County of Albany

112 State Street
Albany, NY 12207

Meeting Agenda

Monday, September 14, 2020

7:00 PM

Held Remotely

County Legislature

Call to Order

Roll Call

PREVIOUS BUSINESS

243. AN ACT TO MODIFY THE RULES AND REGULATIONS FOR ALBANY COUNTY EMPLOYEES

Sponsors: Mauriello, Burgdorf, Grimm, Drake, Lockart, Tunny, Langdon, Whalen and Perlee

276. REQUESTING THE ALBANY COUNTY COMPTROLLER AND THE COMMISSIONER OF HUMAN RESOURCES TO REVIEW THE ALBANY COUNTY RULES AND REGULATIONS FOR EMPLOYEES AND PROVIDE RECOMMENDATIONS CONCERNING TIMEKEEPING PRACTICES

Sponsors: Joyce, Feeney, Peter, Mauriello and Grimm

CURRENT BUSINESS:

278. AUTHORIZING AN AGREEMENT WITH TICKETMASTER REGARDING THE COMPUTERIZED TICKETING AND DISTRIBUTION SYSTEM FOR THE TIMES UNION CENTER

Sponsors: Public Works Committee

279. AUTHORIZING A LEASE AGREEMENT FOR THE RENTAL OF CORPORATE SUITE NO. 20 AT THE TIMES UNION CENTER

Sponsors: Public Works Committee

280. AUTHORIZING AN AGREEMENT WITH COMMUNITY MATERNITY SERVICES REGARDING MATERNITY SHELTER AND SUPPORT SERVICES

Sponsors: Social Services Committee

281. AUTHORIZING AGREEMENTS REGARDING MOVING AND STORAGE SERVICES FOR ELIGIBLE TEMPORARY ASSISTANCE RECIPIENTS

Sponsors: Social Services Committee

282. AUTHORIZING AN AGREEMENT WITH THE ALTAMONT PROGRAM, INC. REGARDING EMPLOYMENT SERVICES FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES AND SAFETY NET RECIPIENTS

Sponsors: Social Services Committee

283. ADOPTING THE PROPOSED MODIFICATIONS TO ALBANY COUNTY AGRICULTURAL DISTRICT NOS. 1, 2, AND 3

Sponsors: Conservation and Sustainability and Green Initiatives Committee

284. AUTHORIZING AN AGREEMENT WITH CELTIC CONSULTING, LLC REGARDING MINIMUM DATA SET CONSULTING SERVICES AT SHAKER PLACE REHABILITATION AND NURSING CENTER

Sponsors: Elder Care Committee

285. AUTHORIZING AN AGREEMENT WITH THE NEW YORK STATE OFFICE FOR THE AGING REGARDING THE MEDICATION MANAGEMENT PROGRAM

Sponsors: Elder Care Committee

286. AUTHORIZING AN AGREEMENT WITH PLAZA LINEN SERVICE REGARDING RESIDENTIAL LAUNDRY SERVICES AT SHAKER PLACE REHABILITATION AND NURSING CENTER

Sponsors: Elder Care Committee

287. AUTHORIZING AN AGREEMENT WITH THE NEW YORK STATE OFFICE FOR THE AGING REGARDING THE SUPPORTIVE SERVICES PROGRAM

Sponsors: Elder Care Committee

288. AUTHORIZING AN AGREEMENT WITH THE NEW YORK STATE OFFICE FOR THE AGING REGARDING THE CONGREGATE MEALS PROGRAM

Sponsors: Elder Care Committee

289. AUTHORIZING AN AGREEMENT WITH THE NEW YORK STATE OFFICE FOR THE AGING REGARDING THE HOME DELIVERED MEALS PROGRAM

Sponsors: Elder Care Committee

290. AUTHORIZING AN AGREEMENT WITH THE NEW YORK STATE OFFICE FOR THE AGING REGARDING THE HEALTH INSURANCE INFORMATION, COUNSELING AND ASSISTANCE PROGRAM

Sponsors: Elder Care Committee

291. AUTHORIZING AN AGREEMENT WITH THE NEW YORK STATE OFFICE FOR THE AGING REGARDING THE ELDER CAREGIVER SUPPORT PROGRAM

Sponsors: Elder Care Committee

292. AUTHORIZING AN AGREEMENT WITH THE NEW YORK STATE OFFICE FOR THE AGING REGARDING THE COMMUNITY SERVICES FOR THE ELDERLY PROGRAM

Sponsors: Elder Care Committee

293. AUTHORIZING AN AGREEMENT WITH THE NEW YORK STATE OFFICE FOR THE AGING REGARDING THE CONGREGATE SERVICES INITIATIVE PROGRAM

