

# 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

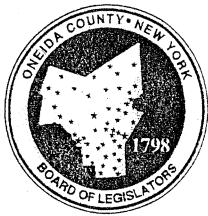
Frank D. Tallarino  
Minority Leader

## COMMUNICATIONS WITH DOCUMENTATION December 9, 2015

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

<u>FILE NO.</u>	<u>COMMITTEE</u>	<u>PAGES</u>
2015-410 . . .	Read & Filed (On file in Clerk's Office) .....	
2015-411 . . .	Public Safety, Ways & Means.....	
2015-412 . . .	Public Safety, Ways & Means.....	
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2015-414 . . .	Health & Human Services, Ways & Means .....	
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2015-416 . . .	Health & Human Services, Ways & Means .....	
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2015-419 . . .	Health & Human Services, Ways & Means .....	

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# ONEIDA COUNTY BOARD OF LEGISLATORS

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(315) 798-5404

George Joseph  
Majority Leader

Frank D. Tallarino  
Minority Leader

November 23, 2015

FN 20 15-410

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

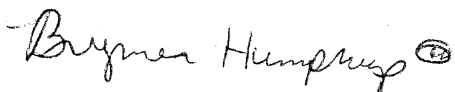
**READ & FILED**

Dear Mr. Billard:

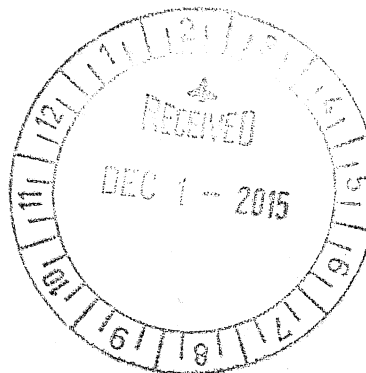
The Farmland Protection Board will be accepting open enrollment applications for inclusion into agricultural districts for a 30 day period beginning January 1, 2016 through January 31, 2016 pursuant to Resolution No. 365, passed by the Oneida County Board of Legislators on December 10, 2003.

I ask that you please file this correspondence as official notice to the Board of Legislators that the 30 day open enrollment period will begin January 1, 2015 and subsequent to review by the Farmland Protection Board, these applications will require legislative approval.

Respectfully submitted,



Brymer Humphreys  
Chair, Farmland Protection Board



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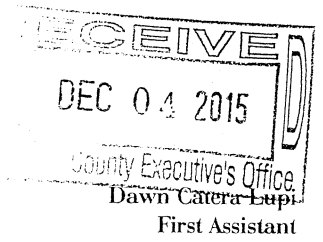


ONEIDA COUNTY  
OFFICE OF THE DISTRICT ATTORNEY

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. Paolozzi  
Bernard L. Hyman, Jr.  
Todd C. Carville  
Robert L. Bauer  
Michael R. Nolan



Joshua L. Bauer  
Christopher D. Hameline  
Steven P. Feiner  
Sarah F. DeMellier  
Luke C. Davignon  
William J. Barry III  
Kevin J. Dwyer  
Stephanie N. Singe  
Paul S. Kelly  
Travis J. Yoxall  
Maria Murad Blais

FN 20 15-411

**PUBLIC SAFETY**

November 18, 2015

**WAYS & MEANS**

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

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

Anthony J. Picente, Jr.  
County Executive

Date 11/18/15

Dear Mr. Picente:

By this letter, I am requesting your approval, as well as the Board of Legislators, for the following 2015 budgetary transfer within the District Attorney Drug Enforcement Task Force cost center:

TO:

A3430.195 Other Fees & Services \$10,000.

FROM:

A3430.109 Salaries, Other \$10,000.

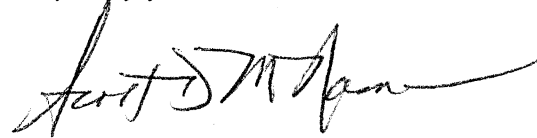
At your earliest convenience, please submit this request to the Board of Legislators for their approval.

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

The Honorable Anthony J. Picente  
November 18, 2015  
Page Two

Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Scott D. McNamara". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Scott D. McNamara  
Oneida County District Attorney

se

cc: Hon. Gerald J. Fiorini, Chairman  
Hon. George Joseph, Majority Leader  
Hon. Frank Tallarino, Minority Leader  
Hon. Les Porter, Chairman, Ways & Means Comm.  
Hon. Richard A. Flisnik, Chairman, Public Safety  
Thomas Keeler, Budget Director



ONEIDA COUNTY  
OFFICE OF THE COUNTY EXECUTIVE

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

December 01, 2015

FN 20 15-412

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

Dear Honorable Members:

**PUBLIC SAFETY  
WAYS & MEANS**

The Oneida County Public Defender's Office Criminal Division has been awarded distribution # 5 from the New York State Office of Indigent Legal Services for several initiatives. The Public Defender's Office will be adding a new attorney to handle the increased workload under the new initiatives being undertaken by the New York State Office of Indigent Legal Services. This grant is for \$1,076,292 and will be paid over the next three years.

A portion of the grant will be used to pay for training, equipment purchases, cell phones/telephones, and various supplies as needed.

I therefore request your Board's approval of the following **2016** supplemental appropriation for the General Fund:

TO:

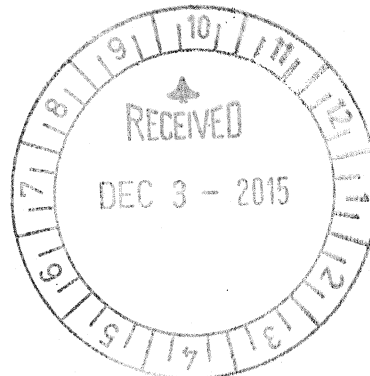
AA# A1170.101	Public Defender – Salaries.....	\$ 49,123.00
AA# A1170.211	Public Defender – Office Equipment.....	5,000.00
AA# A1170.212	Public Defender – Computer Hardware.....	15,000.00
AA# A1170.810	Public Defender – Retirement.....	9,727.00
AA# A1170.830	Public Defender – Social Security.....	3,758.00
AA# A1170.840	Public Defender – Workers Compensation.....	1,376.00
AA# A1170.860	Public Defender – Health Insurance.....	12,036.00
	Total.....	\$96,020.00

These supplemental appropriations will be fully supported by NYS OILS distribution #5:

RA# A3021.3	Public Defender – State Aid-Indigent Legal Services.....	\$ 96,020.00
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Respectfully submitted,

Anthony J. Picente, Jr.  
County Executive

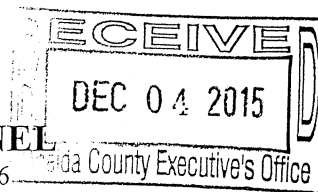


CC: Comptroller  
Public Defender  
Budget Director

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) 798-5725 Fax: (315) 798-6490 Email: personnel@ocgov.net  
Web site: www.ocgov.net

November 30, 2015

FN 20 15-413

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

**PUBLIC SAFETY  
WAYS & MEANS**

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

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

Date 12/4/15

Dear County Executive Picente:

Attached for your review and approval is correspondence from Oneida County Public Defender Frank J. Nebush, Jr., requesting the creation of one full-time position, Assistant Public Defender III for the Counsel at First Appearance Grant (CAFA). This position is fully funded in the New York State Office of Indigent Legal Services Grant (ILS) Distribution #5, Contract Number C000730.

As stated in Mr. Nebush's letter, his office has been approved for a three-year grant from The New York State Office of Indigent Legal Services (ILS) for his office to increase staffing through December 31, 2016. The salary for this title is Grade 36P (Step 1, \$49,123). Budget Director Thomas Keeler has received the contract for Distribution #5 (Contract No. 000730) to be submitted to the Oneida County Board of Legislators for approval.

If you concur, I respectfully request that this recommendation be forwarded to the Board of Legislators for their consideration.

Sincerely,

*[Signature]*  
John P. Talerico  
Commissioner

Attachments

Copy: Frank J. Nebush, Jr., Public Defender  
Peter M. Rayhill, County Attorney

**PUBLIC DEFENDER**  
*Frank J. Nebush, Jr., Esq.*

**Oneida County Public Defender**  
**Criminal Division**

**CHIEF APPELLATE COUNSEL**  
*Patrick J. Marthage, Esq.*

**CHIEF TRIAL COUNSEL**  
*Leland D. McCormac III, Esq.*

Utica City Court  
411 Oriskany Street, West  
Utica, New York 13502  
Telephone: (315) 735-6671  
Fax: (315) 724-3407

**Main Office**  
250 Boehlert Center at Union Station  
321 Main Street  
Utica, New York 13501

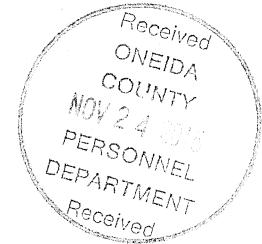
Telephone: (315) 798-5870 • Fax: (315) 734-0364  
e-mail: [Pubdef@ocgov.net](mailto:Pubdef@ocgov.net)

**INVESTIGATOR'S OFFICE**  
*James J. Larabee, Sr. Investigator*

Rome City Court  
100 West Court Street  
Rome, New York 13440  
Telephone: (315) 334-7012  
Fax: (315) 334-1196

**Monday, November 23, 2015**

Mr. John Talerico  
Oneida County Commissioner of Personnel  
800 Park Avenue  
Utica, NY 13501



Re: New York State Office of Indigent Legal Services Grant  
Distribution #5, Contract Number C000730  
Grant Period: January 1, 2015 – December 31, 2017  
Request to Create New Position- Assistant Public Defender III (Grade 36P, Step 1) \$49,123

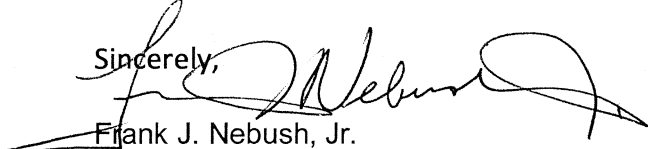
Dear John:

The New York State Office of Indigent Legal Services (ILS) has awarded Oneida County the above grant. The grant re-funds two (2) positions created by Distribution #2 (Contract No. C000230, Grant Period: June 1, 2012-May 31, 2015) and funds an additional Assistant Public Defender III for the Counsel at First Appearance Grant (CAFA). Presently, CAFA is funded for 1 full-time and 1 part-time Assistant Public Defender and one full-time Confidential Investigator.

Budget Director Thomas Keeler has received the contract for Distribution #5 (Contract No. 000730) and will be submitting it to the Oneida County Board of Legislators for approval. The budget includes funds for fringe benefits and ancillary expenses. I have attached a copy of the grant budget for your review. I am therefore requesting that the additional position of Assistant Public Defender III at Grade 36P, Step 1 and have enclosed the necessary forms for your review and approval.

Should you have any questions or concerns regarding this request, please do not hesitate to contact me.

Sincerely,

  
Frank J. Nebush, Jr.  
Oneida County Public Defender  
Criminal Division

Enclosures: Distribution # 3 grant budget  
MSD 222 – Assistant Public Defender III

cc: Hon. Anthony J. Picente, Jr., Oneida County Executive  
Thomas Keeler, Oneida County Budget Director

# 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

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## SPECIAL CHILDREN SERVICES

Phone: (315) 798-5223 • Fax: (315) 798-6441 • Email: [publichealth@ocgov.net](mailto:publichealth@ocgov.net)

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June 3, 2015

FN 20

15-414

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

HEALTH & HUMAN SERVICES

WAYS & MEANS

Dear Mr. Picente:

Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, municipalities are to provide payment for related services rendered to eligible preschool aged children with disabilities.

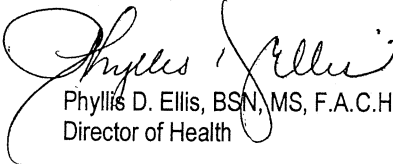
Enclosed please find (3) three copies of an Agreement between The ARC, Oneida-Lewis Chapter and the Oneida County Health Department, Education/Transportation of Handicapped Children Program. This is for the reimbursement of related services for the period of September 2, 2015 through June 30, 2018.

This is a New York State mandated program. We anticipate reimbursement will be \$105,000.00 for the above stated period of time.

Please contact me if you have any questions or require additional information.

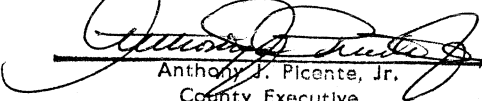
*This contract requires Board of Legislatures approval prior to September 2, 2015.*

Sincerely,

  
Phyllis D. Ellis, BSN, MS, F.A.C.H.E.  
Director of Health

Enclosures

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

  
Anthony J. Picente, Jr.  
County Executive

Date 12/4/15

Oneida Co. Department: Public Health

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

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name of Proposing Organization:** The ARC Oneida Lewis Chapter, NYSARC, Inc.  
245 Genesee Street  
Utica, New York 13501

**Title of Activity or Service:** Related Services of Speech Language Pathology, Occupational Therapy and Physical Therapy for Preschool Students with Disabilities

**Proposed Dates of Operation:** September 1, 2015 to June 30, 2018

**Client Population/Number to be Served:** Preschool Students with Disabilities/ Varies

**Summary Statements**

**1) Narrative Description of Proposed Services:** The Oneida County Health Department contracts with agencies employing individual therapists who are qualified to provide Related Services according to Section 4410 of Education Law, Part 200 Regulations of the Commissioner of Education, New York State Education Department Individual and Disabilities Act of 1990, Part 300 of Federal Regulations

**2) Program/Service Objectives and Outcomes:** Speech/Language and Motor remediation of Students with Disabilities

**3) Program Design and Staffing:** Contract staff to provide Related Services in the location of the student (home, preschool classroom, community)

**Total Funding Requested:** \$105,000.00

**Account #** A2960.1953

**Oneida County Dept. Funding Recommendation:** \$105,000.00

**Proposed Funding Sources (Federal \$/ State \$/County \$):** County: \$42,525.00

State: \$62,475.00

**Cost Per Client Served:** Varies based on recommendations of the Committee on Preschool Special Education. Rate set by New York State Department of Education is \$48.00 per half hour session.

**Past Performance Data: County \$ Previous Contract:** \$42,377.00

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



## 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 The ARC Oneida-Lewis Chapter, NYSARC, Inc., having offices at 245 Genesee Street Utica, New York 13501, 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 One Hundred and Five Thousand Dollars and no cents (\$105,000.00) 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**

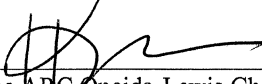
The terms of this contract, the Oneida County Related Service Rates Schedule, the attached Oneida County Addendum, and any other attachments, amendments, addendums or appendixes attached hereto, are deemed incorporated herein in their entirety and constitute the entire understanding and agreement of 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:  \_\_\_\_\_  
The ARC Oneida-Lewis Chapter, NYSARC, Inc.

DATE: \_\_\_\_\_

DATE: 10/20/15

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	

## ADDENDUM

THIS ADDENDUM, entered into on this 1<sup>st</sup> day of September 2015, 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).

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- d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F. for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
  2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

**4. Health Insurance Portability and Accountability Act (HIPAA).**

When applicable to the services provided pursuant to the Contract:

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

manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

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

c. The Contractor shall:

1. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
2. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
3. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
4. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of, the County agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
5. Make available protected health information in accordance with 45 CFR § 164.524;
6. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR § 164.528;
7. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
8. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by the Contractor on behalf of, the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
9. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by the Contractor on behalf of, the County that the Contractor still maintains in any form and retain no copies of such information or, if such return or destruction is not feasible, extend the protections of this Contract to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

d. The Contractor agrees that this contract may be amended if any of the following events occurs:

1. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
2. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
3. There is a material change in the business practices and procedures of the County.

- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

**5. Non-Assignment Clause.**

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

**6. 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.**

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

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

**15. Compliance with New York State Information Security Breach and Notification Act.**

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

**16. Gratuities and Kickbacks.**

a. **Gratuities.** It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

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



## **17. Audit**

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

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

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

Pursuant Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each Bidder/Contractor, any person signing on behalf of any Bidder/Contractor and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (OGS) website, that to the best of its knowledge and belief, that each Bidder/Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

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

During the term of the Contract, should the County receive information that a Bidder/Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within 90 days after the determination of such violation, then the County shall take such action as may be

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

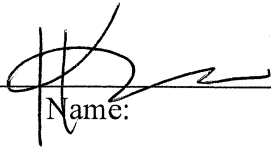
The County reserves the right to reject any bid or request for assignment for a Bidder/Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any Bidder/Contractor that is awarded a Contract and subsequently appears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

IN WITNESS WHEREOF, the parties hereto have signed this document on the day and year first above written.

**County of Oneida**

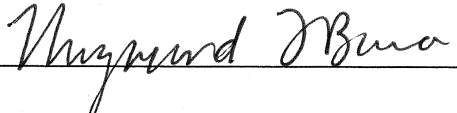
**Contractor**

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

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

Oneida County Executive

Approved as to Form only

  
\_\_\_\_\_  
Oneida County Attorney

# ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5<sup>th</sup> Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.  
ONEIDA COUNTY EXECUTIVE



PHYLLIS D. ELLIS, BSN, MS, F.A.C.H.E.  
DIRECTOR OF HEALTH

## SPECIAL CHILDREN SERVICES

Phone: (315) 798-5223 Fax: (315) 798-6441 Email: [publichealth@ocgov.net](mailto:publichealth@ocgov.net)

June 3, 2015

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

FN 20 15-415  
HEALTH & HUMAN SERVICES

WAYS & MEANS

Dear Mr. Picente:

Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, municipalities are to provide payment for related services rendered to eligible preschool aged children with disabilities.

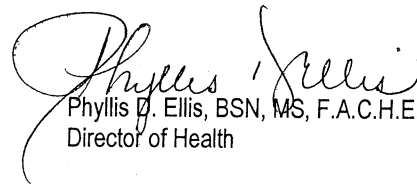
Enclosed please find (3) three copies of an Agreement between Upstate Cerebral Palsy and the Oneida County Health Department, Education/Transportation of Handicapped Children Program. This is for the reimbursement of related services for the period of September 2, 2015 through June 30, 2018.

This is a New York State mandated program. We anticipate reimbursement will be \$480,000.00 for the above stated period of time.

Please contact me if you have any questions or require additional information.

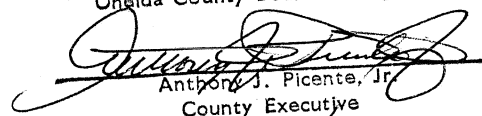
*This contract requires Board of Legislatures approval prior to September 2, 2015.*

Sincerely,

  
Phyllis D. Ellis, BSN, MS, F.A.C.H.E.  
Director of Health

Enclosures

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

  
Anthony J. Picente, Jr.  
County Executive

Date 12/4/15

Oneida Co. Department: Public Health

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

**ONEIDA COUNTY BOARD  
OF LEGISLATORS**

**Name of Proposing Organization:** Upstate Cerebral Palsy Inc.

**Title of Activity or Service:** Related Services of Speech Language Pathology, Occupational Therapy and Physical Therapy for Preschool Students with Disabilities

**Proposed Dates of Operation:** September 1, 2015 to June 30, 2018

**Client Population/Number to be Served:** Preschool Students with Disabilities/ Varies

**Summary Statements**

**1) Narrative Description of Proposed Services:** The Oneida County Health Department contracts with agencies employing individual therapists who are qualified to provide Related Services according to Section 4410 of Education Law, Part 200 Regulations of the Commissioner of Education, New York State Education Department Individual and Disabilities Act of 1990, Part 300 of Federal Regulations

**2) Program/Service Objectives and Outcomes:** Speech/Language and Motor remediation of Students with Disabilities

**3) Program Design and Staffing:** Contract staff to provide Related Services in the location of the student (home, preschool classroom, community)

**Total Funding Requested:** \$480,000.00

**Account #** A2960.1953

**Oneida County Dept. Funding Recommendation:** \$480,000.00

**Proposed Funding Sources (Federal \$/ State \$/County \$):** County: \$194,400.00  
State: \$285,600.00



## 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 Upstate Cerebral Palsy Inc., 1020 Mary Street Utica, New York 13501, 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 Four Hundred and Eighty Thousand Dollars and no cents (\$480,000.00) 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 <sup>thirty (30)</sup> ~~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**

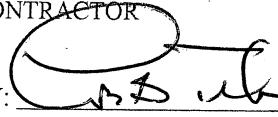
The terms of this contract, the Oneida County Related Service Rates Schedule, the attached Oneida County Addendum, and any other attachments, amendments, addendums or appendixes attached hereto, are deemed incorporated herein in their entirety and constitute the entire understanding and agreement of 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

BY: \_\_\_\_\_  
Anthony J. Picente Jr.  
Oneida County Executive

CONTRACTOR

BY:  \_\_\_\_\_  
Upstate Cerebral Palsy Inc.

DATE: \_\_\_\_\_

DATE: 10/28/15

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	

**ADDENDUM**

THIS ADDENDUM, entered into on this 1<sup>st</sup> day of September 2015, 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.**

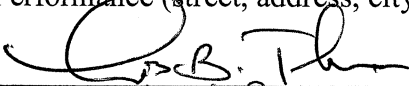
Pursuant to Oneida County Board of Legislator Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the 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 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).

  
\_\_\_\_\_  
Upstate Cerebral Palsy  
1020 Mary St.  
Utica, NY 13501  
\_\_\_\_\_

- 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 (HIPPA).**

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
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.**

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

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

**15. Compliance with New York State Information Security Breach and Notification Act.**

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

**16. Gratuities and Kickbacks.**

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

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

## **17. Audit**

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

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

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

Pursuant Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each Bidder/Contractor, any person signing on behalf of any Bidder/Contractor and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (OGS) website, that to the best of its knowledge and belief, that each Bidder/Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

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

During the term of the Contract, should the County receive information that a Bidder/Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within 90 days after the determination of such violation, then the County shall take such action as may be

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


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

IN WITNESS WHEREOF, the parties hereto have signed this document on the day and year first above written.

**County of Oneida**

**Contractor**

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

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

Oneida County Executive

Name:

Approved as to Form only

\_\_\_\_\_

Oneida County Attorney



**Oneida County**

**Anthony J. Picente, Jr.**  
County Executive

**Office for the Aging & Continuing Care**

**Michael J. Romano**  
Director

120 Airline Street-Suite 201, Oriskany, NY 13424

Phone 315-798-5456

Fax 315-798-6444

E-mail. ofa@ocgov.net

August 31, 2015

FN 20 15-416

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 Contract Agreement between Oneida County Office for the Aging and Continuing Care, and Presbyterian Residential Community, Inc., for the Board of Legislature's review and approval.

This Agreement is for the provision of Social Adult Day Services. This Agreement will continue to provide community based long term care services to the frail and elderly, and save taxpayer dollars by preventing premature nursing home placement. The total amount of this Agreement is \$68,750.00, with 75% State (\$51,562.50) and 25% (\$17,187.50) County funds. This contract will commence January 1, 2016 and terminate December 31, 2016.

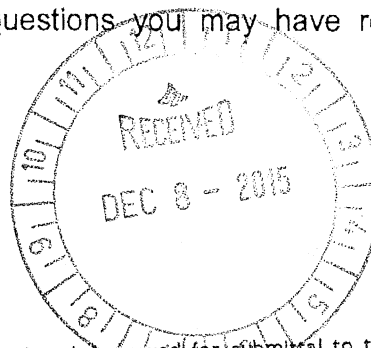
I am available at your convenience to answer any questions you may have regarding this Agreement.

Sincerely,

Michael J. Romano  
Director

MJR/mac

Enclosures



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

  
Anthony J. Picente, Jr.  
County Executive

Date 10/2/15



**Oneida County Board of Legislators**  
**Contract Summary**

**Name of Proposing Organization:** Presbyterian Residential Community, Inc.  
4300 Middle Settlement Road  
New Hartford, New York 13413

**Title of Activity or Service:** Social Adult Day Care

**Proposed Dates of Operation:** January 1, 2016 through December 31, 2016

**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 Level.**

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

**Oneida County Department Funding Recommendation: \$ 60.00 /day**

**Proposed Funding Source (Federal/State/County): \$ 68,750.00 ACCT#: A6772.495.116**

Federal: \$0 State: 75% (\$51,562.50) County: 25% (\$17,187.50)

**Cost per Client Served:** \$60.00 per client per five hour day.

**Past Performance Data:** The Presbyterian Residential Community, Inc. has been operating a successful Adult Day Care program for the residents of Oneida County for a number of years.

## AGREEMENT

This is an Agreement by and between the **PRESBYTERIAN RESIDENTIAL COMMUNITY, INC.**, located at 4300 Middle Settlement Road, New Hartford, New York 13413, hereinafter known as "**CONTRACTOR**"; and the **COUNTY OF ONEIDA**, by and through its department of **OFFICE FOR THE AGING AND CONTINUING CARE**, located at 120 Airline Street, Suite 201, Oriskany, NY 13424, hereinafter known as the "**COUNTY**".

### 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, CSEP, CSI, SNAP, HIICAP, MIPPA/SHIP, and County of Oneida funds.

**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. **SOCIAL ADULT DAY CARE SERVICES**

A. The **CONTRACTOR** agrees as part of the terms and conditions of this Agreement to comply with the State of New York's Social Adult Day Care Regulations, Executive Law, Article 19-J, Part 6656, effective January 1, 1995, and to comply with the **COUNTY**'s 2012 Policy and Procedure Manual.

B. The **CONTRACTOR** agrees to provide Social Model Adult Day Services to frail individuals 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** agrees to provide services in Oneida County.

D. The **CONTRACTOR** agrees to provide Social Adult Day 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 participants 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 participants at appropriate times.

E. The **CONTRACTOR** agrees that all participants will receive services only in accordance with an individualized **written** Service Plan that is based on the COMPASS assessment, and will specify the individual participant outcomes expected from the provision of social adult day care services; and the Service Plans will be reevaluated at a minimum annually.

## 2. OTHER SPECIFICATIONS

A. As specified in State of New York's Social Adult Day Care Program Regulations, all of the **CONTRACTOR's** adult day care personnel, both paid and volunteer, will attend six (6) hours of training annually, and new program employees or volunteers will receive at least twenty hours of group, individual and/or on-the-job training.

B. The **CONTRACTOR's** personnel should 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.

C. The **CONTRACTOR** and **COUNTY** agree to hold periodic coordinating meetings as needed.

D. The **CONTRACTOR** and **COUNTY** agree to work cooperatively to develop comprehensive adult day services for Oneida County.

E. The **CONTRACTOR** agrees to make a good faith effort to recruit interns from the local colleges' student intern programs.

## 3. REIMBURSEMENT FOR SERVICES

A. It is agreed and understood by all parties that the **COUNTY** will reimburse the **CONTRACTOR** for Social Adult Day Care Services which are provided in accordance with the terms and conditions of this Agreement and the Community Services for the Elderly Program (CSEP) and the Caregiver Support IIIIE grants.

B The COUNTY agrees to reimburse the CONTRACTOR \$60.00 per day (\$6.00 per ½ hour or \$12.00 per hour) 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 client is attending less than five (5) hours per day. The total payments for this contract will not exceed \$68,750.00.

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 Voucher Instructions.

4. **TERM OF AGREEMENT**

A. The CONTRACTOR agrees that this Agreement will not be subcontracted or assigned. The terms and conditions of this Agreement will commence January 1, 2016 and terminate December 31, 2016.

5. **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** should 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.

6. **NEW YORK STATE OFFICE FOR THE AGING (NYSOFA) TERMS AND CONDITIONS**

A. The **CONTRACTOR** agrees that all its activities under this contract, shall conform with all applicable Federal, State, and Local laws, and with 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:

- Rehabilitation Act of 1973, Sec. 504 (29 U.S.C. 794, Nondiscrimination)
- Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.; see 92-PI-32, [8/4/92])
- Civil Rights Act of 1964, Title VI, as amended (42 U.S.C. 2000-d et. seq.)
- Older Americans Act
- Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency)
- 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.)
- 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)
- Equal Access to Services and Targeting Policy (12-PI-08)
- Elder Law

B. The **CONTRACTOR**, to the extent it has discretion regarding to whom it will provide services, agrees to 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 Area Agencies on Aging (AAA) for providing services to the above groups within Oneida County. The **CONTRACTOR** agrees to concentrate the services on older adults in the targeted populations identified by the AAA following the methods the AAA 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 Limited English Proficiency (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 contract with the AAA 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 AAA 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 Limited English Proficiency, 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 Limited English Proficiency, and older adults residing in rural areas in accordance with their need for such services; and meet specific objectives established by the AAA, for providing services to low-income minority individuals, older adults with Limited English Proficiency, and older adults residing in rural areas within the planning and service area.

7. **GRIEVANCE PROCEDURES**

A. The **CONTRACTOR** agrees to implement the **COUNTY'S** grievance procedures as required by the New York State Office for the Aging. The written procedures are attached in **APPENDIX B**.

8. **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 **COUNTY** Voucher Instructions, refer to **APPENDIX C**.

C. The **COUNTY** will be responsible for sending monthly donation letters and collecting participant contributions for all participants 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 participant, 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 the contract 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.

9. **INSURANCE COVERAGE REQUIREMENTS**

A. 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 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.

B. 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 of omission or commission or error in judgment of any of its officers, trustees, servants, independent subcontractors, and shall hold harmless and indemnify the County of Oneida 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.

C. The **CONTRACTOR** 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 (\$1,000,000.00). The **CONTRACTOR** agrees to have the **COUNTY** added to said insurance policies as a named **ADDITIONAL INSURED**, as its interest may appear, and to provide the **COUNTY** with a certificate from said insurance company, or companies, showing coverage as herein before required, and to provide that such coverage shall not be terminated without written prior notice to the **COUNTY** of at least thirty (30) days.

