or analysis, together with a copy of the scientific or statistical study, report or analysis and all data supporting the scientific or statistical study, report or analysis.

#### VIII. PATENTS AND INVENTIONS:

The Contractor agrees that any and all inventions, conceived or first actually reduced to practice in the course of, or under, this Agreement, or with monies supplied pursuant to this Agreement, shall be promptly and fully reported to the Department. Determination as to ownership and/or disposition of rights to such inventions, including whether a patent application shall be filed, and if so, the manner of obtaining, administering and disposing of rights under any patent application or patent which may be issued, shall be made pursuant to all applicable law and regulations.

#### IX. TERMINATION:

- A. This Agreement may be terminated by the Department upon thirty (30) days prior written notice to the Contractor. Such notice is to be made by way of registered or certified mail, return receipt requested, or hand-delivered with receipt provided by the Contractor. The date of such notice shall be deemed to be the date the notice is received by the contractor, as established by the receipt returned, if delivery by registered or certified mail, or by the receipt provided by the Contractor, if the notice is delivered by hand. The Department agrees to pay the Contractor for reasonable and appropriate expenses incurred in good faith before the date of termination of this Agreement.
- B. If the Contractor fails to use any real property or equipment purchased pursuant to this Agreement or the Contractor ceases to provide the services specified in the Agreement for which the real property or equipment was purchased, the Department may terminate this Agreement upon thirty (30) days written notice to the Contractor, provided that the Contractor has failed to cure its breach as set forth hereafter. Said notice of breach shall be sent by way of registered or certified mail return receipt requested, or shall be delivered by hand, receiving Contractor's receipt therefore. Said notice shall specify the Contractor's breach and shall demand that such breach be cured. Upon failure of the Contractor to comply with such demand within thirty (30) days, or such longer period as may be specified therein, the Department may, upon written notice similarly served, immediately terminate this Agreement, termination to be effective upon the date of receipt of such notice established by the receipt returned

to the Department. Upon such termination, the Department may require (1) the repayment to the Department of any monies previously paid to the Contractor, or (2) return of any real property or equipment purchased under the terms of this Agreement or an appropriate combination of (1) and (2), at the Department's sole discretion.

- C. To the extent permitted by law, this Agreement shall, in the sole discretion of the Department, be deemed terminated immediately upon the filing of a petition in bankruptcy or insolvency, by or against the Contractor. Such termination shall be immediate and complete, without termination costs or further obligation by the Department to the Contractor.
- D. Should the Department determine that federal, state or county funds are limited or become unavailable for any reason, the Department may reduce that total amount of funds payable to the Contractor, reduce the contract period or deem this contract terminated immediately. The Department agrees to give notice to the Contractor as soon as it becomes aware that funds are unavailable, in the event of termination under this paragraph. If the initial notice is provided to the Contractor verbally, the Department shall follow this up immediately with notice in writing. The Department will be obligated to pay the Contractor only for the expenditures made and obligations incurred by the Contractor until such time as notice of termination is received either verbally or in writing by the Contractor from the Department.
- E. The Contractor shall provide to the Department such information as is required by the Department in order for the Department to determine whether the Contractor is a responsible vendor for purposes of compliance with Section 163 of the New York State Finance Law and other requirements of the Department. If there is any change in any of the vendor responsibility information provided to the Department by the Contractor at any time during their term of this Agreement, the Contractor shall be required to immediately notify the Department so that the Department may assess whether the Contractor continues to be a responsible vendor. Should the Contractor fail to notify the Department of any change in the vendor responsibility information or should the Department otherwise determine that the Contractor has ceased to be a responsible vendor for the purposes of this Agreement, the Department may terminate this Agreement upon thirty (30) days written notice to the Contractor. Said notice of termination shall be sent by way of registered or certified mail return receipt requested, or shall be delivered by hand, receiving Contractor's receipt therefore. Said notice shall specify the reason(s) that the Contractor has been found to no longer be a responsible vendor.

- F. Upon determination that the Contractor is no longer a responsible vendor the Department may, in its discretion and as an alternative to termination pursuant to this paragraph, notify the contractor of the determination that the Contractor has ceased to be a responsible vendor, and shall set forth the corrective action that will be required of the Contractor to maintain the contract. Should the Contractor fail to comply with the required corrective action within thirty (30) days of the date of notification, or such longer period as may be specified therein, the Department may, upon written notice similarly served, immediately terminate this Agreement, termination to be effective upon the date of receipt of such notice established by the receipt returned to the Department. Upon such termination, the Department may require (1) the repayment to the Department of any monies previously paid to the Contractor, (2) the return of any real property or equipment purchased under the terms of this Agreement, or an appropriate combination of (a) and (b) at the Department's sole discretion.

X. CONTRACTOR COMPLIANCE:

- A. The Contractor agrees to provide an Annual Certification pertaining to this Contract as part of the Contractor's annual independent audit.
- B. The Department shall have the right to audit or review the Contractor's performance and operations as related to this Agreement. If the Department should determine that the Contractor has abused or misused funds paid to the Contractor, or if the Contractor has violated or is in non-compliance with any term of any other Agreement with the Department, or has abused or misused funds paid to the Contractor under any other Agreement with the Department, the rights of the Department shall include, but not be limited to :
1. Recovery of any funds expended in violation of the Agreement;
  2. Suspension of Payments;
  3. Termination of the Agreement; and
  4. Employment of another entity to fulfill the requirements of the Agreement.
- C. The Contractor shall be liable for all reasonable costs incurred on account thereof, including payment of any cost differential for employing such entity. The Contractor will assist the Department in transferring the operation of the Contracted services to any other entity selected by the Department in a manner that will enable the Department or clients to continue to receive services in an on-going basis, including,

but not limited to, notifying clients of the new entity to which the services will be transferred and the effective date of the transfer, providing the new entity promptly and at no charge with a complete copy of the clients' and all other records necessary to continue the provision of the transferred services, and transferring any equipment or real property purchased with funds provided under this Agreement.

- D. Nothing herein shall preclude the Department from taking actions otherwise available to it under law or equity.
- E. The Contractor agrees to cooperate fully with any audit or investigation the Department or any agent of the Department may conduct and to provide access during normal business hours to any and all information necessary to perform the requested audit or investigation. The Contractor shall also allow the Department, and any representatives specifically directed by the Department to take possession of all books, records and documents relating to this Agreement without prior notice to the Contractor. The Department will return all such books, records and documents to the Contractor upon completion of the official purposes for which they were taken.
- F. The Contractor agrees that all Agreements between the Contractor and a subcontractor or consultant for the performance of any obligations under the Agreement will be by written contract (subcontract) which will contain provisions including, but not limited to, the above specified rights of the Department.

XI. FISCAL SANCTION:

- A. In the sole discretion of the Department, contractors may be placed on Fiscal Sanction when the Department identifies any of the following issues:
  - 1. The Contractor has received an advance, overpayment or other funds under this or another Agreement that has not been refunded to the Department within the established timeframe;
  - 2. A Department or other audit identifies significant fiscal irregularities, or determines that additional funds are due to the Department;
  - 3. The Contractor has not provided satisfactory services as required under the terms of this or another Department Agreement;
  - 4. The Contractor has not provided fiscal or program reports as required under the terms of this or another Department Agreement;

5. A county, state or federal prosecutorial or investigative agency identifies possible criminal activity, or significant fiscal or programmatic irregularities on the part of the Contractor;
  6. The Contractor is not in compliance with state, federal, or county statutes or regulations, or applicable Department guidelines, policies and/or procedures; or
  7. Unsafe physical conditions exist at a program site operated by the Contractor and funded under an Agreement with the Department.
- B. Once the Contractor has been placed on Fiscal Sanction, payments on all open contracts and any new awards, amendments or contract renewals will not be processed until the issues have been satisfactorily resolved. The Contractor will be notified in advance of any proposed Fiscal Sanction and will be provided a time frame within which the issues must be resolved in order to avoid Fiscal Sanction. Issues that are not resolved within the time frame established by the Department may be referred to the New York State Attorney General's Office (Hereinafter "AG") for collection or other legal action. If a contract is referred to the AG, a collection fee will be added to the amount owed. In addition, interest will be due on any amount not paid in accordance with the time frames established by the AG. The contractor will remain on Fiscal Sanction until the amount owed, including any collection fee and interest is paid in full.

## XII. ADDITIONAL ASSURANCES:

- A. The Department and Contractor agree that Contractor is an independent contractor, and not in any way deemed to be an employee of the Department or County of Oneida for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, and retirement or health benefits. The Contractor agrees to defend and indemnify the Department and Oneida County for any loss the Department or Oneida County may suffer when such losses result from claims of any person or organization injured by the negligent acts or omissions of Contractor, its officers and/or employees or subcontractors. Further, the Contractor agrees to indemnify, defend, and hold harmless the Department and Oneida County, and its officers, agents, and employees, from any and all claims and losses occurring or resulting from any and all contractors, subcontractors, and any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from all claims and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the Contractor in the performance of this Agreement, and against any liability, including costs and expenses, for violation of proprietary rights, copyrights,

or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, or use, or disposition of any data furnished under this Agreement or based on any libelous or other unlawful matter contained in such data or written materials in any form produced pursuant to this Agreement.

- B. The Contractor further agrees that the Department has the right to take whatever action it deems appropriate, including, but not limited to, the removal of the Contractor from the rotation list, the removal of clients, the cessation of client referrals, and termination of this Agreement, if the Contractor fails to submit a completed and signed Standard Insurance Certificate or its acceptable substitute, which is subsequently approved by the Oneida County Department of Law, prior to the expiration of its insurance coverage.

### XIII. RENEWAL NOTICE TO CONTRACTORS:

Options to renew the contract are at the sole discretion of the Department, which shall supply written notice of such renewal or termination within thirty (30) days of the expiration date. The Commissioner of Social Services reserves the right to evaluate the job performance and availability of funding.

### XIV. COMPLIANCE WITH LAW:

- A. The Contractor represents and agrees to comply with the requirements of the Civil Rights Act of 1964 as amended, the Age Discrimination Employment Act of 1964 as amended, the Federal Rehabilitation Act of 1973 as amended, and Executive Order No. 11246, entitled "Equal Employment Opportunity" as amended by Executive Order No. 11375 and as supplemented in Department of Labor Relations, 41CFR Part 60.
- B. The Contractor also agrees to comply with Federal and State Laws, supplemented with the Dept. of Labor regulations and any other regulations of the federal and state entities relating to such employment and civil rights requirements.
- C. As a mandated reporting agency, all instances of suspected child abuse, neglect and/or maltreatment, will be reported to the Central Register as required by law. These verbal reports will be followed by submission of completed 2221A to the local Department of Social Services. The family will be informed in advance of the Agency's decision to file a report with the Central Register.
- D. The Contractor certifies that it has not been disbarred by the United States Government from contracting to provide services funded by any federal money.




- E. The obligations of the parties hereunder are conditioned upon the continued availability of federal and/or New York State funds for the purposes set forth in this Agreement.
- F. Should funds become unavailable or should appropriate federal or New York State officials fail to approve sufficient funds for completion of the services or programs set forth in this Agreement, the Department shall have the option to immediately terminate this Agreement upon providing written notice to the Contractor. In such an event, the Department shall be under no further obligation to the Contractor other than payment for costs actually incurred prior to termination and in no event will the Department be responsible for any actual or consequential damages as a result of termination.

XV. MISCELLANEOUS:

- A. This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated by reference are to be attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement, shall be deemed to exist or to bind any of the parties hereto. No wavier, alterations or modifications to 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.
- B. This Agreement shall be binding upon both parties when fully signed and executed and upon approval of the appropriate legislative bodies where required.
- C. The Undersigned, as the duly authorized representative of the Contractor, hereby certifies that the Contractor will comply with the above Standard Clauses.

The Neighborhood Center, Inc.  
NAME OF CONTRACTED AGENCY

Sandra Soroka, Executive Director  
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

  
SIGNATURE

1/25/18  
DATE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Created 4-24-12

## ATTACHMENT E

### STANDARD CLAUSES FOR ALL ONEIDA COUNTY CONTRACTS

**THIS ADDENDUM**, entered into on this 1<sup>st</sup> day of January, 2018 between the County of Oneida, hereinafter known as **COUNTY**, and a contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as **CONTRACTOR**.

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

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

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

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

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

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

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

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

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

1. No Federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal Grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.
  2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
  3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
1. The Contractor certifies that it and its principals:
    - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
    - b. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contracts under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
    - c. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1(b) of this certification; and
    - d. Have not within a three-year period, preceding this Contract, had one or more public transactions (Federal, State, or local) for cause or default; and
  2. Where the Contractor is unable to certify any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. The Contractor will or will continue to provide a drug-free workplace by:

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

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

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

---

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

1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

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

When applicable to the services provided pursuant to the Contract:

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

1. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;

2. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access protected health information electronically; and

3. Utilize an adequate amount of physical hardware, including but not limited to filing cabinets, and locks on drawers, cabinets, and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.

b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

1. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and

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

**5. Non-Assignment Clause.**

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

**6. Workers' Compensation Benefits.**

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

**7. Non-Discrimination Requirements.**

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

**8. Wage and Hours Provisions.**

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither the Contractor's employees nor the employees of



its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County approved sums due and owing for work done upon the project.

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

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

**10. Records.**

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

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

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

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

**12. Conflicting Terms.**

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

**13. Governing Law.**

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

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

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

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

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

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

**16. Gratuities and Kickbacks.**

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

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

**17. Audit**

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

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

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

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

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

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

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

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

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]*

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

**Colleen Fahy-Box**  
Interim Commissioner



**ONEIDA COUNTY DEPARTMENT OF SOCIAL SERVICES**  
County Office Building, 800 Park Avenue, Utica, NY 13501  
Phone (315) 798-5733 Fax (315) 798-5218

January 8, 2018

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

FN 20 18 073

HEALTH & HUMAN SERVICES  
**WAYS & MEANS**

Dear Mr. Picente:

Oneida County is in receipt of a grant from New York State Office of Children and Family Services in the amount of \$230,297.00. These funds will be used to support Day Care Registration. This grant has a term of January 1, 2018 through December 31, 2018.

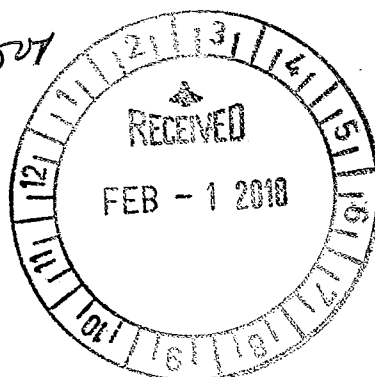
This grant provides funding for the program that will recommend registration/and renewal for those individuals who satisfactorily complete a Family Day Care Initial/ Renewal Application. The program will provide technical assistance to potential and current providers regarding the application process and Family Day Care regulations. The program shall provide regularly scheduled orientation sessions throughout Oneida County. The program shall also complete inspections /investigations on registered homes in response to a complaint, request by provider for additional school age children, or for failure to meet training requirements. It will also complete annual random inspections on 50% of all existing providers, as well as respond to complaints on non-regulated child care providers. The program includes performance standards for: initial registrations, renewal registration, complaint investigations, safety assessments, inspections, on-site registration, and case management review.

I am available at any time to further discuss this grant should you have any questions.

I am respectfully requesting that this matter be forwarded to the Board of Legislators for acceptance of these grant funds.

Sincerely,

*Colleen Fahy-Box*  
Colleen Fahy-Box  
Interim Commissioner



Reviewed and Approved for submittal to the  
Oneida County Board of Legislators by  
*Anthony J. Picente, Jr.*  
Anthony J. Picente, Jr.  
County Executive  
Date 2-1-18

CFB/vlc  
attachment

**Oneida Co. Department Social Services**

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

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

**Name of Proposing Organization:** Neighborhood Center  
624 Elizabeth Street  
Utica, New York 13501

**Title of Activity or Services:** Day Care Registration/Inspection

**Proposed Dates of Operations:** January 1, 2018 – December 31, 2018

**Client Population/Number to be Served:** Individuals in Oneida County interested in or currently providing child care in a residence.