Sponsors: Elder Care Committee

294. AUTHORIZING AGREEMENTS WITH THE NEW YORK STATE OFFICE FOR THE AGING AND THE ALBANY COUNTY DEPARTMENT OF SOCIAL SERVICES REGARDING THE EXPANDED IN-HOME SERVICES FOR THE ELDERLY PROGRAM

Sponsors: Elder Care Committee

295. AUTHORIZING AGREEMENTS WITH THE NEW YORK STATE OFFICE FOR THE AGING AND THE ALBANY COUNTY DEPARTMENT OF SOCIAL SERVICES REGARDING THE WELLNESS IN NUTRITION PROGRAM

Sponsors: Elder Care Committee

296. AUTHORIZING AN AGREEMENT WITH THE NEW YORK STATE OFFICE FOR THE AGING REGARDING THE AAA STATE TRANSPORTATION PROGRAM

Sponsors: Elder Care Committee

297. AUTHORIZING AN AGREEMENT WITH THE NEW YORK STATE OFFICE FOR THE AGING REGARDING UNMET NEED

Sponsors: Elder Care Committee

298. AUTHORIZING AGREEMENTS WITH THE NEW YORK STATE OFFICE FOR THE AGING AND THE ALBANY COUNTY DEPARTMENT OF SOCIAL SERVICES REGARDING THE NY CONNECTS EXPANSION AND ENHANCEMENT PROGRAM

Sponsors: Elder Care Committee

299. AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION AND AN AGREEMENT WITH THE NEW YORK STATE DIVISION OF CRIMINAL JUSTICE SERVICES REGARDING THE GUN INVOLVED VIOLENCE ELIMINATION GRANT

Sponsors: Law Committee

300. AUTHORIZING AN AGREEMENT WITH THE NEW YORK STATE DIVISION OF CRIMINAL JUSTICE SERVICES REGARDING THE GUN INVOLVED VIOLENCE ELIMINATION GRANT

Sponsors: Law Committee

301. AUTHORIZING AN AGREEMENT WITH THE NEW YORK STATE OFFICE OF INDIGENT LEGAL SERVICES REGARDING THE SECOND REGIONAL IMMIGRATION ASSISTANCE CENTER GRANT

Sponsors: Law Committee

302. AUTHORIZING AN AGREEMENT WITH CORNELL COOPERATIVE EXTENSION TO PROVIDE TRAINING COURSES FOR LEAD BASED PAINT REMEDIATION

Sponsors: Health Committee

303. AUTHORIZING AN AGREEMENT WITH THE NEW YORK STATE DEPARTMENT OF HEALTH/HEALTH RESEARCH, INC. REGARDING COVID-19 GRANT FUNDING AND AMENDING THE 2020 DEPARTMENT OF HEALTH BUDGET

Sponsors: Health Committee

304. AUTHORIZING AN AGREEMENT WITH AOW ASSOCIATES INC. REGARDING GENERAL CONTRACTOR SERVICES AT THE CLARKSVILLE PUBLIC SAFETY BUILDING

Sponsors: Public Safety Committee

305. AUTHORIZING AN AGREEMENT WITH ECKERT MECHANICAL, LLC REGARDING PLUMBING CONSTRUCTION SERVICES AT THE CLARKSVILLE PUBLIC SAFETY BUILDING

Sponsors: Public Safety Committee

306. AUTHORIZING AN AGREEMENT WITH ECKERT MECHANICAL, LLC REGARDING MECHANICAL CONSTRUCTION SERVICES AT THE CLARKSVILLE PUBLIC SAFETY BUILDING

Sponsors: Public Safety Committee

307. AUTHORIZING AN AGREEMENT WITH CKM ELECTRICAL SERVICES REGARDING ELECTRICAL CONSTRUCTION SERVICES AT THE CLARKSVILLE PUBLIC SAFETY BUILDING

Sponsors: Public Safety Committee

308. AUTHORIZING AN INTER-MUNICIPAL AGREEMENT REGARDING THE BYRNE JUSTICE ASSISTANCE GRANT PROGRAM FUNDING

Sponsors: Public Safety Committee

309. AUTHORIZING AN AGREEMENT WITH THE NEW YORK STATE GOVERNOR'S TRAFFIC SAFETY COMMITTEE REGARDING THE 2021 POLICE TRAFFIC SERVICES GRANT

Sponsors: Public Safety Committee

310. AMENDING RESOLUTION NO. 452 FOR 2015 REGARDING THE E911 RECORDS MANAGEMENT SYSTEM

Sponsors: Public Safety Committee

311. AUTHORIZING AN AGREEMENT WITH CENTRAL SQUARE TECHNOLOGIES TO UPGRADE THE CORE E-911, COMPUTER AIDED DISPATCH, MOBILE DATA, FIELD OPERATIONS AND RECORDS MANAGEMENT SYSTEMS