D. 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 the **COUNTY** with proof of coverage in the amount of \$1,000,000 per incident and \$3,000,000 aggregate. The **CONTRACTOR** agrees to have Oneida County named **ADDITIONAL INSURED** 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; and to provide that such coverage shall not be terminated without written prior notice to the **COUNTY** of at least thirty (30) days.

E. The **CONTRACTOR** shall obtain such policy or policies of insurance from a company or companies duly licensed to do business in the State of New York.

10. **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 client records on each EISEP client who receives services through this program; the **COUNTY** shall have access to the client records upon request; the **COUNTY** shall have ownership of all patient's records and files.

D. The **CONTRACTOR** agrees to comply with policies ensuring client confidentiality, as established by the **COUNTY**, when information sharing between agencies is crucial to the client'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.

11. **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 through this contracted program, 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.

12. **AGREEMENT CANCELLATION**

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

B. The **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 clients shall not be detrimental to a clients' health or well-being. If available and appropriate, other services shall be substituted and/or coordinated on the clients' behalf.

13. **CONTRACT RENEWAL**

A. The **COUNTY** and the **CONTRACTOR** shall negotiate the contract annually.

14. **NO CLAIM FOR DAMAGES**

A. The **CONTRACTOR** agrees to make no claim for damages for delay of reimbursement due to an act or omission by Oneida County, New York.

15. **STANDARD ADDENDUM**

A. The **CONTRACTOR** agrees to comply with the County's Standard Clauses as set forth in the Addendum, which is attached hereto and made a part hereof as **APPENDIX D**.

16. **TERMS OF AGREEMENT**

A. 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, alternations 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.

*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.

**CONTRACTOR**

\_\_\_\_\_  
Michael Sweeney, Chief Executive Officer  
Presbyterian Residential Community, Inc.

\_\_\_\_\_  
Date

**COUNTY OF ONEIDA**

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

\_\_\_\_\_  
Date

**OFFICE FOR THE AGING AND CONTINUING CARE**

\_\_\_\_\_  
Michael J. Romano, Director  
Oneida County Office for the Aging

\_\_\_\_\_  
Date

**Approved as to Form:**

By: \_\_\_\_\_  
Raymond F. Bara, 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 Unsatisfaction 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  
2015-2016

### **Voucher Instructions For Units of Services Contracts**

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

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

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

Have all accounting records, receipts and supporting documentation readily available for review by the County, State and/or Federal personnel authorized to examine and/or audit program accounts. Ref: US Code of Federal Regulations 45-74 amended in 1980. Check numbers, dates paid and amounts paid must be written on each receipt.

**8. Timely Submissions:**

- ✓ Submit monthly vouchers by the 10<sup>th</sup> day of the month following the reporting month.
- ✓ Checks are issued by Oneida County Audit and Control only on Fridays - approximately 30 days after submission.
- ✓ If all documentation is not included, the voucher will be returned unpaid with a request for proper backup and documentation.

**9. Changes To The Budget (including personnel):**

- ✓ Submit a Budget Revision and a justification for the change.

**10. Technical Assistance:**

- ✓ If you have fiscal questions regarding your program or require technical assistance, please contact the OFA-OCC Fiscal Unit directly at 315-798-5456.

Susie Perritano, Accounting Supervisor

## APPENDIX D

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).

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- d.. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F. for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
  - 1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
  - 2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

**4. Health Insurance Portability and Accountability Act (HIPAA).**

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
  - 1. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;

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

**5. Non-Assignment Clause.**

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

**6. 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.**

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**

**Michael J. Romano**  
Director

**Anthony J. Picente, Jr.**  
County Executive

120 Airline Street – Suite 201, Oriskany, NY 13424 Phone 315-798-5456 Fax 315-798-6444 E-mail. ofa@ocgov.net

August 31, 2015

FN 20 15-417

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

HEALTH & HUMAN SERVICES

WAYS & MEANS

Dear Mr. Picente:

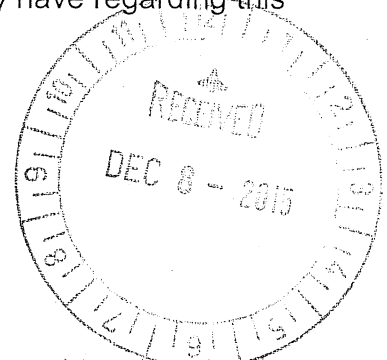
I am submitting the following Contract Agreement between the Oneida County Office for the Aging and Continuing Care, and the Senior Citizens Council of Rome, New York, Inc., located at Ava Dorfman Senior Center, for the Board of Legislators review and approval.

This Agreement is for the provision of Senior Adult Day Services which will provide community based long term care services to the frail and elderly and save taxpayer dollars by preventing premature nursing home placement. The total amount of this Agreement is \$58,500.00. This consists of 75% (\$43,875.00) State funds, and 25% (\$14,625.00) County dollars. This contract commences January 1, 2016 and terminates December 31, 2016.

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

Sincerely,

Michael J. Romano  
Director



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

Anthony J. Picente, Jr.  
County Executive

Date 12/7/15

MJR/mac

Enclosures



**Oneida County Board of Legislators**  
**Contract Summary**

**Name of Proposing Organization:** Senior Citizens Council of Rome, New York, Inc.  
Ava Dorfman Senior Center  
305 East Locust Street  
Rome, New York 13440

**Title of Activity or Service:** Social Adult Day Care

**Proposed Dates of Operation:** January 1, 2016 through December 31, 2016

**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 Level**

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

**Oneida County Department Funding Recommendation:** \$ 60.00 /day total

**Proposed Funding Source (Federal/State/County):** \$58,500.00 ACCT A6772.495.116

Federal: \$0 State: \$ 43,875.00 (75%) County: \$ 14,625.00 (25%)

**Cost per Client Served:** \$60.00 per client per five hour day

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

## AGREEMENT

This is an Agreement by and between the **SENIOR CITIZENS COUNCIL OF ROME, NEW YORK, INC.**, service location at 305 East Locust Street, Rome, New York 13440, hereinafter known as "**CONTRACTOR**"; and the **COUNTY OF ONEIDA**, by and through its department of **OFFICE FOR THE AGING AND CONTINUING CARE**, located at 120 Airline Street, Suite 201, Oriskany, NY 13424 hereinafter known as the "**COUNTY**".

### 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, CSEP/III-E, CSI, SNAP, HIICAP, MIPPA/SHIP, and County of Oneida funds.

**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. **SOCIAL ADULT DAY CARE SERVICES**

A. The **CONTRACTOR** agrees as part of the terms and conditions of this Agreement to comply with the State of New York's Social Adult Day Care Regulations, Executive Law, Article 19-J, Part 6656, effective January 1, 1995, and to comply with the **COUNTY's** 2000 Policy and Procedure Manual.

B. The **CONTRACTOR** agrees to provide Social Model Adult Day Services to frail individuals 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** agrees to provide services in Oneida County.
- D. The **CONTRACTOR** agrees to provide Social Adult Day 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 participants 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 participants at appropriate times.
- E. The **CONTRACTOR** agrees that all participants will receive services only in accordance with an individualized **written** Service Plan that is based on the COMPASS assessment, and will specify the individual participant outcomes expected from the provision of social adult day care services; and the Service Plans will be reevaluated at a minimum annually.

2. **OTHER SPECIFICATIONS**

- A. As specified in State of New York's Social Adult Day Care Program Regulations, all of the **CONTRACTOR'S** adult day care personnel, both paid and volunteer, will attend six (6) hours of training annually, and new program employees or volunteers will receive at least twenty hours of group, individual and/or on-the-job training.
- B. The **CONTRACTOR'S** personnel should 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.
- C. The **CONTRACTOR** and **COUNTY** agree to hold periodic coordinating meetings as needed.
- D. The **CONTRACTOR** and **COUNTY** agree to work cooperatively to develop comprehensive adult day services for Oneida County.
- E. The **CONTRACTOR** agrees to make a good faith effort to recruit interns from the local colleges' student intern programs.

3. **REIMBURSEMENT FOR SERVICES**

- A. It is agreed and understood by all parties that the **COUNTY** will reimburse the **CONTRACTOR** for Social Adult Day Care Services which are provided in accordance with the terms

and conditions of this Agreement and the Community Services for the Elderly Program (CSEP) and the Caregiver Support III E grants.

B. The COUNTY agrees to reimburse the CONTRACTOR **\$60.00 per day (\$6.00 per ½ hour or \$12.00 per hour)** 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 client is attending less than five (5) hours per day. The total payments for this contract will not exceed **\$58,500.00**.

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 Voucher Instructions.

4. **TERM OF AGREEMENT**

A. The CONTRACTOR agrees that this Agreement will not be subcontracted or assigned. **The terms and conditions of this Agreement will commence January 1, 2016 and terminate December 31, 2016.**

5. **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 (SOFA), 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** should 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.

6. **NEW YORK STATE OFFICE FOR THE AGING (NYSOFA) TERMS AND CONDITIONS**

A. The **CONTRACTOR** agrees that all its activities under this contract, shall conform with all applicable Federal, State, and Local laws, and with 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:

- Rehabilitation Act of 1973, Sec. 504 (29 U.S.C. 794, Nondiscrimination)
- Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.; see 92-PI-32, [8/4/92])
- Civil Rights Act of 1964, Title VI, as amended (42 U.S.C. 2000-d et. seq.)
- Older Americans Act
- Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency)
- 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.)
- 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)
- Equal Access to Services and Targeting Policy (12-PI-08)
- Elder Law

B. The **CONTRACTOR**, to the extent it has discretion regarding to whom it will provide services, agrees to 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 Area Agencies on Aging (AAA) for providing services to the above groups within Oneida County. The **CONTRACTOR** agrees to concentrate the services on older adults in the

targeted populations identified by the AAA following the methods the AAA 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 Limited English Proficiency (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 contract with the AAA 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 AAA 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 Limited English Proficiency, 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 Limited English Proficiency, and older adults residing in rural areas in accordance with their need for such services; and meet specific objectives established by the AAA, for providing services to low-income minority individuals, older adults with Limited English Proficiency, and older adults residing in rural areas within the planning and service area.

7. **GRIEVANCE PROCEDURES**

A. The **CONTRACTOR** agrees to implement the **COUNTY**'s grievance procedures as required by the New York State Office for the Aging. The written procedures are attached in **APPENDIX B**.

8. **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 **COUNTY** Voucher Instructions, refer to **APPENDIX C**.

C. The **COUNTY** will be responsible for sending monthly donation letters and collecting participant contributions for all participants 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 participant, 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 the contract 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.

9. **INSURANCE COVERAGE REQUIREMENTS**

A. 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** 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.

B. 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 of omission or commission or error in judgment of any of its officers, trustees, servants, independent subcontractors, and shall hold

harmless and indemnify the County of Oneida 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.

C. The **CONTRACTOR** 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 (\$1,000,000.00) The **CONTRACTOR** agrees to have the **COUNTY** added to said insurance policies as a named **ADDITIONAL INSURED**, as its interest may appear, and to provide the **COUNTY** with a certificate from said insurance company, or companies, showing coverage as herein before required, and to provide that such coverage shall not be terminated without written prior notice to the **COUNTY** of at least thirty (30) days.

D. 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 the **COUNTY** with proof of coverage in the amount of \$1,000,000 per incident and \$3,000,000 aggregate. The **CONTRACTOR** agrees to have Oneida County named **ADDITIONAL INSURED** 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, and to provide that such coverage shall not be terminated without written prior notice to the **COUNTY** of at least thirty (30) days.

E. The **CONTRACTOR** shall obtain such policy or policies of insurance from a company or companies duly licensed to do business in the State of New York.

#### 10. 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 client records on each EISEP client who receives services through this program; the **COUNTY** shall have access to the client records upon request; the **COUNTY** shall have ownership of all patient's records and files.

D. The **CONTRACTOR** agrees to comply with policies ensuring client confidentiality, as established by the **COUNTY**, when information sharing between agencies is crucial to the client'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.

11. **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 through this contracted program, 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.

12. **AGREEMENT CANCELLATION**

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

B. The **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 clients shall not be detrimental to a clients' health or well-being. If available and appropriate, other services shall be substituted and/or coordinated on the clients' behalf.

13. **CONTRACT RENEWAL**

A. The **COUNTY** and the **CONTRACTOR** shall negotiate the contract annually.

14. **NO CLAIM FOR DAMAGES**

A. The **CONTRACTOR** agrees to make no claim for damages for delay of reimbursement due to an act or omission by Oneida County, New York.

15. **STANDARD ADDENDUM**

A. The **CONTRACTOR** agrees to comply with the County's Standard Clauses as set forth in the Addendum, which is attached hereto and made a part hereof as **APPENDIX D**.

16. **TERMS OF AGREEMENT**

A. 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, alternations 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.

*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.

**CONTRACTOR**

\_\_\_\_\_  
Tiffany Martin, Executive Director  
Ava Dorfman Senior Citizens Civic Center,  
Senior Citizens Council of Rome, NY, Inc.

\_\_\_\_\_  
Date

**COUNTY OF ONEIDA**

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

\_\_\_\_\_  
Date

**OFFICE FOR THE AGING AND CONTINUING CARE**

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

\_\_\_\_\_  
Date

**Approved as to Form:**

By: \_\_\_\_\_  
Raymond F. Bara, 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 Unsatisfaction 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  
2015-2016

### **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, CSEP, III-B etc.) in the space after the Contract Number.
6. **Claimant's Certification:**

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

Have all accounting records, receipts and supporting documentation readily available for review by the County, State and/or Federal personnel authorized to examine and/or audit program accounts. Ref: US Code of Federal Regulations 45-74 amended in 1980. Check numbers, dates paid and amounts paid must be written on each receipt.

**8. Timely Submissions:**

- ✓ Submit monthly vouchers by the 10<sup>th</sup> day of the month following the reporting month.
- ✓ Checks are issued by Oneida County Audit and Control only on Fridays - approximately 30 days after submission.
- ✓ If all documentation is not included, the voucher will be returned unpaid with a request for proper backup and documentation.

**9. Changes To The Budget** (including personnel):

- ✓ Submit a Budget Revision and a justification for the change.

**10. Technical Assistance:**

- ✓ If you have fiscal questions regarding your program or require technical assistance, please contact the OFA-OCC Fiscal Unit directly at 315-798-5456.

Susie Perritano, Accounting Supervisor

## APPENDIX D

**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 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 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).

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- d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F. for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
  1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
  2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

**4. Health Insurance Portability and Accountability Act (HIPAA).**

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In

order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:

1. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
2. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
3. Utilize an adequate amount of physical hardware, including but not limited to filing cabinets, and locks on drawers, cabinets, and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.

b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

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

c. The Contractor shall:

1. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
2. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
3. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
4. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of, the County agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
5. Make available protected health information in accordance with 45 CFR § 164.524;
6. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR § 164.528;
7. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
8. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by the Contractor on behalf of, the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
9. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by the Contractor on behalf of, the County that the Contractor still maintains in any form and retain no copies of such information or, if such return or destruction is not feasible, extend the protections of this Contract to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

d. The Contractor agrees that this contract may be amended if any of the following events occurs:

1. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
  2. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
  3. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

**5. Non-Assignment Clause.**

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

**6. 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.**

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 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

November 16, 2015

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

FN 20 15-418 PUBLIC WORKS WAYS & MEANS

Re: Anaerobic Digester (ADG) to Electricity Grant, PON 2828 New York State Research and Development Authority (NYSERDA) Agreement #000000000000000000073665 Capital Project HG-526 Solids Handling Upgrades (Digesters)

Dear County Executive Picente:

The New York State Research and Development Authority (NYSERDA) has awarded the County of Oneida a grant for the installation and operation of an Anaerobic Digestion Facility at the Oneida County Water Pollution Control Plant. This grant can be for a total up to \$2,000,000.

The grant provides for performance incentives of \$1,143,180, interconnection incentives of \$18,000 and capacity incentives of \$838,820. The performance incentives are based on the expected kilowatt-hours produced per year and are paid over a period of 10 years. The capacity incentives are based on the type and size of the co-gen system installed and is paid in segments corresponding to equipment installation milestones. The interconnection incentives are based on costs that National Grid incurs and charges back to the County for accommodating the new system into the grid, and are paid based on the progress of the installation.

As you are aware, part of the upgrades that will be undertaken at the plant consist of installing such a facility. This grant will help offset a portion of the installation expenses associated with this facility. The proposed grant contract is attached for consideration by you and the Board of Legislators.

I would appreciate consideration of this grant contract by you and the Board of Legislators at your earliest convenience. I am available to meet with you or the Board at your convenience to discuss this request and explain it in more detail. Thank you for your consideration in this matter.

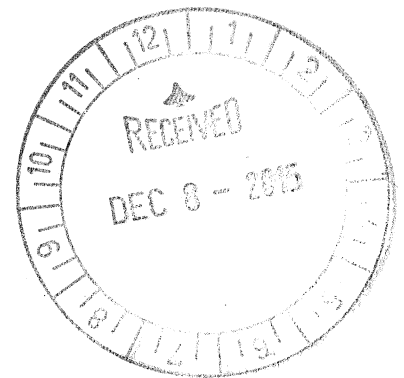
Sincerely,

[Signature of Steven P. Devan]

Steven P. Devan, P.E. Commissioner

Cc: Howard LaFever, GHD Consulting Services Inc. Karl E. Schrantz, P.E. - O'Brien & Gere Engineering, Inc.

Attachments: NYSERDA Grant Contract Agreement #000000000000000000073665 Board of Legislators Contract Summary



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

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

Date 12/1/15



Oneida Co. Department: Water Quality & Water Pollution Control

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

**ONEIDA COUNTY BOARD OF LEGISLATORS  
CONTRACT SUMMARY**

**Name & Address of Vendor:** New York State Research and  
Development Authority (NYSERDA)  
17 Columbia Circle  
Albany, NY 12203-6399

**Title of Activity or Service:** Anaerobic Digester (ADG) to Electricity Grant  
PON 2828

**Proposed Dates of Operation:** September 25, 2015 through completion of QA/QC  
activities as required by the approved QA/QC Plan.

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

**Summary Statements**

**1) Narrative Description of Proposed Services:** This is a grant from NYSERDA for the construction and operation of an anaerobic digestion facility. NYSERDA will provide grant funding incentives in the categories of Performance (\$1,143,180), Interconnection (\$18,000) and Capacity (\$838,820), for a total of \$2,000,000 collectively.

**2) Program/Service Objectives and Outcomes:** The objective is to build and reliably operate an anaerobic digestion facility at the Oneida County Water Pollution Control Plant.

**3) Program Design and Staffing:** The digesters are being designed by GHD Consulting Services, Inc. Operations staffing will be with Oneida County personnel.

**Total Funding Requested:** up to \$2,000,000      **Account #:** HG526

**Oneida County Dept. Funding Recommendation:** \$2,000,000.00

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

**Cost Per Client Served:** Benefit per client served is \$18.18

**Past Performance Data:** None

**O.C. Department Staff Comments:** This was a competitive grant that we were awarded.

**Renewable Portfolio Standard – Customer-Sited Tier  
Anaerobic Digester (ADG)-to-Electricity Program  
(PON 2828)**

**STANDARD PERFORMANCE CONTRACT  
AGREEMENT**

**BETWEEN**

**NEW YORK STATE RESEARCH AND  
DEVELOPMENT AUTHORITY**

**AND**

**Oneida County  
Agreement # 000000000000000000073665**

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## LIST OF ATTACHMENTS

Exhibit A	Total Contracted Project Incentive
Exhibit B	Standard Terms and Conditions for All NYSERDA Agreements
Exhibit C	Prompt Payment Policy Statement
Exhibit D	Final completed Application Form, Using the Incentive Calculation Tool Quality Assurance/Quality Control and Reporting Requirements (Appendices B, C and E of PON 2828)

## AGREEMENT

This Standard Performance Contract Agreement (hereinafter referred to as the "Agreement"), dated and effective as of September 25, 2015 ("Effective Date") by and between the New York State Energy Research and Development Authority (hereinafter referred to as "NYSERDA") with its principal office located at 17 Columbia Circle, Albany, New York, 12203-6399, Oneida County, (hereinafter "Contractor") with offices located at 800 Park Avenue, Utica, NY. 13501. NYSEDA and the Contractor may be individually referred herein as a "Party" and collectively as the "Parties."

In consideration of the mutual promises and agreements herein expressed, NYSEDA and the Contractor hereby agree as follows:

### ARTICLE 1: DEFINITIONS

§1.1. Definitions. Unless the context otherwise requires, the terms defined below shall have, for all purposes of this Agreement, the respective meanings set forth below, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined.

ADG System: Anaerobic digester equipment and procedures used for the anaerobic digestion and production of ADG from Eligible Biomass Feedstocks(s). Installation of a gas tight cover over an existing waste storage structure for the purpose of producing and collection biogas is considered an ADG System for the purposes of this PON. Landfills are not ADG Systems for the purposes of this PON.

ADG-to-Electricity System ("the System"): The ADG System and ADG-fueled electric power generation equipment and procedures associated with using ADG to produce electricity for use at a Host Site. The ADG may be produced at the Host Site or delivered to the ADG-fueled electric power generation equipment by means of a dedicated ADG pipeline. For the purposes of this Agreement, ADG-to-Electricity System shall include brand new installations, as well as incremental upgrades to existing systems.

Agreement: This Standard Performance Contract Agreement, including Exhibits A (Total Contracted Project Incentive), B (Standard Terms and Conditions), C (Prompt Payment Policy Statement) and D (Final completed Application Form Using the Incentive Calculation Tool and Quality Assurance/Quality Control and Reporting Requirements), and NYSEDA PON 2828, which is incorporated herein and made part hereof as though herein set forth in full.

Annual Contracted Generation: The number of kilowatt-hours (kWh) calculated by multiplying the Contracted Capacity by 8760 hours per year by a 75% Capacity Factor.

Anaerobic Digester Gas (ADG): Biogas produced by the anaerobic processing of manure, agricultural residues and biomass, industrial organic wastes (i.e., food wastes), and municipal wastewater.

Annual Performance Report: A report submitted annually to NYSEDA for a period of ten (10) years. The report provides data that should demonstrate clearly to NYSEDA whether or not an installed project is generating the amount of electricity projected in this Agreement.

Applicant: The Customer or third party who is submitting the Application Package.

Application Package: The Contractor's submission to NYSERDA containing the items listed in Appendix B Section A - E of PON 2828 requesting incentives through a Standard Performance Contract Agreement.

As-Built Diagrams: The final site plan, comprised of process flow and plan view diagrams, showing the installed and commissioned system. The As-Built Diagrams must be included in the Project Commissioning Report.

Capacity Factor: The ratio of the gross electricity generated, for the period of time considered, to the energy that could have been generated at continuous full-power operation at the Contracted Capacity. For the purpose of this PON a capacity factor of 75% shall be assumed.

Contracted Capacity: The real power production capacity of the new ADG power generation system as determined by the rated kW output of the generator at a power factor of 1.0, except as may be limited by (a) a lower power output of the engine at 100% load, with consideration of the generator efficiency, (b) equipment limiting generator output, (c) existing power generation associated with Project Enhancement incentives and (d) any other factors, all as determined in a manner satisfactory to NYSERDA.

Contractor: The Customer or third party who is submitting the Application Package and a party to this Agreement.

Customer: The owner or tenant of a Host Site and who, generally, pays the RPS Program Surcharge.

Effective Date: The date appearing in the first paragraph of this Agreement.

Engine: For purposes of this Agreement, a device that converts fuel energy to mechanical work (e.g., internal combustion engine, microturbine).

Host Site: The site at which the ADG-to-Electricity System is located, ADG-fueled electricity is generated and used, and where the utility meter, which is generally interconnected with the grid, is located.

Installation and Commissioning: The completion of construction of the ADG-to-Electricity System, interconnection of the System with the utility grid, if applicable, at least one month of satisfactory operation of the system according to its design intent with a minimum 75% Capacity Factor, and demonstration of the ability to upload information to NYSERDA's DG Integrated Data System website.

Installation Phase: The phase of the Standard Performance Contract that includes Procurement, developing the QA/QC Plan, Installation and Commissioning, and preparation and approval of the Project Installation Report.

kW: One kilowatt of electrical power.

kWh: One kilowatt-hour of electrical energy (or electricity).

Performance Phase: The final phase of this Agreement that commences on the date upon which NYSERDA approves the Project Commissioning Report and includes and continues through completion of the QA/QC activities required by the approved QA/QC Plan.

Post-installation Site Inspection: NYSERDA or its designated technical consultant will conduct a Post-Installation Site Inspection to verify that the New Equipment specified in the approved Application Package has been installed properly and is operating according to its design intent.

Procurement: Ordering and securing delivery of all major equipment associated with the ADG-to-Electricity System.

Project: The installation and operation of the ADG-to-Electricity System as described in the attached Appendices B and C as contained in Exhibit D.

Project Commissioning Report: The detailed description of the installed and commissioned ADG-to-Electricity System. The Project Commissioning Report includes updates to the information provided in the Application Package, which subsequently were used to develop the Standard Performance Contract Agreement, to reflect the installed System, including As-built Diagrams of the ADG-fueled Electric Power Generation Equipment.

Project Term: The term of this Agreement as defined in Section 2.2 hereof.

Quality Assurance/Quality Control (QA/QC): The process of monitoring, measuring, and verifying the electrical energy generated by the New Equipment of the ADG-to-Electricity System.

Renewable Portfolio Standard (RPS) Program: A program established by the New York State Public Service Commission to increase the proportion of renewable electricity used by New York consumers to at least 30% by 2015.

RPS Surcharge: One of the delivery charges levied by National Grid, NYSEG, Rochester Gas and Electric, Orange and Rockland, Central Hudson Gas and Electric, and Consolidated Edison. The RPS Surcharge permits these companies to recover costs associated with providing financial incentives for the development of renewable resources in New York State. NYSERDA is the administrator of the RPS program.

Total Contracted Project Incentive: The dollar amount listed in Exhibit A of this Agreement, representing the maximum amount payable under this Agreement.

Total Production Performance Period: The ten (10) consecutive years during which the annual kWh production is compiled for use in determining the amounts of the annual performance payments.

## ARTICLE 2: PROJECT ORGANIZATION

§2.1. Project Organization. The Project contemplated herein shall be implemented in accordance with the Agreement and in two phases: Installation and Performance. The Installation Phase shall begin with the Effective Date and will include the Procurement, Installation and Commissioning of the ADG-to-Electricity

System set forth in the approved Application Package, and preparation and approval of the Project Commissioning Report. The Performance Phase shall begin upon approval by NYSERDA of the Project Installation Report and will include and continue through completion of the QA/QC activities required by the approved QA/QC Plan.

§2.2. Project Term. The Project term of this Agreement shall begin on the Effective Date and continue until the end of the Performance Phase, unless extended or terminated under the terms hereof.

§2.3. Extensions of Time. The Project Term or other milestones or deadlines for submittal of documentation to NYSERDA included in this Agreement may be extended for good cause at NYSERDA's discretion. As used herein, "good cause" means an unanticipated circumstance or event, which despite the due diligence of the Contractor, renders compliance with project term or other deadline impracticable. A request for an extension should be submitted in writing to NYSERDA no less than 30 calendar days prior to the expiration of the applicable deadline. The request for extension must describe the reasons for the delay and the expected timeframe to meet all the milestones in the Agreement. Extensions may be granted or denied at NYSERDA's sole discretion. Any such extension shall be communicated in writing by NYSERDA's Contract Administrator. NYSERDA may terminate this Agreement upon the failure of the Contractor to conform to these requirements or to complete any milestone by the listed milestone time limit.

§2.4. Modification. This Agreement may be modified to effect changes in Contracted Capacity and associated incentive amounts or in any other parts of the Agreement, when such modifications are determined to be warranted by both NYSERDA and the Contractor and are incorporated in a written modification duly executed by both parties. Any request for a modification should be submitted in writing to NYSERDA no less than 30 days prior to any deadlines proposed to be affected by such modification. Approval or denial of any modifications by NYSERDA shall be at NYSERDA's sole discretion.

§2.5. Manner of Performance. The Contractor shall perform its responsibilities under this Agreement in an efficient and expeditious manner and in accordance with all of the terms and provisions of this Agreement. The Contractor shall perform all responsibilities in accordance with the current professional standards and with the diligence and skill expected for the performance of work of the type described in this Agreement. The Contractor shall furnish such personnel and shall procure such materials, machinery, supplies, tools, equipment and other items as may reasonably be necessary or appropriate to perform its responsibilities in accordance with this Agreement. Operation of the ADG System must conform to the eligibility requirements imposed by the RPS Program with regard to the Customer-Sited Tier.

### ARTICLE 3: MILESTONES TO PROCUREMENT AND INSTALLATION

This Article defines milestones leading to procurement and successful installation of the New Equipment. NYSERDA may terminate this Agreement for failure to complete the milestones by the listed milestone time limits. If the Contractor finds it necessary to seek an extension to any of the milestone time limits listed in this Article, a request for an extension should be submitted in writing to NYSERDA no less than 30 calendar days prior to the expiration of the applicable deadline. The provisions of Section 2.3 of Article 2 shall govern the granting or denial of extension requests.

The Contractor shall schedule project progress meetings with NYSERDA at approximately 4 months and 8 months from the Effective Date.

§3.1. Interconnection with the Utility Grid. The Contractor shall provide adequate documentation of steps completed to interconnect the New System with the utility grid. Such documentation shall include, within two (2) months of the Effective Date, evidence that a complete detailed interconnection design package has been submitted to the utility as defined in the New York State Standardized Interconnection Requirements and Application Process for New Distributed Generators 2 MW or Less Connected in Parallel with Utility Distribution Systems (SIR) “Step 5: Applicant Commits to the Completing of the CESIR” (a copy of the SIR is included in Appendix G of PON 2828).