**SUMMARY STATEMENTS**

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

The Neighborhood Center, Inc. provides recommendations for the registration/and renewal for those individuals satisfactorily completing a Family Day Care initial/renewal application. The program provides the following services: technical assistance to potential and current providers regarding application and regulations, regularly scheduled orientation sessions throughout Oneida County, inspection/investigation of registered homes in response to a complaint or a request by provider for additional school age children, or for failure to meet training requirements. The program proposes to complete annual random inspections on 50% of existing providers, as well as responding to complaints on non-regulated child care providers. The contract now includes performance standards for: initial registrations, renewal registration, complaint investigations, safety assessments, inspections, on-site registration, and case management review.

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

This service proposes to increase the number of Registered Family Day Care & School Age Day Care homes throughout Oneida County and to ensure through the inspection process that they meet the standards set forth in the NYS Regulations.

**3). Program Design and Staffing Level -**

- (1) Program Coordinator
- (4) Caseworkers
- (1) Program Assistant
- (1) Clerk

**Total Funding Requested:** \$230,297.00

**Oneida County Dept. Funding Recommendation:** Account # A6055.495

**Mandated or Non-mandated:** Mandated service

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

<b>Federal</b>	<b>10 0 %</b>	<b>\$230,297.00</b>
<b>State</b>	<b>0 %</b>	<b>\$ 0</b>
<b>County</b>	<b>0 %</b>	<b>\$ 0</b>

**Cost Per Client Served:** This contract uses federal funds and is reimbursed through a Memorandum of Understanding with the State of New York.

**Past performance Served:** The Department has contracted with this provider since June 1, 1992. In 2007, the county contract instituted performance measures that must be met in order for the contractor to receive full reimbursement. The cost of the contract in 2017 was \$ 230,297.00.

**O.C. Department Staff Comments:** There is no local share to support this effort.

**APPENDIX X**

MODIFICATION AGREEMENT

Agency Code: 25000

MOU: 2315

Period: 1/01/2018 to 12/31/2018

Funding Amount for Period \$230,297.00

<input type="checkbox"/> <b>This MOU is funded with non-Federal funds only</b>
<input checked="" type="checkbox"/> <b>This MOU is funded in whole or in part with Federal funds (see Appendix A3, paragraph 14 for Federal audit information)</b>
<input type="checkbox"/> <b>OCFS has determined that the Contractor is NOT a sub recipient</b>
<input checked="" type="checkbox"/> <b>OCFS has determined that the Contractor is a sub recipient</b>
<b>The Federal Funds for this contract are from CFDA Number(s): 93-575</b>

This is an AGREEMENT between THE STATE OF NEW YORK, acting by and through the Office of Children and Family Services, having its principal office at 52 Washington Street, Rensselaer, New York 12144 (hereinafter referred to as the STATE), and Oneida County Department of Social Services (hereinafter referred to as the CONTRACTOR), for modification of MOU 2315, as amended in attached Appendix(ices) C, C-1, and D.

All other provisions of said agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the dates appearing under their signatures.

CONTRACTOR SIGNATURE	STATE AGENCY
Contractor: <u>Oneida County Department of Social Services</u>	Office of Children and Family Services
By:	By:
Printed Name:	Printed Name: <b>Derek J. Holtzclaw</b>
Title:	Title: Associate Commissioner Financial Management
Date:	Date:
	<u>State Agency Certification</u> "In addition to the acceptance of this mou, I also certify that original copies of this signature page will be attached to all other exact copies of this mou."



**MUNICIPAL CORPORATION:**

STATE OF NEW YORK

SS.:

County of \_\_\_\_\_ )

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, to me known, who being by me duly sworn, did depose and say that he/she resides at \_\_\_\_\_, that he/she is the \_\_\_\_\_ of the \_\_\_\_\_, the municipal corporation described herein which executed the foregoing instrument; and that he/she signed his/her name thereto by order of the governing board of said municipal corporation.

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

My Commission expires: \_\_\_\_\_

APPENDIX D

NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES  
DIVISION OF CHILD CARE SERVICES

1. PROJECT TITLE : REGISTRATION
2. TYPE OF APPLICATION: NEW  CONTINUATION  AMENDMENT
3. AMOUNT OF FUNDS REQUESTED: \$ 230,297.00
4. PROJECT PERIOD: 1/01/2018 to 12/31/2018
5. ORGANIZATIONAL NAME & ADDRESS:  
Oneida County Department of Social Services  
800 Park Ave.  
Utica, New York 13501 Tel #: (315) 798-5733
6. CONTACT NAME: Tamatha Stoetzner  
TITLE: Director of Administrative Services  
PHONE: (315) 798-5260  
E-MAIL ADDRESS: TStoetzner@ocgov.net
7. INDIVIDUAL(S) AUTHORIZED TO SIGN FOR APPLICANT:  
PRIMARY NAME: Colleen Fahy-Box PHONE# (315)798-5733  
PRIMARY TITLE: Interim Commissioner  
SECONDARY NAME: Anthony J. Picente, Jr. PHONE# ( )  
SECONDARY TITLE: Oneida County Executive
8. NAME OF PROJECT DIRECTOR: Philip Martini  
TITLE: Caseworker Supervisor Grade A  
PHONE: (315) 798-5839  
LOCATION ADDRESS: 209 Elizabeth Street, Utica, New York 13501  
E-MAIL ADDRESS: Philip.martini@dfa.state.ny.us
9. INDIVIDUAL TO WHOM PAYMENT SHOULD BE DIRECTED:  
NAME: Tamatha Stoetzner  
TITLE: Director of Administrative Services  
PHONE: (315) 798-5260  
LOCATION ADDRESS: 800 Park Avenue, Utica, New York 13501  
E-MAIL ADDRESS: tstoetzner@ocgov.net
- A. MUNICIPALITY NUMBER : 300100000
- B. CHARITABLE REGISTRATION NUMBER: Exempt
- C. DUNS# 075814186

**10. Agreement:**

It is understood and agreed to by the applicant that: (1) Funds granted for this project will be used only for the conduct of the project as approved. (2) the grant may be terminated in whole, or in part, by the Office. Such termination shall not affect obligations incurred under grant prior to the effective date of such termination. (3) When funds are advanced, any unexpended balance at the end of the approval period will be returned. (4) Any significant revision of the approved project proposal will be requested in writing by the grantee prior to enactment of the change. (5) Progress reports will be submitted as required by the Office. The final program and financial reports will be submitted within a specified time period after the project terminates. Necessary records and accounts, including financial and property controls, will be maintained and made available to the Office for audit purposes. (6) All reports of investigations, studies, publications, etc. made as a result of this proposal will acknowledge the support provided by Office. (7) All personal information concerning individuals served or studies conducted under the project is confidential and such information may not be disclosed to unauthorized persons. (8)The Office reserves a royalty free non-exclusive license to use and authorize others to use all copyrighted material resulting from this project.

The applicant certifies that to the best of his/her knowledge and belief the information in this application is true and correct, and that he/she will comply with the above agreement if the grant is received.

---

Signature of Official Authorized to Sign for Applicant

Date

---

Colleen Fahy-Box, Interim Commissioner

Name and Title (typed)

## **PROJECT SUMMARY**

Oneida County Department of Social Services will utilize a subcontractor to conduct the Day Care Registration and Inspection services. The program will recommend Registration/and renewal for those individuals satisfactorily completing a FDC initial/renewal application. Program will provide technical assistance to potential and current providers regarding application and regulations. Program will provide regularly scheduled orientation throughout Oneida County. Program will complete an inspection/investigation on registered homes in response to a complaint, request by provider for additional school age children or for failure to meet training requirements. Complete 50% annual random inspections on existing providers. Respond to complaints on non-regulated child care providers. The program includes performance standards for: initial registrations, renewal registration, complaint investigations, safety assessments, inspections, and on-site registration case and management review.

### **Quarterly Standard Performance Level – Initial Registrations/Licenses**

The Contractor will process and resolve initial registration/licensing applications within six (6) months of receipt including providing applicants with all appropriate notifications regarding the status of the applications. The acceptable resolution categories are: approved, withdrawn, and referred to enforcement for denial. The Quarterly Standard Performance Level for initial registrations/licensing for an acceptable level of compliance is 95%. The acceptable level of compliance will be determined by DCCS upon review of quarterly data from CCFS. If at least 95% of the previous quarter's Quarterly Standard Performance Level for initial registrations/licenses is not met, 2% of the quarterly contract amount will be withheld.

### **Quarterly Standard Performance Level – Renewals of Registrations/Licenses**

The Contractor will process and resolve completed applications for renewals of registrations/licenses, including providing providers with all appropriate notifications regarding the renewal process, prior to the applicable registration/license lapse date or will initiate enforcement action. The renewals of Family and School- Age Child Care registrations will include a renewal inspection as required by regulation. The Quarterly Standard Performance Level for renewals of registrations/ licenses for an acceptable level of compliance is 95%. The acceptable level of compliance will be determined by DCCS upon review of quarterly data from CCFS. If at least 95% of the previous quarter's Quarterly Standard Performance Level for renewal registrations/licenses is not met, 2% of the quarterly contract amount will be withheld.

### **Quarterly Standard Performance Level –Complaint Investigations**

The Contractor will initiate complaint investigations within the required time frames and make determinations on the complaints within 60 days. The Quarterly Standard Performance Level for complaint investigations for an acceptable level of compliance is 95%. The acceptable level of compliance will be determined by DCCS upon review of quarterly data

from CCFS. If at least 95% of the previous quarter's Quarterly Standard Performance Level for complaint investigations is not met, 2% of the quarterly contract amount will be withheld.

#### **Quarterly Standard Performance Level – Safety Assessments**

The Contractor will conduct safety assessments based on the categories of arrests/convictions and submit the assessments to DCCS within the required time frames. The Quarterly Standard Performance Level for safety assessments for an acceptable level of compliance is 100%. The acceptable level of compliance will be determined by DCCS upon review of quarterly data from CCFS. If at least 100% of the previous quarter's Quarterly Standard Performance Level for safety assessments is not met, 2% of the quarterly contract amount will be withheld.

#### **Quarterly Standard Performance Level – 50% Inspections**

The Contractor will conduct one quarter of the required number of annual 50% inspections for Family Day Care and School Age Child Care programs and complete all required documentation. The Quarterly Standard Performance Level for 50% inspections for an acceptable level of compliance is 90%. The acceptable level of compliance will be determined by DCCS upon review of quarterly data from CCFS. If at least 90% of the Performance Level for 50% inspections is not met at the completion of the four quarters, 2% of the quarterly contract amount will be withheld.

#### **Quarterly Standard Performance Level – Mid-Point Requirement**

The Contractor will process and resolve completed reviews of Mid-Point documentation including providing providers with all appropriate notifications regarding the Mid-Point Requirement. The Contractor will conduct Mid-Point inspections for Family Day Care and School Age Child Care programs and complete all required documentation within the required timeframes pursuant to current policy and procedures. The Quarterly Standard Performance Level for the Mid-Point Requirement for an acceptable level of compliance is 95%. The acceptable level of compliance will be determined by DCCS upon review of quarterly data from CCFS. If at least 95% of the Performance Level for Mid-Point inspections is not met each quarter, 2% of the quarterly contract amount will be withheld.

#### **Quarterly Standard Performance Level – On-Site Case and Management Review.**

The Contractor will provide appropriate registration, licensing, and monitoring activities, maintain appropriate case files and make appropriate entries into CCFS in the time, manner and form required by the Office. The acceptable level of compliance will be determined by DCCS based on quarterly case files and management reviews. The case review will include a review of a sample of case files regarding initial applications, renewal applications, 50% inspections, complaint investigations and other investigations chosen in accordance with a consistent sampling framework to determine whether: Office policies, procedures, and regulations are applied accurately; required observations are made during inspections and investigations; all applicable entries are made in case files and/or CCFS; proper notifications

is given to providers and parents, where applicable, within the required time frames; each facility has the necessary active fingerprint files and are entered into CCFS upon receipt; inspections are conducted, when appropriate, to verify compliance with any corrective action plans and/or continued regulatory violations; appropriate and timely enforcement referrals are made and appropriate and timely follow-up activities are conducted in accordance with Office policies and directions including cooperating with the Office's Legal Division on enforcement activities and, when determined necessary by the Office, testifying at fair hearings and/or court proceedings and assisting the Office in responding to litigation. The management review will also include a review of other documentation to determine whether: registration staff have participated in training as required by the Office related to the performance of registration/licensing (where licensing applicable) duties and participated in management and supervisory sessions on a regional and Statewide basis, as required; provided technical assistance in regard to the start-up of new programs and compliance with existing programs and information on available training and funding resources applicable to family day care, school-age child care, group family day care programs; and provided parents and the general public with access to information regarding the compliance/complaint history of all regulated providers, as required. The approved quarterly registration/licensing (where licensing applicable) case files and management reviews for an acceptable level of compliance is 90%. If at least 90% of the previous quarter's Quarterly Standard Performance Level for the case files and management review is not met, 2% of the quarterly contract amount will be withheld.

#### **Quarterly Standard Performance Level – Approved Staffing Plan**

The Contractor staffing plan, including the percentage of time each staff works on the project, which has been approved by the Office and is maintained during the quarter. In addition, the Office's respective DCCS Regional Office Manager and Local Department of Social Services is to be notified by the Contractor of the registration and inspections coverage plan when the registrar's office is unavailable during regular business hours. In the event of a staff vacancy, the Contractor will be allowed a three-month period from the date the vacancy was created to fill the vacancy and bring staffing back up to the approved level. The Contractor is to provide DCCS and Local Department of Social Services with the names of the staff assigned to register and license day care programs, the percentage of time those staff work on the program. In addition the Office will review the qualifications of those staff members as part of the quarterly case and management review and when otherwise requested by DCCS to determine if the qualifications are reasonable for providing the registration and inspection services. The approved staffing plan for an acceptable level of compliance at the end of each quarter is 100%, with the exception of any vacancies that are less than three months old at the end of the quarter. The acceptable level of compliance will be determined by DCCS based upon the quarterly case and management review. If at least 100% of the previous quarter's Quarterly Standard Performance Level for the approved staffing plan is not met at the end of the quarter, not counting vacancies that are less than three months old at the end of the quarter, 2% of the quarterly contract amount will be withheld. However, the amount withheld may not exceed the value of the personnel costs for the unfilled position(s).

**Appendix C-1**  
Standard Performance Levels  
Payment Schedule

CONTRACTOR Name: Oneida County Department of Social Services

CONTRACT Period: 01/01/18 to 12/31/18

\$57,574.25, per quarter will be paid to the Contractor, for a maximum of four (4) quarters, not to exceed the Maximum Funding Amount for the contract period of \$230,297.00, for an acceptable level of compliance for all Quarterly Standard Performance Levels as specified in this Appendix C-1. A quarterly program review will be conducted by the Division of Child Care Services (DCCS), after the end of the applicable quarter, to determine if the Contractor has reached an acceptable level of compliance for the quarter. The determination of whether a Contractor met an acceptable level of compliance for each Quarterly Standard Performance Level will be based on the Contractor's compliance with all applicable timelines, operating procedures and other requirements as set forth in Office regulations and policies and the Child Care Facility System (CCFS) Users' Manual, which are deemed to be incorporated herein by reference.

Payment will be made upon approval by the Office's Project Officer for the number of achieved standard performance level, as defined in Appendix C-1. If the Office determines that the Contractor has not met the acceptable Quarterly Standard Performance Level for a particular activity during a quarter, the applicable percentage set forth herein for that Quarterly Standard Performance Level will be withheld and the amount paid to the Contractor for the quarter will be reduced accordingly. The Office may completely waive the reduction for a particular unmet Quarterly Standard Performance Level based upon a written request submitted by the Contractor demonstrating that such failure was due to extraordinary or unforeseen circumstances. The Office shall notify the Contractor in writing of the Office's approval of any such waiver request, or shall notify the Contractor of the Office's disapproval of any such waiver request and delineate the reasons for such disapproval.

**Quarterly Standard Performance Level – Initial Registrations/Licenses**

The Contractor will process and resolve initial registration/licensing applications within 90 days of receipt including providing applicants with all appropriate notifications regarding the status of the applications. The acceptable resolution categories are: approved, withdrawn, and referred to enforcement for denial. The Quarterly Standard Performance Level for initial registrations/licensing for an acceptable level of compliance is 95%. The acceptable level of compliance will be determined by DCCS upon review of quarterly data from CCFS. If at least 95% of the previous quarter's Quarterly Standard Performance Level for initial registrations/licenses is not met, 2% of the quarterly contract amount will be withheld.