Sponsors: Public Safety Committee

312. AMENDING RESOLUTION NO. 512 FOR 2017 REGARDING THE PROJECT LABOR AGREEMENT FOR THE ALBANY COUNTY NURSING HOME PROJECT

Sponsors: Audit and Finance Committee

313. AMENDING THE 2020 DISTRICT ATTORNEY'S OFFICE BUDGET: CRIMINAL JUSTICE REFORM

Sponsors: Audit and Finance Committee

314. ADOPTING AN AMENDMENT TO THE ALBANY COUNTY CAPITAL PROGRAM FOR 2020-2024

Sponsors: Audit and Finance Committee

315. ADOPTING THE ALBANY COUNTY CAPITAL PROGRAM FOR 2021-2025

Sponsors: Audit and Finance Committee

316. AMENDED AND RESTATED BOND RESOLUTION OF THE COUNTY OF ALBANY, NEW YORK, AUTHORIZING THE UNDERTAKING OF A CAPITAL PROJECT FOR THE EMERGENCY 911 COMMUNICATIONS CENTER, STATING THE ESTIMATED MAXIMUM COST THEREOF IS $10,000,000, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF $9,000,000 OF SERIAL BONDS OF SAID COUNTY TO FINANCE SAID APPROPRIATION

Sponsors: Audit and Finance Committee

317. AMENDING THE 2020 SHERIFF'S OFFICE BUDGET: EMT AND PARAMEDIC SERVICES

Sponsors: Audit and Finance Committee

318. AUTHORIZING AN AGREEMENT WITH BRAWN MEDIA REGARDING MEDIA AND CONSULTING SERVICES FOR THE SHAKER PLACE REHABILITATION AND NURSING CENTER

Sponsors: Audit and Finance Committee

319. AMENDING THE 2020 DEPARTMENT OF HUMAN RESOURCES BUDGET: UNEMPLOYMENT EXPENSES RELATED TO COVID-19

Sponsors: Audit and Finance Committee

320. AMENDING THE 2020 DEPARTMENT OF PROBATION BUDGET: ELECTRONIC MONITORING

Sponsors: Audit and Finance Committee

321. AUTHORIZING A CORRECTION OF THE TAX ROLL FOR THE CITY OF ALBANY

Sponsors: Audit and Finance Committee

322. AUTHORIZING THE REFUND OF REAL PROPERTY TAXES IN THE TOWN OF RENSSELAERVILLE

Sponsors: Audit and Finance Committee

323. AUTHORIZING THE REFUND OF REAL PROPERTY TAXES IN THE TOWN OF BETHLEHEM

Sponsors: Audit and Finance Committee

324. AUTHORIZING THE CONVEYANCE OF REAL PROPERTY LOCATED AT 4 LINE ROAD (TAX MAP NO. 78.-1-17) IN THE TOWN OF KNOX

Sponsors: Audit and Finance Committee

325. AUTHORIZING THE CONVEYANCE OF REAL PROPERTY LOCATED AT 2607 2ND AVENUE (TAX MAP NO. 32.8-3-9.1) IN THE TOWN OF COLONIE

Sponsors: Audit and Finance Committee

326. AUTHORIZING THE CONVEYANCE OF REAL PROPERTY LOCATED AT 3068 NEW SCOTLAND ROAD (TAX MAP NO. 93.-2-31) IN THE TOWN OF NEW SCOTLAND

Sponsors: Audit and Finance Committee

327. RESCINDING RESOLUTION NO. 552 FOR 2019 AND AUTHORIZING THE CONVEYANCE OF 95 MORRIS ROAD (TAX MAP NO. 16.4-4-4.2) IN THE TOWN OF COLONIE

Sponsors: Audit and Finance Committee

328. AUTHORIZING THE CREATION OF AN EARLY SEPARATION PAYMENT PROGRAM AND INITIAL ACCEPTANCE OF APPLICATIONS FROM ALBANY COUNTY EMPLOYEES

Sponsors: Personnel Committee

329. CONFIRMING THE APPOINTMENT OF THE DIRECTOR OF EMPLOYEE RELATIONS IN THE DEPARTMENT OF HUMAN RESOURCES

Sponsors: Personnel Committee

330. APPOINTMENT OF A MEMBER TO THE ALBANY COUNTY ETHICS COMMISSION

Sponsors: Feeney

331. APPOINTMENT OF A MEMBER TO THE ALBANY COUNTY PLANNING BOARD

Sponsors: Feeney, Joyce and Joyce

332. APPOINTMENT OF MEMBERS TO THE COMMUNITY SERVICES BOARD AND SUBCOMMITTEES

Sponsors: Feeney

333. REQUESTING THE COUNTY EXECUTIVE AND COUNTY ATTORNEY TO NEGOTIATE WITH SHORT-TERM RENTAL SERVICES AND ONLINE REMARKETERS FOR THE PURPOSES OF COLLECTING THE HOTEL OCCUPANCY TAX