§3.2. Documentation of Adequacy of Biogas Supply. The Contractor shall provide adequate documentation of steps taken to secure sufficient digester feedstock for the ADG-to-Electricity System to generate adequate biogas for annual power production at least at a 75% capacity factor; such documentation shall include:

- (a) Within 3 months of the Effective Date (1) written documentation from sufficient sources of such feedstock(s) of the quantity and availability of such feedstock(s) throughout the year and the characteristics of the feedstock(s) affecting both biogas potential (e.g. volatile solids content) and disposition of digester effluent (e.g. Nitrogen and Phosphorus content) and (2) assumptions and calculations using the characteristics and quantities of sufficient feedstock streams planned for digestion to show that adequate biogas will be produced;
- (b) (For Concentrated Animal Feeding Operations) Within 4 months of the Effective Date written documentation from a Certified Agricultural Environmental Management Planner of the ability of the Host site and Contractor to provide for acceptable disposition of the effluent from the digester with the digestion of such feedstock(s); and
- (c) Within 5 months of the Effective Date, copies of required regulatory approvals or permits for accepting the feedstock(s).

§3.3. System Financing. Within four (4) months of the Effective Date, the Contractor shall provide adequate documentation of steps taken to secure the financing necessary to successfully install and commission the New Equipment; such documentation shall include:

- (a) Written documentation from funding sources of the amounts of funding available;
- (b) A statement of the Contractor that there are no substantial financial changes to the project (such as dramatically increased costs) since the original Economic Evaluation provided in the proposal. If there have been substantial changes the Contractor must demonstrate that the project still shows adequate net benefits for successful installation, operation and at least 10 years of continued operation of the new ADG installation.

§3.4. Procurement. Procurement of major equipment must be completed, and sufficient documentation of Procurement must be provided to NYSERDA, within nine (9) months of the Effective Date. Major equipment includes the ADG-fueled engine, generator, engine/generator controls, biogas clean-up system, as well as major components of the anaerobic digester, if applicable. Sufficient documentation of Procurement may include but may not be limited to invoices, Bills of Lading, etc.

§3.5. System Installation. Within eleven (11) months of the Effective Date, the Contractor shall be responsible for the installation of the New System including the interconnection with the utility grid and production of electricity by the power generation equipment in accordance with the approved QA/QC Plan.



§3.6. System Commissioning. Within twelve (12) months of the Effective Date, the Contractor shall be responsible for Commissioning of the New System, which shall include documentation of satisfactory operation of the New Equipment, which is defined as operating with a minimum average 75% Capacity Factor of the Total Contracted Capacity for at least 7 consecutive days, and demonstration of the ability to upload information to NYSERDA's DG Integrated Data System website.

§3.7. Project Commissioning Report. A Project Commissioning Report must be completed and submitted to NYSERDA within 14 months of the Effective Date; such Report must be prepared in accordance with the requirements of Exhibit D, and must sufficiently document that Installation and Commissioning has been completed. The Project Commissioning Report must include As-Built Diagrams of the commissioned ADG system. NYSERDA's approval of the Project Commissioning Report will depend on the results of a Post-Installation Site Inspection, which will verify the information provided in the Project Commissioning Report. NYSERDA will provide notice of approval of the Project Commissioning Report or will request additional information within 60 days of receipt. NYSERDA will review the Project Commissioning Report, inspect the system and either approve the Project Commissioning Report as submitted, approve it with minor revisions, or reject it. If the Project Commissioning Report is rejected, the Contractor will be provided with a period of 60 calendar days from the date of rejection to provide necessary information and resolve all outstanding issues with NYSERDA.

Contractor shall be responsible for the acquisition and maintenance, at its own cost, of any and all permits, approvals, licenses, easements, waivers and permissions of every nature necessary to perform the Project.

#### ARTICLE 4: QUALITY ASSURANCE/QUALITY CONTROL

§4.1. Quality Assurance/Quality Control Plan. The Contractor must develop a Quality Assurance/Quality Control (QA/QC) Plan (in accordance with Exhibit D) in conjunction with NYSERDA's designated technical consultant. The QA/QC Plan must be received and approved by NYSERDA prior to submittal (or payment) of any invoices Capacity or Performance Incentives beyond the 1<sup>st</sup> Capacity payment. The Contractor shall be responsible to provide the instrumentation (sensors and meters) and communications capability specified within the approved QA/QC Plan; all QA/QC activities shall be conducted in accordance with the approved QA/QC Plan.

§4.2. Annual Performance Reports. The total production performance period of the Standard Performance Contract Agreement shall be ten (10) years. The first year's (consecutive 12-month) performance period must begin no later than the 30th day after NYSERDA's approval of the Project Commissioning Report. If NYSERDA determines that data collected prior to approval of the Project Commissioning Report is satisfactory, the first year's performance period may begin at an earlier date approved by NYSERDA.

Within 60 days from the end of the first year's performance period, the Contractor must submit an Annual Performance Report to NYSERDA, which will become the basis for the first Performance Incentive payment. Annual performance reporting shall be in accordance with Exhibit D. Annual Performance Reports must also be submitted to NYSERDA within 60 days from the end of the second and third performance periods. The Contractor shall be responsible for ensuring that data provided in the Annual Performance Reports accurately represents the operation of the ADG-to-Electricity System.

§4.3. Prior Notice. NYSERDA or its designated technical consultant may choose to visit a project site to verify that the information provided in the Annual Performance Report is accurate with regard to project equipment, site conditions, and monitoring configurations. These inspections may occur at any time after project installation. Should NYSERDA decide to inspect a site, NYSERDA, or its designated technical consultant may or may not contact the Contractor to schedule the inspection. In other words, an inspection may occur without advance notice given to the Contractor. If the QA/QC activities are found to be different from those represented in either the QA/QC plan or the Annual Performance Report, NYSERDA may refuse any further incentive payments. If NYSERDA deems an inspection necessary, an Annual Performance Report that is under review will not be approved until the inspection has been completed.

## ARTICLE 5: PAYMENTS

§5.1. Invoicing. Payments may be requested by the Contractor by submitting an invoice to NYSERDA. Invoices must be accompanied by all additional required information and documentation. NYSERDA shall make payments to the Contractor in accordance with terms of this Agreement and subject to its Prompt Payment Policy Statement, which is attached hereto as Exhibit C. No invoice may be submitted and no payment will become payable unless and until NYSERDA has approved Contractor's QA/QC Plan. NYSERDA will not be liable for payment of any invoices if received more than 90 days after the expiration of the Project Term.

### §5.2. Interconnection Incentive Payment Distribution.

1st Interconnection payment - 100% of the Interconnection Review Incentive is payable once the Contractor provides documentation to NYSERDA that CESIR costs have been paid in full to the utility.

2nd Interconnection payment - 75% of the Interconnection Implementation Incentive is payable once the Contractor provides documentation to NYSERDA that the full estimated costs of interconnection implementation have been paid to the utility.

3rd Interconnection payment – The remaining 25% of the Interconnection Implementation Incentive is payable once the Contractor provides documentation to NYSERDA that the interconnection has been completed by the utility and the costs estimated in the CESIR have been reconciled with the actual costs of interconnection implementation. The total incentive payable is limited to 50% of the reconciled costs of interconnection implementation. If 50% of the reconciled costs are less than the initial Interconnection Implementation Incentive payment, no additional payments will be made. Additionally, any overpaid funds will be subtracted from the Total Capacity Incentive.

### §5.3. Capacity Incentive Payment Distribution.

1st Capacity payment - Up to 15% of the Total Capacity Incentive is payable once the Contractor provides evidence sufficient to demonstrate payments for major equipment (e.g., power generation system, anaerobic digester system, biogas clean-up and handling systems etc.) and/or engineering design.

2nd Capacity payment\* - Up to 45% of the Anaerobic Digester component of Total Capacity Incentive, is payable once NYSERDA's designated technical consultant has verified that construction/installation/upgrade of the anaerobic digestion system has been completed.

3rd Capacity payment\* - Up to 45% of the Power Generation component of Total Capacity Incentive is payable once the Contractor has provided sufficient documentation to NYSERDA verifying that the power generation system has been delivered to the site (e.g., delivery receipt).

4th Capacity payment\* - Up to 45% of the Project Enhancement component of Total Capacity Incentive is payable once NYSERDA's designated technical consultant has verified that construction/installation of the Project Enhancement has been completed or the required documentation for the Project Enhancement(s), according to applicable sections of *Using the Incentive Calculation Tool* of Exhibit D has been submitted to NYSERDA. The Contractor may request payment at this time for any Project Enhancements that have been completed and verified. Payment for Project Enhancements completed and verified after the 4th Capacity payment request has been made may be requested with the 6th Capacity payment.

5th Capacity payment - 20% of the Total Capacity Incentive is payable once documentation has been provided to NYSERDA that sufficiently verifies successful operation of the newly installed system and completion of interconnection, if applicable (e.g., interconnection acceptance test documentation from the utility).

6th Capacity payment - Up to 100% of the Total Capacity Incentive is payable once the newly installed system is successfully commissioned. Commissioning includes operating the ADG - fueled energy generation system at a minimum of 75% average capacity factor over seven (7) consecutive days, and demonstrating the ability to upload data generated by the system to NYSERDA's DG Integrated Data System website, if applicable. A Project Commissioning Report must also be completed detailing the installation and commissioning activities and include design updates and as-built diagrams. Any Project Enhancements payments that were not made with the 4th Capacity payment may be requested with this payment.

\* The QA/QC Plan must also be completed before requesting these payments.

The 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Capacity payments need not be requested in the order presented above.

#### §5.4. Performance Incentive Payment Distribution.

There are normally 10 Performance Incentive payments. Each payment shall be based on the verified electricity generated and verified H<sub>2</sub>S levels that satisfy requirements for the particular H<sub>2</sub>S removal process as specified in Exhibit D (Appendix C of PON 2828) during each of the 10 consecutive years during which Performance Incentives are offered, known as the Performance Period.

The first year's (consecutive 12-month) Performance Period must begin after commissioning no later than the 30th day after NYSERDA's approval of the Project Commissioning Report. If NYSERDA determines that data collected prior to approval of the Project Commissioning Report is satisfactory, the first year's performance period may begin at an earlier date if approved by NYSERDA.

Performance Incentive payments shall be made after the following:

- The Annual Performance Report, prepared by the designated technical consultant, has been approved by NYSERDA. The Contractor is responsible for ensuring that data provided in the Annual Performance Reports accurately represent the operation of the ADG-to-Electricity System in accordance with the QA/QC plan.

- An invoice has been submitted to NYSERDA for the previous year's Performance Incentives.
- A statement has been submitted to NYSERDA stating whether or not a Federal Grant via 1603 Treasury Grant, USDA REAP and/or NRCS/EQIP digester funding has been received for one or more components of the project. Contractor may be required and hereby agrees to provide NYSERDA with any necessary authority for NYSERDA to independently verify the existence and amount of any federal grant and to execute any documents necessary for NYSERDA to do so.

In general, 10% of the Power Generation component of the Total Performance Incentive (based on the kWh production times \$.025) will be paid by NYSERDA in each year, not to exceed a cumulative total of 100% of the Power Generation component of the Total Performance Incentive. The percentage paid in a given year will be calculated based on the ratio of the actual verified electricity produced compared to the total electrical generation stipulated in the contract agreement. If, in a given year, the Contractor is unable to produce 10% of the total electrical generation expected over the 10 year period, that production deficit can be made up in subsequent years provided the cumulative percentage of the total Performance Incentives paid by that year does not exceed the cumulative percentage of years that the system had been in production. For example, a maximum of only 80% of the total Performance Incentives can be paid for production at the end of the 8th year of the Performance Period.

Additionally, the H<sub>2</sub>S Reduction Processes component of the annual Performance Incentives payments is based on the hourly outlet H<sub>2</sub>S readings (up to a max. of 90% of the hours in a year) that are below the minimum H<sub>2</sub>S threshold of 800 ppm (for Iron Chloride, Ferric Hydroxide or Other H<sub>2</sub>S reduction processes) or 400 ppm (for Biological Scrubber, Carbon Filter or Iron sponge). Therefore the H<sub>2</sub>S Reduction component of annual Performance Incentive payment is determined by multiplying the Contract Capacity, times the factor .83, times the verified hourly samples below the min. H<sub>2</sub>S threshold, times the H<sub>2</sub>S Performance Incentive variable (shown for each respective H<sub>2</sub>S additive or technology on page 2 of this Appendix). NYSERDA may direct its designated technical consultant to sample the biogas, determine H<sub>2</sub>S removal efficiency, and compare the actual efficiency to the data originally provided by the operator.

The first year's (consecutive 12-month) Performance Period must begin after commissioning no later than the 30th day after NYSERDA's approval of the Project Commissioning Report. If NYSERDA determines that data collected prior to approval of the Project Commissioning Report is satisfactory, the first year's performance period may begin at an earlier date approved by NYSERDA.

Performance Incentive payments shall be made after the following:

- The Annual Performance Report, prepared by the NYSERDA's designated technical consultant, has been approved by NYSERDA. The Contractor is responsible for ensuring that data provided in the Annual Performance Reports accurately represent the operation of the ADG-to-Electricity System in accordance with the QA/QC plan.
- An invoice has been submitted to NYSERDA for the previous year's Performance Incentives.
- A statement has been submitted to NYSERDA stating whether or not a Federal Grant via 1603 Treasury Grant, USDA REAP and/or NRCS/EQIP digester funding has been received for one or more components of the project.

#### ARTICLE 6: FORCE MAJEURE

§6.1. Neither party hereto shall be liable for any failure or delay in the performance of its respective obligations hereunder if and to the extent that such delay or failure is due to a cause or circumstance beyond the reasonable control of such party, including, without limitation, acts of God or the public enemy, expropriation or confiscation of land or facilities, compliance with any law, order or request of any Federal, State, municipal or local governmental authority, acts of war, rebellion or sabotage or damage resulting therefrom, fires, floods, storms, explosions, accidents, riots, or strikes or the delay or failure to perform by any subcontractor by reason of any cause or circumstance beyond the reasonable control of such subcontractor. Failure by Contractor to obtain or secure any permit or approval or delay in obtaining any permit or approval of any sort with regard to Contractor's performance under the Agreement shall not constitute a force majeure event.

#### ARTICLE 7: TERMINATION

§7.1. This Agreement shall remain in effect for the Project Term defined in Section 2.2, unless there is an event of default and the Agreement is terminated in accordance with this Article. Events of default include either Party's breach of any provision of this Agreement, including provisions incorporated by reference, and including, but not limited to, the following:

1. failure of the Contractor to perform its responsibilities in a timely manner, including, but not limited to, failure to provide the required submittals within the required time frames, including responses to requests for clarification or additional information, or failure complete the required inspections within the time limits and manner set forth in PON 2828;
2. failure of the Contractor to provide NYSERDA or its contractors sufficient access to the Host Site's facility for inspection and/or observation of the Contractor's field QA/QC activities;
3. failure of the Contractor to cure any deficiency in a material term or cure any material breach of this Agreement within 30 calendar days after written notice;
4. failure of the Contractor to acquire or maintain any necessary permit, license or failure to maintain Insurance as required under this Agreement;
5. assignment or subcontracting of all or part of the Contractor's obligations required under this Agreement without NYSERDA's prior written permission, except that the Contractor shall not be required to obtain NYSERDA approval to subcontract all or part of the work;
6. submittal by the Contractor of false, misleading or incorrect information; and
7. failure by NYSERDA to make payments due pursuant to the terms of this Agreement to the Contractor within the time limits set forth in this Agreement.

§7.2. Once an event of default occurs, and at any time thereafter so long as the default continues, the non-defaulting Party may, by written notice to the defaulting Party, specify the nature of such default, and declare this Agreement to be in default. The defaulting Party must remedy the default within the time

specified in the written notice of default, or 30 calendar days from the date such written notice was given if no time is specified, or within any further period to which the parties may agree. In no event, however, will the defaulting Party be required to remedy a default in less than 30 calendar days from the date the written notice of default was given.

§7.3. Notwithstanding the provisions of this Article, NYSERDA may terminate this Agreement on notice, and without providing an opportunity for cure, for Contractor's failure to fulfill, adhere to, or comply with the provisions of Article 3.

§7.4. If the defaulting party fails to cure its default within the appropriate time period, the non-defaulting party may terminate this Agreement at any time thereafter and, without a waiver of any other remedies which exist in law or equity, exercise at its election, any other rights or remedies it may have under this Agreement, at law or in equity, or institute other proceedings including but not limited to bringing an action or actions from time to time for specific performance, for the recovery of amounts due and unpaid, and for damages.

#### ARTICLE 8: RPS ATTRIBUTES

§8.1. Renewable Portfolio Standard (RPS) Attributes: Orders issued by the NYS Public Service Commission provide that the RPS Program will support and promote an increase, to 30%, of the percentage of the energy consumed in NYS that comes from renewable sources. When assessing and reporting on progress towards that goal, or on the composition of the energy generated and/or consumed in NYS, NYSERDA and the NYS Department of Public Service will include all electrical energy created by any project receiving funds through the NYS RPS Customer-Sited Tier Program, for the life of such projects, and the environmental attributes associated with the production of such electrical energy, whether metered or projected, as a part of any report, evaluation, or review of the RPS Program, whenever any such report, evaluation, or review may be conducted or issued, as renewable energy consumed in NYS. No party, including but not limited to owners, lessees/lessors, operators, and/or associated contractors shall agree to or enter any transaction that would or may be intended to result in the exportation or transmittal of any electrical energy created by any project receiving funds through the NYS RPS Customer-Sited Tier Program to any party or system outside of New York State.

#### ARTICLE 9: INDEMNIFICATION

§9.1. The Contractor shall protect, indemnify, and hold harmless NYSERDA and the State of New York from and against all liabilities, losses, claims, damages, judgments, penalties, causes of action, costs and expenses (including, without limitation, attorneys' fees and expenses) imposed upon or incurred by or asserted against NYSERDA or the State of New York resulting from, arising out of or relating to the Contractor's performance of this Agreement. The Contractor agrees that such obligations under this Article shall survive any expiration or termination of this Agreement and shall not be limited by any insurance coverage required under this Agreement.

#### ARTICLE 10: INSURANCE.

§10.1. Maintenance of Insurance; Policy Provisions. The Contractor, at no additional cost to NYSERDA, shall maintain or cause to be maintained throughout the term of this Agreement, insurance of

the types and in the amounts specified in the Section hereof entitled Types of Insurance. All such insurance shall be evidenced by insurance policies, each of which shall:

1. name or be endorsed to cover NYSERDA and the State of New York as additional insured;
2. provide that such policy may not be canceled or modified until at least thirty (30) calendar days after receipt by NYSERDA of written notice thereof; and
3. be reasonably satisfactory to NYSERDA in all other respects.

§10.2. Types of Insurance. The types and amounts of insurance required to be maintained under this Article are as follows:

1. Commercial general liability insurance for bodily injury liability, including death, and property damage liability, incurred in connection with the performance of this Agreement, with minimum limits of \$1,000,000 in respect of claims arising out of personal injury or sickness or death of any one person, \$1,000,000 in respect of claims arising out of personal injury, sickness or death in any one accident or disaster, and \$1,000,000 in respect of claims arising out of property damage in any one accident or disaster.
2. Workers Compensation, Employers Liability, and Disability Benefits as required by New York State.

§10.3. Delivery of Policies; Insurance Certificates. Prior to commencing the Work, the Contractor shall deliver to NYSERDA certificates of insurance issued by the respective insurers, evidencing the insurance required by this Article. In the event any policy furnished or carried pursuant to this Article will expire on a date prior to the termination date established under Article 2 hereof, the Contractor, not less than thirty (30) calendar days prior to such expiration date, shall deliver to NYSERDA certificates of insurance evidencing the renewal of such policies, and the Contractor shall promptly pay all premiums thereon due. In the event of threatened legal action, claims, encumbrances, or liabilities that may affect NYSERDA hereunder, or if deemed necessary by NYSERDA due to events rendering a review necessary, the Contractor shall, upon request, deliver to NYSERDA a certified copy of each policy.

#### ARTICLE 11: WARRANTIES AND GUARANTEES

§11.1. Each Party warrants and guarantees to the other that:

1. it has all requisite power, authority, licenses, permits and franchises, corporate or otherwise, to execute and deliver this Agreement and perform its obligations hereunder;
2. its execution, delivery and performance of this Agreement have been duly authorized by, or is in accordance with, its organizing instrument, and this Agreement has been duly executed and delivered for it by the signatories authorized, and it constitutes its legal, valid and binding obligation;

3. its execution, delivery and performance of this Agreement shall not result in a breach or violation of, or constitute a default under, any agreement, lease, or instrument to which it is a party or by which it or its properties may be bound or affected; and
4. it has not received any notice, nor to the best of its knowledge is there pending or threatened any notice of any violation of any applicable laws, ordinances, regulations, rules, decrees, awards, permits or orders which would materially and adversely affect its ability to perform hereunder.

§11.2. The Contractor also warrants and guarantees that:

1. it is financially and technically qualified to perform the Project;
2. it is familiar with and will comply with all general and special federal, State, municipal and local laws, ordinances and regulations, if any, that may in any way affect the performance of this Agreement;
3. the design, supervision and workmanship furnished with respect to performance of the Project shall be in accordance with sound and currently accepted engineering practices;
4. neither the Contractor nor any of its employees, agents, representatives or servants has actual knowledge of any patent, copyright or trademark issued under the laws of the United States or any other matter which could constitute a basis for any claim that the performance of the Project or any part thereof infringes any patent, copyright, or trademark or otherwise interferes with any other right of any individual, corporation, association or partnership, organization, business or a government or political subdivision thereof, or any governmental agency or instrumentality;
5. it has no actual knowledge that there are existing undisclosed or threatened legal actions, claims, or encumbrances, or liabilities that may adversely affect the Project or NYSERDA's rights hereunder;
6. it has no actual knowledge that any information or document or statement furnished by the Contractor in connection with this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statement not misleading, and that all facts have been disclosed that would materially adversely affect the Project;
7. it has no, and shall not obtain during the course of this Agreement any, interest, financial or otherwise, direct or indirect, nor is it engaged in any business or transaction or professional activity, nor has it incurred any obligation of any nature, which is in substantial conflict with the rendering of services under this Agreement; and
8. it shall exercise reasonable care to achieve commercial standards of fitness for the Customer's use of the equipment that is installed in connection with the Project.



## ARTICLE 12: COMPLIANCE WITH CERTAIN LAWS

§12.1. Governing Law/Venue. This Agreement shall be interpreted according to the laws of the State of New York without regard to its conflicts of laws principles. The Contractor, its subcontractors and consultants will comply with all laws, rules, orders, regulations and requirements of federal, state and municipal governments applicable thereto, including provisions set forth in Exhibit C hereto. The parties irrevocably acknowledge and accept that all actions arising under or relating to this Agreement, and the transactions contemplated hereby and thereby shall be brought exclusively in the United States District Court or New York State Court located in Albany, New York having subject matter jurisdiction over such matters, and each of the Parties hereby consents to and accepts such personal jurisdiction of, and waives any objection as to the laying of venue in, such courts for purposes of such action.

§12.2. All Legal Provisions Deemed Included. It is the intent and understanding of the Contractor and NYSERDA that each and every provision of law required by the laws of the State of New York to be contained in this Agreement shall be contained herein, and if, through mistake, oversight or otherwise, any such provision is not contained herein, or is not contained herein in correct form, this Agreement shall, upon the application of either NYSERDA or the Contractor, promptly be amended so as to comply strictly with the laws of the State of New York with respect to the inclusion in this Agreement of all such provisions.

§12.3. Other Legal Requirements. The references to particular laws of the State of New York in this Article, and elsewhere in this Agreement are not intended to be exclusive and nothing contained in this Article and the Agreement shall be deemed to modify the obligations of the Contractor to comply with all legal requirements.

§12.4. Equipment Requirements. All Equipment required for the ADG-to-Electricity system described in the Project Application and subsequent As-built Diagrams shall be consistent with the New York State Uniform Fire Prevention and Building Code, or the applicable local, State or Federal codes.

§12.5. State Environmental Quality Review Act (SEQRA). NYSERDA is subject to the provisions of SEQRA, implementing regulations of the New York State Department of Environmental Conservation, and implementing regulations of NYSERDA. Funding will not be released for a Project that has not complied with SEQRA.

§12.6. Permits and Approvals. The Contractor shall be responsible to obtain all applicable permits and regulatory approvals that may be required in order to develop and/or operate the Project during the Project Term. Neither the RPS Program nor entry into this Agreement in any way replaces or modifies the necessity or applicability of any permit or approval process by any jurisdiction. NYSERDA's obligations to make payments to Contractor will be conditional on the acquisition of all such permits and approvals. Upon request by NYSERDA Contractor must demonstrate such acquisition and/or provide copies of all permits and approvals acquired. Contractor shall provide prompt Notice to NYSERDA of the initiation of any criminal or regulatory investigation, hearing, proceeding, or review process ("Process") by any federal or State entity regarding any actual or alleged violation of any permit or approval obtained or applied for with respect to the Project, as well as of any modification, penalty and/or fine that may be imposed or occur as a result of such a Process or violation.

## ARTICLE 13: PUBLICITY

§13.1. The Contractor shall collaborate with NYSERDA's Manager of Communications to prepare any press release and to plan for any news conference concerning the Project. In addition, the Contractor shall notify NYSERDA's Manager of Communications regarding any media interview in which the Project is referred to or discussed.

§13.2. It is recognized that during the course of the Project under this Agreement, the Contractor or its employees may from time to time desire to publish information regarding scientific or technical developments made or conceived in the course of or under this Agreement. In any such information, the Contractor shall credit funding participation in the Project to the **New York State Renewable Portfolio Standard Customer-Sited Tier** program, and shall state that "NYSERDA has not reviewed the information contained herein, and the opinions expressed in this report do not necessarily reflect those of NYSERDA or the State of New York."

§13.3. The Contractor shall not use NYSERDA's corporate name, logo, identity, or any affiliation, without NYSERDA's prior written consent.

#### ARTICLE 14: MISCELLANEOUS

§14.1. Entire Agreement; Amendment. This Agreement embodies the entire agreement and understanding between NYSERDA and the Contractor and supersedes all prior agreements and understandings relating to the subject matter hereof. Except as otherwise expressly provided for herein, this Agreement may be changed, waived, discharged or terminated only by an instrument in writing, signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

§14.2. Record Retention. The Contractor and subcontractors shall keep, maintain, and preserve at its principal office throughout the term of the Agreement and for a period of five (5) years after the expiration or early termination of this Agreement, accurate records of the Project work which is performed hereunder. NYSERDA or its designated representative shall at reasonable times have access to inspect such records.

§14.3. NYSERDA'S Right to Inspect. NYSERDA, and its designated representatives, may observe and inspect all Project work in any of the Customer's facilities.

§14.4. No Waiver. The failure of either Party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver nor deprive that Party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement.

§14.5. Rights and Remedies. No right or remedy conferred upon or reserved to the Parties by this Agreement excludes any other rights or remedies provided by law or equity nor restricts the Parties' rights to exercise any other right or remedy.

§14.6. Disputes. Where any matters related to this Agreement are in dispute, the SPC Program Manager and the Contractor contact person, or their designated representatives shall promptly but in any case, within twenty (20) calendar days of written notice by either party to the other, meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary to exchange information and attempt in good faith to resolve the dispute.

§14.7. Assignment. The assignment, transfer, conveyance, or other disposal of this Agreement or any of the Contractor's rights, obligations, interests or responsibilities hereunder, in whole or in part, without the express consent in writing of NYSERDA shall be void and of no effect as to NYSERDA.

§14.8. Notices. All notices, requests, consents, approvals and other communications which may or are required to be given by either party to the other under this Agreement shall be deemed to have been sufficiently given for all purposes hereunder when delivered or mailed by registered or certified mail, postage prepaid, return receipt requested, (i) if to NYSERDA, at 17 Columbia Circle, Albany, New York 12203-6399, or at such other address as NYSERDA shall have furnished to the Contractor in writing, and (ii) if to the Contractor, at the address noted in the first paragraph of Page 1 of this Agreement, or such other address as the Contractor shall have furnished to it in writing.

§14.9. Executory Clause. NYSERDA shall have no liability under this Agreement to the Contractor or to anyone else beyond RPS Surcharge funds actually paid to NYSERDA by third parties which would fund this Agreement.

§14.10. Independent Contractor. (a) The status of the Contractor under this Agreement shall be that of an independent contractor and not that of an agent, and in accordance with such status, the Contractor, the Subcontractors, and their respective officers, agents, employees, representatives and servants shall at all times during the term of this Agreement conduct themselves in a manner consistent with such status and by reason of this Agreement shall neither hold themselves out as, nor claim to be acting in the capacity of, officers, employees, agents, representatives or servants of NYSERDA nor make any claim, demand or application for any right or privilege applicable to NYSERDA, including, without limitation, vicarious liability, professional liability coverage or indemnification, rights or privileges derived from workers' compensation coverage, unemployment insurance benefits, social security coverage and retirement membership or credit. It is understood and agreed that the personnel furnished by Contractor to perform the Work shall be Contractor's employee(s) or agent(s), and under no circumstances are such employee(s) to be considered NYSERDA's employee(s) or agent(s), and shall remain the employees of Contractor, except to the extent required by section 414(n) of the Internal Revenue Code.

(b) Contractor expressly acknowledges NYSERDA's need to be advised, on an immediate basis, of the existence of any claim or event that might result in a claim or claims against NYSERDA, Contractor and/or Contractor's personnel by virtue of any act or omission on the part of NYSERDA or its employees. Accordingly, Contractor expressly covenants and agrees to notify NYSERDA of any such claim or event, including but not limited to, requests for accommodation and allegations of harassment and/or discrimination, immediately upon contractor's discovery of the same, and to fully and honestly cooperate with NYSERDA in its efforts to investigate and/or address such claims or events, including but not limited to, complying with any reasonable request by NYSERDA for disclosure of information concerning such claim or event even in the event that this Agreement should terminate for any reason.