**Quarterly Standard Performance Level – Renewals of Registrations/Licenses**

The Contractor will process and resolve completed applications for renewals of registrations/licenses, including providing providers with all appropriate notifications regarding the renewal process, prior to the applicable registration/license lapse date or will initiate enforcement action. The renewals of Group Family Day Care licenses will include a renewal

inspection of the Group Family Day Care. The renewals of Family and School- Age Child Care registrations will include a renewal inspection as required by regulation. The Quarterly Standard Performance Level for renewals of registrations/ licenses for an acceptable level of compliance is 95%. The acceptable level of compliance will be determined by DCCS upon review of quarterly data from CCFS. If at least 95% of the previous quarter's Quarterly Standard Performance Level for renewal registrations/licenses is not met, 2% of the quarterly contract amount will be withheld.

#### Quarterly Standard Performance Level –Complaint Investigations

The Contractor will initiate complaint investigations within the required time frames and make determinations on the complaints within 60 days. The Quarterly Standard Performance Level for complaint investigations for an acceptable level of compliance is 95%. The acceptable level of compliance will be determined by DCCS upon review of quarterly data from CCFS. If at least 95% of the previous quarter's Quarterly Standard Performance Level for complaint investigations is not met, 2% of the quarterly contract amount will be withheld.

#### Quarterly Standard Performance Level – Safety Assessments

The Contractor will conduct safety assessments based on the categories of arrests/convictions and submit the assessments to DCCS within the required time frames. The Quarterly Standard Performance Level for safety assessments for an acceptable level of compliance is 100%. The acceptable level of compliance will be determined by DCCS upon review of quarterly data from CCFS. If at least 100% of the previous quarter's Quarterly Standard Performance Level for safety assessments is not met, 2% of the quarterly contract amount will be withheld.

#### Quarterly Standard Performance Level – 50% Inspections

The Contractor will conduct one quarter of the required number of annual 50% inspections for Family Day Care and School Age Child Care programs and complete all required documentation. The Quarterly Standard Performance Level for 50% inspections for an acceptable level of compliance is 90%. The acceptable level of compliance will be determined by DCCS upon review of quarterly data from CCFS. If at least 90% of the Performance Level for 50% inspections is not met at the completion of the four quarters, 2% of the quarterly contract amount will be withheld.

#### Quarterly Standard Performance Level – Mid-Point Requirement

The Contractor will process and resolve completed reviews of Mid-Point documentation including providing providers with all appropriate notifications regarding the Mid- Point Requirement. The Contractor will conduct Mid-Point inspections for Family Day Care, Group Day Care and School Age Child Care programs and complete all required documentation within the required timeframes pursuant to current policy and procedures. The Quarterly Standard Performance Level for Mid-Point inspections for an acceptable level of compliance is 95%. The acceptable level of compliance will be determined by DCCS upon review of quarterly data from CCFS. If at least 95% of the Performance Level for Mid-Point inspections is not met each quarter, 2% of the quarterly contract amount will be withheld.



Quarterly Standard Performance Level – On-Site Case and Management Review.

The Contractor will provide appropriate registration, licensing, and monitoring activities, maintain appropriate case files and make appropriate entries into CCFS in the time, manner and form required by the Office. The Contractor shall not revise or alter OCFS policy/procedures or create its own policy/procedure without receiving prior approval in writing from the Office. The acceptable level of compliance will be determined by DCCS based on quarterly case files and management reviews. The case review will include a review of a sample of case files regarding initial applications, renewal applications, mid-point requirement, 50% inspections, complaint investigations and other investigations chosen in accordance with a consistent sampling framework to determine whether: Office policies, procedures, and regulations are applied accurately; required observations are made during inspections and investigations; all applicable entries are made in case files and/or CCFS; proper notifications is given to providers and parents, where applicable, within the required time frames, this includes issuance of the final CCFS inspection report within 10 days after the inspection being conducted; each facility has the necessary active fingerprint files and are entered into CCFS upon receipt; inspections are conducted along with exit interviews with the provider prior to inspector's departure, when appropriate, to verify compliance with any corrective action plans and/or continued regulatory violations; appropriate and timely enforcement referrals are made and appropriate and timely follow-up activities are conducted in accordance with Office policies and directions including cooperating with the Office's Legal Division on enforcement activities and, when determined necessary by the Office, testifying at fair hearings and/or court proceedings and assisting the Office in responding to litigation.

The management review will also include a review of other documentation to determine whether: identified registration staff have participated in any mandatory training as required by the Office related to the performance of registration/licensing duties and participated in management and supervisory sessions on a regional and Statewide basis, as required; provided technical assistance in regard to the start-up of new programs and compliance with existing programs and information on available training and funding resources applicable to family day care, school-age child care, group family day care programs; and provided parents and the general public with access to information regarding the compliance/complaint history of all regulated providers, as required. Not less than annually, the contractor will report to OCFS the evidence risk based assessment outcomes for identified programs, if applicable. In addition, the contractor will participate in OCFS Quality Indicator initiatives and any inter-rater reliability studies conducted by the Office. The approved quarterly registration/licensing case files and management reviews for an acceptable level of compliance is 90%. If at least 90% of the previous quarter's Quarterly Standard Performance Level for the case files and management review is not met, 2% of the quarterly contract amount will be withheld. The Quarterly Standard Performance Level for applying accurately required Office policies, procedures and regulation is 100%. If at least 100% of OCFS mandated procedures are not completed pursuant to all policy and procedures, 2% of the quarterly contract amount will be withheld.

Quarterly Standard Performance Level – Approved Staffing Plan

The Contractor staffing plan, including the percentage of time each staff works on the project, which has been approved by the Office and is maintained during the quarter. In addition, the

Office's respective DCCS Regional Office Manager is to be notified by the Contractor of the registration and inspections coverage plan when the registrar's office is unavailable during regular business hours. In the event of a staff vacancy, the Contractor will be allowed a five-month period from the date the vacancy was created to fill the vacancy and bring staffing back up to the approved level. The Contractor is to provide DCCS with the names of the staff assigned to register and license day care programs, the percentage of time those staff work on the program. In addition the Office will review the qualifications of those staff members as part of the quarterly case and management review and when otherwise requested by DCCS to determine if the qualifications are reasonable for providing the registration and inspection services. The approved staffing plan for an acceptable level of compliance at the end of each quarter is 100%, with the exception of any vacancies that are less than five months old at the end of the quarter. The acceptable level of compliance will be determined by DCCS based upon the quarterly case and management review. If at least 100% of the previous quarter's Quarterly Standard Performance Level for the approved staffing plan is not met at the end of the quarter, not counting vacancies that are less than five months old at the end of the quarter, 2% of the quarterly contract amount will be withheld. However, the amount withheld may not exceed the value of the personnel costs for the unfilled position(s).

**DESIGNATED PAYMENT OFFICE**

**Program Office:** Program Development

**Program Area:** Division of Child Care Services/ Appropriate Regional Offices

**Address:** 52 Washington Street  
3 South Building, Room 309  
Rensselaer, New York 12144



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:lofa@oogov.net

October 16, 2017

FN 20 18 - 074

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

HEALTH & HUMAN SERVICES  
WAYS & MEANS

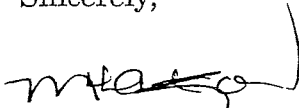
Dear Mr. Picente:

I am submitting the following Agreement between the Oneida County Office for the Aging and Continuing Care and the Resource Center for Independent Living, Inc. 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 Adult Day Services. This Agreement will continue to provide community based long term care services to the frail and elderly, and help older consumers to delay or divert nursing facility placement. The total amount of this Agreement is \$110,500.00 which is 75% (\$82,875.00) State, and 25% (\$27,625.00) County funds. This contract commences January 1, 2018 and terminates December 31, 2018.

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

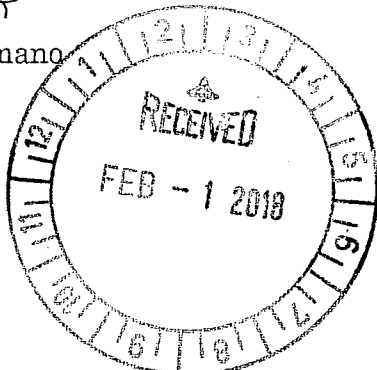
Sincerely,



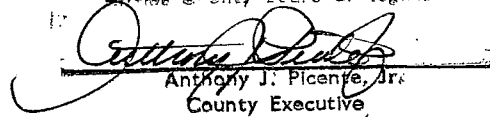
Michael J. Romano  
Director

MJR/jc

Enclosures



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

  
Anthony J. Picente, Jr.  
County Executive

Date 2-1-18

Oneida County Department: Office for the Aging

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

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name & Address of Vendor:**                      **Resource Center for Independent Living, Inc.**  
401-409 Columbia Street  
Utica, New York 13503

**Title of Activity or Service:**                      Social Adult Day Services

**Proposed Dates of Operation:**                      **January 1, 2018 through December 31, 2018**

**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 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-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. The staff will supervise participants in a safe environment and the staff will provide appropriate activities and therapies that will enhance the participants' general wellbeing.

**Total Funding Requested:**                      \$110,500.00

**Account #:** 6772.495.116

**Oneida County Dept. Funding Recommendation:** \$ 110,500.00

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

Federal: \$0

State: 75% (\$82,875.00)

County: 25% (\$27,625.00)

**Cost per Client Served:** \$60.00 per client per five-hour day

**Past Performance Data:** The Resource Center for Independent Living has provided Social Adult Day Services since 1984.

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

## AGREEMENT

THIS AGREEMENT (Agreement) is by and between the **RESOURCE CENTER FOR INDEPENDENT LIVING, INC.**, a domestic not-for-profit corporation organized and existing under the laws of the State of New York located at 401-409 Columbia Street, Utica, New York 13503, hereinafter known as "**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 known individually as "**PARTY**" and collectively as the "**PARTIES**."

### WITNESSETH:

WHEREAS, the **COUNTY** has the primary responsibility for the overall planning and coordination of **COUNTY** funds including the Federal AOA-Older Americans Act Title III, Title V, NYSOFA - EISEP, CSE, CSI, SNAP, HIICAP, MIPPA/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. **AGREEMENT TERM**

A. The terms and conditions of this Agreement shall commence **January 1, 2018** and terminate **December 31, 2018**.

2. **AGREEMENT RENEWAL**

A. The **COUNTY** and the **CONTRACTOR** may negotiate this Agreement annually.

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, Executive Law, Article 19-J, Part 6656, effective January 1, 1995.

B. The **CONTRACTOR** shall provide Social Model Adult Day 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; and
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 Services in Oneida County.

D. The **CONTRACTOR** shall provide Services as defined by the 1995 Social Adult Day Care Program Regulations, Executive Law, Article 19-J Part 6656:

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, or 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 Area Agency on Aging; and offering snacks and liquids for all Consumers at appropriate times.

E. The **CONTRACTOR** shall ensure that all Consumers shall receive Services only in accordance with an individualized written service plan that is based on the COMPASS assessment, and will specify the individual Consumer outcomes expected from the provision of Services; and the service plans will 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** Service personnel, both paid and volunteer, shall attend six (6) hours of training

annually, and new program employees or volunteers will receive at least twenty (20) 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 **COUNTY** shall hold periodic coordinating meetings as needed.

I. The **CONTRACTOR** and **COUNTY** shall work cooperatively to develop comprehensive Services for Oneida County.

J. The **CONTRACTOR** shall make a good faith effort to recruit interns from the local colleges' student intern programs.

#### 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 determining the method, details, and means of performing the Services, except where Federal, State or Local Laws and Regulations impose specific requirements on performance of the same.

B. The **CONTRACTOR** may, at the **CONTRACTOR'S** own expense, employ or engage the services of such employees, subcontractors and/or partners as **CONTRACTOR** deems necessary to perform the Services (collectively, the "Assistants"). The Assistants are not and shall not be employees of the **COUNTY**, and the **COUNTY** shall have no obligation to provide Assistants with any salary or benefits. 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**, in compliance with any and all applicable Federal, State or Local Laws and Regulations. The **CONTRACTOR** shall expressly advise the Assistants of the terms of this Agreement.

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**.

D. The **CONTRACTOR** shall inform the **COUNTY** within twenty-four (24) hours if it is unable or unwilling to accept an assignment and/or perform Services pursuant to this Agreement. The **CONTRACTOR** maintains the right to do so at any time, and the **COUNTY** maintains the right to contract with other individuals or entities to perform the same Services.

#### 5. **REIMBURSEMENT FOR SERVICES**

A. It is agreed and understood by all **PARTIES** that the **COUNTY** shall reimburse the **CONTRACTOR** for Services which are provided in accordance with the terms and conditions of this

Agreement, the Community Services for the Elderly Program (CSEP), and the Caregiver Support III grants.

B. The COUNTY shall reimburse the CONTRACTOR **\$60.00 per day (\$6.00 per ½ hour or \$12.00 per hour) per Consumer**, which will 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 when the Consumer is attending less than five (5) hours per day. The total payments for this Agreement will not exceed **One Hundred Ten Thousand Five Hundred Dollars (\$110,500.00)**.

C. The COUNTY funds are contingent upon availability of State and County of Oneida funding; reimbursement is payable in twelve (12) monthly vouchers as specified in the Oneida County Office for the Aging Voucher Instructions for Units of Services Contracts, attached as **APPENDIX C**.

D. The COUNTY shall not be liable for any late fees or any interest in late payments. The obligations of the PARTIES hereunder are conditioned upon the continued availability of New York State and Federal funds for the purpose 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.

E. The COUNTY reserves the right to withhold payment under this Agreement due to 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.

F. 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**

A. The CONTRACTOR shall make no claim for damages for delay of reimbursement due to an act or omission by the COUNTY.

**7. INDEPENDENT CONTRACTOR STATUS**

A. It is expressly agreed that the relationship of the CONTRACTOR and its Assistants to the COUNTY shall be that of Independent Contractors. The CONTRACTOR and its Assistants shall not



be considered employees of the **COUNTY** for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement or health benefits. The **CONTRACTOR** and its Assistants, in accordance with their status as Independent Contractors, covenant and agree that they will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the **COUNTY** by reason thereof and that 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 **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** and its 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, special training or a professional convention or meeting.

D. The **CONTRACTOR** acknowledges and agrees that neither the **CONTRACTOR**, nor its 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 the **CONTRACTOR** or its Assistants under this Agreement, and for compliance with all applicable labor and employment requirements with respect to **CONTRACTOR'S** self-employment, sole proprietorship or other form of business organization, and with respect to the Assistants, including payroll deductions, 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** 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 the Federal and State entities relating to such employment and Civil Rights requirements.

8. **NON ASSIGNMENT CLAUSE**

A. The **CONTRACTOR** shall not assign, transfer, convey, sublet or otherwise dispose of the Agreement or of its right, 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. **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 the **COUNTY**, prior to the execution of this Agreement, a list of names of subcontractors to whom the **CONTRACTOR** proposed 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.

10. **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 New York State Office for the Aging (NYSOFA), and the County of Oneida, 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 handicapped individual in the United States shall solely, by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance."

C. The **CONTRACTOR** shall comply with Article 15 and Article 15A of the Executive Law of New York State (State Human Rights Law and Minority/Women's Business Contract Requirements) and the Governor's Executive Order 28 (Prohibiting discrimination based on Sexual Orientation): "The opportunity to obtain employment without discrimination because of age, race, creed, color, national origin, gender, marital status or sexual orientation is hereby recognized as and declared to be a civil right..."

D. The **CONTRACTOR** shall comply with Title VI of the Civil Rights Act of 1964 (Public Law 38-352), and any amendment thereto: "No person in the United States shall, on the grounds of race, color, religion, gender, national origin, partisan affiliation or sexual orientation be excluded from participation in, be denied the benefits of, or be subject 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 New York State Office for the Aging 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.