§14.11. Audit. NYSERDA shall have the right from time to time and at all reasonable times during the term of the Agreement and such period thereafter to inspect and audit any and all books, accounts and records pertaining to Contractor's performance under this Agreement, at the office or offices of the Contractor where they are then being kept, maintained and preserved. If such books, accounts and records are not kept at an office within the State of New York, within a reasonable time of a request by NYSERDA,

Contractor shall make such books, accounts and records available to NYSERDA at NYSERDA's offices or at an agreed upon location within the State of New York. Any payment made under this Agreement shall be subject to retroactive adjustment (reduction or increase) regarding amounts included therein which are found by NYSERDA on the basis of any audit of the Contractor by an agency of the United States, the State of New York or NYSERDA not to constitute a properly invoiced amount.

§14.12. Review and Disclaimer. NYSERDA's execution of this Agreement with the Contractor and any NYSERDA review of the design, construction, operation, or maintenance of the Project shall not constitute any representation as to the economic or technical feasibility, operational capability, or reliability of the Project or Facility. The Contractor shall in no way represent to any third party that NYSERDA's execution of this Agreement or any reviews by NYSERDA, including, but not limited to, NYSERDA's review of the design, construction, operation, or maintenance of the Project is a representation by NYSERDA as to the economic or technical feasibility, operational capability, or reliability of the Facility or Project.

§14.13. Requirement to Pay the RPS. The Host Site must be paying the RPS Surcharge at the time of application submittal to NYSERDA

§14.14. Annual Metrics Reports. In addition to the data required by the QA/QC Plan, on an annual basis, the Contractor shall submit, to NYSERDA's Project Manager, a prepared analysis and summary of metrics addressing the anticipated energy, environmental and economic benefits that are realized by the project. All estimates shall reference credible sources and estimating procedures, and all assumptions shall be documented. Reporting shall commence the first calendar year after the contract was executed. Reports shall be submitted by January 31<sup>st</sup> for the previous calendar years activities (i.e. metrics reporting period). Please see the Metrics Reporting Guide in Exhibit E for the metrics to be provided and the reporting duration.

## ARTICLE 15: FREEDOM OF INFORMATION

§15.1. Freedom of Information Law. Contractor acknowledges that NYSERDA is subject to and must comply with the requirements of New York's Freedom of Information Law ("FOIL;" see Public Officers' Law Article 6).

§15.2. Claim of Confidentiality. Information of any tangible form including any document that Contractor wishes to be protected from disclosure to third parties must be marked "Confidential" or "Proprietary" at the time such information is provided to NYSERDA.

§15.3. Trade Secrets/Commercial Information. The FOIL Law (Public Officers Law § 87(d)(2)) provides an exception to disclosure for records or portions thereof that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." If NYSERDA receives a request from a third party for information or a document received from Contractor and which has been marked "Confidential" or "Proprietary," NYSERDA will process such request under the procedures provided by NYSERDA's FOIL regulations (see [www.nyserda.org/About/NYSERDA.Regulations.pdf](http://www.nyserda.org/About/NYSERDA.Regulations.pdf)).

**IN WITNESS WHEREOF**, the Parties hereto do indicate their acceptance of and agreement to the foregoing by causing their duly authorized representatives to execute this Agreement as of the day, month and year first above written.

Oneida County

**NEW YORK STATE ENERGY RESEARCH  
AND DEVELOPMENT AUTHORITY**

By \_\_\_\_\_

By \_\_\_\_\_

Name \_\_\_\_\_

John B. Rhodes  
President and CEO

Title \_\_\_\_\_

STATE OF            )  
                          ) SS.:  
COUNTY OF        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 201\_ before me personally  
came to me known, who, by me duly sworn, did depose and say that deponent resides in  
; that deponent is the \_\_\_\_\_ of \_\_\_\_\_,  
the corporation described in and which executed the foregoing instrument; and that (s)he  
executed the same by the authority of the Board of Directors or By-Laws of said corporation.

---

Notary Public

EXHIBIT A  
TOTAL CONTRACTED PROJECT INCENTIVE

Contractor Name: Oneida County

Agreement Number: 000000000000000000073665

Project Name: Oneida County WPCP Solids Handling Upgrades Digester Project

Contracted Capacity (kW)	Annual Contracted Generation (kWh/year)	Total Performance Incentive (\$)	Total Interconnection Incentive (\$)	Total Capacity Incentive (\$)	Total Contracted Project Incentive (\$)
600	3942000	1143180	18000	838820	2000000

## EXHIBIT B

REVISED 5/12

### STANDARD TERMS AND CONDITIONS FOR ALL NYSERDA AGREEMENTS

(Based on Standard Clauses for New York State Contracts and Tax Law Section 5-a)

The parties to the Agreement agree to be bound by the following clauses which are hereby made a part of the Agreement:

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

2. WAGE AND HOURS PROVISIONS. If this is a public work Agreement covered by Article 8 of the Labor Law or a building service Agreement covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by NYSERDA of any NYSERDA-approved sums due and owing for work done upon the project.



3. NON-COLLUSIVE BIDDING REQUIREMENT. In accordance with Section 2878 of the Public Authorities Law, if this Agreement was awarded based upon the submission of bids, Contractor warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further warrants that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to NYSERDA a non-collusive bidding certification on Contractor's behalf.

4. INTERNATIONAL BOYCOTT PROHIBITION. If this Agreement exceeds \$5,000, the Contractor agrees, as a material condition of the Agreement, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the Federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the Agreement's execution, such Agreement, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify NYSERDA within five (5) business days of such conviction, determination or disposition of appeal. (See and compare Section 220-f of the Labor Law, Section 139-h of the State Finance Law, and 2 NYCRR 105.4).

5. SET-OFF RIGHTS. NYSERDA shall have all of its common law and statutory rights of set-off. These rights shall include, but not be limited to, NYSERDA's option to withhold for the purposes of set-off any moneys due to the Contractor under this Agreement up to any amounts due and owing to NYSERDA with regard to this Agreement, any other Agreement, including any Agreement for a term commencing prior to the term of this Agreement, plus any amounts due and owing to NYSERDA for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto.

6. PROPRIETARY INFORMATION. Notwithstanding any provisions to the contrary in the Agreement, Contractor and NYSERDA acknowledge and agree that all information, in any format, submitted to NYSERDA shall be subject to and treated in accordance with the NYS Freedom of Information Law ("FOIL," Public Officers Law, Article 6). Pursuant to FOIL, NYSERDA is required to make available to the public, upon request, records or portions thereof which it possesses, unless that information is statutorily exempt from disclosure. Therefore, unless the Agreement specifically requires otherwise, Contractor should submit information to NYSERDA in a non-confidential, non-proprietary format. FOIL does provide that NYSERDA may deny access to records or portions thereof that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." [See Public Officers Law, § 87(2)(d)]. Accordingly, if the Agreement specifically requires submission of information in a format Contractor considers a proprietary and/or confidential trade secret, Contractor shall fully identify and plainly label the information "confidential" or "proprietary" at the time of disclosure. By so marking such information, Contractor represents that the information has actual or potential specific commercial or competitive value to the competitors of Contractor. Without limitation, information will not be

considered confidential or proprietary if it is or has been (i) generally known or available from other sources without obligation concerning its confidentiality; (ii) made available by the owner to others without obligation concerning its confidentiality; or (iii) already available to NYSERDA without obligation concerning its confidentiality. In the event of a FOIL request, it is NYSERDA's policy to consider records as marked above pursuant to the trade secret exemption procedure set forth in 21 New York Codes Rules & Regulations § 501.6 and any other applicable law or regulation. However, NYSERDA cannot guarantee the confidentiality of any information submitted. More information on FOIL, and the relevant statutory law and regulations, can be found at the website for the Committee on Open Government (<http://www.dos.state.ny.us/coog/foil2.html>) and NYSERDA's Regulations, Part 501 (<http://www.nyserda.ny.gov/en/About/~media/Files/About/Contact/NYSERDARegulations.aspx>).

7. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER. As a condition to NYSERDA's obligation to pay any invoices submitted by Contractor pursuant to this Agreement, Contractor shall provide to NYSERDA its Federal employer identification number or Federal social security number, or both such numbers when the Contractor has both such numbers. Where the Contractor does not have such number or numbers, the Contractor must give the reason or reasons why the payee does not have such number or numbers.

(b) PRIVACY NOTIFICATION. 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 Contractor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.

8. CONFLICTING TERMS. In the event of a conflict between the terms of the Agreement (including any and all attachments thereto and amendments thereof) and the terms of this Exhibit C, the terms of this Exhibit C shall control.

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

10. NO ARBITRATION. Disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily required) without the NYSERDA's written consent, but must, instead, be heard in a court of competent jurisdiction of the State of New York.

11. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law and 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 NYSERDA's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify NYSERDA, in writing, of each and every change of address to which service of process can be made. Service by NYSERDA to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

12. CRIMINAL ACTIVITY. If subsequent to the effectiveness of this Agreement, NYSERDA comes to know of any allegation previously unknown to it that the Contractor or any of its principals is under indictment for a felony, or has been, within five (5) years prior to submission of the Contractor's proposal to NYSERDA, convicted of a felony, under the laws of the United States or Territory of the United States, then NYSERDA may exercise its stop work right under this Agreement. If subsequent to the effectiveness of this Agreement, NYSERDA comes to know of the fact, previously unknown to it, that Contractor or any of its principals is under such indictment or has been so convicted, then NYSERDA may exercise its right to terminate this Agreement. If the Contractor knowingly withheld information about such an indictment or conviction, NYSERDA may declare the Agreement null and void and may seek legal remedies against the Contractor and its principals. The Contractor or its principals may also be subject to penalties for any violation of law which may apply in the particular circumstances. For a Contractor which is an association, partnership, corporation, or other organization, the provisions of this paragraph apply to any such indictment or conviction of the organization itself or any of its officers, partners, or directors or members of any similar governing body, as applicable.

13. PERMITS. It is the responsibility of the Contractor to acquire and maintain, at its own cost, any and all permits, licenses, easements, waivers and permissions of every nature necessary to perform the work.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this Agreement will be in accordance with, but not limited to, the specifications and provisions of State Finance Law Section 165 (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by NYSERDA.

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

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

NYS Department of Economic Development  
Division for Small Business  
30 South Pearl St -- 7th Floor  
Albany, New York 12245  
Telephone: 518-292-5220

Fax: 518-292-5884  
<http://www.esd.ny.gov>

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

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

The Omnibus Procurement Act of 1992 requires that by signing this Agreement, Contractors certify that whenever the total amount is greater than \$1 million:

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

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

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

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

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

17. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

18. PROCUREMENT LOBBYING. To the extent this Agreement is a “procurement contract” as defined by State Finance Law Sections 139-j and 139-k, by signing this Agreement the Contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, NYSERDA may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

19. IRANIAN ENERGY SECTOR DIVESTMENT. In accordance with Section 2879-c of the Public Authorities Law, by signing this contract, each person and each person signing on behalf of any other party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each person is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law (See [www.ogs.ny.gov/about/regs/ida.asp](http://www.ogs.ny.gov/about/regs/ida.asp)).

## EXHIBIT C

### NYSERDA PROMPT PAYMENT POLICY STATEMENT

**504.1. Purpose and Applicability.** (a) The purpose of this Exhibit is to provide a description of Part 504 of NYSERDA's regulations, which consists of NYSERDA's policy for making payment promptly on amounts properly due and owing by NYSERDA under this Agreement. The section numbers used in this document correspond to the section numbers appearing in Part 504 of the regulations. (This is only a summary; the full text of Part 504 can be accessed at: <http://www.nyserda.ny.gov/en/About/~-/media/Files/About/Contact/NYSERDARegulations.ashx>)

(b) This Exhibit applies generally to payments due and owing by the NYSERDA to the Contractor pursuant to this Agreement. However, this Exhibit does not apply to Payments due and owing when NYSERDA is exercising a Set-Off against all or part of the Payment, or if a State or Federal law, rule or regulation specifically requires otherwise.

**504.2. Definitions.** Capitalized terms not otherwise defined in this Exhibit shall have the same meaning as set forth earlier in this Agreement. In addition to said terms, the following terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) "Date of Payment" means the date on which NYSERDA requisitions a check from its statutory fiscal agent, the Department of Taxation and Finance, to make a Payment.

(b) "Designated Payment Office" means the Office of NYSERDA's Controller, located at 17 Columbia Circle, Albany, New York 12203.

(c) "Payment" means payment properly due and owing to Contractor pursuant to Article IV, Exhibit B of this Agreement.

(d) "Prompt Payment" means a Payment within the time periods applicable pursuant to Sections 504.3 through 504.5 of this Exhibit in order for NYSERDA not to be liable for interest pursuant to Section 504.6.

(e) "Payment Due Date" means the date by which the Date of Payment must occur, in accordance with the provisions of Sections 504.3 through 504.5 of this Exhibit, in order for NYSERDA not to be liable for interest pursuant to Section 504.6.

(f) "Proper Invoice" means a written request for Payment that is submitted by a Contractor setting forth the description, price or cost, and quantity of goods, property or services delivered or rendered, in such form, and supported by such other substantiating documentation, as NYSERDA may reasonably require, including but not limited to any requirements set forth in Exhibits A or B to this Agreement; and addressed to NYSERDA's Controller, marked "Attention: Accounts Payable," at the Designated Payment Office.

(g)(1) "Receipt of an Invoice" means:

(i) if the Payment is one for which an invoice is required, the later of:

(a) the date on which a Proper Invoice is actually received in the Designated Payment Office during normal business hours; or

(b) the date by which, during normal business hours, NYSERDA has actually received all the purchased goods, property or services covered by a Proper Invoice previously received in the Designated Payment Office.

(ii) if the Agreement provides that a Payment will be made on a specific date or at a predetermined interval, without having to submit a written invoice the 30th calendar day, excluding legal holidays, before the date so specified or predetermined.

(2) For purposes of this subdivision, if the Agreement requires a multifaceted, completed or working system, or delivery of no less than a specified quantity of goods, property or services and only a portion of such systems or less than the required goods, property or services are working, completed or delivered, even though the Contractor has invoiced NYSERDA for the portion working, completed or delivered, NYSERDA will not be in Receipt of an Invoice until the specified minimum amount of the systems, goods, property or services are working, completed or delivered.

(h) "Set-off" means the reduction by NYSERDA of a payment due a Contractor by an amount equal to the amount of an unpaid legally enforceable debt owed by the Contractor to NYSERDA.

**504.3. Prompt Payment Schedule.** Except as otherwise provided by law or regulation or in Sections 504.4 and 504.5 of this Exhibit, the Date of Payment by NYSERDA of an amount properly due and owing under this Agreement shall be no later than thirty (30) calendar days, excluding legal holidays, after Receipt of a Proper Invoice.

**504.4. Payment Procedures.**

(a) Unless otherwise specified in this Agreement, a Proper Invoice submitted by the Contractor to the Designated Payment Office shall be required to initiate payment for goods, property or services. As soon as any invoice is received in the Designated Payment Office during normal business hours, such invoice shall be date-stamped. The invoice shall then promptly be reviewed by NYSERDA.

(b) NYSERDA shall notify the Contractor within fifteen (15) calendar days after Receipt of an Invoice of:

- (1) any defects in the delivered goods, property or services;
- (2) any defects in the invoice; or

(3) suspected improprieties of any kind.

(c) The existence of any defects or suspected improprieties shall prevent the commencement of the time period specified in Section 504.3 until any such defects or improprieties are corrected or otherwise resolved.

(d) If NYSERDA fails to notify a Contractor of a defect or impropriety within the fifteen (15) calendar day period specified in subdivision (b) of this section, the sole effect shall be that the number of days allowed for Payment shall be reduced by the number of days between the 15th day and the day that notification was transmitted to the Contractor. If NYSERDA fails to provide reasonable grounds for its contention that a defect or impropriety exists, the sole effect shall be that the Payment Due Date shall be calculated using the original date of Receipt of an Invoice.

(e) In the absence of any defect or suspected impropriety, or upon satisfactory correction or resolution of a defect or suspected impropriety, NYSERDA shall make Payment, consistent with any such correction or resolution and the provisions of this Exhibit.

**504.5. Exceptions and Extension of Payment Due Date.** NYSERDA has determined that, notwithstanding the provisions of Sections 504.3 and 504.4 of this Exhibit, any of the following facts or circumstances, which may occur concurrently or consecutively, reasonably justify extension of the Payment Due Date:

(a) If this Agreement provides Payment will be made on a specific date or at a predetermined interval, without having to submit a written invoice, if any documentation, supporting data, performance verification, or notice specifically required by this Agreement or other State or Federal mandate has not been submitted to NYSERDA on a timely basis, then the Payment Due Date shall be extended by the number of calendar days from the date by which all such matter was to be submitted to NYSERDA and the date when NYSERDA has actually received such matter.

(b) If an inspection or testing period, performance verification, audit or other review or documentation independent of the Contractor is specifically required by this Agreement or by other State or Federal mandate, whether to be performed by or on behalf of NYSERDA or another entity, or is specifically permitted by this Agreement or by other State or Federal provision and NYSERDA or other entity with the right to do so elects to have such activity or documentation undertaken, then the Payment Due Date shall be extended by the number of calendar days from the date of Receipt of an Invoice to the date when any such activity or documentation has been completed, NYSERDA has actually received the results of such activity or documentation conducted by another entity, and any deficiencies identified or issues raised as a result of such activity or documentation have been corrected or otherwise resolved.

(c) If an invoice must be examined by a State or Federal agency, or by another party contributing to the funding of the Contract, prior to Payment, then the Payment Due Date shall be extended by the number of calendar days from the date of Receipt of an Invoice to the date when the State or Federal agency, or other contributing party to the Contract, has completed the



inspection, advised NYSERDA of the results of the inspection, and any deficiencies identified or issues raised as a result of such inspection have been corrected or otherwise resolved.

(d) If appropriated funds from which Payment is to be made have not yet been appropriated or, if appropriated, not yet been made available to NYSERDA, then the Payment Due Date shall be extended by the number of calendar days from the date of Receipt of an Invoice to the date when such funds are made available to NYSERDA.

**504.6. Interest Eligibility and Computation.** If NYSERDA fails to make Prompt Payment, NYSERDA shall pay interest to the Contractor on the Payment when such interest computed as provided herein is equal to or more than ten dollars (\$10.00). Interest shall be computed and accrue at the daily rate in effect on the Date of Payment, as set by the New York State Tax Commission for corporate taxes pursuant to Section 1096(e)(1) of the Tax Law. Interest on such a Payment shall be computed for the period beginning on the day after the Payment Due Date and ending on the Date of Payment.

**504.7. Sources of Funds to Pay Interest.** Any interest payable by NYSERDA pursuant to Exhibit shall be paid only from the same accounts, funds, or appropriations that are lawfully available to make the related Payment.

**504.8. Incorporation of Prompt Payment Policy Statement into Contracts.** The provisions of this Exhibit shall apply to all Payments as they become due and owing pursuant to the terms and conditions of this Agreement, notwithstanding that NYSERDA may subsequently amend its Prompt Payment Policy by further rulemaking.

**504.9. Notice of Objection.** Contractor may object to any action taken by NYSERDA pursuant to this Exhibit that prevents the commencement of the time in which interest will be paid by submitting a written notice of objection to NYSERDA. Such notice shall be signed and dated and concisely and clearly set forth the basis for the objection and be addressed to the Vice President, New York State Energy Research and Development Authority, at the notice address set forth in Exhibit B to this Agreement. The Vice President of NYSERDA, or his or her designee, shall review the objection for purposes of affirming or modifying NYSERDA's action. Within fifteen (15) working days of the receipt of the objection, the Vice President, or his or her designee, shall notify the Contractor either that NYSERDA's action is affirmed or that it is modified or that, due to the complexity of the issue, additional time is needed to conduct the review; provided, however, in no event shall the extended review period exceed thirty (30) working days.

**504.10. Judicial Review.** Any determination made by NYSERDA pursuant to this Exhibit that prevents the commencement of the time in which interest will be paid is subject to judicial review in a proceeding pursuant to Article 78 of the Civil Practice Law and Rules. Such proceedings shall only be commenced upon completion of the review procedure specified in Section 504.9 of this Exhibit or any other review procedure that may be specified in this Agreement or by other law, rule, or regulation.

**504.11. Court Action or Other Legal Processes.**

(a) Notwithstanding any other law to the contrary, the liability of NYSERDA to make an interest payment to a Contractor pursuant to this Exhibit shall not extend beyond the date of a notice of intention to file a claim, the date of a notice of a claim, or the date commencing a legal action for the payment of such interest, whichever occurs first.

(b) With respect to the court action or other legal processes referred to in subdivision (a) of this section, any interest obligation incurred by NYSERDA after the date specified therein pursuant to any provision of law other than Public Authorities Law Section 2880 shall be determined as prescribed by such separate provision of law, shall be paid as directed by the court, and shall be paid from any source of funds available for that purpose.





### Section C: Incentive Calculation Tool



<b>Project Name</b>	WPCF Solids Handling Upgrades
<b>Applicant Name</b>	Oneida County Department of Water Quality & Water Pollution Control

This tool has been developed to estimate the Total Contracted Project Incentive for New ADG-to-Electricity System and Project Enhancement projects. To estimate incentives for projects that have previously received NYSEERDA funding, contact NYSEERDA for further information. Please enter the information requested in the yellow boxes. Note that Performance Incentives are calculated first and any remaining funds, considering the \$1 million cap per project can be applied to Interconnection and Capacity Incentives.

Enter proposed new ADG-fueled power generation installation capacity, if any (kW)		600
Enter existing ADG-fueled power generation capacity for which incentives are being requested, if any (kW)		0
<b>Maximum allowed new ADG-fueled power generation (kW) (based on a capacity factor of 75%)</b>		<b>3,941,000</b>
<b>1. Power Generation Performance Incentive</b>		<b>2963,500</b>
<b>2. H<sub>2</sub>S Reduction Performance Incentive</b> - If any of the H <sub>2</sub> S reduction processes shown in Appendix C will be used, select the appropriate process in the adjacent box. Other H <sub>2</sub> S reduction processes not specified in Appendix C may also be eligible - contact T. Fitzgerald or S. Boje. Available to new and existing ADG-to-Electricity projects.	Iron Sponge	<b>817,000</b>

(See Incentive Calculation Tool Instructions)	Fixed Base Incentive	Variable Incentive per kW	Total Fixed and Variable Capacity Incentive
<b>Anaerobic Digestion component - Check one (or more) that apply for the proposed project</b>			
1. Farm-based anaerobic digester with new digester vessel or new existing liquid digester	Click cell and select:	\$0	\$0
2. Farm-based anaerobic digester made by placing gas tight cover over an existing waste storage structure	Click cell and select:	\$36,000	\$720
3. New or upgrade of existing anaerobic digester for municipal waste or the treatment of industrial waste processing systems	Yes	\$100,000	\$1,000,000
<b>Power Generation component - Check one (or more) that apply for the proposed project</b>			
1. New ADG-fueled power generation system	Yes	\$50,000	\$300,000
2. Reconditioned ADG-fueled power generation system	Click cell and select:	\$12,500	\$0
<b>Project Enhancements component - Check all that apply for the proposed project</b>			
1. H <sub>2</sub> S removal process (The response above from "2. H <sub>2</sub> S Reduction Performance Incentive" is entered here automatically)	Iron Sponge	\$17,200	\$103,200
2. "Black Start" capability of power generation system (includes storage on site power in absence of utility power)	No	\$3,000	\$0
3. Anaerobic digester system designed to accept > 30% food waste. Must include pretreatment equipment. See Appendix C.	No	\$50,000	\$0
4. New sand separation unit installed to remove sand from sand laden manure before digestion. Farm projects only	No	\$30,000	\$0
5. Contracts to accept food waste from institutional sources. Farm projects only	No	\$14,000	\$0
6. Participant in cooperative anaerobic digester consortium entity. Farm projects only	No	\$70,000	\$0


1. Interconnection Review Incentive - 75% reimbursement of CESR costs exceeding \$1,000 (max incentive \$40,000). In the adjacent cell, enter the estimated cost of CESR shown in the Preliminary Review by the electric utility. If the combined CESR and Interconnection Implementation costs are not expected to exceed \$1,000, please provide evidence of this amount from the electric utility.	\$ 15,000.00	Potential Interconnection Review Incentive	\$ 7,500
2. Interconnection Implementation Incentive - 50% reimbursement of grid upgrade costs for which the applicant is responsible. Max. Incentive \$300,000. Enter estimated Interconnection Implementation cost, provided in the completed CESR. If a CESR is required but has not yet been completed, enter \$600,000 in the adjacent cell.	\$ 600,000.00	Potential Interconnection Implementation Incentive	\$ 300,000

Note that Interconnection Incentives may be paid first to expedite reimbursement of those costs. Remaining funds are applied per the payment distributions below.

Estimated Payment Distribution		Estimated Totals
<b>Interconnection Incentive payment distribution</b>		
1 <sup>st</sup> Interconnection payment - 100% Interconnection Review Incentive		\$ 7,500
2 <sup>nd</sup> Interconnection payment - 75% of Interconnection Implementation Incentive		\$ 225,000
3 <sup>rd</sup> Interconnection payment - up to 25% percent of Interconnection Implementation Incentive based on the actual final costs of the interconnection implementation		\$ 75,000
<b>Capacity Incentive payment distribution</b>		
1 <sup>st</sup> Capacity payment - up to 15% of Total Capacity Incentive		\$ 81,398
2 <sup>nd</sup> Capacity payment - 45% of Anaerobic Digestion component		\$ 175,816
3 <sup>rd</sup> Capacity payment - 45% of Power Generation component		\$ 61,539
4 <sup>th</sup> Capacity payment - 45% of Total Project Enhancements component		\$ 9,829
5 <sup>th</sup> Capacity payment - 20% of Total Capacity Incentive		\$ 109,864
6 <sup>th</sup> Capacity payment - up to 100% of any remaining Total Capacity Incentive		\$ 109,864
<b>Performance Incentive payment distribution</b>	Maximum average annual payment (10 years)	\$ 114,318



## Section D: Site Control letter

<b>Project Name</b>	PCP Solids Handling Upgrades	
<b>Applicant Name</b>	Department of Water Quality & Water Pollution Control	

Oneida County Sewer District WPCP, the undersigned Host, certifies that the Applicant, Oneida County Department of Water Quality & Water Pollution Control, will be authorized to install the ADG-to-Electricity System at the facility located at the address indicated below, should the requested NYSERDA funding be awarded.

51 Leland Avenue  
P.O. Box 442  
Utica, NY 13503-0442  
(Facility Address)

The ADG-to-Electricity project is expected to achieve the following:

Performance Incentive	Interconnection Incentive
\$1,143,180	\$307,500
Capacity Incentive	Total Incentive
\$549,320	\$2,000,000

The Host Site acknowledges that this Site Control Letter is needed by the Applicant to apply to NYSERDA for participation in the ADG-to-Electricity Program, but that NYSERDA does not guarantee a Standard Performance Contract (SPC) Agreement until the Applicant fulfills all ADG-to-Electricity Program requirements, assuming ADG-to-Electricity Program incentive funding is still available at that time. In signing this form the Host Site also agrees to the following:

- A. I hereby release NYSERDA, its officers, directors, members, agents, and employees from any and all claims, demands, losses, judgments, penalties, causes of action, damages, costs, and expenses (including, without limitation, attorneys' fees and expenses), and legal liability arising out of or in any way connected with, directly or indirectly, either the acceptance of the project for participation in the ADG-to-Electricity Program or the installation of the project, or both, including but not limited to those in any way related to or arising from: (1) injury or death of persons; (2) injury to natural resources; (3) violation of any local, State, or federal law or regulation, including, but not limited to, environmental laws or regulations; (4) strict liability imposed by any law or regulation; (5) equipment malfunctions; or (6) energy savings shortfalls arising out of, or related to, or in any way connected with the project, or any actions or omissions by the Applicant related to the project, regardless of any strict liability or negligence of NYSERDA, its officers, directors, agents, or employees, whether active or passive.
- The obligations under this paragraph shall survive any expiration or termination of any SPC Agreement that may be executed in connection with this site.
- B. I understand that NYSERDA, its officers, directors, members, agents, and employees have made no warranty or representation regarding the qualifications of the Applicant. I understand that the Host Site is solely responsible for the selection of the Applicant to implement the project.

- C. I will provide project site access for inspections and oversight of QA/QC for the ADG-to-Electricity System to the Applicant, equipment installers, NYSERDA, and its Technical Consultant during the term of the SPC Agreement related to the project.
- D. I agree that NYSERDA, its officers, directors, members, agents, and employees will have no role in resolving any disputes between the Host Site, equipment installer and the Applicant.
- E. I certify that the new biogas-fueled electric generation equipment included in this application has not been delivered to the site or a staging area.
- F. I understand that all NYSERDA incentives provided under this PON for the ADG System described in this Application will be paid to the Applicant, but must be disclosed to the Host.
- G. I guarantee that I have authority to contract and intend to contract with a vendor or Applicant, on behalf of the legal owners of the project site for installation of the ADG-to-Electricity system.
- H. I certify that the electricity charges for the facility(ies) in the Application include the Renewable Portfolio Standard (RPS) Surcharge. Copies of recent electric distribution bill payment of the RPS or documentation from the distribution utility must be attached. I hereby grant NYSERDA permission to request, and the distribution utility and electric supplier to release, information about the account(s).
- I. Publicity: NYSERDA may publicize the Host Site's participation in the program, the results, the amount of incentives paid to the Applicant and any other information that reasonably relates to the Applicant's participation, including photographs of the funded ADG-to-Electricity System.

Host Site Representative Signature

7/16/2015

Date

Sworn to before me this 10th day of July, 2015.

Notary Public Signature

JUDI A. SMITH  
 Notary Public in the State of New York  
 Qualified in Oneida County O4SM4950669  
 My Commission Expires May 8, 19

Stamp of Notary Public

JUDI A. SMITH  
 Notary Public in the State of New York  
 Qualified in Oneida County O4SM4950669  
 My Commission Expires May 8, 19

## Section E: Applicant Short-Form Agreement

<b>Project Name</b>	WPCP Solids Handling Upgrades
<b>Applicant Name</b>	Department of Water Quality & Water P



**Oneida County**, the undersigned participant in the **ADG-to-Electricity Program** administered by NYSERDA, recognizes and accepts that participation in the program, and receipt of any program incentive payments, is predicated on the Applicant following all guidelines and procedures established for the program.

These requirements include, but are not limited to:

- Following program procedures as detailed in NYSERDA's PON 2828.
- Disclosing to the Host all NYSERDA incentives received under this PON.
- Meeting all submittal progress timelines.
- Meeting all documentation requests to NYSERDA's satisfaction.
- Preparing an acceptable QA/QC plan.
- Signing a Standard Performance Contract Agreement (Please note any exceptions you may have and attach to this form).
- Meeting the terms and conditions of the Standard Performance Contract Agreement.
- Scheduling and providing access to project sites for inspections conducted by NYSERDA or its Technical Consultants.
- Being present at all inspections conducted by NYSERDA or its Technical Consultants.
- Complying with the disclosure requirements regarding indictment or conviction of a felony.

The Applicant understands that its eligibility for ADG-to-Electricity Program incentive payments is contingent on its meeting all Program requirements.

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

Applicant Representative Name, Title

Applicant Representative Signature

7/16/2015

Date



## Exhibit D – USING THE INCENTIVE CALCULATION TOOL

The *Incentive Calculation Tool* (see Appendix B Section C) should be used by the applicant to estimate the incentives for which their project is eligible. The following is a description and explanation of how each of the incentives in the Tool is calculated.

Note: The ***bolded, italicized text*** included below indicates information to be provided by the applicant. All of the yellow-colored cells in the Tool require information, as applicable, that must be input by the applicant.

### PERFORMANCE INCENTIVES

Performance Incentives are provided to encourage on-going operation of ADG-to-Electricity systems and are based on the actual kWh's produced by the system or the performance of a hydrogen sulfide (H<sub>2</sub>S) reduction process.

***On the line labeled “Enter proposed new ADG-fueled power generation installation capacity, if any (kW),” the applicant must enter the intended new electrical capacity of the system.***

The capacity should be based on the lesser of the following:

- The rated power generation capacity of the generator;
- The rated output of the engine fueled by anaerobic digester gas (including any controlled power generation limits set by the supplier);
- The power output from the expected biogas production of the anaerobic digester (if NYSERDA determines biogas sources to be inadequate the overall proposed capacity may be reduced), and;
- Any power generation capacity limits due to electrical grid interconnection capacity limits.

***If the applicant intends to apply for H<sub>2</sub>S reduction incentives for existing capacity they must also enter the capacity of the existing ADG-fueled electrical capacity on the line “Enter existing ADG-fueled power generation capacity for which incentives are being requested, if any (kW).”***

Note: Once the application to the program is approved by NYSERDA, the applicant and NYSERDA will enter in to a Standard Performance Agreement. In this agreement, and likewise in this appendix, the combination of new ADG-fueled power generation capacity and existing ADG-fueled power generation capacity will be referred to as the Contract Capacity.

Once the applicant has entered the above information, the Tool calculates the minimum annual new ADG-fueled power generation using the following formula:

$$\text{Minimum annual new ADG-fueled power generation} = \text{Contract Capacity (kW)} \times 8760 \text{ hours in one year} \\ \times 75\% \text{ (capacity factor)}$$

The Tool also calculates the Power Generation Performance Incentive as follows:

$$\text{Power Generation Performance Incentive} = \text{Minimum annual new ADG-fueled power generation (kWh)} \\ \times \$ .025/\text{kWh} \times 10 \text{ years}$$

Hydrogen sulfide is a small component present in biogas that is highly corrosive to biogas engine generators, negatively affecting performance and increasing maintenance costs. Several processes have been shown to be effective in significantly reducing H<sub>2</sub>S levels in biogas. These incentives are available for both proposed new

ADG-to-Electricity installation projects as well as existing ADG-to-Electricity projects to encourage the use of H<sub>2</sub>S reduction processes.

Note that for all projects for which H<sub>2</sub>S reduction incentives are requested a gas analyzer system will be required to be installed to record (at a minimum) hourly H<sub>2</sub>S output levels from the H<sub>2</sub>S removal systems as well as daily measurements of H<sub>2</sub>S input levels (instrumentation requirements outlined in the Appendix E). This data must be uploaded to NYSERDA's CHP website. NYSERDA may direct its technical contractors to sample the biogas, determine H<sub>2</sub>S removal efficiency, and compare that efficiency to the data originally provided by the operator.

***Applicants that intend to install a system using one of the following products to reduce hydrogen sulfide (H<sub>2</sub>S) produced by their project should select the appropriate option on the line "H<sub>2</sub>S Reduction Process Performance Incentive":***

The eligible processes for H<sub>2</sub>S Removal shown below and eligibility criteria are defined at <http://nyserderda.ny.gov/PON2828> the corresponding H<sub>2</sub>S Performance Incentive Variable is used to calculate the incentive)

- Iron Chloride (H<sub>2</sub>S Performance Incentive Variable \$.004/kWh)
- Ferric Hydroxide (H<sub>2</sub>S Performance Incentive Variable \$.004/kWh)
- Biological Scrubber (H<sub>2</sub>S Performance Incentive Variable \$.0023/kWh)
- Carbon Filter (H<sub>2</sub>S Performance Incentive Variable \$.0035/kWh)
- Iron Sponge (H<sub>2</sub>S Performance Incentive Variable \$.004/kWh)
- Other (H<sub>2</sub>S Performance Incentive Variable \$.004/kWh)

Other H<sub>2</sub>S removal technologies may also be eligible for this incentive if the criteria (outlined at <http://nyserderda.ny.gov/PON2828>) is met. Contact Tom Fiesinger or Steve Hoyt. This incentive is available for both new ADG-to-Electricity installation projects as well as existing ADG-to-electricity projects.

The total (10 year) potential for H<sub>2</sub>S Reduction Processes Performance Incentive is calculated using the following formula:

$$\text{Total potential Digester Additives and Other Technologies for H}_2\text{S Removal Performance Incentive} = \text{Contract Capacity} \times 8760 \text{ hrs/year} \times 0.75 \times \text{H}_2\text{S Perf. Inc. Variable} \times 10 \text{ years}$$

Biological Scrubber, Carbon Filter, Iron Sponge processes have been demonstrated to be effective in consistently reducing H<sub>2</sub>S levels in biogas from 2000 ppm or greater to less than 400 ppm, when properly designed and operated. But these processes also can have greater upfront installation costs than other options. Applicants installing new Biological Scrubber, Carbon Filter, Iron Sponge processes are therefore able to request Capacity Incentives and relatively greater overall incentives (as compared to other processes) but must meet stringent requirements of H<sub>2</sub>S reduction to 400 ppm in order to receive payment as described in the Payment Distribution section of this Appendix. In addition, only applicants using vendors of biological scrubbers from the Approved Vendor list at <http://nyserderda.ny.gov/PON2828> or who have provided design details for an adequately sized biological scrubber, carbon filter or iron sponge shall be eligible for the incentive levels associated with these particular processes. NYSERDA shall review design information provided and determine if the proposed biological scrubber, carbon filter or iron sponge is adequately sized given the expected biogas production.

Likewise, addition of Iron Chloride and Ferric Hydroxide to digester influent may also cost effectively reduce H<sub>2</sub>S levels in biogas from a digester from approximately 1200 – 2000 ppm to less than 800 ppm depending if the product is properly applied by the operator. Therefore incentives associated with these or other additives (or processes not specified in this PON or at <http://nyserderda.ny.gov/PON2828> but otherwise approved as eligible by

NYSERDA in writing) are also available for reducing H<sub>2</sub>S levels present in the biogas. Payment of this incentive, as outlined in the Payment Distribution section of this Appendix, shall be based on the effectiveness of the process in reducing H<sub>2</sub>S to a level of 800 ppm or less.

### **Total Potential Performance Incentives**

The Total Potential Performance Incentive is calculated by adding the Power Generation Performance Incentive, and the H<sub>2</sub>S Reduction Processes Performance Incentive, if appropriate. The Total Potential Performance Incentive is subject to the \$2 million per project cap. All performance incentives are paid annually over a 10 year period. As mentioned previously, actual payments are based on actual kWh production and verified H<sub>2</sub>S removal.

### **CAPACITY INCENTIVES**

Capacity Incentives are provided to offset the capital costs associated with installing an ADG-to-Electricity project including the anaerobic digester system, the power generation system, and certain project enhancements.

*Under the cell labeled “Anaerobic Digestion Component,” the applicant may select one (or none) of the following components by entering “yes” in the appropriate cell:*

1. Farm-based anaerobic digester with new digester vessel or new earthen lagoon digester  
An applicant proposing a project at a farm where a new digester vessel is installed (e.g., a concrete, steel or plastic tank) or an earthen lagoon should make the appropriate selection in the cell associated with this option. The incentive associated with this selection is based on both a fixed base element (\$100,000 for new digester vessel, \$75,000 for new earthen lagoon) and a variable element (\$1,500 for new digester vessel, \$1,125 new earthen lagoon digester) per kW of ADG-fueled power generation capacity.
2. Farm-based anaerobic digester made by placing a gas-tight cover over an existing waste storage structure  
An applicant proposing a project at a farm where the anaerobic digester is made by placing a gas-tight cover over an existing waste storage structure (e.g., an earthen lagoon or concrete storage tank) should enter “yes” in the cell associated with this option. The incentive associated with this selection is based on both a fixed base element of \$50,000 and a variable element of \$750 per kW of proposed new ADG-fueled power generation capacity.
3. New or upgrade of existing anaerobic digester for municipal waste water treatment/industrial waste processing systems  
An applicant proposing installation of a new anaerobic digester, or significant upgrades to an existing anaerobic digester, to be located at a municipal wastewater treatment plant or an industrial facility should enter “yes” in the cell associated with this option. The incentive associated with this selection is based on both a fixed base element of \$100,000 and a variable element of \$1,500 per kW of proposed new ADG-fueled power generation capacity.

Note: Significant upgrades to an existing municipal waste water treatment/industrial waste processing anaerobic digester must include a minimum two of the following: i) a replacement anaerobic digester cover system; ii) installation of new gas handling systems to recover all of the gas produced by the anaerobic digester system; iii) installation of a new sludge thickening process; iv) installation of new heating arrays to heat all of the anaerobic digester contents or preheat the entire waste input stream; or v) installation of new anaerobic digester mixing systems to mix the entire contents of the anaerobic digester. Upgrades not included in this list may also be deemed sufficient by NYSERDA to satisfy this requirement and should be described in the Application Package.

***Under the cell labeled “Power Generation Component,” the applicant may select one (or none) of the following components by entering “yes” in the appropriate cell:***

1. New ADG-fueled power generation system installation

An applicant proposing a project where new ADG-fueled power generation equipment will be installed (i.e., equipment that has not been previously operated, other than for manufacturer testing) should enter “yes” in the cell associated with this option. The incentive associated with this selection is based both on a fixed base element of \$50,000 and a variable element of \$500 per kW of proposed new ADG-fueled power generation capacity.

2. Reconditioned ADG-fueled power generation system installation

An applicant proposing a project where reconditioned ADG-fueled power generation equipment will be installed (i.e., equipment that has been previously operated but has also been adequately reconditioned/upgraded to NYSERDA’s satisfaction) should enter “yes” in the cell associated with this option. The incentive associated with this selection is based both on a fixed base element of \$12,500 and a variable element of \$125 per kW of proposed new ADG-fueled power generation capacity.

***Under the cell labeled “Project Enhancements component,” the applicant must select the applicable project components by entering “yes” in the appropriate cell:***

1. H<sub>2</sub>S reduction process

Incentives may be provided for the installation of a H<sub>2</sub>S reduction system and/or installation of a gas analyzer to monitor H<sub>2</sub>S levels. The incentive associated with this selection is based on the following fixed base element and variable elements per kW of generator capacity:

- Iron Chloride - fixed base element \$16,400 and variable element \$0
- Ferric Hydroxide - fixed base element \$15,000 and variable element \$0
- Biological Scrubber - fixed base element \$80,000 and variable element \$45
- Carbon Filter - fixed base element \$17,500 and variable element \$34
- Iron Sponge - fixed base element \$32,500 and variable element \$39
- Other - fixed base element \$15,000 and variable element \$0

For each of the processes above, \$15,000 is included in the fixed base element to offset the cost of a gas analyzer.

Note: This cell is automatically populated when a selection has been made for the H<sub>2</sub>S Reduction Processes Performance Incentive.

2. Black start capability

Black start capability (the ability to start-up and produce electricity for on-site use in the absence of grid power) provides the host facility with a source of back-up power in the event that the electrical grid is down. To receive this incentive the Applicant must demonstrate that the system has black start capability, as part of the installation and commissioning process. The incentive associated with this selection is based on a fixed base element of \$3,000 and a variable element of \$30 per kW of proposed new ADG-fueled power generation capacity.

3. Anaerobic digester system designed to accept > 20% food waste

In NYS, a significant amount of food waste (i.e., organic materials from food products including wastes from food production, food preparation, and post-consumer food wastes) is landfilled. This may result in methane emissions to the environment, loss of nutrient value, and significant costs to food waste

generators. Anaerobic digestion is an effective means of recycling the nutrient value of food waste and reducing methane emissions, and may lower costs for food waste generators.

An applicant selecting this component must design their project such that the anaerobic digester is capable of accepting a minimum of 20% of its total mass of input as food waste; and the system must also include at least one of the following pretreatment processes:

- i) pasteurization designed to treat all food waste inputs to a minimum 160° F;
- ii) separated (acid) phase digestion designed to treat all food waste inputs (with a minimum 4 day holding capacity); and/or
- iii) an equalization/holding tank designed for all food waste inputs (with a minimum 2 day holding capacity) and must include an ability to heat contents to a minimum of 100° F, an ability to mix all contents and at least one of the following: waste stream concentrating process; maceration/chopping; package removal, or; odor control capability.

Other equipment or systems required to accept food waste into the digester system that are not included in this list may also be deemed sufficient by NYSERDA to satisfy this requirement and should be described in the Application Package. The incentive associated with this selection is based on a fixed base element of \$50,000 and a variable element of \$350 per kW of proposed new ADG-fueled power generation capacity.

4. New sand separation unit installed to remove sand from sand laden manure before digestion  
Many dairy farms in NYS use sand bedding. However, sand laden manure can cause significant operational issues in an anaerobic digester due to sand accumulation. To qualify for this incentive, a sand separation unit must be designed to remove a minimum of 97% of the sand from the raw manure before the manure is added to the anaerobic digester. The incentive associated with this selection is based on a fixed base element of \$50,000 and a variable element of \$120 per kW of proposed new ADG-fueled power generation capacity; and is available only to projects digesting at least 50% manure inputs on a mass basis.
5. Contract(s) to accept food waste from institutional sources  
A project designed to accept >20% food waste, as described above, will be eligible for this additional incentive if they have one or more (minimum 3 year) contracts in place to provide a minimum of 5% of their waste inputs (on a mass basis) from institutional sources (e.g, government-operated residential facilities). The incentive associated with this selection is based on a fixed base element of \$14,000 and a variable element of \$35 per kW of proposed new ADG-fueled power generation capacity.
6. Participation in a cooperative anaerobic digester management entity  
Anaerobic digester operation and management costs can be reduced through shared management and operation services. Incentives are offered through this component to off-set the costs of forming and operating a cooperative digester management entity, for projects where at least three anaerobic digester facilities have entered in to a (minimum) 5-year shared services agreement. The incentive associated with this selection is based only on a fixed base element of \$30,000; and is available only to farm projects.

The Potential Total Capacity Incentives are calculated by adding the Potential Anaerobic Digester Incentive, the Potential Power Generation Incentive, and the Total Potential Project Enhancement incentives, if appropriate.

## **INTERCONNECTION INCENTIVES**

Interconnection Incentives are provided to offset the costs associated with the Coordinated Electric System Interconnection Review (CESIR) and the implementation of electrical grid interconnection.

The NYS Standard Interconnection Requirements (SIR - Appendix G) steps for an electrical grid interconnection for projects with an installed capacity between 50 kW and 2 MW are as follows:

- STEP 1: Initial Communication from the Potential Applicant.
- STEP 2: The Inquiry is Reviewed by the Utility to Determine the Nature of the Project
- STEP 3: The Potential Applicant Files an Application
- STEP 4: Utility Conducts a Preliminary Review and Develops a Cost Estimate for the Coordinated Electric System Interconnection Review (CESIR)
- STEP 5: Applicant Commits to the Completion of the CESIR
- STEP 6: Utility Completes the CESIR
- STEP 7: Applicant Commits to Utility Construction of Utility's System Modifications
- STEP 8: Project Construction.
- STEP 9: The Applicant's Facility is Tested in Accordance with the Standardized Interconnection Requirements
- STEP 10: Interconnection
- STEP 11: Final Acceptance and Utility Cost Reconciliation

An application package to the ADG-to-Electricity program will not be deemed complete until the applicant completes steps 1 through 4 of the SIR and a copy of the Preliminary Review (Step 4), if applicable, is provided to NYSERDA. (The Preliminary Review provides the applicant with an estimate for the cost of the CESIR.) The Interconnection Review Incentive reimburses the applicant for up to 75% of the CESIR costs exceeding \$5,000, up to a maximum incentive of \$50,000. Note that many on-farm digesters may be eligible to net-meter under NYS's net-metering laws which limit the cost the utility charges for interconnection to \$5,000 as long as the capacity of the generator does not exceed 20% of the utility line capacity at the site. Applicants who are proposing a net-metered project at a farm and the utility has determined that total interconnection costs will not exceed \$5,000, will need to provide such a documented determination from the utility. ***To request the Interconnection Review Incentive, the applicant must enter the estimated cost of the CESIR on the line "Interconnection Review Incentive".***

Once the CESIR is complete and the applicant commits to installing the project, the remaining SIR steps must be completed in order to implement a grid interconnection. As part of step 7, the applicant is expected to pay the utility the entire estimated cost of the interconnection implementation (i.e., project construction) unless otherwise exempt from these expenses under net-metering law requirements. Upon completion of step 11, the costs are reconciled, as appropriate. NYSERDA reserves the right to review and if necessary, challenge reconciled costs as reported by the utility. The Interconnection Implementation Incentive has been developed to offset a portion of these of interconnection implementation costs. The Incentive Calculation Tool estimates the incentive as 50% of the inputted costs for interconnection implementation; a value provided in the CESIR. ***To request the Interconnection Implementation Incentive, the applicant must enter the estimated cost of interconnection implementation on the line "Interconnection Implementation Incentive". If a CESIR is required but the cost of interconnection is not yet known (at the time of application for funding under PON 28282), enter \$600,000***

***as the estimated cost. Any incentive provided will ultimately be based on 50% of the final cost of the interconnection implementation or \$300,000, whichever is less.***

The Total Potential Interconnection Incentives are calculated by adding the Interconnection Review Incentive and the Interconnection Implementation Incentives.

## **TOTAL INCENTIVES**

The Total Budgeted Performance, Capacity and Contingent Interconnection Incentive is calculated by adding the Total Potential Performance Incentive, the Potential Total Capacity Incentives, and the Total Potential Interconnection Incentives. The Total Incentive may not exceed \$2 million and this limit on funds is applied sequentially to Performance, Interconnection and Capacity Incentives calculated in *Incentive Calculation Tool* as shown under “Percentage of Potential Incentive remaining after applying the \$2 million cap”. These percentages are applied to each calculated Potential Incentive to then determine the actual Total Incentive amounts. Likewise, these same percentages are applied to each respective incentive payment shown in the Estimated Payment Distribution at the bottom of the *Incentive Calculation Tool*.

## **PAYMENT DISTRIBUTIONS**

No payments will be made before an executed Standard Performance Agreement is in place between the applicant and NYSERDA. The estimated payment schedule is shown on the Incentive Calculation Tool. It is based on requirements outlined in Appendix F *Sample Standard Performance Contract Agreement* under the PAYMENTS section of ARTICLE 5.

## **EXAMPLE PROJECT INCENTIVE CALCULATIONS**

Three examples project incentive calculations are provided to illustrate how the Incentive Calculation Tool is used and how incentive levels calculated in the Tool are used to estimate the Total Contract Project Incentive amount.

As mentioned previously, once the application to the ADG-to-Electricity Program is approved by NYSERDA, the applicant and NYSERDA will enter in to a Standard Performance Agreement. The foundation of the Agreement is the Contracted Capacity, the Annual Contracted Generation, and the Total Contracted Project Incentive. These are included in the Agreement as Exhibit A. Also included on Exhibit A are the Total Performance Incentive, Total Interconnection Incentive and Total Capacity Incentive.

### **Example A**

ABC Dairy Farm is planning to install a brand new anaerobic digester system that will produce biogas to fuel a power generation system rated to produce 200 kW of electricity. The ADG system is designed to co-digest at least 20% food waste inputs by mass with 80% dairy manure inputs by mass. The system will include a separated phase digestion unit to pretreat all food waste inputs. The power generation system will use iron chloride to reduce H<sub>2</sub>S levels in the biogas and have ‘black start’ capability to provide power to the farm in the event of a loss of grid power. The farm also plans to install a sand separation unit to separate sand from the manure portion of the waste stream. The farm has applied to the utility for a net-metered interconnection of the 200 kW ADG fueled power generation system. The utility conducted a Preliminary Review and has indicated that 200 kW is less than 20% of the electrical capacity of the utility line in front of the farm and therefore the farm will only be responsible for a maximum \$5,000 for CESIR and interconnection implementation.

The Incentive Calculation Tool estimates for ADG Project A follows:



# Section C: Incentive Calculation Tool



<b>Project Name</b>	ADG-to-Electricity Project A
<b>Applicant Name</b>	ABC Dairy Farm

This tool has been developed to estimate the Total Contracted Project Incentive for New ADG-to-Electricity System and Project Enhancement projects. To estimate incentives for project that have previously received NYSERDA funding, contact NYSERDA for further information. Please enter the information requested in the yellow boxes. Note that Performance Incentives are calculated first and any remaining funds, considering the \$2 million cap per project can be applied to Interconnection and Capacity Incentives.

## Potential Performance Incentives

Enter proposed new ADG-fueled power generation installation capacity, if any (kW)		200
Enter existing ADG-fueled power generation capacity for which incentives are being requested, if any (kW)		
Minimum annual new ADG fueled power generation (kWh/yr) (based on a capacity factor of 75%)		1,314,900
<b>1. Power Generation Performance Incentive</b>		<b>\$328,500</b>
2. H <sub>2</sub> S Reduction Performance Incentive - <i>If any of the H<sub>2</sub>S reduction processes shown in Appendix C will be used, select the appropriate process in the adjacent box. Other H<sub>2</sub>S reduction processes not specified in Appendix C may also be eligible - contact T. Fusinger or S. Hoyt. (Available to new and existing ADG-to-Electricity projects.)</i>	Iron Chloride	<i>Note: Applicants intending to use a combination of eligible H<sub>2</sub>S reduction processes not specified herein, contact T. Fusinger or S. Hoyt.</i>
		<b>\$52,560</b>
<b>Total Potential Performance Incentive (paid over a 10 year period and subject to the \$2 million cap)</b>		<b>\$381,060</b>

## Potential Capacity Incentives

(See Incentive Calculation Tool Instructions)	Fixed Base Incentive	Variable Incentive per kW	Total Fixed and Variable Capacity Incentives	
<b>Anaerobic Digester component - Choose one (or none) that apply for the proposed project</b>				
1. Farm-based anaerobic digester with new digester vessel or new earthen lagoon digester.	New Digester Vessel	\$100,000	\$1,500	\$400,000
2. Farm-based anaerobic digester made by placing gas tight cover over an existing waste storage structure.	Click cell and select:	\$50,000	\$750	\$0
3. New or upgrade of existing anaerobic digester for municipal waste water treatment industrial waste processing systems.	Click cell and select:	\$100,000	\$1,500	\$0
				<b>Potential Anaerobic Digester Incentive (subject to the \$2 million cap)</b>
				<b>\$400,000</b>
<b>Power Generation component - Choose one (or none) that apply for the proposed project</b>				
1. New ADG-fueled power generation system.	Yes	\$30,000	\$300	\$130,000
2. Reconditioned ADG fueled power generation system.	Click cell and select:	\$12,500	\$125	\$0
				<b>Potential Power Generation Incentive (subject to the \$2 million cap)</b>
				<b>\$150,000</b>
<b>Project Enhancements component - Choose all that apply for the proposed project</b>				
1. H <sub>2</sub> S removal process. <i>(The response above from "2. H<sub>2</sub>S Removal Performance Incentive" is entered here automatically.)</i>	Iron Chloride	\$7,500	\$0	\$7,500
2. "Black Start" capability of power generation system (ability to generate on-site power in absence of utility power).	Yes	\$3,000	\$30	\$9,000
3. Anaerobic digester system designed to accept > 20% food waste. <i>Must include pretreatment equipment. See Appendix C.</i>	Yes	\$50,000	\$350	\$120,000
4. New sand separation unit installed to remove sand from sand laden manure before digestion. <i>Farm projects only.</i>	Yes	\$50,000	\$120	\$74,000
5. Contracts to accept food waste from institutional sources. <i>Farm projects only.</i>	Click cell and select:	\$14,000	\$35	\$0
6. Participant in cooperative anaerobic digester management entity. <i>Farm projects only.</i>	Click cell and select:	\$30,000	\$0	\$0
				<b>Total Potential Project Enhancement Incentives (subject to the \$2 million cap)</b>
				<b>\$210,500</b>
				<b>Potential Total Capacity Incentives (subject to the \$2 million cap)</b>
				<b>\$760,500</b>

## Potential Interconnection Incentives

1. <b>Interconnection Review Incentive</b> - 75% reimbursement of CESIR costs exceeding \$5,000 (max incentive \$50,000). <i>In the adjacent cell, enter the estimated cost of CESIR shown in the Preliminary Review by the electric utility. If the combined CESIR and Interconnection Implementation costs are not expected to exceed \$1,000, please provide evidence of this estimate from the electric utility.</i>		Potential Interconnection Review Incentive	\$
2. <b>Interconnection Implementation Incentive</b> - 50% reimbursement of grid upgrade costs for which the applicant is responsible (max incentive \$300,000). <i>Enter estimated interconnection implementation cost, provided in the completed CESIR. If a CESIR is required but has not yet been completed, enter \$600,000 in the adjacent cell.</i>		Potential Interconnection Implementation Incentive	\$
		<b>Total Potential Interconnection Incentives (subject to the \$2 million cap)</b>	<b>\$0</b>

### Percentage of Potential Incentives remaining after applying \$2 million cap

### Budgeted Incentive Totals after applying \$2 million cap

Total Performance Incentive	100%	Total Performance Incentive	\$ 381,060
Total Capacity Incentive	100%	Total Capacity Incentive	\$ 760,500
Total Contingent Interconnection Incentive	0%	Total Performance and Capacity Incentives	\$ 1,141,560
		Total Contingent Interconnection Incentive (contingent on actual interconnection costs)	\$
		<b>Total Performance, Capacity and Contingent Interconnection Incentive</b>	<b>\$ 1,141,560</b>

*Note that Interconnection Incentives may be paid first to expedite reimbursement of those costs. Remaining funds are applied per the payment distributions below.*

### Estimated Payment Distribution

	Estimated Totals
<b>Interconnection Incentive payment distribution</b>	
1 <sup>st</sup> Interconnection payment - 100% of Interconnection Review Incentive	\$ -
2 <sup>nd</sup> Interconnection payment - 75% of Interconnection Implementation Incentive	\$ -
3 <sup>rd</sup> Interconnection payment - up to 25% percent of Interconnection Implementation Incentive based on the actual final costs of the interconnection implementation	\$ -
<b>Capacity Incentive payment distribution</b>	
1 <sup>st</sup> Capacity payment - up to 15% of Total Capacity Incentive	\$ 114,075
2 <sup>nd</sup> Capacity payment - 45% of Anaerobic Digestion component	\$ 180,000
3 <sup>rd</sup> Capacity payment - 45% of Power Generation component	\$ 67,500
4 <sup>th</sup> Capacity payment - 45% of total Project Enhancements component	\$ 94,725
5 <sup>th</sup> Capacity payment - 20% of Total Capacity Incentive	\$ 152,100
6 <sup>th</sup> Capacity payment - up to 100% of any remaining Total Capacity Incentive	\$ 152,100
<b>Performance Incentive payment distribution</b>	Maximum average annual payment (10 years)
	\$ 38,106



The Exhibit A that would be included in the Standard Performance Agreement between NYSERDA and the ABC Dairy Farm is shown below:

EXHIBIT A TOTAL CONTRACTED PROJECT INCENTIVE					
Contractor Name: ABC Dairy Farm Agreement Number: 12345 Project Name: ADG Project A					
Contracted Capacity (kW)	Annual Contracted Generation (kWh/year)	Total Performance Incentive (\$)	Total Interconnection Incentive (\$)	Total Capacity Incentive (\$)	Total Contracted Project Incentive (\$)
200	1,314,000	\$381,060	\$0	\$760,500	\$1,141,560

**Example B**

The Any City municipal waste water treatment plant (WWTP) is planning to upgrade its existing anaerobic digester system to produce biogas to fuel a new power generation system rated to produce 425 kW of electricity. The ADG system is designed to co-digest at least 20% food waste inputs by mass with 80% municipal waste water inputs by mass. The project will include installation of a new digester cover and new sludge thickening equipment, as well as an equalization tank with integral mixing and odor control for the food waste inputs. The plant also plans to install a biological scrubber system selected from the approved vendor list. The utility has informed the plant that the CESIR study will cost \$15,000, and the applicant has estimated that the interconnection implementation will cost \$120,000.