#### 11. **NEW YORK STATE OFFICE FOR THE AGING (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, Federal and State regulations, and Program Standards and Program Instructions of the New York State Office for the Aging (NYSOFA) that apply to such activities, including, but not limited to:

1. Rehabilitation Act of 1973, Sec. 504 (29 U.S.C. 794, Nondiscrimination)
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
5. Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency)
6. Federal Executive Order 11246, as Amended by Executive Order 11375 (Affirmative Action); as Amended by Executive Order 12086 (Consolidation of Compliance Functions); and as Amended by Executive Order 13279 (Equal Protection for Faith-Based and Community Organizations.)
7. Executive Law, Article 15 (State Human Rights Law Prohibiting Discrimination Based on Race, Color, Creed, National Origin, Sex, Age, Disability, Sexual Orientation and Other Factors)
8. Equal Access to Services and Targeting Policy (12-PI-08)
9. 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 New York State Office for the Aging.

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 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 Area Plan, the **CONTRACTOR** agrees that it and any subcontractors will 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.

12. **GRIEVANCE PROCEDURES**

A. The **CONTRACTOR** shall implement the Oneida County Office for the Aging Grievance Procedures as required by the New York State Office for the Aging. The written procedures are attached in **APPENDIX B**.

13. **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 Services Contracts, attached as **APPENDIX C**.

C. The **COUNTY** will be responsible for sending monthly donation letters and collecting Consumer contributions for all Consumers who attend Office for the Aging and Continuing Care funded day care program. 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 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 this Agreement is terminated.

J. The **CONTRACTOR** shall follow close-out procedures administered by the **COUNTY** in accordance with the Code of Federal Regulations 45-74, as amended in 1980.

#### 14. 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 or employees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the **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, volunteers, or employees or to any other persons or damage to any property sustained during its operations and work under this Agreement resulting from any act or omission or commission or error in judgement 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 or independent subcontractors. The **CONTRACTOR** shall be solely responsible for the safety and protection of all of its employees, volunteers or other agents whether due to the negligence, fault or default of the **CONTRACTOR** or not.

15. **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 certificate 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 Additional Insured Endorsement that is part of the **CONTRACTOR'S** Commercial General Liability Policy, Auto Liability Policy, Excess/Umbrella Policy, and Workers' Compensation Policy. These certificates of insurance and policies required below shall contain a provision that coverage afforded under the policies will not be cancelled or allowed to expire until at least 30 days' prior written notice has been given to the **COUNTY**.

E. **Commercial General Liability Insurance (CGL):** The **CONTRACTOR** shall, at its own expense, at all times during the term of the Agreement, maintain in force a policy of insurance which will insure against liability for property damage and/or injury/death with regard to any property or

persons. The liability and property damage coverage of such insurance shall not be less than One Million Dollars (\$1,000,000.00) per occurrence and such insurance shall not be less than Three Million Dollars (\$3,000,000.00) annual aggregate. The **CONTRACTOR** shall have the **COUNTY** added to said insurance policy as a named additional insured, on a primary, non-contributory basis. Coverage for 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. 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. 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 exclusion to contractual liability for Employee Injury (i.e. Labor Law Exclusions)
5. The **CONTRACTOR** shall maintain CGL coverage for itself and the additional insured for the duration of the project and maintain Completed Operations coverage for itself and each additional insured for at least three (3) years after completion of the Services.

F. **Auto 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 Auto Liability Insurance in an amount equal to or greater than One Million Dollars (\$1,000,000.00) for the term of this Agreement. Business Auto Coverage must include coverage for liability arising out of all owned, leased, hired, and non-owned automobiles. The **CONTRACTOR** shall have the **COUNTY** added to said insurance policy 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 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** agrees to have the **COUNTY** added to said insurance policy 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 Employee 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 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 Requirements paragraphs.

K. Payment(s) to the **CONTRACTOR** may be suspended in the event 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 Commercial General Liability, Business Auto Liability or Workers' Compensation and Employers Liability Insurance maintained per requirements stated above.

## 16. **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 New York State Office for the Aging (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 New York State Office for the Aging'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.



17. **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.

18. **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 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 a Consumer's health or well-being. If available and appropriate, other services shall be substituted and/or coordinated on the Consumer's behalf.

19. **ENTIRE AGREEMENT**

- A. This Agreement contains the binding Agreement between **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. 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.

20. **INCOPORATION BY REFERENCE**

- A. All exhibits, addenda, appendices and attachments, to which reference is made, are deemed incorporated in this Agreement, whether or not actually attached.

21. **STANDARD ADDENDUM**

- A. The **CONTRACTOR** shall comply with the Standard Oneida County Contract Addendum which is attached hereto and made a part hereof as **APPENDIX D**.

22. **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.

23. **SUCCESSORS AND ASSIGNS**

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

24. **NON WAIVER**

A. 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.

25. **SEVERABILITY**

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

26. **AUTHORITY TO ACT/SIGN**

A. 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.


27. **ADVICE OF COUNSEL**

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

*[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.

RESOURCE CENTER FOR INDEPENDENT LIVING, INC.

  
\_\_\_\_\_  
Zvia McCormick, Chief Executive Officer


1/20/18  
\_\_\_\_\_  
Date

COUNTY OF ONEIDA

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

\_\_\_\_\_  
Date

OFFICE FOR THE AGING AND CONTINUING CARE

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

1/26/18  
\_\_\_\_\_  
Date

**Approved:**

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

\_\_\_\_\_  
Date

## APPENDIX A

The Older Americans Act (OAA) of 1965, as amended (42 U.S.C. 3001 et. seq.)  
45 CFR Part 74 (Administration of Grants)  
45 CFR Part 84 (Nondiscrimination on the basis of Handicap)  
45 CFR Part 92 (Uniform Administrative Requirements for Grant and Cooperative Agreements to State and Local Governments)  
45 CFR Part 93 (New Restrictions on Lobbying)  
45 CFR Part 1321, Subparts A-D (Grants to State and Community Programs on Aging)  
45 CFR Part 1321.61 (b)(4) (Support of State Titled VII Activities)  
Age Discrimination in Employment Act of 1975, as amended (29 USC 621, et seq.)  
Americans with Disabilities Act of 1990 (42 USC 12101, et seq.)  
Civil Rights Act of 1964, Subchap. VI, as amended by the Equal Employment Opportunity Act of 1972 (42 USC 2000e, et. seq.)  
Equal Pay Act of 1963, as amended (29 USC 206)  
Home Energy Assistance Act of 1981, as amended (42 USC 8601, et seq.)  
Rehabilitation Act of 1973, Sec. 504 (29 USC 794) (Nondiscrimination)  
Single Audit Act of 1984 (31 USC 7501, et. seq.)  
USDA Nutrition Programs for the Elderly (7 C.F.R. Secs 250.42 and 250.12 (b))  
Office of Management and Budget (OMB)  
OMB Circular A-87 (Cost Principles for State and Local Governments)  
OMB Circular A-95 (Clearinghouse Review)  
OMB Circular A-102 (Uniform administrative Requirements for Grants and Cooperative Agreements with state and Local Governments)  
OMB Circular A-110 (Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education and other Non-profit Organizations)  
OMB Circular A-122 (Cost Principles for Non-profit Organizations)  
OMB Circular A-128 (Audits of State and Local Governments)  
OMB Circular A-133 (Audits of State and Local Government and Non-Profit Organizations)  
Federal Executive Order 11246, as Amended by Executive Order 11375 (Affirmative Action)  
Article 19 - J of the Executive Law  
New York State Office for the Aging Rules and Regulations (9 NYCRR Part 6651 et. seq.)  
**New York State Office for the Aging Rules and Regulations (9 NYCRR Part 6654.20) (Social Adult Day Care)**  
Executive Law of New York State, Article 15 (State Human Rights Law)  
Executive Law of New York State, Article 15A (Minority/Women's Business contract Requirements)  
Executive Law, Section 544-A (Establishes Basic Requirements for LTCOP program under the Older Americans Act)  
Executive Law, Section 544-b (Defense and indemnification of representatives of the State Long-Term Care Ombudsman Program)  
Executive Law, Article 7-A (Registration and reporting provisions required of Charitable Organizations)  
EISEP Program Standards  
**NYS Office for the Aging's 1990 Nutrition Program Standards (90-PI-26)**  
Legal Assistance Standards (94-PI-52)  
Weatherization Referral and Packaging Program (WRAP) Handbook  
Governor's 1960 Code of Fair Practices  
Governor's Executive Order 6 (Affirmative Action Efforts)  
Governor's Executive Order 19 (Prevention of Sexual Harassment)  
Governor's Executive Order 28 (Prohibiting discrimination based on Sexual Orientation)

**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 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.



## APPENDIX D

### Standard Oneida County Contract Addendum

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

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

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

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

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

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

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

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

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

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal Grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.
2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.

b. **Debarment, Suspension and other Responsibility Matters.** As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85 Sections 83.105 and 85.110,

1. The Contractor certifies that it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - b. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contracts under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Are not presently indicated or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1(b) of this certification; and
  - d. Have not within a three-year period preceding this Contract had one or more public transactions (Federal, State, or local) for cause or default; and
2. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. The Contractor will or will continue to provide a drug-free workplace by:
    - a. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
    - b. Establishing an on-going drug-free awareness program to inform employees about:
      1. The dangers of drug abuse in the workplace;
      2. The Contractor's policy of maintaining a drug-free workplace;
      3. Any available drug counseling, rehabilitation, and employee assistance program; and
      4. The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
    - c. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (a);
    - d. Notifying the employee in the statement required by paragraph (a) that as a condition of employment under the Contract, the employee will:
      1. Abide by the terms of the statement; and
      2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
    - e. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
    - f. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
      1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the Requirements of the Rehabilitation Act of 1973, as amended; or
      2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
    - g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a),(b),(c),(d),(e),(f).

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

---

---

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

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

When applicable to the services provided pursuant to the Contract:

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

of, the County agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;

5. Make available protected health information in accordance with 45 CFR §164.524;
  6. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR § 164.528;
  7. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
  8. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by the Contractor on behalf of, the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
  9. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by the Contractor on behalf of, the County that the Contractor still maintains in any form and retain no copies of such information or, if such return or destruction is not feasible, extend the protections of this Contract to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
1. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
  2. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
  3. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

#### **5. Non-Assignment Clause.**

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

#### **6. Workers Compensation Benefits.**

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

#### **7. Non-Discrimination Requirements.**

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

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

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

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

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

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

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

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

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

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

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

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

**12. Conflicting Terms.**

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

**13. Governing Law.**

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

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

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

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

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

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

**16. Gratuities and Kickbacks.**

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

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

## **17. Audit**

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

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

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

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

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

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

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



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 315-768-3658 E-mail: ofa@ocgov.net

December 12, 2017

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

FN 20 18-075

HEALTH & HUMAN SERVICES  
**WAYS & MEANS**

Dear Mr. Picente:

I am submitting the following Memorandum of Understanding (MOU) to define and describe the roles of each of the many partners in the New York State Career Center System that operates in our local region. These partners include the Oneida County Office for the Aging and Continuing Care, the Workforce Development Board for Herkimer, Madison & Oneida Counties, Inc., the counties of Herkimer, Madison and Oneida, Youth Build Utica, New York State departments including Education and Labor, the New York State Office for Children and Families and New York State Commission for the Blind, the Community Action Program for Madison County, the Mohawk Valley Community Action Agency, Inc., and the Social Service departments of Herkimer, Madison, and Oneida counties for your review and approval.

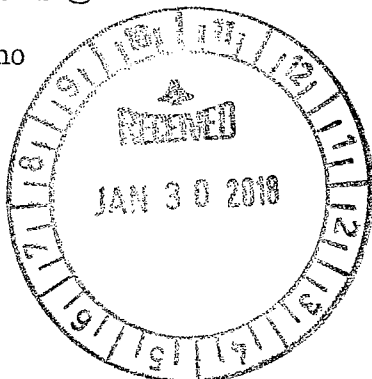
This MOU commences upon execution and ends upon termination. It includes no County funds. Should you agree with the enclosed, please forward to the Board of Legislators for consideration at their next meeting.

Please feel free to contact this office, should you have any questions regarding this Agreement.

Sincerely,

*m. romano*

Michael J. Romano  
Director



MJR/jc

Enclosure

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

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

Date 1-29-18



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: Oneida County Office for the Aging  
120 Airline Street, Suite 201  
Oriskany, New York 13424

Title of Activity or Service: New York State Career Center System

Proposed Dates of Operation: Upon execution through termination

Client Population/Number to be Served:

Summary Statements:

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

The purpose of this MOU is to provide definitions for the roles and responsibilities of each partner in the New York State Career Center System.

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

The objective is to achieve increased efficiency and cooperation between Madison, Oneida, and Herkimer counties.

**3) Program Design and Staffing;**

N/A

**Total Funding Requested:** \$ 0 **Account #:** A6772.495.120

**Oneida County Dept. Funding Recommendation:** \$0.00

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

Federal: 0% (\$0) State: 0% (\$0) County: 0% (\$0)

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

**Past Performance Data:** New contract.

**O.C. Department Staff Comments:** N/A.

## **Workforce Development Board Herkimer, Madison & Oneida Counties, Inc. (WDB)**

### **A. Intent of the Service Delivery MOU**

This MOU is meant solely to capture each partner's (as listed below) roles and responsibilities in the New York State (NYS) Career Center System ("System"). The partners executing this MOU acknowledge and agree that this document is not a contract, and the MOU does not create, or otherwise give rise to, any contractual rights or obligations between the partners and their representatives. Each partner's responsibilities, which are generally summarized in this MOU, may only be legally enforced in the event the relevant partners execute a separate joint use or collaboration agreement. The MOU memorializes, in writing, the way the partners will work collaboratively together to satisfy the federal regulations for the System and is not designed to be contractual terms and conditions that would be enforced by court order.

This MOU does not replace or supersede any prior agreements entered into by any partner described in the MOU, including but not limited to separate agreements partners have executed.

**B. This MOU was developed and executed in accordance with the MOU requirements set forth in 20 CFR 678.500, 20 CFR § 678.510(b) and Training and Employment Guidance Letter 17-16 (issued by the United State Department of Labor, Employment and Training Administration on January 18, 2017). An additional Infrastructure Funding and Shared Services MOU covering the sharing of costs for infrastructure and shared services is intended to be executed by the parties, on or before December 31, 2017 and for the purpose of complying with 20 CFR 678.500(b)(2). Parties to the Service Delivery MOU**

***Table 1: Partner Program Contact Information***

The [Name of LWDA], the CEO(s) and the following other partners are the parties to this MOU:

<b>Partner Entity or Program Name</b> (as applicable to the LWDA)	<b>Point(s) of Contact</b> (Name, title, address, email, phone)
1. Local Workforce Development Board (LWDB)	Wilber Allen, Board Chair CADimensions 6310 Fly Road East Syracuse, NY 13057 <a href="mailto:wallen@cadimensions.com">wallen@cadimensions.com</a> 315.793.6037

Partner Entity or Program Name (as applicable to the LWDA)	Point(s) of Contact (Name, title, address, email, phone)
2. Chief Elected Official (CEO)	<p>Bernard Peplinski, Sr. Chairman of Herkimer County Legislature 109 Mary St. Herkimer, NY 13350 <a href="mailto:bpep@ymail.com">bpep@ymail.com</a> 315.822.6974</p> <p>John Becker Chairman of Madison County Board of Supervisors 138 N. Court St. Wampsville, NY 13163 <a href="mailto:John.Becker@maidsoncounty.ny.gov">John.Becker@maidsoncounty.ny.gov</a> 315.366.2201</p> <p>Anthony J. Picente, Jr. Oneida County Executive 800 Park Ave. Utica, NY 13501 <a href="mailto:apicente@ocgov.net">apicente@ocgov.net</a> 315.798.5900</p>
3. Adult, Dislocated Worker (DW), and Youth under Title I of WIOA	Karin Piseck, Manager Herkimer County Employment & Training, Grant Recipient 320 N. Prospect St. Herkimer, NY 13350 <a href="mailto:kpiseck@herkimercounty.org">kpiseck@herkimercounty.org</a> 315.867.1400
4. Job Corps under Title I of WIOA	Not applicable