The Incentive Calculation Tool estimates for ADG Project B follows:

# Section C: Incentive Calculation Tool



<b>Project Name</b>	ADG-to-Electricity Project B
<b>Applicant Name</b>	Any City WWTP

This tool has been developed to estimate the Total Contracted Project Incentive for New ADG-to-Electricity System and Project Enhancement projects. To estimate incentives for project that have previously received NYSERDA funding, contact NYSERDA for further information. Please enter the information requested in the yellow boxes. Note that Performance Incentives are calculated first and any remaining funds, considering the \$2 million cap, can be applied to Interconnection and Capacity Incentives.

## Potential Performance Incentives

Enter proposed new ADG-fueled power generation installation capacity, if any (kW)		425
Enter existing ADG-fueled power generation capacity for which incentives are being requested, if any (kW)		
<b>Minimum annual new ADG fueled power generation (kWh/yr) (based on a capacity factor of 75%)</b>		<b>2,792,260</b>
<b>1. Power Generation Performance Incentive</b>		<b>\$698,063</b>
2. H <sub>2</sub> S Reduction Performance Incentive - If any of the H <sub>2</sub> S reduction processes shown in Appendix C will be used, select the appropriate process in the adjacent box. Other H <sub>2</sub> S reduction processes not specified in Appendix C may also be eligible - contact T. Plesinger or S. Hoyt. (Available to new and existing ADG-to-Electricity projects)	Biological Scrubber	<i>Note: Applicants intending to use a combination of eligible H<sub>2</sub>S reduction processes not specified here in, contact T. Plesinger or S. Hoyt.</i> <b>\$64,222</b>
<b>Total Potential Performance Incentive (paid over a 10 year period and subject to the \$2 million cap)</b>		<b>\$762,284</b>

## Potential Capacity Incentives

(See Incentive Calculation Tool Instructions)	Fixed Base Incentive	Variable Incentive per kW	Total Fixed and Variable Capacity Incentives
<b>Anaerobic Digester component - Choose one (or none) that apply for the proposed project</b>			
1. Farm-based anaerobic digester with new digester vessel or new earthen lagoon digester.	Click cell and select:	\$0	\$0
2. Farm-based anaerobic digester made by placing gas tight cover over an existing waste storage structure.	Click cell and select:	\$50,000	\$750
3. New or upgrade of existing anaerobic digester for municipal waste water treatment/industrial waste processing systems.	Yes	\$100,000	\$1,500
			<b>\$737,500</b>
<b>Potential Anaerobic Digester Incentive (subject to the \$2 million cap)</b>			
<b>Power Generation component - Choose one (or none) that apply for the proposed project</b>			
1. New ADG-fueled power generation system.	Yes	\$30,000	\$300
2. Reconditioned ADG fueled power generation system.	Click cell and select:	\$12,500	\$125
			<b>\$262,500</b>
<b>Potential Power Generation Incentive (subject to the \$2 million cap)</b>			
<b>Project Enhancements component - Choose all that apply for the proposed project</b>			
1. H <sub>2</sub> S removal process. (The response above from "2. H <sub>2</sub> S Removal Performance Incentive" is entered here automatically.)	Biological Scrubber	\$72,500	\$61
2. "Black Start" capability of power generation system (ability to generate on-site power in absence of utility power).	Click cell and select:	\$3,000	\$30
3. Anaerobic digester system designed to accept > 20% food waste. Must include pretreatment equipment. See Appendix C.	Yes	\$50,000	\$350
4. New sand separation unit installed to remove sand from sand laden manure before digestion. Farm projects only.	Click cell and select:	\$50,000	\$120
5. Contracts to accept food waste from institutional sources. Farm projects only.	Click cell and select:	\$14,000	\$35
6. Participant in cooperative anaerobic digester management entity. Farm projects only.	Click cell and select:	\$30,000	\$0
			<b>\$297,175</b>
<b>Total Potential Project Enhancement Incentives (subject to the \$2 million cap)</b>			
<b>Potential Total Capacity Incentives (subject to the \$2 million cap)</b>			
<b>\$1,297,175</b>			

## Potential Interconnection Incentives

1. Interconnection Review Incentive - 75% reimbursement of CESIR costs exceeding \$5,000 (max incentive \$30,000). In the adjacent cell, enter the estimated cost of CESIR shown in the Preliminary Review by the electric utility. If the combined CESIR and Interconnection Implementation costs are not expected to exceed \$5,000, please provide evidence of this estimate from the electric utility.	\$ 15,000.00	Potential Interconnection Review Incentive	\$ 7,500
2. Interconnection Implementation Incentive - 30% reimbursement of grid upgrade costs for which the applicant is responsible (max incentive \$300,000). Enter estimated interconnection implementation cost, provided in the completed CESIR. If a CESIR is required but has not yet been completed, enter \$60,000 in the adjacent cell.	\$ 120,000.00	Potential Interconnection Implementation Incentive	\$ 60,000
<b>Total Potential Interconnection Incentives (subject to the \$2 million cap)</b>			
<b>\$67,500</b>			

## Percentage of Potential Incentives remaining after applying \$2 million cap

<b>Total Performance Incentive</b>	100%	<b>Total Performance Incentive</b>	\$ 762,284
<b>Total Capacity Incentive</b>	90%	<b>Total Capacity Incentive</b>	\$ 1,170,216
<b>Total Contingent Interconnection Incentive</b>	100%	<b>Total Performance and Capacity Incentives</b>	\$ 1,932,500
		<b>Total Contingent Interconnection Incentive (contingent on actual interconnection costs)</b>	\$ 67,500
<b>Total Performance, Capacity and Contingent Interconnection Incentive</b>			<b>\$ 2,000,000</b>

Note that Interconnection Incentives may be paid first to expedite reimbursement of those costs. Remaining funds are applied per the payment distributions below.

## Estimated Payment Distribution

	Estimated Totals
<b>Interconnection Incentive payment distribution</b>	
1 <sup>st</sup> Interconnection payment - 100% of Interconnection Review Incentive	\$ 7,500
2 <sup>nd</sup> Interconnection payment - 75% of Interconnection Implementation Incentive	\$ 45,000
3 <sup>rd</sup> Interconnection payment - up to 25% percent of Interconnection Implementation Incentive based on the actual final costs of the interconnection implementation	\$ 15,000
<b>Capacity Incentive payment distribution</b>	
1 <sup>st</sup> Capacity payment - up to 15% of Total Capacity Incentive	\$ 175,532
2 <sup>nd</sup> Capacity payment - 45% of Anaerobic Digestion component	\$ 299,393
3 <sup>rd</sup> Capacity payment - 45% of Power Generation component	\$ 106,564
4 <sup>th</sup> Capacity payment - 45% of total Project Enhancements component	\$ 120,640
5 <sup>th</sup> Capacity payment - 20% of Total Capacity Incentive	\$ 234,043
6 <sup>th</sup> Capacity payment - up to 100% of any remaining Total Capacity Incentive	\$ 234,043
<b>Performance Incentive payment distribution</b>	<b>Maximum average annual payment (10 years) \$ 76,228</b>

The Exhibit A that would be included in the Standard Performance Agreement between NYSERDA and the Any City WWTP is shown below:

EXHIBIT A TOTAL CONTRACTED PROJECT INCENTIVE					
Contractor Name: Any City WWTP Agreement Number: 23456 Project Name: ADG Project B					
Contracted Capacity (kW)	Annual Contracted Generation (kWh/year)	Total Performance Incentive (\$)	Total Interconnection Incentive (\$)	Total Capacity Incentive (\$)	Total Contracted Project Incentive (\$)
425	2,792,250	\$762,284	\$67,500	\$1,170,216	\$2,000,000

**Example C**

The Any Food Processor Inc.'s is planning to install a new power generation system rated to produce 975 kW of electricity using biogas from an existing anaerobic digester system. The plant also plans to install a biological scrubber system selected from the approved vendor list. The utility has informed the plant that the CESIR study will cost \$35,000, and the applicant has estimated that the interconnection implementation will cost \$650,000.

The Incentive Calculation Tool estimates for ADG Project C follows:

# Section C: Incentive Calculation Tool



<b>Project Name</b>	ADG-to-Electricity Project C
<b>Applicant Name</b>	Any Food Processor Inc.

This tool has been developed to estimate the Total Contracted Project Incentive for New ADG-to-Electricity System and Project Enhancement projects. To estimate incentives for project that have previously received NYSEERDA funding, contact NYSEERDA for further information. Please enter the information requested in the yellow boxes. Note that Performance Incentives are calculated first and any remaining funds, considering the \$2 million cap per project can be applied to Interconnection and Capacity Incentives.

Potential Performance Incentives			
Enter proposed new ADG-fueled power generation installation capacity, if any (kW)			975
Enter existing ADG-fueled power generation capacity for which incentives are being requested, if any (kW)			
Minimum annual new ADG fueled power generation (kWh/yr) (based on a capacity factor of 75%)			6,465,750
1. Power Generation Performance Incentive			\$1,601,438
2. H <sub>2</sub> S Reduction Performance Incentive - If any of the H <sub>2</sub> S reduction processes shown in Appendix C will be used, select the appropriate process in the adjacent box. Other H <sub>2</sub> S reduction processes not specified in Appendix C may also be eligible - contact T. Fustinger or S. Hoyt. (Available to new and existing ADG-to-Electricity projects)		Biological Scrubber	Note: Applicants intending to use a combination of eligible H <sub>2</sub> S reduction processes not specified herein, contact T. Fustinger or S. Hoyt. \$147,332
<b>Total Potential Performance Incentive (paid over a 10 year period and subject to the \$2 million cap)</b>			<b>\$1,748,770</b>

Potential Capacity Incentives				
(See Incentive Calculation Tool Instructions)	Fixed Base Incentive	Variable Incentive per kW	Total Fixed and Variable Capacity Incentives	
<b>Anaerobic Digester component - Choose one (or none) that apply for the proposed project</b>				
1. Farm-based anaerobic digester with new digester vessel or new earthen lagoon digester.	Click cell and select:	\$0	\$0	\$0
2. Farm-based anaerobic digester made by placing gas tight cover over an existing waste storage structure.	Click cell and select:	\$50,000	\$750	\$0
3. New or upgrade of existing anaerobic digester for municipal waste water treatment, industrial waste processing systems.	Click cell and select:	\$100,000	\$1,500	\$0
<b>Potential Anaerobic Digester Incentive (subject to the \$2 million cap)</b>				<b>\$0</b>
<b>Power Generation component - Choose one (or none) that apply for the proposed project</b>				
1. New ADG-fueled power generation system.	Yes	\$50,000	\$300	\$537,500
2. Reconditioned ADG fueled power generation system.	Click cell and select:	\$12,500	\$125	\$0
<b>Potential Power Generation Incentive (subject to the \$2 million cap)</b>				<b>\$537,500</b>
<b>Project Enhancements component - Choose all that apply for the proposed project</b>				
1. H <sub>2</sub> S removal process. (The response above from "7. H <sub>2</sub> S Removal Performance Incentive" is entered here automatically.)	Biological Scrubber	\$72,500	\$61	\$131,975
2. "Black Start" capability of power generation system (ability to generate on-site power in absence of utility power).	Click cell and select:	\$3,000	\$30	\$0
3. Anaerobic digester system designed to accept > 20% food waste. Must include pretreatment equipment. See Appendix C.	Click cell and select:	\$50,000	\$350	\$0
4. New sand separation unit installed to remove sand from sand laden manure before digestion. Farm projects only.	Click cell and select:	\$50,000	\$120	\$0
5. Contracts to accept food waste from institutional sources. Farm projects only.	Click cell and select:	\$14,000	\$33	\$0
6. Participant in cooperative anaerobic digester management entity. Farm projects only.	Click cell and select:	\$30,000	\$0	\$0
<b>Total Potential Project Enhancement Incentives (subject to the \$2 million cap)</b>				<b>\$131,975</b>
<b>Potential Total Capacity Incentives (subject to the \$2 million cap)</b>				<b>\$669,475</b>

Potential Interconnection Incentives			
1. Interconnection Review Incentive - 75% reimbursement of CESIR costs exceeding \$5,000 (max incentive \$50,000). In the adjacent cell, enter the estimated cost of CESIR shown on the Preliminary Review by the electric utility. If the combined CESIR and Interconnection Implementation costs are not expected to exceed \$5,000, please provide evidence of this estimate from the electric utility.	\$ 35,000.00	Potential Interconnection Review Incentive	\$ 22,500
2. Interconnection Implementation Incentive - 50% reimbursement of grid upgrade costs for which the applicant is responsible (max incentive \$300,000). Enter estimated interconnection implementation cost, provided in the completed CESIR. If a CESIR is required but has not yet been completed, enter \$600,000 in the adjacent cell.	\$ 650,000.00	Potential Interconnection Implementation Incentive	\$ 300,000
<b>Total Potential Interconnection Incentives (subject to the \$2 million cap)</b>			<b>\$322,500</b>

Percentage of Potential Incentives remaining after applying \$2 million cap	Budgeted Incentive Totals after applying \$2 million cap
Total Performance Incentive 100%	Total Performance Incentive \$ 1,748,770
Total Capacity Incentive 0%	Total Capacity Incentive \$ -
Total Contingent Interconnection Incentive 78%	Total Performance and Capacity Incentives \$ 1,748,770
	Total Contingent Interconnection Incentive (contingent on actual interconnection costs) \$ 251,230
	<b>Total Performance, Capacity and Contingent Interconnection Incentive \$ 2,000,000</b>

Note that Interconnection Incentives may be paid first to expedite reimbursement of those costs. Remaining funds are applied per the payment distributions below.

Estimated Payment Distribution		Estimated Totals
<b>Interconnection Incentive payment distribution</b>		
1 <sup>st</sup> Interconnection payment - 100% of Interconnection Review Incentive		\$ 17,528
2 <sup>nd</sup> Interconnection payment - 75% of Interconnection Implementation Incentive		\$ 175,277
3 <sup>rd</sup> Interconnection payment - up to 25% percent of Interconnection Implementation Incentive based on the actual final costs of the interconnection implementation		\$ 58,426
<b>Capacity Incentive payment distribution</b>		
1 <sup>st</sup> Capacity payment - up to 15% of Total Capacity Incentive		\$ -
2 <sup>nd</sup> Capacity payment - 45% of Anaerobic Digestion component		\$ -
3 <sup>rd</sup> Capacity payment - 45% of Power Generation component		\$ -
4 <sup>th</sup> Capacity payment - 45% of total Project Enhancements component		\$ -
5 <sup>th</sup> Capacity payment - 20% of Total Capacity Incentive		\$ -
6 <sup>th</sup> Capacity payment - up to 100% of any remaining Total Capacity Incentive		\$ -
<b>Performance Incentive payment distribution</b>	Maximum average annual payment (10 years)	\$ 174,877

The Exhibit A that would be included in the Standard Performance Agreement between NYSERDA and the Any Food Processor Inc. is shown below:

EXHIBIT A TOTAL CONTRACTED PROJECT INCENTIVE					
Contractor Name: Any Food Processor Inc.					
Agreement Number: 34567					
Project Name: ADG-to-Electricity Project C					
Contracted Capacity (kW)	Annual Contracted Generation (kWh/year)	Total Performance Incentive (\$)	Total Interconnection Incentive (\$)	Total Capacity Incentive (\$)	Total Contracted Project Incentive (\$)
975	6,405,750	\$1,748,770	\$251,230	\$0	\$2,000,000

**Example D**

XYZ Dairy Farm has an existing 360 kW ADG-to-Electricity project and is planning only to install a new biological scrubber, to be provided by one of the NYSERDA approved vendors of biological scrubbers, to remove H2S from the biogas.

The Incentive Calculation Tool estimates for ADG Project D follows:



# Section C: Incentive Calculation Tool



<b>Project Name</b>	ADG-to-Electricity Project D
<b>Applicant Name</b>	XYZ Dairy Farm

This tool has been developed to estimate the Total Contracted Project Incentive for New ADG-to-Electricity System and Project Enhancement projects. To estimate incentives for project that have previously received NYSERDA funding, contact NYSERDA for further information. Please enter the information requested in the yellow boxes. Note that Performance Incentives are calculated first and any remaining funds, considering the \$2 million cap, can be applied to Interconnection and Capacity Incentives.

## Potential Performance Incentives

Enter proposed new ADG-fueled power generation installation capacity, if any (kW)		
Enter existing ADG-fueled power generation capacity for which incentives are being requested, if any (kW)		360
<b>Minimum annual new ADG fueled power generation (kWh/yr) (based on a capacity factor of 75%)</b>		0
<b>1. Power Generation Performance Incentive</b>		\$0
<b>2. H<sub>2</sub>S Reduction Performance Incentive</b> - If any of the H <sub>2</sub> S reduction processes shown in Appendix C will be used, select the appropriate process in the adjacent box. Other H <sub>2</sub> S reduction processes not specified in Appendix C may also be eligible - contact T. Flisinger or S. Hoyt. (Available to new and existing ADG-to-Electricity projects.)	Biological Scrubber	<i>Note: Applicants intending to use a combination of eligible H<sub>2</sub>S reduction processes not specified herein, contact T. Flisinger or S. Hoyt.</i>
		\$54,400
<b>Total Potential Performance Incentive (paid over a 10 year period and subject to the \$2 million cap)</b>		\$54,400

## Potential Capacity Incentives

(See Incentive Calculation Tool Instructions)	Fixed Base Incentive	Variable Incentive per kW	Total Fixed and Variable Capacity Incentives
<b>Anaerobic Digester component - Choose one (or none) that apply for the proposed project</b>			
1. Farm-based anaerobic digester with new digester vessel or new earthen lagoon digester.	Click cell and select:	\$0	\$0
2. Farm-based anaerobic digester made by placing gas tight cover over an existing waste storage structure	Click cell and select:	\$30,000	\$750
3. New or upgrade of existing anaerobic digester for municipal waste water treatment, industrial waste processing systems.	Click cell and select:	\$100,000	\$1,500
			\$0
			<b>Potential Anaerobic Digester Incentive (subject to the \$2 million cap)</b>
			\$0
<b>Power Generation component - Choose one (or none) that apply for the proposed project</b>			
1. New ADG-fueled power generation system.	Click cell and select:	\$30,000	\$300
2. Reconditioned ADG-fueled power generation system.	Click cell and select:	\$12,500	\$125
			\$0
			<b>Potential Power Generation Incentive (subject to the \$2 million cap)</b>
			\$0
<b>Project Enhancements component - Choose all that apply for the proposed project</b>			
1. H <sub>2</sub> S removal process. (The response above from "2. H <sub>2</sub> S Removal Performance Incentive" is entered here automatically.)	Biological Scrubber	\$72,500	\$61
2. "Black Start" capability of power generation system (ability to generate on-site power in absence of utility power).	Click cell and select:	\$3,000	\$30
3. Anaerobic digester system designed to accept > 20% food waste. Must include pretreatment equipment. See Appendix C.	Click cell and select:	\$50,000	\$350
4. New sand separation unit installed to remove sand from sand laden manure before digestion. Farm projects only.	Click cell and select:	\$50,000	\$120
5. Contracts to accept food waste from institutional sources. Farm projects only.	Click cell and select:	\$14,000	\$35
6. Participant in cooperative anaerobic digester management entity. Farm projects only.	Click cell and select:	\$30,000	\$0
			\$0
			<b>Total Potential Project Enhancement Incentives (subject to the \$2 million cap)</b>
			\$94,460
			<b>Potential Total Capacity Incentives (subject to the \$2 million cap)</b>
			\$94,460

## Potential Interconnection Incentives

<b>1. Interconnection Review Incentive</b> - 75% reimbursement of CESIR costs exceeding \$5,000 (max incentive \$50,000). In the adjacent cell, enter the estimated cost of CESIR shown in the Preliminary Review by the electric utility. If the combined CESIR and Interconnection Implementation costs are not expected to exceed \$5,000, please provide evidence of this outcome from the electric utility.		Potential Interconnection Review Incentive	\$
<b>2. Interconnection Implementation Incentive</b> - 50% reimbursement of grid upgrade costs for which the applicant is responsible (max incentive \$300,000). Enter estimated interconnection implementation cost, provided in the completed CESIR. If a CESIR is required but has not yet been completed, enter \$500,000 in the adjacent cell.		Potential Interconnection Implementation Incentive	\$
			\$0
			<b>Total Potential Interconnection Incentives (subject to the \$2 million cap)</b>
			\$0

## Percentage of Potential Incentives remaining after applying \$2 million cap

## Budgeted Incentive Totals after applying \$2 million cap

<b>Total Performance Incentive</b> 100%	<b>Total Performance Incentive</b>	\$ 54,400
<b>Total Capacity Incentive</b> 100%	<b>Total Capacity Incentive</b>	\$ 94,460
<b>Total Contingent Interconnection Incentive</b> 0%	<b>Total Performance and Capacity Incentives</b>	\$ 148,860
	<b>Total Contingent Interconnection Incentive (contingent on actual interconnection costs)</b>	\$ -
	<b>Total Performance, Capacity and Contingent Interconnection Incentive</b>	\$ 148,860

*Note that Interconnection Incentives may be paid first to expedite reimbursement of those costs. Remaining funds are applied per the payment distributions below.*

## Estimated Payment Distribution

	Estimated Totals
<b>Interconnection Incentive payment distribution</b>	
1 <sup>st</sup> Interconnection payment - 100% Interconnection Review Incentive	\$ -
2 <sup>nd</sup> Interconnection payment - 75% of Interconnection Implementation Incentive	\$ -
3 <sup>rd</sup> Interconnection payment - up to 25% percent of Interconnection Implementation Incentive based on the actual final costs of the interconnection implementation	\$ -
<b>Capacity Incentive payment distribution</b>	
1 <sup>st</sup> Capacity payment - up to 15% of Total Capacity Incentive	\$ 14,169
2 <sup>nd</sup> Capacity payment - 45% of Anaerobic Digestion component	\$ -
3 <sup>rd</sup> Capacity payment - 45% of Power Generation component	\$ -
4 <sup>th</sup> Capacity payment - 45% of total Project Enhancements component	\$ 42,507
5 <sup>th</sup> Capacity payment - 20% of Total Capacity Incentive	\$ 18,892
6 <sup>th</sup> Capacity payment - up to 100% of any remaining Total Capacity Incentive	\$ 18,892
<b>Performance Incentive payment distribution</b>	Maximum average annual payment (10 years) \$ 5,440

The Exhibit A that would be included in the Standard Performance Agreement between NYSERDA and the ABC Dairy Farm is shown below:

EXHIBIT A TOTAL CONTRACTED PROJECT INCENTIVE					
Contractor Name: XYZ Dairy Farm Agreement Number: 45678 Project Name: Example ADG Project D					
Contracted Capacity (kW)	Annual Contracted Generation (kWh/year)	Total Performance Incentive (\$)	Total Interconnection Incentive (\$)	Total Capacity Incentive (\$)	Total Contracted Project Incentive (\$)
360	0	\$54,400	\$0	\$94,460	\$148,860

## EXHIBIT D

### QUALITY ASSURANCE/QUALITY CONTROL AND REPORTING REQUIREMENTS

Quality Assurance/Quality Control (QA/QC) and reporting processes are required for all projects to verify that the equipment proposed in the application has been installed, to describe the installed equipment, to verify that it meets the intent of the ADG-to-Electricity Program, and to verify the quantity of biogas-generated electricity produced by the ADG-to-Electricity System. The QA/QC and Reporting Processes include the following:

1. Developing a QA/QC Plan.
2. Generating the Project Commissioning Report and invoices to document installation of the project components and establish the basis for Interconnection and Capacity Incentive Payments
3. Generating Annual Performance Reports, which form the basis of the Production Incentive Payments.

A number of individuals are involved in the QA/QC and Reporting Processes: NYSERDA, the Contractor (the entity awarding the funding), NYSERDA's Technical Consultant, and NYSERDA's DG Integrated Data System website Contractor. NYSERDA's Technical Consultants are engineering firms that have been contracted by NYSERDA to provide QA/QC support for the ADG-to-Electricity Program. In consultation with the Contractor, the Technical Consultant will develop the QA/QC Plan in accordance with NYSERDA's requirements, and will help NYSERDA review the various deliverables developed by the Project Participant. NYSERDA's DG Integrated Data System website Contractor is an engineering firm that has been contracted by NYSERDA to develop and manage NYSERDA's DG Integrated Data System website. The DG Integrated Data System website Contractor may also install the site's datalogger.

#### I. SUMMARY OF PROJECT RESPONSIBILITIES

NYSERDA will:

1. Assign a Technical Consultant to work with each Contractor.
2. Review and approve acceptable QA/QC Plans and Reports (e.g., Project Commissioning Report and Annual Performance Reports).

The Contractor will:

3. Work with the Technical Consultant to develop the QA/QC Plan. ***The QA/QC Plan must be submitted to, and approved by, NYSERDA prior to the submittal and payment of all capacity and performance incentive invoices beyond the first capacity incentive payment.***



4. Provide NYSERDA, its Technical Consultant, and its DG Integrated Data System website Contractor with relevant information about the site, facilities and equipment installed, and operational data, and access to the installed ADG-to-Electricity System.
5. Purchase the necessary QA/QC equipment (biogas meter, power output meter, communications hardware and software), as described later in this Appendix.
6. Provide the necessary communication service to monitor the ADG use and kWh output of the ADG-to-Electricity System. The communication service can be provided as a phone line or broadband connection or other medium selected in agreement with NYSERDA.
7. Install, commission, and maintain the biogas and power output meters, and communications hardware. This will include installation of wires, as needed, to bring the data signals from the biogas and power output meters to the datalogger. (Note: the DG Integrated Data System website Contractor is responsible for connecting wires at the datalogger.)
8. Prepare the Annual Performance Reports and invoices for performance incentive payments, in conjunction with the Technical Consultant, for the verified, biogas-generated electricity produced by the system.
9. **Ensure that all information provided to NYSERDA accurately represents the operation of the ADG-to-Electricity System.**

NYSERDA's Technical Contractor will:

10. Develop the QA/QC Plan (see following section) in conjunction with the Contractor.
11. Verify that facilities and equipment have been installed as specified in the Agreement Application
12. Verify that the biogas and power output meters, datalogger, and communication hardware have been installed correctly.
13. Assist the Contractor in preparing the Annual Performance Reports and invoices for performance incentive payments for the verified, biogas-generated electricity produced by the system.
14. For systems selected for evaluation using the National Protocol for Digester Evaluation, provide for additional measurement equipment, digester input and output testing, and technical consultant services, as needed.

NYSERDA's DG Integrated Data System website Contractor will:

15. Connect the wires bringing the signal to the datalogger from the biogas and power output meters. (Note: The Contractor is responsible for providing a reliable connection to the signal and installing signal connection wires as needed.)
16. Accept performance data from the Applicant's ADG system (via the internet) and load the data to the DG Integrated Data System website.
17. Evaluate the quality of the data transferred to the DG Integrated Data System website.
18. Integrate relevant site information into NYSERDA's DG Integrated Data System website.

## II. QA/QC PLAN

The QA/QC plan will include the actions and procedures that will document whether requirements have been met for the payment of Interconnection, Capacity and Performance Incentives.

### Description of the ADG System

At a minimum the description will include a schematic showing the as-built: locations of the major equipment and meters; specifications for the major equipment; a list of alternate fuel sources, if applicable; and the heat rate of the New Equipment engine gen-set (BTU/kWh. If the installed equipment deviates from that listed in the Application Package, an explanation of the deviation must be provided for determination by NYSERDA whether the installed equipment adequately meets the terms of the Agreement.

### Procuring and Installing Instrumentation

The QA/QC Plan will specify the monitoring, datalogging, and communications instrumentation to be installed, and the proposed installation locations. Provisional instrumentation requirements are provided in Table 1. Example instrumentation specifications are provided in Table 2.

**Table 1. Provisional Instrumentation Requirements**

1.	A revenue grade power generation meter with an accuracy of at least $\pm 0.5\%$ that is capable of supplying either a kWh pulse output, 4-20 mA kW output, or other output as agreed to by NYSERDA or its TC for measuring generator output.
2.	A fuel meter with accuracy of at least $\pm 2\%$ to measure generator fuel (ADG) consumption. The meter should be temperature and pressure compensated. Uncompensated meters may be permissible if located in conditioned space and if gas pressure is less than 1 psig.
3.	For projects for which H <sub>2</sub> S reduction incentives have been requested, an automated hydrogen sulfide level measuring device with an accuracy to within $\pm 5\%$ or $\pm 150$ ppm (under normal operating conditions) for hydrogen sulfide levels ranging from 100 – 3000 ppm and capable of at least hourly sampling of hydrogen sulfide levels for the gas exiting the H <sub>2</sub> S removal system and daily sampling of the (raw) gas entering the H <sub>2</sub> S removal system.

Note that NYSERDA will consider the use of alternative measurement types or techniques that meet similar standards to those indicted above.

**Table 2. Example Instrumentation Specifications**

<b>Measurement</b>	<b>Example Instrument Make / Model</b>	<b>Accuracy</b>	<b>Instrument Output</b>	<b>Supplied by</b>
Power generation	Electro Industries/ Gauge Tech Shark 200	± 0.2 % for power and energy functions - meeting ANSI C12.20 accuracy requirements (Class 0.2%)	Solid state pulse output	Site
Fuel flow rate	Roots Meter 3M175	± 1 % reading	Solid state pulse output	Site
H <sub>2</sub> S levels	Ados 401	± 5 % or ± 1 % 150 ppm min. range of 100-3000 ppm	Solid state pulse output	Site

Verifying the Monitoring System Installation

The QA/QC Plan will document the procedures to be used by NYSERDA's Technical Consultant to confirm that the instrumentation is installed correctly.

Transferring data to the NYSERDA DG Integrated Data System website

The QA/QC Plan will document how data will be transferred to the NYSERDA DG Integrated Data System website. In general, the procedures and monitoring requirements described in NYSERDA's Monitoring and Data Collection Standard for DG/CHP Systems and the ASERTTI DG/CHP Long Term Monitoring Protocol will be followed. These include, but are not limited to, the following:

4. The system will log or record data at 15-minute intervals, averaging or integrating readings as required providing accurate and meaningful readings.
5. The system shall have on-board storage sufficient to retain a minimum of 14 days of data in the event that communications or site power is lost.
6. It is anticipated that the data will be transferred daily to the NYSERDA's DG Integrated Data System website.

Evaluating the Quality of the data provided to the NYSERDA DG Integrated Data System website

The QA/QC Plan will document how data received by the NYSERDA DG Integrated Data System website will be verified as good quality data. The QA/QC Plan will specify the range and relational checks for data that will be used to measure electricity production and to compare electricity production with fuel energy input to the engine. The Website Contractor will implement the basic range and relational checks described below. The range check identifies whether the meters are reporting data in their expected ranges. The Contractor will provide the expected ranges for both meters in the QA/QC Plan. The relational check ensures that both meters always provide non-zero readings at the same time. Only hourly data that passes these quality checks are used in the "RPS: Customer-Sited Tier Anaerobic Digester Gas-to-Electricity Program NYSERDA Incentive Program Reports". However, all hourly data, those that pass the checks and those that do not, can be downloaded from the NYSERDA DG Integrated Data

System website using the "Download (CSV file)" option. The QA/QC Plan will specify who will be responsible for performing all of the specified range and relational checks.

The QA/QC Plan will also document the procedures that will be followed to notify project team members of sensor failure or other abnormalities at the site (e.g., receipt of automated emails from the Website Contractor).

#### Performing Monitoring System Maintenance

The QA/QC Plan will document the routine maintenance and quality assurance/quality control measures that the Project Participant will perform to ensure that data produced, including calibration requirements for any H<sub>2</sub>S gas monitoring equipment, from the ADG-to-Electricity System accurately describes system performance.

#### Preparing Annual Performance Reports

If the Contractor agrees with the verified data posted on the Website, they will provide their Annual Performance Reports using the format described in Section IV.

If the Contractors disagree with the verified data posted on the Website, they will provide their Annual Performance Reports using data they consider to be verified, along with a narrative justifying why their approach is more appropriate. Acceptance of this alternate data will be at NYSERDA's discretion, or as resolved in accordance with the procedure specified in the section labeled "Resolving Disagreements over QA/QC".

In some cases, a sensor or monitoring system failure or other problem at the site may result in data being lost for part of the performance period. The QA/QC Plan will document the procedure that will be followed to account for loss of measured performance data. The recommended approach is as follows:

If data loss occurs, the ***output*** for the missing period may be determined by taking the average output measured from similar length periods just prior and just after the outage (or other method acceptable to NYSERDA). This procedure will be used for up to two outages for up to 36 hours each per 12 month period. If more than two outages occur per 12-month period, then the site shall be required to provide independent cumulative meter readings or other documentation to demonstrate any system power output during outages. Otherwise, the generator output will be assumed to equal zero for the outage period.

#### **QA/QC INSPECTIONS**

Periodically, NYSERDA and/or its Consultant/Contractor may choose to visit a project site to verify that the information provided in the Annual Performance Report is accurate with regard to project equipment, site conditions, and monitoring configurations. These inspections may occur at any time after project installation, both prior to and after the submittal of an Annual Performance Report. If the QA/QC activities are found to be different from those represented in the QA/QC Plan or the Annual Performance Report, NYSERDA may refuse any further Performance Incentive payments. If NYSERDA deems an inspection necessary, an Annual

Performance Report that is under review will not be approved until the inspection has been completed.

### **RESOLVING DISAGREEMENTS OVER QA/QC**

The following approach will be used to resolve any disagreements between NYSERDA and a Contractor concerning the adequacy of an Annual Performance Report or the adequacy and interpretation of performance data:

1. If an Annual Performance Report is rejected by NYSERDA, NYSERDA will provide a written explanation of the rejection with suggestions for changes that would make the submittal acceptable.
2. If the Contractor disagrees with the rejection, it must provide a written explanation (with references and any required additional documentation) to NYSERDA.
3. Upon receipt of the Contractor's written explanation, the Contractor and NYSERDA representatives will meet and attempt to resolve the disagreement.
4. The Contractor must submit a new submittal in a manner that complies with any resolution agreed to concerning the original submittal's rejection.

If either party believes the disagreement cannot be resolved by the above approach, the parties will use the dispute resolution mechanism defined in their Standard Performance Contract Agreement.

### **III. PROJECT COMMISSIONING REPORT**

The Project Commissioning Report must be submitted to NYSERDA within 14 months of the Effective Date of the Agreement. If the Project Commissioning Report is not completed and submitted within 14 months of the Effective Date, the Project Participant must request an extension, in writing, from NYSERDA as per milestone requirements of section 3.7 of the Standard Performance Contract Agreement.

#### Project Commissioning Report Requirements for All Projects Requesting Capacity Incentives

The following are the required elements of the Project Commissioning Report for projects requesting Capacity Incentives:

5. Description of the Installation and Commissioning process, which includes the following:
6. Documentation that construction of the ADG-to-Electricity System is complete;
7. Documentation that the System has been interconnected with the utility grid, where applicable;
8. Documentation that the System has satisfactorily operated for at least seven consecutive days, which is defined as operating with an average minimum 75% Capacity Factor of the Total Contracted Capacity and is not emitting or venting significant quantities of methane not combusted by a flare or other means; and
9. Documentation that the System has demonstrated the ability to upload information to NYSERDA's DG Integrated Data System Website.

10. As-Built Diagrams of the installed system; if the installed equipment deviates from that listed in the Application Package, the Project Participant must provide an explanation of the deviation in the Project Commissioning Report.

#### Project Commissioning Report Requirements for Projects Requesting only Performance Incentives

The following are the required elements of the Project Commissioning Report for projects requesting only Performance Incentives:

11. Documentation that the System is capable of operating satisfactorily, which is defined as operating for a minimum of seven consecutive days with an average minimum 75% Capacity Factor of the Total Contracted Capacity and is not emitting or venting significant quantities of methane not combusted by a flare or other means;
12. Documentation that the System has been interconnected with the utility grid, where applicable;
13. Documentation that the System has demonstrated the ability to upload information to NYSERDA's DG Integrated Data System website and
14. As-Built Diagrams of the installed system; if the installed equipment deviates from that listed in the Application Package, the Contractor must provide an explanation of the deviation in the Project Commissioning Report.

#### Post-Installation Site Inspection

NYSERDA's Technical Consultant will contact the Contractor to schedule the Post-Installation Site Inspection. The inspection must be completed before the Project Commissioning Report is submitted to NYSERDA. The Contractor or a representative must be present during the inspection.

#### Project Commissioning Report Approval

NYSERDA will review the Project Commissioning Report and determine whether to approve it as submitted, approve it with minor revisions, or reject it. NYSERDA will review the Report to ensure the following:

15. The project meets all of the ADG-to-Electricity Program requirements.
16. A post-installation site inspection has been performed by the Technical Consultant.
17. The Project Commissioning Report contains complete and accurate information.
18. The equipment listed in the Application Package has been installed or the Project Participant has explained any variance.

NYSERDA will work with the Contractor on making minor revisions to the Project Commissioning Report as necessary. If NYSERDA finds the Project Commissioning Report to be complete, but the Total Incentive for the project to be incorrect based on the installed conditions, NYSERDA may make an adjustment to the Interconnection, Capacity and/or Performance Incentive payment estimates and will notify the Contractor of those changes in writing. Within 60 days after its receipt of the Project Commissioning Report, NYSERDA will notify the Contractor in writing as to whether or not the Report has been approved.

#### **IV. ANNUAL PERFORMANCE REPORTING**

It is the Contractor's responsibility to demonstrate the extent to which the installed project is generating the amount of energy projected in the Standard Performance Contract Agreement. This is done through the Annual Performance Reports.

##### Commencement of the First Year's Performance Period

The total performance period of the Standard Performance Contract Agreement shall be ten (10) years. The first year's (consecutive 12-month) performance period must begin no later than the 30th day after NYSERDA's approval of the Project Commissioning Report. If NYSERDA determines that data collected prior to approval of the Project Commissioning Report is satisfactory, the first year's performance period may begin at an earlier date approved by NYSERDA.

Within 60 days from the end of the first year's performance period, the Contractor must submit an Annual Performance Report to NYSERDA, which will become the basis for the first Performance Incentive payment. Performance data may be downloaded from the NYSERDA DG Integrated Data System website. Annual Performance Reports must also be submitted to NYSERDA within sixty (60) days from the end of each of the remaining performance periods. The Contractor is responsible for ensuring that data provided in the Annual Performance Reports accurately represent the operation of the ADG-to-Electricity System.

##### Content of the Annual Performance Report

The Annual Performance Report will include a table summarizing the Monthly Data for the annual period. NYSERDA Performance Incentives are only paid on power generated from ADG biogas. For projects using only biogas as a fuel source, it will not be necessary to provide data regarding additional fuel sources. If an additional fuel source is used, the Contractor must calculate the proportion of power generated from ADG biogas, which will be listed under "Adjusted Electricity Production" column of the table. Equations for calculating the "Adjusted Electricity Production" and other values required in the table are also provided in the Sample QA/QC Plan which can be obtained from NYSERDA. For projects for which H<sub>2</sub>S removal incentives have been requested, complied hourly H<sub>2</sub>S level data for the year must be presented.

The Contractor may use data summarized in the RPS: Customer-Sited Tier Anaerobic Digester Gas-to-Electricity Program NYSERDA Incentive Program Reports (downloaded from the DG Integrated Data System website) to populate this table. If the Contractor disagrees with the verified data posted on the Website or if data loss occurred during a Reporting Period, they will provide their Annual Performance Reports using data they consider to be verified, along with a narrative justifying why their approach is more appropriate.

##### Submitting the Annual Performance Report

The Contractor must submit an Annual Performance Report for each of the ten years. Upon approval of the each year's Annual Performance Report, the Contractor may submit invoices for the Performance Incentive payment associated with that Report. The Contractor must submit their Annual Performance Reports within 60 days after the annual performance period ends.

A statement must be included with each invoice affirming whether or not a Federal Grant under 1603 Treasury and/or NRCS/EQIP Programs has been received regarding one or more components of the project.

Annual Performance Report Approval or Rejection

NYSERDA will notify the Contractor in writing, within 30 days after receiving an Annual Performance Report, whether or not the Report has been approved. As part of the review process, NYSERDA may request clarification or additional information and may choose to conduct an inspection of a project site. NYSERDA will review the contents of the Annual Performance Report to ensure the following criteria are met:

19. The Contractor has adhered to the QA/QC Plan.
20. All required monitoring data are provided.
21. The verified electricity generated is properly calculated from the monitoring data.
22. The installed equipment is operating as per the approved Application Package.



Enter the Project Name: Oneida County WPCP Solids Handling Upgrades Digester Project

Will you upload the application?: Yes

Contracted Capacity (kW) : 600

Annual Contracted Generation (kWh/year) : 3942000

Total Performance Incentive (\$) : 1143180

Total Interconnection Incentive (\$) : 18000

Total Capacity Incentive (\$) : 838820

Total Contracted Project Incentive (\$) : 2000000

Enter SEQRA Type: Type II

Have you attached detailed determination with appropriate documentation? :

%%NY\_SEQRA\_TYPEI%%

Have you attached the short or long Environmental Assessment Form, as appropriate?:

%%NY\_SEQRA\_UNLISTED%%

Identify entire Section No. from 503.3 or 617.5 -- e.g. 503.3(e): 617.5(c)(29)



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
11/6/2015

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

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


<b>PRODUCER</b> OneGroup NY, Inc. 169 Main Street Oneida NY 13421	<b>CONTACT NAME:</b> Shonna Fanning <b>PHONE (A/C, No, Ext):</b> 315-363-2100 <b>FAX (A/C, No):</b> 315-363-2183 <b>E-MAIL ADDRESS:</b> sfanning@bhlininsurance.com	
	<b>INSURER(S) AFFORDING COVERAGE</b> INSURER A :US Specialty Ins. Co. INSURER B :Homeland Insurance Company of Delaw INSURER C : INSURER D : INSURER E : INSURER F :	<b>NAIC #</b>  14231
<b>INSURED</b> County of Oneida c/o Commissioner of Finance 800 Park Avenue Utica NY 13501	<b>COUON</b>	

**COVERAGES** **CERTIFICATE NUMBER:** 319863424 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> 100,000 GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	Y		CPKG80720123	1/1/2015	1/1/2016	EACH OCCURRENCE	\$1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$
							MED EXP (Any one person)	\$0
							PERSONAL & ADV INJURY	\$1,000,000
							GENERAL AGGREGATE	\$3,000,000
							PRODUCTS - COMP/OP AGG	\$3,000,000
								\$
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			CPKG80720123	1/1/2015	1/1/2016	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
A	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$10,000	Y		CPKG80720123	1/1/2015	1/1/2016	EACH OCCURRENCE	\$10,000,000
							AGGREGATE	\$10,000,000
								\$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				WC STATU-TORY LIMITS	OTH-ER
							E.L. EACH ACCIDENT	\$
							E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$
B A	Medical Malpractice Law Enforcement Liability			MFL222414 CPKG80720123	1/1/2015 1/1/2015	1/1/2016 1/1/2016	5,000,000	5,000,000 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
Re: Two million dollar grant to install and operate anaerobic digesters at the Oneida County Water Pollution Control Plant.  
Agreement #0000000000000000000073665

<b>CERTIFICATE HOLDER</b>  NYSERDA and New York State New York State 17 Columbia Circle Albany NY 12203-6399	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
-----------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

AGENCY CUSTOMER ID: COUON

LOC #: \_\_\_\_\_



### ADDITIONAL REMARKS SCHEDULE

Page \_\_\_\_\_ of \_\_\_\_\_

AGENCY <b>OneGroup NY, Inc.</b>		NAMED INSURED <b>County of Oneida</b>	
POLICY NUMBER		c/o Commissioner of Finance	
CARRIER	NAIC CODE	800 Park Avenue	
		Utica NY 13501	
		EFFECTIVE DATE:	

#### ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM.  
FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

#### COVERAGE APPLIES PER FORM:

PKGLI0040 2006- Blanket Additional Insured Endorsement

**U.S. SPECIALTY INSURANCE COMPANY**

**ENDORSEMENT NO.** \_\_\_\_\_

ATTACHED TO AND FORMING A PART OF POLICY NUMBER	ENDORSEMENT EFFECTIVE (Standard Time)					INSURED	AGENCY AND CODE
	MO.	DAY	YR.	12:01 A.M.	NOON		
CPKG80720123	1	1	2015	X		COUNTY OF ONEIDA	99900

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**BLANKET ADDITIONAL INSURED ENDORSEMENT**

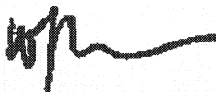
This endorsement modifies insurance provided under the following:

**GENERAL LIABILITY COVERAGE FORM - PUBLIC ENTITY**

**Additional Premium: Included**

- A. SECTION II - WHO IS AN INSURED** is amended to include as an insured any person or organization whom you are required to add as an additional insured to this policy under a written contract, agreement or permit:
1. Currently in effect or which will become effective during the term of the policy; and
  2. Executed prior to the "occurrence" which results in "bodily injury" or "property damage" under Coverage A, or the offense which results in "personal and advertising injury" under Coverage B.
- B.** The insurance provided to this additional insured is limited as follows:
1. That person or organization is an additional insured only with respect to liability arising out of:
    - a. Premises you own, rent, lease or occupy; or
    - b. Your ongoing operations performed for that additional insured as specified in the written contract, agreement or permit.
  2. The limits of insurance applicable to the additional insured are those specified in the contract, agreement, permit or in the Declarations of this policy, whichever are less. These limits of insurance are inclusive of and not in addition to the Limits of Insurance shown in the Declarations.
- 3.** Coverage is not provided for "bodily injury", "property damage", or "personal and advertising injury" arising out of the sole negligence of the additional insured.
- C.** The insurance provided to the additional insured does not apply to "bodily injury", "property damage", or "personal and advertising injury" arising out of an architect's, engineer's or surveyor's rendering or failure to render any professional services including:
1. The preparing, approving or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
  2. Supervisory, inspection, architectural or engineering activities.
- D.** Coverage provided by this endorsement is excess over any other valid and collectible insurance available to the additional insured whether primary, excess, contingent or on any other basis.
- When this insurance is excess, we will have no duty under **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** or **COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY** to defend the additional insured against any "suit" if any other insurer has a duty to defend the additional insured against that "suit". If no other insurer defends, we may undertake to do so, but we will be entitled to the additional insured's rights against all those other insurers.

**ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED**



\_\_\_\_\_  
AUTHORIZED REPRESENTATIVE

03/11/2015  
DATE



**Certificate of Attestation of Exemption  
From New York State Workers' Compensation  
and/or Disability Benefits Insurance Coverage**

**\*\*This form cannot be used to waive the workers' compensation rights or obligations of any party.\*\***

The applicant may use this Certificate of Attestation of Exemption **ONLY** to show a government entity that New York State specific workers' compensation and/or disability benefits insurance is not required. The applicant may **NOT** use this form to show another business or that business's insurance carrier that such insurance is not required.

Please provide this form to the government entity from which you are requesting a permit, license or contract. This Certificate will not be accepted by government officials one year after the date printed on the form.

<p><b>In the Application of (Legal Entity Name and Address):</b> ONEIDA COUNTY WATER POLLUTION CONTROL 51 LELAND AVE. UTICA, NY 13503 PHONE: 315-798-5656 FEIN: XXXXX0460</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p><b>Business Applying For:</b> <b>OTHER: STANDARD PERFORMANCE CONTRACT AGREEMENT</b></p> <p><b>From: NYS ENERGY RESEARCH &amp; DEVELOPMENT AUTHORITY</b></p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p><b><u>Workers' Compensation Exemption Statement:</u></b></p> <p>The applicant is NOT applying for a workers' compensation certificate of attestation of exemption and will show a separate certificate of NYS workers' compensation insurance coverage.</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p><b><u>Disability Benefits Exemption Statement:</u></b></p> <p>The above named business is certifying that it is <b>NOT REQUIRED TO OBTAIN NEW YORK STATE STATUTORY DISABILITY BENEFITS INSURANCE COVERAGE</b> for the following reason: The applicant is a political subdivision that is legally exempt from providing statutory disability benefits coverage.</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

I, STEVEN P. DEVAN, P.E., am the COMMISSIONER with the above-named legal entity. I affirm that due to my position with the above-named business I have the knowledge, information and authority to make this Certificate of Attestation of Exemption. I hereby affirm that the statements made herein are true, that I have not made any materially false statements and I make this Certificate of Attestation of Exemption under the penalties of perjury. I further affirm that I understand that any false statement, representation or concealment will subject me to felony criminal prosecution, including jail and civil liability in accordance with the Workers' Compensation Law and all other New York State laws. By submitting this Certificate of Attestation of Exemption to the government entity listed above I also hereby affirm that if circumstances change so that workers' compensation insurance and/or disability benefits coverage is required, the above-named legal entity will immediately acquire appropriate New York State specific workers' compensation insurance and/or disability benefits coverage and also immediately furnish proof of that coverage on forms approved by the Chair of the Workers' Compensation Board to the government entity listed above.

<b>SIGN HERE</b>	<b>Signature:</b>	<b>Date:</b>
<b>Exemption Certificate Number 2015-068864</b>		<b>Received November 5, 2015 NYS Workers' Compensation Board</b>

STATE OF NEW YORK WORKERS'  
COMPENSATION BOARD

**CERTIFICATE OF PARTICIPATION IN WORKERS' COMPENSATION  
COUNTY SELF-INSURANCE PLAN**

<p><b>1a. Legal name and address of participant in County Self-Insurance Plan</b></p> <p>Oneida County Department of Water Quality and Water Pollution Control 51 Leland Ave. Utica, NY 13503-0442</p> <p><b>1b. Effective date of membership in the Plan</b> <u>5/16/56</u></p>	<p><b>1c. Telephone number of participant</b></p> <p>315-798-5656</p> <p><b>1d. NYS Unemployment Insurance Employer Registration Number of participant</b></p> <p><b>1e. Federal Employer Identification Number of participant</b></p> <p>15-6000460</p>
<p><b>2. Name and Address of the Entity Requesting Proof of coverage</b></p> <p>NYS Energy Research &amp; Development Authority 17 Columbia Circle Albany, NY 12203-6399</p>	<p><b>3. Name and address of County Self-Insurer</b></p> <p>Oneida County Self-Insurance Plan 800 Park Avenue Utica, New York 13501</p>

This certifies that the participant referenced above is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law as a participating member of the County Self-Insurance Plan listed above and participation in such County Self-Insurance Plan is still in force. The County Self-Insurer's Administrator will send this Certificate of Participation to the certificate holder listed in box 2.

If the membership of the participant listed in box 1a is terminated, the County Self-Insurer's Administrator will notify the certificate holder within 10 days of termination. (These notices may be sent by regular mail.) Otherwise, this certificate is valid for a maximum of one year from the date certified by the county self-insurer.

*If this certificate is no longer valid according to the above guidelines and the participant referenced in box "1a" continues to be named on a permit, license or contract issued by the certificate holder, the participant must provide the certificate holder either with a new certificate or other authorized proof the participant is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.*

**The County Self-Insurer must file this certificate with the Workers' Compensation Board's Self-Insurance Office.** (See reverse.)

**Under penalty of perjury, I certify that I am an authorized representative of the County Self-Insurer referenced above and that the participant has the coverage as depicted on this form.**

Certified by: Michael L. Lally  
(Print name of authorized representative of County Self-Insurer)

Certified by:  11/5/15  
(Signature) (Date)

Title: Director of the Oneida County Self-Insurance Plan

Telephone Number: 315-798-5688

## WORKERS' COMPENSATION LAW

### **Section 57 Restriction on issue of permits and the entering into contracts unless compensation is secured.**

1. The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any compensation to any such employee if so employed.

2. The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter.

**Please Note:** This certificate is valid for a maximum of one year from the date this form is approved by the authorized representative of the County Self-Insurance Plan. After that date, if the participant continues to be named on a permit, license or contract issued by the above government entity, the participant must provide that government entity with a new certificate. The participant must also provide a new certificate upon notice of cancellation or change in status of such participation in the County Self-Insurance Plan.

**The County Self-Insurer must file a copy of this certificate with the Workers' Compensation Board Self-Insurance Office at the address listed below.**

Workers' Compensation Board  
Self-Insurance Office-3<sup>rd</sup> Floor  
328 State Street  
Schenectady, NY 12305



**Oneida County**

**Office for the Aging & Continuing Care**

**Anthony J. Picente, Jr.**  
County Executive

**Michael J. Romano**  
Director

120 Airline Street, Oriskany, NY 13424

Phone 315-798-5456

Fax 315-798-6444

E-mail. ofa@ocgov.net

August 12, 2015

FN 20 15-419  
HEALTH & HUMAN SERVICES

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

WAYS & MEANS

Dear Mr. Picente:

I am submitting the following Contract Amendment between the Oneida County Office for the Aging, and the North Utica Senior Citizen's Recreation Center, Inc., for the Board of Legislature's review and approval.

The purpose of this Amendment is to reflect the changes in personnel and individual reimbursement rates in Appendix A, as a result of position changes and new hires due to employee turnover. The changes in Personnel will reflect an increase in the fringe rate to .29 percent and the administrative rate to .10 percent, increasing the amount of the original Agreement by \$4,676.06. The Contractor will continue to provide Caregiver Support, Aging Services/Outreach (I&A), Case Management, Supervision and HIICAP services to the residents of Oneida County. No other terms and conditions of the original Agreement are changed.

This Amendment will commence on January 1, 2015 and will terminate December 31, 2015. This program is supported by Federal, State, County and Contractor dollars up to \$1,022,230.23. The County share is \$142,457.57, and will not result in an increase of County funds.

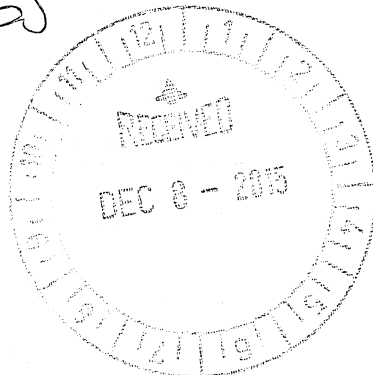
I am available at your convenience to answer to any questions you might have regarding this Amended Agreement.

Sincerely,

Michael J. Romano  
Director

MJR/mac

Enclosures



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

Anthony J. Picente, Jr.  
County Executive

Date 12/8/15



Oneida County Department: Office for the Aging

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

Oneida County Board of Legislators  
Contract Summary  
AMENDMENT

Name of Proposing Organization: North Utica Senior Citizen's Recreation Center, Inc.  
50 Riverside Drive  
Utica, New York 13502

**Purpose of AMENDMENT:**

- To reflect the changes in Personnel and individual reimbursement rates in Appendix A, as a result of position changes and new hires due to employee turnover. The changes in Personnel will increase the fringe rate from .28 percent to .29 percent, and the administrative rate will increase from .085 percent to .10 percent.
- To increase the amount of the Agreement by four thousand, six hundred seventy-six dollars and six cents (\$4,676.06), with the total amount of the original Agreement not to exceed one million, twenty-two thousand, two hundred thirty dollars and twenty-three cents (\$1,022,230.23).
- No other terms and conditions of the original Agreement are changed.

**Type of Activity or Service:** Family Caregiver Support  
Aging Services/Outreach (Information and Assistance)  
Case Management  
Supervision  
Health Insurance Counseling

**Proposed Dates of Operation:** January 1, 2015 – December 31, 2015

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

**1. Narrative Description of Proposed Services**

- **Case Management Services** – an important component of the aging network for they identify frail, elderly and homebound people who are in need of supportive services. Once identified and assessed, the elders are linked to appropriate services that allow them to remain independent.
- **Community Service Coordinator** – assists with outreach activities and other methods to provide support services for informal caregivers. In addition to Case Management the Community Service Coordinator will assist with staff functions such as taking referrals, scheduling and clerical duties.

- **Elder Abuse Coordinator** – Case Management and intervention services for at risk clients
- **Senior Program Coordinator** – Coordinates and oversees various aging services such as Volunteer Bill Payer, Information and Assistance, Intake and Screening, Volunteer Transportation, Community Assistance Programs (CAPS), Intergenerational activities and Administration on Aging Federal Demonstration grants and projects.
- **Program Coordinator** - Coordinates various aging services such as the Chronic Disease Self-Management Program (CDSMP) and veterans outreach and Consumer Directed EISEP Program.
- **Case Aid** – Brokering of care with agencies and performs clerical and support services for case managers.
- **Utica Team Supervisor** - serves as an integral part of the management / supervisory team and requires strong supervisory skills. This position also requires excellent communication and interpersonal skills with ability to lead and motivate direct service staff.
- **I & A Coordinator** - Development and maintenance of a comprehensive and current resource listing of long-term care services, programs and providers in Oneida County for the Point of Entry initiative, NY Connects: Choices for the Long Term Care. Performs consumer intake and screening.
- **HIICAP Counselor** – Explain medical benefits and coverage; Review Medicare Supplemental Insurance and Long Term Care Insurance plans; Make appropriate referrals for Medicaid, Medicare Buy-In Programs and other related benefits.

## **2. Program/Service Objectives and Outcomes**

- **Case Management** - Seniors will be assisted in securing supportive services by providing: information and referral, case assistance, benefit counseling, health insurance counseling, public presentations, housing assistance, home energy assistance, screening for home delivered meals and nutrition services.
- **Caregiver Support Program** - will predominantly serve primary caregivers that are married and living with the care recipient and adult children who are caring for their parents.
- **Elder Abuse Program** - Assess all elder abuse referrals and develops service plans to address the current needs of each alleged victim.
- **Long Term Care (LTC) Associate (Case Aide)** – Conduct telephone screening assessments that gather consumer information as outlined by the Screening Elements set forth by NYSOFA. Provide information, assistance, and outreach regarding long term care services.

## **3. Program Design and Staffing Level**

### **12 - Case Managers**

- Provide Information and Assistance to target services for individuals who are most economically and socially in need of supportive services.