Partner Entity or Program Name (as applicable to the LWDA)	Point(s) of Contact (Name, title, address, email, phone)
5. YouthBuild under Title I of WIOA	<p>Alice Savino  YouthBuild Utica  209 Elizabeth St.  Utica, NY 13501  <a href="mailto:asavino@working-solutions.org">asavino@working-solutions.org</a>  315.793.6037</p> <p>Director EOC  MV YouthBuild  524 Elizabeth St.  Utica, NY 13501  <a href="mailto:slam@mvcc.edu">slam@mvcc.edu</a>  315.731.5870</p>
6. Indian and Native American Programs (INAP) under WIOA Title I	Not applicable
7. Migrant and Seasonal Farmworker Programs (MSFW) under Title I of WIOA	Not applicable
8. Adult Education and Family Literacy Act programs under Title II of WIOA (Adult Ed.)	<p>Claudia Dean, Associate in Continuing Education  NYSED  89 Washington Ave., EBA 460  Albany, NY 12234  <a href="mailto:Claudia.dean@nysed.gov">Claudia.dean@nysed.gov</a>  518.474.8940</p>
9. New York State Department of Labor (NYSDOL) administered: <ul style="list-style-type: none"> <li>• Wagner-Peyser program under Title III of WIOA (WP)</li> <li>• Trade Adjustment Assistance (TAA) under Title II of Trade Act</li> <li>• Jobs for Veterans State Grants (Vets) under Title 38, U.S.C.</li> <li>• State Unemployment Insurance (UI) programs</li> </ul>	<p>Cheryl Blask, NYSDOL Career Center Manager  Working Solutions Career Center  207 Genesee St., 2<sup>nd</sup> floor  Utica, NY 13501  <a href="mailto:Cheryl.Blask@labor.ny.gov">Cheryl.Blask@labor.ny.gov</a>  315.793.5327</p>

<b>Partner Entity or Program Name</b> (as applicable to the LWDA)	<b>Point(s) of Contact</b> (Name, title, address, email, phone)
10. Vocational Rehabilitation—Adult Career & Continuing Education Services (ACCES-VR) under Title IV of WIOA	<p>Herkimer &amp; Oneida County:            Judith Petroski, District Office Manager            207 Genesee St., Room 801            Utica, NY 13501  <a href="mailto:Judith.Petroski@nysed.gov">Judith.Petroski@nysed.gov</a>            315.793.2536</p> <p>For Madison County:            Patrick Sheppard, District Office Manager            333 East Washington Street, Room 230            Syracuse, NY 13202  <a href="mailto:patrick.sheppard@nysed.gov">patrick.sheppard@nysed.gov</a>            315-428-4179 or 800-782-6164</p>
11. Vocational Rehabilitation—Office of Children and Family Services (OCFS)/New York State Commission for the Blind (NYSCB) under Title IV of WIOA	<p>Amy Carreno, District Manager            The Atrium            100 S. Salina St., Suite 105            Syracuse, NY 13202  <a href="mailto:Amy.Carreno@ocfs.ny.gov">Amy.Carreno@ocfs.ny.gov</a>            315.423.5425</p>
12. Senior Community Service Employment Programs (SCSEP)—State Office for the Aging (SOFA) under Title V of Older Americans Act	<p>Michael Romano, Director            Oneida County Office of the Aging            120 Airline St.            Oriskany, NY 13424  <a href="mailto:mromano@ocgov.net">mromano@ocgov.net</a>            315.768.3641</p>
13. Senior Community Service Employment Programs (SCSEP)—National Grantees under Title V of Older Americans Act	<p>Iris Brown, Regional Coordinator            A4TD, Inc.            175 Central Ave, Albany NY 12206  <a href="mailto:ibrown@a4td.org">ibrown@a4td.org</a></p>
14. Career and Technical Education programs at the postsecondary level (CTE) under Perkins Career and Technical Education Act	<p>Maritza Vega, Associate            NYSED            89            Washington Ave., EBA971            Albany, NY 12234            518.474.3719  <a href="mailto:Maritza.vega@nysed.gov">Maritza.vega@nysed.gov</a></p>

<b>Partner Entity or Program Name</b> (as applicable to the LWDA)	<b>Point(s) of Contact</b> (Name, title, address, email, phone)
15. Community Services Block Grants (CSBG) employment & training	<p>Amy Turner, Executive Director            Mohawk Valley Community Action            9882 River Rd.            Utica, NY 13502  <a href="mailto:aturner@mvcaa.com">aturner@mvcaa.com</a>            315.624.9930</p> <p>Antara Mitra, Executive Director            Community Action Program for            Madison County Inc.            3 East Main St, PO Box 249            Morrisville, NY 13408  <a href="mailto:amitra@capmadco.org">amitra@capmadco.org</a>            315.697.3588 Ext. 40</p>
16. Housing and Urban Development (HUD) employment & training	Not applicable
17. Re-entry Employment Opportunities (REO) programs under Second Chance Act	Not applicable
18. Temporary Assistance for Needy Families (TANF) employment & training under part A of Title IV of Social Security Act	<p>Timothy Seymour, Commissioner            Herkimer County DSS            301 N. Washington St., Suite 2110            Herkimer, NY 13350  <a href="mailto:Timothy.Seymour@dfa.state.ny.us">Timothy.Seymour@dfa.state.ny.us</a>            315.867.1222</p> <p>Michael Fitzgerald, Commissioner            Madison County DSS            133 N. Court St.            Wampsville, NY 13163  <a href="mailto:Michael.Fitzgerald@dfa.state.ny.us">Michael.Fitzgerald@dfa.state.ny.us</a>            315.366.2248</p> <p>Lucille Soldato, Commissioner            Oneida County DSS            800 Park Ave.            Utica, NY 13501  <a href="mailto:lsoldato@ocgov.net">lsoldato@ocgov.net</a>            315.798.5733</p>
19. [Additional partner approved by LWDB and CEO]	Not applicable

## C. System Design and Services

### 1. Service Provision Locations/Resources

**Table 2: Service Provision Locations**

Type of Location (Comprehensive/Affiliate/ Specialized /Eligible Partner Program Site/ Self-Service Resource)	Location or Self-Services Resource Name	Location Contact (Address, web address, phone)
1. Comprehensive Center	<p>Utica Working Solutions Career Center</p> <p>Rome Working Solutions Career Center</p> <p>Herkimer Working Solutions Career Center</p> <p>Madison County Working Solutions Career Center</p>	<p>207 Genesee St, 2<sup>nd</sup> floor Utica, NY 13501 315.793.2229 <a href="http://www.working-solutions.org">www.working-solutions.org</a></p> <p>300 West Dominick St, Suite 1 Rome, NY 13440 315.356.0662 <a href="http://www.working-solutions.org">www.working-solutions.org</a></p> <p>320 N. Prospect St. Herkimer, NY 13350 315.867.1400 <a href="http://www.working-solutions.org">www.working-solutions.org</a></p> <p>133 N. Court St. Wampsville, NY 13163 315.363.2400 <a href="http://www.working-solutions.org">www.working-solutions.org</a></p>
2. Self-Service Resource	Job Zone	<a href="https://www.jobzone.ny.gov/views/jobzone/guests.jsf">https://www.jobzone.ny.gov/views/jobzone/guests.jsf</a>
3. Self-Service Resource	Career Zone	<a href="https://www.jobzone.ny.gov/views/jobzone/guests.jsf">https://www.jobzone.ny.gov/views/jobzone/guests.jsf</a>
4. Eligible Partner Program Site	YouthBuild	<p>Alice Savino YouthBuild Utica 209 Elizabeth St. Utica, NY 13501 <a href="mailto:asavino@working-solutions.org">asavino@working-solutions.org</a> 315.793.6037</p> <p>Director EOC MV YouthBuild 524 Elizabeth St. Utica, NY 13501</p>

Type of Location (Comprehensive/Affiliate/ Specialized /Eligible Partner Program Site/ Self-Service Resource)	Location or Self-Services Resource Name	Location Contact (Address, web address, phone)
		<a href="mailto:slam@mvcc.edu">slam@mvcc.edu</a> 315.731.5870.
Eligible Partner Program Site	Adult Education and Family Literacy Act programs under Title II of WIOA (Adult Ed.)	Claudia Dean, Associate in Continuing Education NYSED 89 Washington Ave., EBA 460 Albany, NY 12234 <a href="mailto:Claudia.dean@nysed.gov">Claudia.dean@nysed.gov</a> 518.474.8940
Eligible Partner Program Site	Vocational Rehabilitation—Office of Children and Family Services (OCFS)/New York State Commission for the Blind (NYSCB) under Title IV of WIOA	Amy Carreno, District Manager The Atrium 100 S. Salina St., Suite 105 Syracuse, NY 13202 <a href="mailto:Amy.Carreno@ocfs.ny.gov">Amy.Carreno@ocfs.ny.gov</a> 315.423.5425
Eligible Partner Program Site	Community Services Block Grants (CSBG) employment & training	Amy Turner, Executive Director Mohawk Valley Community Action 9882 River Rd. Utica, NY 13502 <a href="mailto:aturner@mvcaa.com">aturner@mvcaa.com</a> 315.624.9930  Antara Mitra, Executive Director Community Action Program for Madison County Inc. 3 East Main St, PO Box 249 Morrisville, NY 13408 <a href="mailto:amitra@capmadco.org">amitra@capmadco.org</a> 315.697.3588 Ext. 40
Eligible Partner Program Site	Senior Community Service Employment Programs (SCSEP)—National Grantees under Title V of Older Americans Act	Iris Brown, Regional Coordinator A4TD, Inc. 175 Central Ave, Albany NY 12206 <a href="mailto:ibrown@a4td.org">ibrown@a4td.org</a> <a href="http://www.a4td.org">www.a4td.org</a>
Eligible Partner Program Site	Temporary Assistance for Needy Families (TANF) employment & training under part A of title IV of Social Security Act	Michael Fitzgerald, Commissioner Madison County DSS 133 N. Court St. Wampsville, NY 13163 <a href="mailto:Michael.Fitzgerald@dfa.state.ny.us">Michael.Fitzgerald@dfa.state.ny.us</a> 315.366.2248  Lucille Soldato, Commissioner



<b>Type of Location</b> (Comprehensive/Affiliate/ Specialized /Eligible Partner Program Site/ Self-Service Resource)	<b>Location or            Self-Services Resource Name</b>	<b>Location Contact</b> (Address, web address, phone)
		Oneida County DSS 800 Park Ave. Utica, NY 13501 <a href="mailto:lsoldato@ocgov.net">lsoldato@ocgov.net</a> 315.798.5733

**2. Common Identifier for Branding**

Partners will use/incorporate the nation’s designated branding, “American Job Center network” or “A Proud Partner of the American Job Center network” on branded electronic resources and any newly printed, purchased or created materials.

**3. Applicable Career Services Coordination and Delivery**

In the following Table 3 of Applicable Career Services, columns labeled INAP, MSFW, HUD E&T, 2<sup>nd</sup> Chance and Job Corps are not available in the WDB Workforce Area.

Table 3 : Applicable Career Services

Required Programs	Adult	DW	Youth	Adult Ed	WP	ACCES-VR	NYSCB	SCSEP	TAA	UI	Vets E&T	CTE	INAP	MFSW	CSBG E&T	HUD E&T	2 <sup>nd</sup> Chance	Job Corps	Youth Build	TANF E&T	
<b>Basic Career Services</b>																					
Eligibility for Title I services	X	X	X		X				X		X								X		
Outreach, intake, system orientation	X	X	X	X	X	X	X	X	X	X	X	X		X	X				X	X	X
Initial assessment	X	X	X	X	X	X		X	X		X	X			X				X	X	X
Labor exchange services	X	X	X		X			X	X		X			X	X						X
Referrals to programs	X	X	X	X	X	X	X	X	X		X	X		X	X				X	X	X
Labor market information	X	X	X		X			X	X		X										
Performance on local workforce system	X	X	X		X																
Performance & program cost of Eligible Providers	X	X							X		X										
Referrals to supportive services	X	X	X	X	X	X	X	X	X		X	X		X	X				X	X	X
UI information and assistance	X	X	X		X				X		X										
Financial aid information	X	X	X	X		X	X		X		X	X			X				X		
<b>Individualized and Follow-Up Career Services</b>																					
Comprehensive assessment	X	X	X	X	X	X	X	X	X	X	X	X							X	X	X
Individual employment plan	X	X	X		X	X	X	X	X		X			X					X	X	X
Career planning & counseling	X	X	X	X	X	X	X	X	X		X	X			X				X	X	X
Short-term pre-vocational services	X	X	X			X	X				X	X			X				X	X	X
Internships and work experiences	X	X	X			X	X	X	X		X	X			X				X	X	X
Out of area job search and relocation assistance	X	X	X		X	X	X		X		X								X	X	X
Financial literacy services	X	X	X	X		X	X								X				X	X	X
English language acquisition and integrated education	X	X	X	X					X			X			X				X	X	X
Workforce preparation	X	X	X	X					X			X			X				X	X	X
Follow-up services	X	X	X	X				X			X			X					X	X	X

Applicable Career Services listed in Table 3 are provided in the local area through one-on-one appointments, group orientations, and self-service resources and are defined below. In the following definitions, “customer” is equivalent to participant, consumer, client, student, or recipient, as used by the various partners. Where appropriate, partners who provide the same Applicable Career Services agree to deliver those services in a coordinated manner with appropriate points of contact, meaningful referrals, and through the required service delivery coordination role of the One-Stop System Operator.

### ***Basic Career Services***

(20 CFR §678.430(a) and §678.435)

- **Eligibility for Title I Services** – Determination of whether a customer is eligible to receive services from the Adult, Dislocated Worker, or Youth programs.
- **Outreach, Intake, and System Orientation** – Outreach is intended to promote awareness of the availability of the System services to/for individuals and businesses that may need these services. Intake and System orientation is the process of gathering basic information to determine the program(s) appropriate for the customer, and providing the customer with information on the services available to determine if he/she is interested in pursuing those services.
- **Initial Assessment** – The collection and assessment of information on a customer’s skill levels, including literacy, numeracy, and English language proficiency; work history; employment barriers; employment goal(s) and occupational knowledge; supportive service needs; and whether referrals to other programs are appropriate or necessary.
- **Labor Exchange Services** – Providing job search and placement services to the customer, including but not limited to, information on in-demand industry sectors and occupations and non-traditional employment, when appropriate; development of a work search plan; placement in workshops; posting jobs on the state job bank; providing job matching and referrals; and advising how to maintain a record of job search.

In some instances, programs may require their customers to maintain and submit a log detailing the amount of time spent on job search activities including identifying, applying, and interviewing for potential jobs, and time spent preparing and sending follow-up material to businesses.

Labor exchange services also include appropriate recruitment and other business services, which may include, but are not limited to, customized screening and referral of qualified customers in training services to businesses; customized services to businesses, business associations, or other such organizations, on employment-related issues; customized recruitment events for businesses and targeted job fairs; human resource consultation services which may include writing/reviewing job descriptions and employee handbooks, developing performance evaluations and personnel policies, creating orientation sessions for new employees, honing job interview techniques for efficiency and compliance, analyzing employee turnover, creating job accommodations and using assistive technologies, and explaining labor law to help businesses comply; and customized labor market information for specific businesses, sectors, industries, or clusters.

- **Referrals to Programs** – Referrals and coordination of activities with other appropriate programs and services that meet specific customer needs, assist them in overcoming barriers to employment, and provide services to gain/retain employment. These other programs and

services may include, but are not limited to, employment and training services; treatment for alcohol, substance abuse or mental health issues; Unemployment Insurance benefits; Workers' Compensation; NYS Disability Insurance; and vocational rehabilitation services.

- **Labor Market Information** – Staff provides workforce and labor market employment statistics to assist job seeking customers in the development of employment goal(s) and businesses in the development and implementation of sector partnerships and career pathways. The employment statistics include local, regional, and national labor market conditions; career counseling and career exploration services; characteristics of industries, occupations, and the workforce area; business-identified skill needs; short and long-term industry and occupational growth and salary projections; worker supply and demand; and high-growth and high-demand industries.
- **Performance on the Local Workforce System** – The provision of information, in usable and understandable formats and languages, about how the local area is performing on local performance accountability measures, as well as any additional performance information relating to the area's NYS Career Center System.
- **Performance and Program Cost of Eligible Providers** – The provision of performance information and program cost information on eligible providers of education, training, and workforce services by program and type of provider.
- **Referrals to Supportive Services** – Staff provides customers with referrals to supportive services that enable the customer to participate in authorized WIOA activities. Based on various partners' programmatic rules and regulations, these supportive services may include, but are not limited to, transportation; child care; dependent care; housing; needs related payments; interpreter services; reasonable accommodation for youth with disabilities; legal aid services; assistance with uniforms or other appropriate work attire; assistance with books, fees, and school supplies; payments and fees for employment and training related applications, tests, and certifications; and tools or instruments. Depending on the program, when appropriate, information may also be provided to customers on how to continue these supportive services after program services are completed.
- **Unemployment Insurance (UI) Information and Assistance** – Career Center and UI staff provides information and meaningful assistance to individuals seeking assistance in filing a claim for unemployment compensation. Meaningful assistance means providing assistance on-site using staff that is well trained in UI compensation claims filing and the rights and responsibilities of claimants or providing assistance by phone or via other technology as long as the assistance is provided by trained and available staff within a reasonable time.
- **Financial Aid Assistance** – Providing assistance in establishing eligibility, accessing, and applying for programs of financial aid for training and education programs not provided under WIOA.

#### ***Individualized Career Services***

(20 CFR §678.430(b))

- **Comprehensive Assessment** – Staff conducts a specialized assessment of a job seeker's barriers to employment, occupational and employment goal(s), educational and skill levels, and personal circumstance to determine his/her service needs. This may include diagnostic testing and use of other assessment tools, and in-depth interviewing and evaluation. Under WIOA Title I, the

comprehensive assessment is used to develop the Individual Employment Plan (IEP), while under Title IV, it is used to develop the Individualized Plan for Employment (IPE).

- **Individual Employment Plan (IEP)/Individualized Plan for Employment (IPE)** – The IEP/IPE identifies the appropriate employment goal(s) chosen by the customer. The initial and comprehensive assessment is used to develop the IEP/IPE in consultation with the customer. The plan outlines the necessary services to be provided to achieve the planned goals; steps and timelines for achieving the goals; and the terms, conditions, and responsibilities associated with the plan. The IEP for Title I Adult/DW/Youth programs also includes information about eligible training providers, when applicable. The IPE for Title IV Vocational Rehabilitation Programs must also include those specific rehabilitation services needed to achieve the employment outcome, including assistive technology devices and services, when applicable.
- **Career Planning and Counseling** – One-on-one or intensive career planning and counseling with a professional counselor uses initial and comprehensive assessments and the IEP/IPE, and aims at enhancing job seeking and retention skills and career advancement of customers by:
  - i. Helping the customer analyze and understand career information, and gain a better understanding of his/herself using career information gained through assessment tools and counseling strategies to more realistically choose or change short and long-term occupational goals; and
  - ii. Preparing service strategies to assist in the achievement of occupational goal(s) and to ensure customers have access to necessary workforce activities and supportive services, which may include, but are not limited to, drug and alcohol abuse counseling, mental health counseling, and referrals to partner programs appropriate to the needs of the customer.

Counseling may also include notification of available training in entrepreneurial skills which may include, but is not limited to, taking initiative; creatively seeking out and identifying business opportunities; developing budgets and forecasting resource needs; understanding options for acquiring capital; and communicating effectively to market oneself and ideas.

- **Short-term Pre-Vocational Services** – Development of skills customers need to live independently and enter the workforce fully prepared to engage in employment. These services may include academic education and job readiness trainings for development of work readiness skills, including but not limited to, learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, higher-order reasoning, problem-solving skills, work attitudes, and professional conduct.
- **Internships and Work Experience** – Based on partners' programmatic rules and regulations, the work experience is a planned, structured learning experience, in most cases linked to a career, that takes place in a private for-profit, non-profit or public sector workplace. For most partner programs, work experiences may be in the form of internships, work-study, externship, on-the-job training, apprenticeship, summer employment for youth, and/or other work placement opportunities. The purpose of a work experience is to provide the customer with an understanding of the work environment and job responsibilities, specific work skills, and experience on how the customer performs in the work setting. WIOA Title I Youth work experiences also include an academic and occupational education component. Partners follow all

applicable work experience requirements for their respective program's State and Federal rules and regulations

- **Out of Area Job Search and Relocation Assistance** – Staff provides information on labor exchange activities in other local areas, regions, or states and whether businesses the customer may be interested in offer assistance with relocation. Allowable relocation expenses may be paid to eligible customers by the appropriate program.
- **Financial Literacy Services** – Educate and support customers to gain the knowledge, skills, and confidence to make informed financial decisions that enable them to attain greater financial health and stability by using high quality relevant learning strategies. The learning, where possible, may include, but is not limited to, creating a budget; initiating checking and/or savings accounts at banks; learning how to effectively manage spending, credit, and debt; learning how to protect against identity theft; and benefits advisement. These services may also include opportunities to put financial literacy lessons into practice, based on the needs of the customer.
- **English Language Acquisition and Integrated Education** – Adult Education staff provides an integrated program of services that incorporates English literacy and civics education concurrently and contextually with workforce preparation and training for a specific occupation/sector for the purpose of educational and career advancement of customers. These services allow customers to attain economic self-sufficiency and are designed for partnerships among adult education programs and postsecondary educational institutions, training providers, and/or businesses. Other partners provide direct linkages and information on how to locate and enroll in English as a Second Language (ESL) or English for Speakers of Other Languages (ESOL) classes.
- **Workforce Preparation** – Activities to help an individual acquire a combination of basic academic skills, critical thinking skills, digital literacy skills, and self-management skills, including competencies in utilizing resources, using information, working with others, understanding systems, and obtaining skills necessary for successful transition into and completion of postsecondary education, training, or employment and other employability skills that increase an individual's preparation for the workforce. For Adult Education these activities are incorporated into all literacy instruction.

#### ***Follow-Up Services***

(20 CFR §678.430(c))

Depending upon the individual partner's programmatic rules and regulations, follow-up services may include counseling regarding the workplace for customers in adult or dislocated worker programs, who are placed in unsubsidized employment, for up to 12 months after the first day of employment. For youth programs, the follow-up services include critical services provided following a youth's exit from the program to help ensure the youth is successful in employment and/or postsecondary education and training. These services may include regular contact with a youth's business and education provider, including assistance in addressing work-related or education-related problems that arise.

#### **4. Referral of System Customers**

Partners agree to:

- Participate in a customer focused referral system that seamlessly accesses resources from involved partners to increase quality outcomes. Partners agree to communicate regarding the status of interagency referrals.
- Offer customers information on how to apply for a partner's services and/or arrange an appointment for the customer.
- Continually develop agreed-upon standards and protocols for making quality referrals between program partners.
- Identify a partner referral liaison for each System partner.
- Provide ongoing training to all partner frontline staff in partner services and eligibility.
- Consistently strategize to improve referrals toward a standard of real-time referrals to all applicable local program partners.

## **5. Confidentiality**

Partners agree to the requirements of their individual program in making customer information available to a partner program. Customer information, for the purpose of making a referral to a partner program, will only be shared in accordance with each partner's respective confidentiality requirements. Information will be shared within a reasonable timeframe.

Information may only be shared by the Vocational Rehabilitation partners with a signed written release from the customer. The time limited release form will specify the information that can be released and to whom the information can be released.

Personally identifiable information obtained from customers of specific programs during outreach, intake, system orientation, initial assessment, referral to a partner programs, referral to supportive services, or otherwise is confidential and will not be released, disclosed or re-disclosed without obtaining the proper program specific release. Programs for which program specific releases may be required to ensure customer confidentiality include but are not limited to TANF, NYSDOL programs, and Vocational Rehabilitation programs.

## **6. System Access**

HMO MOU Partners will provide access to all services through a variety of methods including a referral system that includes:

- A "warm handoff" with a personal introduction by a staff member when two partners are in the same center,
- An immediate phone call while the customer is still at the staff person's desk to set up an appointment with another partner organization that is not located in the Center,
- Access to a private location for a customer to talk by phone or videoconference or skype to staff at another partner organization not located in the Center.
- A referral sheet indicating which agency or agencies they are being referred to, accompanied by a brochure that lists the services that are provided by the agencies.

- Follow-up with referral agencies regarding the referral, especially for youth and customers with barriers to employment, will be made, following all confidentiality requirements.

In a Comprehensive Career Center, at a minimum, staff will provide direct linkage (i.e., direct connection within a reasonable time by phone or real-time web-based technology to program staff that can provide program information to the customer).

In compliance with the Americans with Disabilities Act and section 188 of WIOA, partners will provide individuals with disabilities with physical and programmatic accessibility to facilities, programs, services, technology and materials, including appropriate staff training and support.

Partners commit to periodically reassess program accessibility and adjust strategies to improve access as needed.

The partners recognize that NYS Human Rights Law prohibits discrimination or harassment against any employee, applicant for employment or customer due to age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status of any individual.

The partners understand that the NYS Human Rights Law affords protections from employment discrimination for persons with prior conviction records, or prior arrests, youthful offender adjudications, or sealed records.

#### D. Applicable Career Services System Operating Budget

**Table 4: Applicable Career Services System Operating Budget**

Partner Entity Name (as applicable to the LWDA)	Average Annual Budget to Support the System
1. Adult/DW/Youth	\$ 2,394,335
2. Job Corps	Not applicable
3. YouthBuild	\$ 1,089,807 – Utica \$ 1,096,117 - Mohawk Valley
4. INAP	Not applicable
5. MSFW	Not applicable
6. Adult Ed.	\$ 728,958
7. NSYDOL administered programs (WP, TAA, Vets, UI)	\$ 2,763,600
8. ACCES-VR	\$ 1,485,172
9. OCFS/NYSCB	\$ 505,402
10. SCSEP— SOFA	\$ 62,191
11. SCSEP—National Grantee	\$ 455,806
12. CTE, postsecondary level	\$ 616,748
13. CSBG employment & training	\$ 57,877 - Madison \$ 75,000 - Herkimer & Oneida



Partner Entity Name (as applicable to the LWDA)	Average Annual Budget to Support the System
14. HUD employment & training	Not applicable
15. Re-entry Employment Opportunities (REO) grantee(s)	Not applicable
16. TANF employment & training	\$ 544,203 – Madison \$ 1,502,480 - Oneida \$ 526,193 - Herkimer
17. [Other partner approved by the LWDB and CEO]	Not applicable
<b>Total</b>	<b>\$ 13,903,889</b>

### E. General Provisions and Assurances for the Service Delivery MOU

The Service Delivery MOU is a product of local discussion and negotiation. This MOU shall be in effect from July 1, 2017 and shall remain in effect until all partners to this MOU agree to modify it, as necessary, with written mutual consent. This MOU will be reviewed and re-implemented not less than once every three (3) years from the effective date to ensure appropriate funding and delivery of services, and every three (3) years thereafter. In the event that it becomes necessary for one or more partners to cease being a part of this MOU, the partner(s) shall notify the other partners, in writing, 30 days in advance of that intention.

In the event of changes in State and/or Federal law, which necessitate changes to this MOU, the MOU shall be automatically amended to comply with the current law while still furthering the intent of the MOU. The partners will collaborate to amend the MOU to comply with the State and/or Federal requirements.

This MOU may be executed in counterparts, which together shall constitute an original MOU. This MOU shall not be deemed valid until executed by all partners.

### F. Signatures for the Service Delivery MOU

The following parties acknowledge the terms and conditions of this Service Delivery MOU (this does not include the infrastructure funding and shared services costs):

**Signatures for the Service Delivery MOU**  
**Local Workforce Development Board (LWDB)**

\_\_\_\_\_  
Wilber Allen, Chair Workforce Development Board Herkimer,  
Madison & Oneida Counties, Inc. Chair

\_\_\_\_\_  
Date

**Signatures for the Service Delivery MOU**  
**CEO Herkimer County**

\_\_\_\_\_  
Bernard Peplinski, Sr. Chairman of the Herkimer County Legislature

\_\_\_\_\_  
Date

**Signatures for the Service Delivery MOU**  
CEO Madison County

\_\_\_\_\_  
John Becker, Chairman of Madison County Board of Supervisors

\_\_\_\_\_  
Date

**Signatures for the Service Delivery MOU**  
**CEO Oneida County**

---

Anthony J. Picente, Jr. Oneida County Executive

---

Date

**Signatures for the Service Delivery MOU**  
Title/Adult/DW/Youth

---

Karin Piseck, Grant Recipient Manager

---

Date

**Signatures for the Service Delivery MOU**  
**Youth Build Utica**

---

Alice Savino, Executive Director Youth Build

---

Date

**Signatures for the Service Delivery MOU**  
**Title II – Adult Education, NYSED**

\_\_\_\_\_  
Elizabeth R. Berlin, Executive Deputy Commissioner

\_\_\_\_\_  
Date



**Signatures for the Service Delivery MOU**  
**NYSDOL**

\_\_\_\_\_  
Mario Musolino, Executive Deputy Commissioner

\_\_\_\_\_  
Date

**Signatures for the Service Delivery MOU**

**NYS Office for Children and Families/NYS Commission for the Blind (OCFS/NYCB)**

\_\_\_\_\_  
Derek Holtzclaw, Associate Commissioner for Financial Management

\_\_\_\_\_  
Date

**Signatures for the Service Delivery MOU**  
**SCSEP - SOFA**

\_\_\_\_\_

Pat Fulmer, President/CEO

\_\_\_\_\_

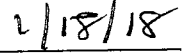
Date

**Signatures for the Service Delivery MOU**

**State Office for the Aging (SOFA), Senior Employment Program (SCSEP)**



Michael Romano, Director  
Oneida County Office of the Aging



Date

**Signatures for the Service Delivery MOU**  
**Community Action E&T, Department of State**

---

Antara Mitra, Executive Director  
Community Action Program for Madison County

---

Date

**Signatures for the Service Delivery MOU**  
**Community Action E&T, Department of State**

\_\_\_\_\_  
Amy Turner, Executive Director  
Mohawk Valley Community Action Agency, Inc.

\_\_\_\_\_

Date

**Signatures for the Service Delivery MOU**  
**TANF E&T – Herkimer County DSS**

---

Timothy Seymour, Commissioner

---

Date

**Signatures for the Service Delivery MOU**  
**TANF E&T – Madison County DSS**

\_\_\_\_\_  
Michael Fitzgerald, Commissioner

\_\_\_\_\_  
Date



**Signatures for the Service Delivery MOU**  
**TANF E&T – Oneida County DSS**

---

Lucille Soldato, Commissioner

---

Date

**Signatures for the Service Delivery MOU**  
**Title IV- ACCES-VR, New York State Education Department**

\_\_\_\_\_  
Elizabeth R. Berlin, Executive Deputy Commissioner

\_\_\_\_\_  
Date

**Signatures for the Service Delivery MOU**  
Title II- CTE NYSED

\_\_\_\_\_  
Elizabeth R. Berlin, Executive Deputy Commissioner

\_\_\_\_\_  
Date

# ONEIDA COUNTY HEALTH DEPARTMENT

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

ANTHONY J. PICENTE, JR.  
ONEIDA COUNTY EXECUTIVE



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

## ADMINISTRATION

Phone: (315) 798-6400 • Fax: (315) 266-6138 • Email: [publichealth@ocgov.net](mailto:publichealth@ocgov.net)

November 17, 2017

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

FN 20 18 - 076

HEALTH & HUMAN SERVICES

## WAYS & MEANS

Dear County Executive Picente:

Attached is an agreement amendment that requires both Board of Legislators action and your signature between the Oneida County Health Department and Building Blocks Learning Center, LLC. This agreement provides funding for the provision of related services of Speech Language Pathology, Occupational Therapy and Physical Therapy for Preschool Students with Disabilities. The original agreement term began July 1, 2015 and ends June 30, 2018. This amendment will provide additional funds for the period beginning September 1, 2017 through June 30, 2018.


I am respectfully requesting that this agreement for the Building Blocks Learning Center, LLC., be approved as a template amendment for all Related Services contracts listed below. All of the amendments for the agencies listed below contain the same content and have the same purpose, with the exception of agency name, locality and dollar amount.