### **1 - Community Service Coordinator**

- To assist with Caregiver Case Management

- 5 - **Caregiver Case Aids (3 F/T, 2 P/T)**
  - To assist Case Managers and Caregiver Support Specialist with routine duties and brokerage duties in the Home Care Brokerage Unit.
- 4 - **Long Term Care Associates**
  - Conduct telephone screening assessments that gather consumer information as outlined by the Screening Elements set forth by NYSOFA.
  - Provide information, assistance, and outreach regarding long term care services.
- 1 - **Utica Team Supervisor**
  - Coordinates the staff activities of the Office for Aging / Continuing Care and Supervises the work of OFA/OCC Program Staff (OFA/OCC Case Management staff, Case Aides; clerical staff).
- 2 - **Program Coordinators**
  - Coordinates various aging services such as the Chronic Disease Self-Management Program (CDSMP), Veteran's Outreach and Consumer Directed EISEP Program.
- 1 - **Senior Program Coordinator**
  - NY Connects - Screening and Intakes, Information and Assistance, Volunteer Transportation, Legal Services.
  - Bill Payers - use volunteers to assist in monthly banking allowing clients to retain independence in their home
- 1 - **Elder Abuse Coordinator**
  - Oversees the Elder Abuse Coalition and sub-committees. Case manages all elder abuse cases.
- 1 - **I & A Coordinator**
  - Set up and maintain a comprehensive and current listing of long-term care services, programs and providers in Oneida County for the Long Term Care Point of Entry Information & Assistance.
- 3 - **HIICAP Counselors (1 P/T)**
  - Explain medical benefits and coverage
  - Review Medicare Supplemental Insurance
  - Review Long Term Care Insurance
  - Make appropriate referrals for Medicaid, Medicare Buy-In Programs and other related benefit
- 1 - **Program Administrative Assistant**
  - Aging Program Coordination and Management
  - Aging Program Evaluations
  - Systems Integration Project Coordination
  - Aging Grant Management – Balancing Incentive

**Total Funding Requested:        \$ 1,022,230.23**

- **56,155** – Units/hours of service
- **\$ 1,022,230.23** – Total dollars/cost
- **\$ 18.203** – Cost per unit/hours of case management



**AMENDMENT**

This is an **AMENDMENT** to the Agreement #015210, dated January 1, 2015 through December 31, 2015, by and between the **NORTH UTICA SENIOR CITIZEN'S RECREATION CENTER, INC.**, located at 50 Riverside Drive, Utica, New York 13502, hereinafter known as the "**CONTRACTOR**", and the **COUNTY OF ONEIDA, OFFICE FOR THE AGING**, located at 120 Airline Street - Suite 201, Oriskany, NY 13424, hereinafter known as the "**COUNTY**".

**WHEREAS**, the **CONTRACTOR** will continue to provide and perform the services required by this Agreement, and

**WHEREAS**, the **CONTRACTOR's** personnel and individual reimbursement rates have changed since the original execution of this Agreement,

**NOW, THEREFORE**, it is mutually agreed between the parties as follows:

The **PURPOSE** of this **AMENDMENT** is:

- To reflect the changes in Personnel and individual reimbursement rates in Appendix A, as a result of position changes and new hires due to employee turnover. The changes in Personnel will increase the fringe rate from .28 percent to .29 percent, and the administrative rate will increase from .085 percent to .10 percent. The new Appendix A is attached to this Amendment and made a part of this Agreement to reflect the changes in the **CONTRACTOR's** personnel and individual reimbursement rates.
- To increase the amount of the Agreement by four thousand, six hundred seventy-six dollars and six cents (\$4,676.06), with the total amount of the original Agreement not to exceed one million, twenty-two thousand, two hundred thirty dollars and twenty- three cents (\$1,022,230.23).
- No other terms and conditions of the original Agreement are changed.

**IN WITNESS THEREOF**, the parties have hereunto set their hand on the date respectively stated.

**CONTRACTOR**

\_\_\_\_\_  
Yvonne McClusky, Director

\_\_\_\_\_  
Date

**COUNTY OF ONEIDA**

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

\_\_\_\_\_  
Date

**OFFICE FOR THE AGING**

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

\_\_\_\_\_  
Date

Approved As To Form:

By: \_\_\_\_\_  
Raymond F. Bara, Assistant County Attorney

## AGREEMENT

This is an Agreement by and between the **NORTH UTICA SENIOR CITIZEN'S RECREATION CENTER, INC.** located at 50 Riverside Drive, Utica, New York 13502, hereinafter known as "**CONTRACTOR**"; and the **COUNTY OF ONEIDA, OFFICE FOR THE AGING**, located at 120 Airline Avenue, Suite 201, Oriskany, NY 13424 hereinafter known as the "**COUNTY**".

### **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, NY CONNECTS/ADRC; and County of Oneida funds.

**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. SCOPE OF SERVICES**

- A. The **CONTRACTOR** agrees to provide service personnel as listed in **APPENDIX A**.
- B. The **CONTRACTOR** agrees to make a good faith effort to serve low income minority older individuals in their service area at the same proportion that is in the general population of their service area.
- C. The services provided by the **CONTRACTOR** shall include, but are not limited to: Information and Assistance, Public Information, Caregiver Services, In Home Contact and Support, Outreach, Health Insurance Counseling, and Energy Assistance.
- D. The **CONTRACTOR** agrees that the Service Area will be generally designated as the County of Oneida, and the **COUNTY** shall alter service assignments based on need.
- E. The **CONTRACTOR** agrees to prioritize individuals to be served as follows: homebound, low income, minority, disabled (physically and mentally), at-risk (age 75 and older), isolated and living alone.
- F. The **CONTRACTOR** agrees to provide services at the following locations: home settings, housing complexes, congregate sites of the Nutrition Program for the Elderly, senior centers and in the community-at-large. The site visit schedule will be established by the **COUNTY**.
- G. Job descriptions and duties are provided in **APPENDIX B**.

2. **SUPERVISION**

A. The COUNTY will identify a designee that will supervise, monitor and evaluate all activities performed by all staff as they relate to this Agreement.

B. The COUNTY's designee will assign all projects and work to contracted personnel.

3. **ADDITIONAL SPECIFICATIONS**

A. The CONTRACTOR agrees to work in cooperation with the COUNTY to develop a comprehensive delivery system for Aging Services in Oneida County.

B. The CONTRACTOR agrees to provide the COUNTY with a schedule of planned payroll disbursements for the contract period and to notify the COUNTY in writing 24 hours in advance of any intent to delay payment to the employee. The schedule shall include the method of payment, dates, and times of payroll disbursement. The CONTRACTOR is required to adhere to the said schedule. The COUNTY and each employee, employed through this agreement, will be provided with the schedule at the beginning of the contract period. The COUNTY and each employee will be notified at least 24 hours in advance of any intent to delay payment to employee

C. The CONTRACTOR agrees to maintain employee time accruals with a record of each employee's sick, vacation, and personal time pursuant to the CONTRACTOR'S Personnel Policy. The CONTRACTOR shall provide each employee and the COUNTY with an accurate and up to date accounting of their time bank with each payroll disbursement.

D. The COUNTY will provide office space, telephones, tech support, supervision and assistance to the contracted personnel.

E. The CONTRACTOR agrees to ensure that staff training is available to enhance staff performance of aging services. This training may be provided by the CONTRACTOR, COUNTY or other training source mutually agreed upon by both parties.

F. The CONTRACTOR and the COUNTY agree to hold periodic coordination meetings and to be responsive to each other's needs.

G. The CONTRACTOR agrees to develop and implement a public relations plan with the objectives to increase public awareness of senior center programs and activities and to increase participation in programs and activities at senior centers.

4. **REIMBURSEMENT FOR SERVICES**

A. It is agreed and understood by all parties that the COUNTY will reimburse the CONTRACTOR for personnel activities in accordance with the terms and conditions of this Agreement as listed in **APPENDIX A.**

B. The CONTRACTOR will submit monthly vouchers to the COUNTY for completed units of service, up to **1827 units (hours)** per employee. **The total payments for this contract will not exceed \$1,017,554.17.**



C. The Contractor will submit **monthly** expenditure reports and corresponding back up documentation for all payroll and program related expenses.

D. The contract is contingent upon the availability of County of Oneida funds. Reimbursement is payable in **twelve (12) monthly** payments as specified in the OFA Voucher Instructions more fully described in **APPENDIX D**.

5. **TERM OF CONTRACT**

A. The **CONTRACTOR** agrees that the programs and services contained within this Agreement will not be subcontracted or assigned. **The terms and conditions of this Agreement shall commence January 1, 2015 and terminate December 31, 2015.**

6. **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 (SOFA), and the County of Oneida, as more fully described in **APPENDIX C**.

B. The **CONTRACTOR** shall clearly provide clients an opportunity to confidentially and voluntarily contribute to the cost of the services received through this Agreement.

C. The **CONTRACTOR** agrees to hire qualified persons as specified in the respective job description(s), and to maintain the number of staff workers specified in the personnel section of Appendixes A and B.

D. When appropriate, the **CONTRACTOR** shall attempt to recruit volunteers into the program to assist staff and clients.

E. The **CONTRACTOR** shall obtain, and submit to the **COUNTY**, three (3) copies of mutually signed, written Agreements existing between the **CONTRACTOR** and other service providers providing support to this contracted program.

F. The **CONTRACTOR** understands that all equipment acquired with funds through this agreement shall remain the property of the **COUNTY**; and if the contract and/or program is terminated, the **COUNTY** shall issue a claim to said equipment in accordance with the Code of Federal Regulations 45-74, as amended 1980.

G. The **CONTRACTOR** agrees that any program, public information materials, or other printed or published materials funded by this Agreement, including Federal AOA-Older Americans Act Title III, Title V, Title VII; NYSOFA - EISEP, CSEP/IIIE, CSI, SNAP, HIICAP, and County of Oneida funds will give due recognition to the Federal Administration on Aging, 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 with funding from the Administration on Aging, New York State Office for the Aging, and Oneida County Office for the Aging."***). Copies of all

such printed or published materials should be forwarded by the **CONTRACTOR** to the **COUNTY** at the end of each month.

7. **NEW YORK STATE OFFICE FOR THE AGING (NYSOFA) TERMS AND CONDITIONS**

A. The **CONTRACTOR** agrees that all its activities under this contract, shall conform with all applicable Federal, State, and Local laws, and with 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:

- Rehabilitation Act of 1973, Sec. 504 (29 U.S.C. 794, Nondiscrimination)
- Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.; see 92-PI-32, [8/4/92])
- Civil Rights Act of 1964, Title VI, as amended (42 U.S.C. 2000-d et. seq.)
- Older Americans Act
- Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency)
- 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.)
- 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)
- Equal Access to Services and Targeting Policy (12-PI-08)
- Elder Law

B. The **CONTRACTOR**, to the extent it has discretion regarding to whom it will provide services, agrees to 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 Area Agencies on Aging (AAA) for providing services to the above groups within the Planning and Service Area (PSA). The **CONTRACTOR** agrees to concentrate the services on older adults in the targeted populations identified by the AAA following the methods the AAA 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 Limited English Proficiency (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 possible, the **CONTRACTOR** agrees that it and any subcontractors will perform all work in accordance with the terms of the **COUNTY'S** Annual Implementation Plan (AIP). The **COUNTY** agrees to make the Annual Implementation Plan (AIP) 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 Limited English Proficiency, and older adults residing in rural areas in the area served by it; to the maximum extent feasible, provide services to low-income minority individuals, older individuals with Limited English Proficiency, and older adults residing in rural areas in accordance with their need for such services; and meet specific objectives established by the AAA, for providing services to low-income minority individuals, older adults with Limited English Proficiency, and older adults residing in rural areas within the planning and service area.

8. **GRIEVANCE PROCEDURES**

A. The **CONTRACTOR** agrees to implement the **COUNTY** grievance procedures as required by the New York State Office for the Aging. The written procedures are attached in **APPENDIX B**.

9. **FISCAL REQUIREMENTS**

A. The **CONTRACTOR** shall keep all **COUNTY** funds separate; further, state and federal funds shall not be used as local share (match) for the programs and services provided through this Agreement.

B. The **CONTRACTOR** will submit a written request and receive written approval from the **COUNTY** for any budget revisions. It is understood and agreed by the **CONTRACTOR** that any and all costs incurred due to unauthorized revisions shall be borne by the **CONTRACTOR**.

C. The **CONTRACTOR** shall comply with all voucher and contribution procedures, and submissions of required reports as described in the **COUNTY** Voucher Instructions which are found in the attached **APPENDIX C**.

D. The **CONTRACTOR** shall report to the **COUNTY** any and all additional moneys or program income (contributions, donations, reimbursements, grants) given to the program. "Program income means gross income received by the subcontractor directly generated by a (OFA) grant supported activity, or earned as a result of the (OFA) 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, other grants, within its budget.

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

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

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

I. The **CONTRACTOR** shall cooperate with the close-out audit that is required when the Agreement concludes or 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 1980.

10. **INSURANCE COVERAGE REQUIREMENTS**

A. 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** 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.

B. 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 of omission or commission or error in judgment of any of its officers, trustees, servants, independent subcontractors, and shall hold harmless and indemnify the County of Oneida 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.

C. The **CONTRACTOR** 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 (\$1,000,000.00). The **CONTRACTOR** agrees to have the **COUNTY** added to said insurance policies as a named **ADDITIONAL INSURED**, as its interest may appear, and to provide the **COUNTY** with a certificate from said insurance company, or companies, showing coverage as herein before required, and to provide that such coverage shall not be terminated without written prior notice to the **COUNTY** of at least thirty (30) days.

D. The **CONTRACTOR** shall maintain a professional liability policy and will provide the Agency with proof of coverage in the amount of \$2,000,000 per incident and \$2,000,000 aggregate. The **CONTRACTOR** shall also maintain general liability insurance and will provide the Agency with proof of coverage in the amount of \$2,000,000 per incident and \$2,000,000 aggregate. The **CONTRACTOR** agrees to have Oneida County and the Agency named **ADDITIONAL INSURED(S)** 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, and to provide that such coverage shall not be terminated without written prior notice to the **COUNTY** of at least thirty (30) days.

E. The **CONTRACTOR** shall obtain such policy or policies of insurance from a company or companies duly licensed to do business in the State of New York.

11. **REPORTING REQUIREMENTS**

A. The **CONTRACTOR** shall, pursuant to the requirements of **COUNTY** Title III B 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 timely information needed to meet planning, coordination, evaluation and reporting requirements as requested by the New York State Office for the Aging's Consolidated Area Agency Reporting System (CAARS).

C. The **CONTRACTOR** shall maintain appropriate client records on each participant who receives services through this agreement; the **COUNTY** shall have access to the client records upon request.

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

E. The **CONTRACTOR** shall submit a final Program Summary Report to the **COUNTY** within thirty (30) days of the end of the program year; the report shall cover the achievement of program goals and objectives.

12. **COORDINATION REQUIREMENTS**

A. The **CONTRACTOR** agrees to utilize the **COUNTY** as the single point of entry for referral of services for the elderly and disabled individuals in Oneida County.

B. The **CONTRACTOR** and the **COUNTY** agree to coordinate service activities and referrals with other service providers to ensure that older residents of Oneida County with the greatest economic and social needs (target groups) are being met.

C. The **CONTRACTOR** agrees to comply with policies ensuring client confidentiality, as established by the New York State Office for the Aging (SOFA) and the **COUNTY**, when information sharing between agencies is crucial to the client'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** and the **COUNTY** shall work with older persons, who are not eligible for services through this contracted program, to obtain needed services.

13. **AGREEMENT CANCELLATION**

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

B. The **CONTRACTOR** and the **COUNTY** reserve the right to cancel the Agreement upon sixty (60) days 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 moneys expended under the Agreement within thirty (30) days after the date of termination. Any unexpended funds shall be the property of the **COUNTY** and shall be returned to the **COUNTY** within the thirty (30) day final accounting period.

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

14. **NO CLAIM FOR DAMAGES**

A. The **CONTRACTOR** agrees to make no claim for damages for delay of reimbursement due to an act or omission by Oneida County, New York.

15. **STANDARD ADDENDUM**

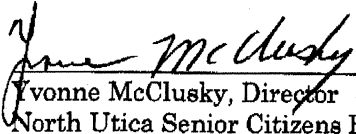
A. The **CONTRACTOR** agrees to comply with the County's Standard Clauses as set forth in the Addendum, which is attached hereto and made a part hereof as **APPENDIX F**.

16. **TERMS OF AGREEMENT**

A. 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, alternations or modifications of and provisions of this Agreement shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.


IN WITNESS THEREOF, the parties have here unto set their hand on the date respectively stated.

**CONTRACTOR**

  
\_\_\_\_\_  
Yvonne McClusky, Director  
North Utica Senior Citizens Recreation Center, Inc.


12/13/2014  
Date

**COUNTY OF ONEIDA**

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

2/17/15  
Date

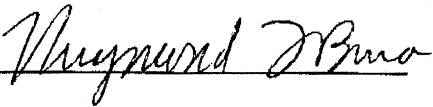
**COUNTY**

  
\_\_\_\_\_  
Michael J. Romano, Director  
Oneida County Office for the Aging/Office of Continuing Care

12/3/14  
Date

Approved As To Form **ONLY**:

**ONEIDA COUNTY ATTORNEY**

BY:   
\_\_\_\_\_

**APPENDIX A**  
**North Utica Personnel Roster - 2015**

<i>Title / Name</i>	<i>Admin @ 8%</i>	<i>Total Cost</i>	<i>Unit Cost</i>	<i>Cost Center</i>	<i>Prgm</i>	
	0.085		1827			
			1040			
			832			
			1300			
	\$2,265.25	\$39,627.25	\$21.69	A6772.495135	3E	
<i>Program Coordinator (CDSMP)</i>						
	\$2,973.83	\$51,006.23	\$27.92	A6772.495135	3E	
<i>Community Service Coordinator</i>						
	\$1,994.19	\$35,024.30	\$19.17	A6772.495117	3B	X
<i>Case Management</i>						
	\$2,121.65	\$34,171.26	\$18.70	A6772.495117	3B	
<i>Case Management</i>						
	\$1,994.19	\$34,024.30	\$18.62	A6772.495117	3B	X
<i>Case Management</i>						
	\$1,955.09	\$33,396.37	\$18.28	A6772.495117	3B	X
<i>Case Management</i>						
	\$3,235.61	\$52,460.08	\$28.71	A6772.495117	3B	X
<i>Utica Team Supervisor</i>						
	\$984.25	\$15,805.91	\$15.20	A6772.495117	3B	X
<i>Case Aide P/T (Admin)</i>						
	\$2,578.84	\$43,663.14	\$23.90	A6772.495131	CSE	
<i>Prgm Coordinator (Elder Abuse)</i>						
	\$1,828.44	\$29,362.53	\$16.07	A6773.495100	Nutrition	
<i>Case Aide</i>						
	\$2,691.40	\$44,470.78	\$24.34	A6772.495116	CSE	X
<i>Program Coordinator (Senior)</i>						
	\$2,403.90	\$40,853.84	\$22.36	A6772.495149	CD EISEP-VA	
<i>Program Coordinator (Project)</i>						
	\$1,955.09	\$33,396.37	\$18.28	A6774.49599	EISEP	X
<i>Case Management</i>						
	\$2,034.07	\$34,664.78	\$18.97	A6774.49599	EISEP	
<i>Case Management</i>						
	\$1,955.09	\$33,396.37	\$18.28	A6774.49599	EISEP	
<i>Case Management</i>						
	\$1,916.75	\$32,780.75	\$17.94	A6774.49599	EISEP	
<i>Case Management</i>						
	\$1,993.42	\$34,011.98	\$18.62	A6774.49599	EISEP M/A	
<i>Case Management</i>						
				A6774.49599	EISEP M/A	



**APPENDIX A**  
**North Utica Personnel Roster - 2015**

<i>Title / Name</i>	<i>Admin @ 8%</i>	<i>Total Cost</i>	<i>Unit Cost</i>	<i>Cost Center</i>	<i>Prgm</i>
	0.085		1827		
			1040		
			832		
			1300		
<i>Case Management</i>	\$1,993.42	\$34,011.98	\$18.62	A6774.49599	EISEP M/A
<i>Case Aide (Fiscal)</i>	\$1,719.21	\$27,608.48	\$15.11	A6774.49599	EISEP M/A
<i>I &amp; A Coordinator</i>	\$2,393.43	\$38,935.61	\$21.31	A6772.495117	NY Conncts NYC/ADRC
<i>I &amp; A Assoc, Legal, Transportation</i>	\$2,982.94	\$48,402.47	\$26.49	A6772.495117	NY Conncts & 3B
<i>HIICAP Counselor / Asst. Coordinator</i>	\$2,034.07	\$39,017.22	\$21.36	A6772.495136	HIICAP MIPPA
<i>HIICAP Counselor</i>	\$1,386.33	\$32,367.04	\$17.72	A6772.495136	HIICAP
<i>HIICAP Counselor - P/T</i>	\$1,386.33	\$22,612.87	\$17.39	A6772.495136	HIICAP MIPPA
<i>(Case Aide) LTC Associate</i>	\$1,700.00	\$27,300.00	\$14.94	A6772.495151	BIPP - III
<i>(Case Aide) LTC Associate</i>	\$1,700.00	\$27,300.00	\$14.94	A6772.495151	BIPP - III
<i>(Case Aide) LTC Associate</i>	\$1,700.00	\$27,300.00	\$14.94	A6772.495151	BIPP - III
<i>Case Aide</i>	\$1,466.75	\$18,722.63	\$10.25	A6774.49599	M/A
<i>P/T Clerk</i>	\$757.41	\$12,163.13	\$14.62	A6774.49599	M/A
<i>Program Admin Assistant</i>	\$2,440.81	\$39,696.50	\$21.73	A6772.495117	
<b>TOTALS - 2015</b>	<b>\$60,541.76</b>	<b>\$1,017,554.17</b>			
30 staff					

**APPENDIX B**  
**Job Summaries**

**1. Case Management**

Case Managers provide assistance with the following:

- Information and referrals
- Case assistance
- Benefit counseling
- Health Counseling
- Housing Assistance
- Home Energy Assistance Program (HEAP)
- Screening for Weatherization, Referral and Packaging(WRAP) services
- Assessment for home delivered meals and nutrition services.

**2. Community Service Coordinator**

- Assist Coordinator and staff with functions such as Case Management, taking and scheduling referrals and all other duties as assigned.

**3. Elder Abuse Coordinator**

- Oversee the Elder Abuse Coalition and sub-committees
- Case manage all elder abuse cases

**4. Case Aide**

- Brokering of care with agencies
- Performs clerical and support service for case managers

**5. Program Coordinator (Aging Services)**

- Senior housing/weatherization: Identifies low income, energy vulnerable elderly household.
- Senior housing/weatherization: Assesses the level of need, and determines whether to provide services in addition to an assisted referral to WRAP subgrantee.
- Senior volunteer programs: Coordinates volunteer programs that will benefit older consumers and caregivers.
- Aging program resource expansion: Assist OFA with increasing client and general program contributions and donations.
- Quality Assurance: Performs quality assurance and consumer satisfaction activities through surveys, needs assessments, and reports.
- Performs aging and LTC outreach and education through printed material, media, and community presentations
- Meets reporting requirements set forth by Oneida County and NYSOFA

6. **Long Term Care Specialists (I & A Coordinator)**

- Collects and collates current information on the different categories of long-term care services, programs and providers for NY Connects/ADRC, MIPPA/SHIP, NY Connects
- Inputs data onto excel files in an interactive database format.
- Monitors and updates records on a regular basis
- Coordinates with other agencies on a regular basis

7. **Long Term Care (LTC) Associate (Case Aide)**

- Conducts telephone screening assessments that gather consumer information as outlined by the Screening Elements set forth by NYSOFA.
- Provides information/assistance and outreach regarding long term care services including, but is not limited to, explanation of available services, program eligibility requirements, financial requirements for participation in programs, provider/service contact information, long term care insurance, etc.
- Responsibility for providing written information requested by consumers within two business days after the request is received
- Provides assistance with review of information on consumer satisfaction and services needed as gained through the evaluation process
- Inputs data into Excel files in an interactive database format
- General data entry of client charts and other pertinent client data
- Pulls requested charts, and assist with filling charts, assist with pulling closed cases to be reopened, as needed

8. **Utica Team Supervisor**

- Coordinates the staff activities of the Office for the Aging/Office of Continuing Care.
- Supervises the work of OFA/OCC Program Staff, OFA/OCC Case Management staff, Case Aides, and clerical staff.
- Review employee's written work and field work.
- Evaluates employee's performance.
- Monitors service delivery outcomes to assure prompt, comprehensive, and effective client service.
- Identifies system deficiencies and assists the Director in program and policy development to meet those needs.
- Manages client problems and crisis situations.

9. **HIICAP Counselor**

- Explain medical benefits and coverage
- Review Medicare Supplemental Insurance
- Review Long Term Care Insurance
- Make appropriate referrals for Medicaid, Medicare Buy-In Programs and other related benefits

10. **Program Administrative Assistant**

- Aging Program Coordination and Management
- Aging Program Evaluation
- Systems Integration Project Coordination
- Aging Grant Management – Balancing Incentive

## APPENDIX C

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 D

Oneida County Office for the Aging  
2014-2015  
**Voucher Instructions**  
**For Units of Services Contracts**

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

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

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

Have all accounting records, receipts and supporting documentation readily available for review by the County, State and/or Federal personnel authorized to examine and/or audit program accounts. Ref: US Code of Federal Regulations 45-74 amended in 1980. Check numbers, dates paid and amounts paid must be written on each receipt.

**8. Timely Submissions:**

- ✓ Submit monthly vouchers by the 10<sup>th</sup> day of the month following the reporting month.
- ✓ Checks are issued by Oneida County Audit and Control only on Fridays - approximately 30 days after submission.
- ✓ If all documentation is not included, the voucher will be returned unpaid with a request for proper backup and documentation.

**9. Changes To The Budget (including personnel):**

- ✓ Submit a Budget Revision and a justification for the change.

**10. Technical Assistance:**

- ✓ If you have fiscal questions regarding your program or require technical assistance, please contact the OFA-OCC Fiscal Unit directly at 315-798-5456.

Susie Perritano  
Accounting Supervisor  
315-798-5456

## APPENDIX E

### 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 Unsatisfaction 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 F

**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).
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- d.. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F. for Contractors as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
  1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
  2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

**4. Health Insurance Portability and Accountability Act (HIPAA).**

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:

1. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
2. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
3. Utilize an adequate amount of physical hardware, including but not limited to filing cabinets, and locks on drawers, cabinets, and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.

b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

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

c. The Contractor shall:

1. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
2. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
3. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
4. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of, the County agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
5. Make available protected health information in accordance with 45 CFR § 164.524;
6. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR § 164.528;
7. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
8. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by the Contractor on behalf of, the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
9. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by the Contractor on behalf of, the County that the Contractor still maintains in any form and retain no copies of such information or, if such return or destruction is not feasible, extend the protections of this Contract to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

d. The Contractor agrees that this contract may be amended if any of the following events occurs:

1. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;

2. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
3. There is a material change in the business practices and procedures of the County.

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.

**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.

**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.

**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 2, 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 to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each Bidder/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.

Title / Name	Hrly Rate	Salary	Fringe @ 29%	Travel	Training	Admin @ 10%	Total Cost	Unit Cost	Cost Center	Prgm
<b>2015</b>		<b>1.025</b>	<b>0.29</b>			<b>0.1</b>		<b>1827</b>	<<hrs for 2015	
<b>7/8/2015 revsd</b>								<b>1040</b>	<<hrs for Karleen	
Nettleton, Carol	\$14.59	\$26,650.00	\$7,728.50	\$3,000.00	\$250.00	\$2,665.00	\$40,293.50	832	<<hrs for Donna	
CDSMP Coordinator - 2015								1300	<<hrs for Gail	CDSMP
Stachow, Liz	\$19.15	\$34,986.25	\$10,146.01	\$3,000.00	\$250.00	\$3,498.63	\$51,880.89	\$22.05	A6772.495117	
Community Service Coordinator - 2015								\$28.40	A6772.495135	3E
<b>Schindedecker, Kathy</b> (was Nettleton) Case Management - 2015 (4/20/2015)	<b>\$12.04</b>	<b>\$13,737.64</b>	<b>\$3,983.92</b>	<b>\$2,000.00</b>	<b>\$0.00</b>	<b>\$1,373.76</b>	<b>\$21,095.32</b>	<b>\$18.05</b>	<b>A6772.495135</b>	<b>3B</b>
Dunkentell, Maryann Case Management - 2015	\$12.59	\$23,001.00	\$6,670.29	\$2,000.00	\$0.00	\$2,300.10	\$33,971.39	\$18.59	A6772.495151	3B
Menning Megan - vacant Case Management - 2015	\$12.84	\$5,756.56	\$1,669.40	\$2,012.54	\$0.00	\$575.66	\$10,014.16	\$22.34	A6772.495117	3B
Woolheater, Angel Case Management - 2015 (5/18/2015)	\$12.04	\$13,737.64	\$3,983.92	\$2,000.00	\$0.00	\$1,373.76	\$21,095.32	\$18.38	A6772.495117	3B
Carroll, Kevin Case Management - 2015 (5/18/2015)	\$12.04	\$13,737.64	\$3,983.92	\$2,000.00	\$0.00	\$1,373.76	\$21,095.32	\$18.38	A6772.495117	3B
Comito, Emily Case Management - 2015	\$12.59	\$23,001.00	\$6,670.29	\$2,000.00	\$0.00	\$2,300.10	\$33,971.39	\$18.59	A6772.495117	3B
Salvemini, Joe UT Team Supervisor - 2015	\$20.84	\$38,065.99	\$11,039.14	\$500.00	\$0.00	\$3,806.60	\$53,411.73	\$29.23	A6772.495117	3B
Markowicz, Karleen Admin Case Aide P/T - 2015	\$10.97	\$11,412.41	\$3,309.60	\$0.00	\$0.00	\$1,141.24	\$15,863.25	\$15.25	A6772.495136	3B
Collandra, Melanie Prgm Admin Assist - 2015 (5/19/2014)	\$15.72	\$28,715.38	\$8,327.46	\$500.00	\$0.00	\$2,871.54	\$40,414.38	\$22.12	A6772.495117	
Palmer, Kristen Elderabuse Prgm Coordinator - 2015	\$16.61	\$30,339.30	\$8,798.40	\$2,000.00	\$250.00	\$3,033.93	\$44,421.63	\$24.31	A6772.495131	CSE
Davis, Diana Case Aide - 2015	\$11.77	\$21,511.01	\$6,238.19	\$0.00	\$0.00	\$2,151.10	\$29,900.30	\$16.37	A6773.495100	Nutrition







154	154	161	154
140	147	147	147
154	154	154	161
<hr/>			
	455	462	462

hrs to  
12/31/15 hrs wrkd  
1,169

448.33

1,148

1,020

113.17

1,603

224

895.75

931.25

812

175

924

924

1,603

224

1568

1,603