The total additional funding for the amendment to agreements for Preschool Related Services is \$960,000, distributed as follows:

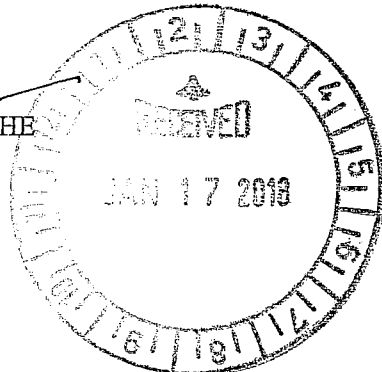
Building Blocks Learning Center, LLC, 19 Robinson Road, Clinton, NY 13323	\$300,000
ARC of Oneida-Lewis Chapter NYSARC, Inc. 245 Genesee Street, Utica, NY 13501	\$60,000
Building Blocks Comprehensive Services, Inc. 275 Parrish Street, Canandaigua, NY 14424	\$50,000
The Network for Children's Speech, Occupational and Physical Therapy, LLC, 171 Intrepid Lane, Syracuse, NY 13205	\$250,000
Rene Snyder, 19 Westminster Road, Utica, NY	\$50,000
Upstate Cerebral Palsy, Inc., 1020 Mary Street, Utica NY, 13501	\$250,000

Thank you for your personal attention to this matter. Should you have any further questions, please contact my office.


Sincerely,

  
Phyllis D. Ellis, MS, FACHE  
Director of Health

pb



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

  
Anthony J. Picente, Jr.  
County Executive

Date 1-16-18

Oneida Co. Department: Public Health

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

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name & Address of Vendor:** Building Blocks Learning Center, LLC  
19 Robinson Road  
Clinton, NY 13323

**Title of Activity or Service:** Amendment to the Original Agreement to approve an increase to the original funding amount

**Proposed Dates of Operation:** September 1, 2017 to June 30, 2018

**Client Population/Number to be Served:** Preschool eligible children

**Summary Statements**

- 1) **Narrative Description of Proposed Services:** The Oneida County Health Department contracts with program providers and individual therapists who are qualified to provide services of Speech Language Pathology, Occupational Therapy and Physical Therapy for Preschool Students with Disabilities. **Due to an increased number of children enrolled for these services, an increase in funding is necessary to allow for reimbursement to the vendor of services.**
- 2) **Program/Service Objectives and Outcomes:** Remediation of students with disabilities
- 3) **Program Design and Staffing:** N/A

**Total Funding Requested:** \$300,000.00      **Account #** A2960.1953

**Oneida County Dept. Funding Recommendation:** \$300,000.00

**Proposed Funding Sources (Federal \$/ State \$/County \$):** County: 40.5%, State 59.5%

**Cost Per Client Served:** This amount varies based on the recommendations of the Committee on Preschool Special Education for each individual child. Rates are set by the New York State Department of Education.

**Past Performance Data:** \$148,000.00

**O.C. Department Staff Comments:** The addition of \$300,000 in funding for this vendor will bring the contract's not-to-exceed amount to \$850,000 for the life of the contract whose full term runs from September 1, 2015 to June 30, 2018.

PRESCHOOL RELATED SERVICES SECOND AMENDMENT

THIS SECOND AMENDMENT is by and between County of Oneida, a New York municipal corporation, having its principal offices at 800 Park Avenue, Utica, New York, through its Health Department, located at 185 Genesee St. Utica, NY 13501, hereinafter collectively referred to as the "County," and Building Blocks Learning Center, LLC, 19 Robinson 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 performs the Related Services function for the County's Education and Transportation of Handicapped Children Program, hereinafter referred to as the "Original Agreement" (County contract no. 2048), a copy of which is attached hereto as Exhibit A. The Original Agreement is in effect from September 1, 2015 until June 30, 2018; and

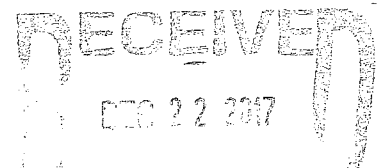
WHEREAS, the parties amended the Original Agreement, effective July 1, 2016, by which the parties amended the ONEIDA COUNTY RELATED SERVICE RATES SCHEDULE, which was attached to the Original Agreement and incorporated therein, hereinafter referred to as the "First Amendment" (County contract no. 11037), a copy of which is attached hereto as Exhibit B; and

WHEREAS, this program is supported by funds from the New York State Department of Education and the New York State Department of Education sets the rate(s) of compensation for said services; and

WHEREAS, due to an unanticipated increase in the number of children served by the Contractor since the commencement of the Original Agreement, there is a need to amend section 2 of the Original Agreement, entitled "Rates," which addresses how the County pays the Contractor; and

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

1. This Second Amendment will be effective September 1, 2017.
2. Section 2 of the Original Agreement, entitled "Rates," shall be replaced with the following language:



Upon submission of a completed County voucher and required supporting documentation as discussed below for services rendered, the County shall pay the Contractor the rates set forth in the ONEIDA COUNTY RELATED SERVICE RATES SCHEDULE, attached hereto and incorporated herein in full. Any rate changes during the life of this Contract will be submitted as amendments to this Contract. Compensation to the Contractor shall not exceed \$850,000 during the term of this Contract.

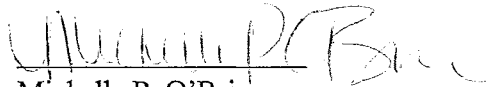
3. All other terms of the Original Agreement and the First Amendment remain in effect without change or alteration.

IN WITNESS WHEREOF the County and the Contractor have signed this Second Amendment on the day and year first above written.

COUNTY OF ONEIDA

CONTRACTOR

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

By:   
Michelle P. O'Brien  
Building Blocks Learning Center LLC

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

DATE: 12/7/2017

Approved

\_\_\_\_\_  
Raymond F. Bara  
Assistant County Attorney



## ONEIDA COUNTY PRESCHOOL RELATED SERVICE CONTRACT

This Contract, by and between the COUNTY OF ONEIDA, through its Department of Health, a municipal corporation of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York, hereinafter referred to as the County, and Building Blocks Learning Center, LLC, 19 Robinson Road Clinton, New York 13323, hereinafter referred to as the Contractor.

### WITNESSETH:

**WHEREAS**, the County is in need of the provision of related services to preschool children with disabilities pursuant to Section 4410 of the New York State Education Law and Part 200 of the Regulations of the Commissioner of Education, through the County's Education of Handicapped Children Program.

**WHEREAS**, the Contractor has been approved by the Commissioner of Education of the State of New York to provide the above named special education service in accordance with Section 4410 of the New York State Education Law and in compliance with 8 NYCRR Part 200, to an eligible preschool student with a disability, as recommended by the Committee on Preschool Special Education (CPSE) AND approved by the Board of Education (BOE) from the child's resident school district.

**NOW, THEREFORE**, the parties hereto mutually agree as follows:

### 1. TERM OF AGREEMENT

This contract shall become effective September 1, 2015 and shall terminate on June 30, 2018, conditioned upon the continued availability of Federal and/or New York State funds for the purpose set forth in this contract.

### 2. RATES

Upon submission of a completed County voucher and required supporting documentation as discussed below for services rendered, the County shall pay the Contractor the rates set forth in the ONEIDA COUNTY RELATED SERVICE RATES SCHEDULE, attached hereto and incorporated herein in full. Any rate changes during the life of this contract will be submitted as amendments to this contract. Compensation to the Contractor shall not exceed Five Hundred Fifty Thousand Dollars and no cents (\$550,000.00) during the term of this contract.

### 3. TERMINATION

- **BY CONTRACTOR:** Should the Contractor request termination of this contract, a written notice of any such termination shall be provided to the County by the Contractor not less than ninety (90) days prior to the intended effective date of such action. In the event of such termination, the parties shall adjust the accounts due and the Contractor shall undertake no additional expenditures not already required.
- **BY COUNTY:** This contract may be terminated at any time by the County upon ten (10) days written notice to the Contractor. However, in the event the Contractor defaults in the performance of any of its obligations under this contract, the County may terminate the contract effective upon written notice at any time. Furthermore, should funds become unavailable or should appropriate Federal or New York State officials fail to approve sufficient funds for completion of the services or programs set forth in this Contract, the County shall have the option to immediately terminate this Contract upon providing written notice to the Contractor. In such 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.

### 4. SCOPE OF SERVICES

Services performed pursuant to this contract shall be provided in accordance with Section 4410 of the New York State Education Law and in compliance with the regulations of the Commissioner of Education of the State of New York set forth in 8 NYCRR 200.



- a. The Contractor shall provide appropriate Related Services for children with disabilities delivered on an itinerant basis subject to New York State Education Department (SED) and Board of Education (BOE) approval. The parties hereto agree that "Related Services" as used herein shall have the same meaning as that term is defined in section 4410 of the New York State Education Law and 8 NYCRR 200.1(qq).
- b. The Contractor shall provide Related Services for children with disabilities during the school year. The school year is hereby defined as a July/August session from July 1 through August 31 and/or a September/June session from September 1 through June 30.
- c. **The Contractor cannot begin providing Related Services to a child with disabilities until the BOE has approved the Notification of Determination of Placement or STAC 1, if the BOE uses the STAC 1, outlining the appropriate Related Services to be provided by the Contractor. The start date will be indicated on the STAC 1(System to Track and Account for Children) and a copy shall be provided to the Contractor.**
- d. All financial arrangements for services under this contract shall be between the County and Contractor in accordance with the Provisions of Section 5 of this contract. The County will maintain an approved Oneida County Related Services Provider List and ensure that the Contractor is a referral from this list approved by the New York State Department of Education for the County of Oneida.

##### 5. CONDITIONS OF PAYMENT:

The County, in accordance with the provisions of this Contract, shall reimburse the Contractor for expenditures made for contracted services as follows:

- a. The County will set rates for all related services delivered on an itinerant basis subject to New York State Department of Education (SED) approval.
- b. The County will provide payment of services rendered, as authorized on the child's Individualized Education Program (IEP) and the STAC 1 upon the Contractor's submission of a correctly completed voucher on a monthly basis. All submissions must include the required documentation as set forth in this contract and any other documentation requested by the County. The Contractor shall maintain a copy of the child's IEP throughout the term of this contract.
- c. The Contractor shall submit a voucher to the County for the services rendered not later than fifteen (15) days after the end of the July/August session and not later than fifteen (15) days after the end of each month for the September to June session.
- d. No payment shall be required to be made by the County prior to the receipt of Notification of Determination of Placement or STAC 1, if the BOE uses the STAC 1 as its notice of determination of placement.
- e. No parent or any person shall be required or requested to make payment for services in addition to the payments made by the County pursuant to this contract.
- f. The Contractor must submit, for Medicaid eligible children, a signed Medicaid Provider Agreement and Reassignment form with the signed contract so the County can claim Medicaid reimbursement for the Related Services.

##### 6. MEDICAID COMPLIANCE:

The Contractor shall provide with the voucher the following information for all Medicaid eligible children enrolled in its programs pursuant to Section 4410 of the Education Law:

- a. Dates the child received a Related Service (e.g. physical therapy, speech therapy, occupational therapy, skilled nursing services and/or counseling, and transportation, as applicable).
- b. Documentation that each Related Service session was verified as delivered by the signature of the service provider.
- c. Copy of the Medicaid consent form to release child specific information signed by the parent of a child with a disability receiving Medicaid eligible services.
- d. All reporting requirements necessary for Medicaid compliance per Education Law § 4410. The Contractor shall be responsible for reviewing Medicaid in Education notifications and changes, which can be found at <http://www.oms.nysed.gov/medicaid/>.

- e. Documentation evidencing the number of eligible Medicaid services by service type provided to each Medicaid eligible child pursuant to Section 4410 New York State Education Law.
- f. The Contractor shall obtain from the parent or person in parental relationship to the Medicaid eligible child receiving Related Services pursuant to Section 4410 of the Education Law, the Client Identification Number (CIN), period of eligibility and any other relevant third party health insurance information for the purpose of establishing Medicaid as the "payer of last resort". Nothing herein shall preclude the child's enrollment and initiation of services in accordance with the Board's Notice of Determination. A copy is to remain in the Contractor's file.

## 7. COMPLIANCE WITH THE LAW

The Contractor agrees that while performing under the terms of this contract that the Contractor shall comply with all Federal, New York State statutes and regulations and all local rules and regulations.

## 8. CHILD ABUSE/MALTREATMENT MANDATE

- a. In compliance with Section 4410 of the New York State Education Law and Section 424-a of the New York State Social Service Law, the Contractor is required to screen and be cleared through the State Central Register of Child Abuse and Maltreatment (SCR).
- b. The Contractor is responsible for screening and obtaining clearance through the SCR for the following individuals: (1) Any person who is actively being considered for employment and who will have the potential for regular and substantial contact with children who receive preschool special education programs and Related Services; (2) Any person who is employed by an individual, corporation, partnership, or association that provides goods or services to approved preschool special education children.
- c. The Contractor is responsible for screening individuals through the SCR regardless of whether an individual has been screened through the SCR for employment or contract with another County or agency provider.
- d. The Contractor will not permit unsupervised contact between child and any potential employee or contractor before receiving a completed clearance and acceptable response from SCR.
- e. The Contractor will notify all individuals being screened that an inquiry will be made to the SCR and that this is a State requirement. The Contractor will establish procedures to ensure that the confidentiality of any SCR response is maintained. The Contractor will comply with SCR regulations in not screening employees more than once every six months, and one time only to the extent required by section 424-A of the Social Service Law for contractors, consultants and volunteers.
- f. Proof of SCR database check in accordance with Section 424-a must be submitted to the County with the instant contract and on an ongoing basis as required for special education services and programs for preschool children with disabilities.

## 9. CONFIDENTIALITY

The County and the Contractor shall hold in strict confidence all child records and disclose information and data in such records only to persons or entities as authorized or required by law or by written consent of the child's representative. The Contractor further agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this contract. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this contract in conformity with the provisions of applicable Federal, State, and local laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this contract.

## 10. REPORTING REQUIREMENTS

- a. Contractor employed therapists shall be presently qualified to provide Related Services in New York State and shall submit copies of all appropriate license(s) or certification(s) to the County and update these as necessary during the term of this Contract.
- b. Contractor agrees to attend Committee for Preschool Special Education (CPSE) annual review meetings and program reviews as scheduled by the CPSE Chairperson or BOCES Coordinator for the child being served. **The Contractor**

shall submit a copy of any reports necessary for review at these meetings to the County, as well as the CPSE Chairperson/BOCES Coordinator, at least ten (10) school days prior to the meeting date.

- c. **Speech pathologists** shall be required to obtain a written **Prescription** (recommendation/order) for speech services signed and dated from (1) NYS Licensed and ASHA Certified Speech-Language Pathologist OR (2) a physician, physician's assistant or nurse practitioner which denotes the appropriate and current **ICD code**. The NYS Licensed and ASHA Certified Speech-Language Pathologist cannot write a referral if they have not seen the preschool child. 18NYCRR 505.11 states that a written order must contain a diagnostic statement and purpose of treatment. It is not acceptable for the ordering or referring professional never to have met with the child as it is incompatible with the obligations of the ordering practitioner to assure that the ordered care, services or supplies will meet the recipients needs and restore him/her to the best possible functional level. Physician, physician assistants or nurse practitioner's orders must be dated on or before the initiation of service. No direct or consultation services will be permitted unless an appropriately written prescription is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
- d. **Physical Therapists** must obtain a signed prescription (order/ recommendation) from a physician, physician assistant or nurse practitioner which denotes an **ICD code**.
- e. **Occupational therapists** must obtain a signed prescription (order/recommendation) signed and dated by a licensed physician or nurse practitioner which denotes an **ICD code**.
- f. **No direct or consultation services can be delivered unless an appropriately signed and dated prescription by the appropriate professional is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.**
- g. The Contractor must obtain a current copy of the IEP from the CPSE Chairperson prior to start of service which will follow the BOE approval date. This is applicable to any later program changes on the IEP as well. The Contractor shall deliver services as specified on the IEP in the areas of remediation, frequency and duration of Related Services.
- h. The Contractor shall submit an attendance and progress note for each session the child received Related Services on a monthly basis at the minimum, or with the invoice, whichever is presented first. **All progress notes submitted must also have the signature and National Provider Identification number (NPI#) of this licensed individual and title as well as the direct service provider and title.**
- i. The Contractor shall call the CPSE chairperson for a program review if services cannot be delivered as indicated on IEP due to child's absence, or if the therapist recommends a change in service or discharge.
- j. The Contractor shall forward a copy of all documentation and justification for 12-month programming to the County and the CPSE prior to any scheduled program review or annual review, whenever such is recommended.
- k. The Contractor shall meet with the child's parent/guardian at such times as appropriate during the year to discuss goals and progress. Whenever services are to be delivered in conjunction with a general education preschool program, the Contractor shall work with the program by communicating with staff, parents, school district and other therapists. An attempt will also be made to provide parent/guardian with follow up materials to be used at home to reinforce delivery of related services.
- l. The Contractor shall inform the parent/guardian of his/her responsibility to ensure that the child's attendance enables him/her to benefit from the related services provided. The parent/guardian should be made aware of the need to alert the Contractor in a timely manner when the child will be absent or not available for Related Services if provided in the home.
- m. If two or more Related Services are required for a child, the CPSE Chairperson shall select one of the therapists to act as a Coordinator of Service. If the CPSE determines that a Special Education Itinerant Teacher (SEIT) is to be provided in conjunction with one or more Related Services, the SEIT shall be responsible for the coordination of such services pursuant to Regulations of the Commissioner of Education. Compensation for such services is to be part of the SED established rates for the SEIT model.
- n. The Contractor's progress notes addressing goals and objectives on the IEP must be completed quarterly. A copy of the progress notes must be provided to the parent, the CPSE Chairperson and the County.

- o. Upon expiration of the term of the contract, all files and records shall be retained by the Contractor for six (6) years from the last date of payment under this contract.

## 11. RESPONSIBILITIES OF THE COORDINATOR OF SERVICE

- a. When two or more Related Services are mandated (not in conjunction with SEIT), the CPSE Chairperson will designate the coordinator of services from the list of approved Related Service providers maintained by the County. The coordinator must be one of the individuals/agencies providing Related Services to the child, as specified by the CPSE. It is suggested that, to the extent possible, service providers be selected from the same agency. It is the responsibility of the coordinator to stay thoroughly informed on all facets of the services provided to the child. In addition to duties as outlined in the section covering Reporting Requirements above, the designated coordinator will perform appropriate coordination activities including but not limited to:
  - Arranging the schedule for service delivery, offering recommendations and consulting with the CPSE chairperson to resolve scheduling issues when appropriate.
  - Sharing appropriate information with other Related Service providers for the appropriate integration of such services.
  - Gathering appropriate progress reports and anecdotal information relating to the student's progress from all Related Service providers to ensure that the Coordinator has a general knowledge of the child's progress, as well as any significant considerations, in the Related Service area.
  - Attend Annual Review meeting and other meetings, if requested by the CPSE chairperson. The coordinator is responsible to have all information on the child's progress and needs and is expected to represent the other therapists involved in the child's care at the CPSE meetings.
  - Conducting activities such as telephone conferences or other communication practices. Coordination activities must be documented and reported in half-hour service blocks on the Coordination Service Form.
  - Coordination services can be provided only by a licensed speech pathologist, physical therapist and occupational therapist.
- b. Billing for Coordination services shall not exceed 10 sessions during the school year (September – June) and 2 sessions during a summer program (July – August) per child. One (1) session or service block consists of a half-hour and will be paid at the rate indicated under the ONEIDA COUNTY RELATED SERVICE RATES SCHEDULE. Each date of contact and length of time claimed for coordination during the month must be listed and identified. Periods of less than a half-hour block may be combined into half-hour service blocks of coordination services for billing purposes.

## 12. MAKE UP POLICY

- a. **Reporting Absences**  
Habitual absences by the student should be reported to the school district (CPSE) and the Special Education Itinerant Teacher (SEIT) if the child receives SEIT services; if the child receives two or more Related Services, habitual absences shall be reported to the assigned Related Service coordinator appointed by the CPSE Chairperson.
- b. **Student Absence or Cancellation**  
There shall be no makeup for therapy sessions provided under 4410 services which are missed due to a child's absence or cancellation (with or without notice). If a child's illness will necessitate canceling of service for several consecutive sessions, please request the parent/guardian call you to commence Related Services.
- c. **Therapist Absence or Cancellation**  
Related Services which are missed due to the absence or cancellation of the therapist may be made up if the parent consents and the therapist's schedule permits. The makeup sessions must take place within the same week the Related Service was missed.
- d. **Prolonged Absence of Therapist**  
When the therapist is absent for a prolonged period of time, the school district should be notified. The school district is responsible for arranging the replacement for the absent therapist. The school district is responsible for notifying the County of any change of a Related Service provider prior to the change so the County may give the new provider permission to begin services.
- e. **Holidays and Other School Closings**  
The Contractor will follow the calendar of the local school district in which the child resides. Therefore, holiday and other school closings of that particular school district will apply. When Related Services are provided in a mainstream preschool setting, the preschool calendar will be followed except where written prior arrangements have been mandated by the school district and approved by the County.

f. **Limitations on Scheduling Therapy Makeup Sessions**

Make up sessions must be clearly documented on the appropriate session notes with reasons for the makeup session.

**13. INSURANCE**

The Contractor shall maintain a professional liability policy and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$3,000,000 aggregate. The Contractor shall also maintain general liability insurance and will provide County with proof of coverage in the amount of \$1,000,000 per incident and \$3,000,000 aggregate. The Contractor agrees to have the County named as an "additional insured", on a "primary, non-contributory basis, as its interests may appear" on the general liability policy and to provide the County with certificates from said insurance company or companies showing the proof of insurance as stated heretofore. The County reserves the right to require Contractor to provide insurance policies for review by the County. The Contractor grants the County a limited power of attorney to communicate with Contractor's insurance provider and/or agent for the express purpose of confirming the coverages required hereunder.

**14. INDEMNIFICATION**

The Contractor agrees that it shall defend, indemnify and hold harmless the County from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the work of the Contractor or its agents, contractors, subcontractors, servants or employees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the Contractor or failure on the part of the Contractor to comply with any of the covenants, terms or conditions of this contract.

**15. EXCLUSIVITY**

- a. The County retains the right to reassign children receiving Related Services under the terms of this contract to other Contractors or its own employees.
- b. The County retains the right to contract with other independent contractors for such services which are the same or similar to those provided by the Contractor, or to provide such services to its eligible children through its own employees. The Contractor retains the right to provide services directly or indirectly through contract with another agency, to persons who are not classified preschool aged children with a disability receiving Related Services in Oneida County.

**16. CONTRACTOR STATUS**

- a. It is intended by both the Contractor and the County that the Contractor's status be that of an independent contractor, and that nothing in this contract be construed to create an employer/employee relationship between the Contractor and the County. The Contractor shall not be eligible for compensation due to a) illness; b) absence due to normal vacation; c) absence due to attendance at school or special training or a professional convention or meeting.
- b. The County agrees not to withhold from the payments provided for services rendered for State or Federal income tax, unemployment insurance, worker's compensation, disability insurance or social security insurance (FICA). The Contractor will indemnify and hold the County harmless from all loss or liability incurred by the County as a result of not making such payments or withholdings.
- c. The Contractor understands, and represents to the County, that such insurance and tax payments are the sole responsibility of the contractor.
- d. If the Internal Revenue Service or any other governmental agency questions or challenges the Contractor's independent contractor status it is agreed that both the County and the Contractor shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.
- e. The Contractor represents and agrees to comply with the requirements of the Civil Rights Acts of 1964 as amended, the Age Discrimination Employment Act of 1973 as amended, Executive order No. 11246, entitled "Equal Employment Opportunity" as amended, by Executive Order No. 11375 and as supplemented in Department of Labor Regulations, 41 CFR Part 60.
- f. The Contractor agrees to comply with Federal and State Laws as supplemented in the Department of Labor regulation and any other regulations of the Federal and State entities relating to such employment and Civil Rights requirements.

**17. SUBCONTRACT**

The Contractor may not assign the Contractor's rights and obligations under this contract, or subcontract with or employ another to provide the services described above of this contract, without the prior written consent of the County.

**18. ENTIRE AGREEMENT**

The terms of this contract, the Oneida County Related Service Rates Schedule, the attached Oneida County Addendum, and any other attachments, amendments, addendums or appendixes attached hereto, are deemed incorporated herein in their entirety and 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 contract. No wavier, alterations or modifications of and provisions of this contract shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

**IN WITNESS WHEREOF**, the parties hereto have executed this contract.

ONEIDA COUNTY

CONTRACTOR

BY: \_\_\_\_\_  
Anthony J. Picente Jr.  
Oneida County Executive

BY: Mickie D. Brown  
Building Blocks Learning Center

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

DATE: 12/20/2017

Approved as to Form

BY: \_\_\_\_\_  
Assistant Oneida County Attorney

# ONEIDA COUNTY RELATED SERVICE RATES SCHEDULE

RELATED SERVICE	MAXIMUM INDIVIDUAL HALF HOUR RATE	MAXIMUM COORDINATOR RATE PER HALF- HOUR BLOCK
Audiology	\$48	
Occupational Therapy	\$48	\$30
Orientation & Mobility Services	\$48	
Physical Therapy	\$48	\$30
Speech Therapy	\$48	\$30
Teacher of Hearing Impaired	\$25	
Teacher of Visually Impaired	\$25	
Teacher Assistant	\$ 6	
Teacher Aide	\$ 5	

## PRESCHOOL RELATED SERVICES AMENDMENT

THIS AMENDMENT of the Agreement by and between the COUNTY OF ONEIDA, through its Department of Health, a municipal corporation of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York, hereinafter referred to as the "County," and BUILDING BLOCKS LEARNING CENTER, LLC, a limited liability company organized and existing under the laws of the State of New York, with its principal offices located at 19 Robinson Road Clinton, New York 13323, hereinafter referred to as the "Contractor."

### WITNESSETH

WHEREAS, the County and the Contractor entered into an agreement for the Contractor to perform the Related Services function for the County's Education and Transportation of Handicapped Children Program (the "Original Agreement" contract #2048) and that this Original Agreement is in effect until June 30, 2018; and

WHEREAS, this program is supported by funds from the New York State Department of Education and the New York State Department of Education sets the rate(s) of compensation for said services; and

WHEREAS, the Original Agreement contemplated the possibility of a rate change for the services provided under the Original Agreement, and contemplated the need for an amendment to the Original Agreement if the New York State Department of Education set forth a revised Related Service Rates Schedule; and

WHEREAS, New York State Department of Education has set forth a revised Related Service Rates Schedule; and

WHEREAS, the parties intend to incorporate the revised Related Service Rates Schedule into the Original Agreement; and

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

1. This Amendment will be effective July 1, 2016.
2. The section entitled "Oneida County Related Service Rates Schedule," referenced as "Attachment C" in the Original Agreement, shall be replaced with the revised "Oneida County Related Service Rates Schedule," which shall also be referred to as "Attachment C," and which is attached to this Amendment.
3. All other terms of the Original Agreement remain in effect without change or alteration.

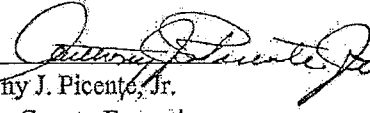



4. There is no additional funding associated with this Amendment.

IN WITNESS WHEREOF the County and the Contractor have signed this Agreement on the day and year first above written.

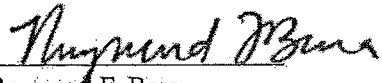
County of Oneida

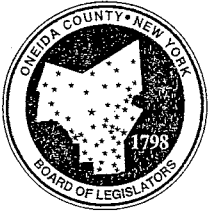
Contractor

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

By:   
Michelle P. O'Brien  
Member

Approved

  
Raymond F. Bara  
Assistant County Attorney



# ONEIDA COUNTY BOARD OF LEGISLATORS

---

*Richard A. Flisnik ♦ 6669 Fox Rd. ♦ Marcy, NY 13403*  
*Phone: (315) 865-8707 ♦ Email: flis58@aim.com*

February 13, 2018

FN 20 18-027

Gerald J. Fiorini  
Chairman, Board of Legislators  
Oneida County  
800 Park Avenue  
Utica, New York, 13501

## PUBLIC SAFETY

## WAYS & MEANS

**Re: Proposed Local Laws Allowing Correction Officers and Deputy Sheriffs to reside in Adjoining Counties**

Dear Chairman Fiorini:

As you know, Section 3 of New York Public Officers Law requires individuals holding certain civil offices in Oneida County to be residents of Oneida County. Enclosed, on behalf of the Public Safety Committee of the Board, please find copies of two proposed local laws. The first proposes to allow Correction Officers to reside in adjoining counties, and the second proposes to allow Deputy Sheriffs to reside in adjoining counties.

The proposed local laws were drafted and approved by the Law Department. In addition, the same have been reviewed by the Sheriff and the Commissioner of Personnel, both of whom have indicated their support.

I respectfully request that the enclosed be submitted to the full Board of Legislators for action. Thank you for your kind attention to this matter.

Very truly yours,

Richard A. Flisnik  
Chairman, Public Safety Committee

Enclosures (2)

**INTRODUCTORY  
NO.**

**F.N. 2018-**

**BOARD OF COUNTY LEGISLATORS  
ONEIDA COUNTY**

**RESOLUTION NO.**

**INTRODUCED BY:**

**2ND BY:**

**LOCAL LAW INTRO. \_\_\_\_ OF 2018**

**LOCAL LAW NO. \_\_\_\_ OF 2018**

**A LOCAL LAW AUTHORIZING DEPUTY SHERIFFS EMPLOYED BY THE COUNTY OF ONEIDA TO RESIDE IN ONEIDA COUNTY OR ANY ADJOINING COUNTY WITHIN NEW YORK STATE.**

**BE IT ENACTED BY THE BOARD OF COUNTY LEGISLATORS OF THE COUNTY OF ONEIDA AS FOLLOWS:**

**SECTION I. TITLE**

This law shall be known as the "Local Law Authorizing Deputy Sheriffs Employed by the County of Oneida to Reside in Oneida County or Any Adjoining County Within New York State."

**SECTION II.**

In the County of Oneida, the provisions of Section 3 of the Public Officers Law of the State of New York requiring a person to be a resident of the political subdivision or municipal corporation of the state for which such person shall be chosen or within which such person's official functions are required to be exercised, shall not prevent a person from holding the office of Deputy Sheriff in Oneida County, provided, however, that such person performing the duties and functions of Deputy Sheriff resides in Oneida County or any adjoining county within New York State, unless otherwise provided by an act of the state legislature.

**SECTION V. EFFECTIVE DATE**

This Local Law shall take effect immediately upon filing with the Secretary of State in accordance with Sections 20, 21 and 27 of the New York State Municipal Home Rule Law.

APPROVED:                      Ways & Means Committee                      (       )

DATED:

Adopted by the following vote:  
AYES    NAYS    ABSENT

**INTRODUCTORY  
NO.**

**F.N. 2018-**

**BOARD OF COUNTY LEGISLATORS  
ONEIDA COUNTY**

**RESOLUTION NO.**

**INTRODUCED BY:**

**2ND BY:**

**LOCAL LAW INTRO. \_\_\_\_ OF 2018**

**LOCAL LAW NO. \_\_\_\_ OF 2018**

**A LOCAL LAW AUTHORIZING CORRECTION OFFICERS EMPLOYED BY THE COUNTY OF ONEIDA TO RESIDE IN ONEIDA COUNTY OR ANY ADJOINING COUNTY WITHIN NEW YORK STATE.**

BE IT ENACTED BY THE BOARD OF COUNTY LEGISLATORS OF THE COUNTY OF ONEIDA AS FOLLOWS:

**SECTION I. TITLE**

This law shall be known as the "Local Law Authorizing Correction Officers Employed by the County of Oneida to Reside in Oneida County or Any Adjoining County Within New York State."

**SECTION II.**

In the County of Oneida, the provisions of Section 3 of the Public Officers Law of the State of New York requiring a person to be a resident of the political subdivision or municipal corporation of the state for which such person shall be chosen or within which such person's official functions are required to be exercised, shall not prevent a person from holding the office of Correction Officer in Oneida County, provided, however, that such person performing the duties and functions of Correction Officer resides in Oneida County or any adjoining county within New York State, unless otherwise provided by an act of the state legislature.

**SECTION V. EFFECTIVE DATE**

This Local Law shall take effect immediately upon filing with the Secretary of State in accordance with Sections 20, 21 and 27 of the New York State Municipal Home Rule Law.

APPROVED:                      Ways & Means Committee                      (       )

DATED:

Adopted by the following vote:  
AYES    NAYS    ABSENT