Sponsors: O'Brien, Mayo and Bruschi

334. PUBLIC HEARING ON PROPOSED LOCAL LAW NO. “C” FOR 2020

Sponsors: Cunningham

LOCAL LAWS:

LOCAL LAW NO. “E” FOR 2020: A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK, IMPOSING AN ADDITIONAL ONE PERCENT RATE OF TAX ON SALES AND USES OF TANGIBLE PERSONAL PROPERTY AND OF CERTAIN SERVICES, AND ON OCCUPANCY OF HOTEL ROOMS AND AMUSEMENT CHARGES, PURSUANT TO ARTICLE 29 OF THE TAX LAW OF THE STATE OF NEW YORK

Sponsors: Joyce

LOCAL LAW NO. "F" FOR 2020: A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK IMPOSING A TAX ON THE OCCUPANCY OF HOTEL ROOMS IN ALBANY COUNTY

Sponsors: Joyce

LOCAL LAW NO. “G” FOR 2020: A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK ENACTING A MORTGAGE RECORDING TAX PURSUANT TO SECTION 253-p OF THE TAX LAW OF THE STATE OF NEW YORK

Sponsors: Joyce

LOCAL LAW NO. “H” FOR 2020: A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK, REPEALING LOCAL LAW 1 FOR 2016 AND PROHIBITING THE USE AND SALE OF SPARKLING DEVICES

Sponsors: Peter, Joyce, Ward, Joyce and Ricard

Adjournment

RESOLUTION NO. 243

AN ACT TO MODIFY THE RULES AND REGULATIONS FOR ALBANY COUNTY EMPLOYEES

Introduced:
By: Mauriello, Burgdorf, Grimm, Drake, Lockart, Tunny, Langdon, Whalen and Perlee

WHEREAS, According to the Final Report – Time and Attendance Audit ("Final Report"), dated April 2020 issued by Comptroller Susan Rizzo and Chief Auditor Stephanie Slominski CIA, which reviewed the outgoing Comptroller, Michael Conners, Interim Audit Report, dated December, 2019, and a forensic audit by an outside CPA firm, Berdon LLP, certain areas of improvement exist for internal controls over time and attendance recording for the purpose of payroll disbursements; and

WHEREAS, some of the Key Observations of the Final Report are:

1) "Albany County Policy, as set forth by the County Legislature, related to time and attendance recording, does not provide specific guidance to require that departments maintain adequate supporting documentation of time and attendance records";
2) "Manual Entries to record time and attendance are either not supported by documentation or documentation is not obtained on a regular basis";
3) "Manual entries to record time and attendance are signed off by subordinates"; and
4) "Individuals with edit access mak[e]ing and approve their own time records"; and

WHEREAS, the outgoing Comptroller, Michael Connors, further alleged that County employees were engaged in political campaign work, while on the County clock, at public expense; and

WHEREAS, the Final Report proposals and the allegations of Michael Connors require a public response and/or a corrective action plan; and

WHEREAS, pursuant to the Albany County Charter, entitled Powers and Duties of the Albany County Legislature, this body is charged with "*Determining policy for the County and to adopt all necessary rules and regulations for its conduct and procedure*" (Sec. 208 (a)), and with "*Exercising legislative oversight of county programs and administrative units*" (Sec. 208 (i)), and

WHEREAS, this body has previously adopted "Rules and Regulations for Albany County Employees" and amendments thereto, and

WHEREAS, it is the desire of this body to amend the above-described employee handbook;

NOW, THEREFORE, BE IT RESOLVED that the "Rules and Regulations for Albany County Employees" are modified as follows:

A) Article II (C), entitled "Attendance Record", is amended as follows:

"Every County employee shall maintain a complete, accurate, and up-to-date record of his or her presence and absence from work. For employees who are FLSA covered employees as defined herein, attendance records shall, at a minimum, indicate the time work commenced, the start and stop of any meal break, and the time work ended. FLSA exempt employees shall record attendance and any leave credits charged. Periods of absence covered by properly authorized paid and unpaid leaves shall also be indicated. All departments must implement written procedures outlining the maintenance, recording, and documentation of time and attendance records in accordance with applicable civil service requirements and collective bargaining agreements. The Commission of Human Resources is authorized to facilitate the development of procedures suited to the individual dynamics of each department and to promulgate County wide standards, forms, and procedures for the purposes of recording attendance. Time sheets should include lines for location, a brief description of activities where applicable and a line for a supervisor to approve/certify, as well as language that provides for an attestation of the employee and an acknowledgment of penalty for any submission of false documentation. Time sheets and supporting documentation, such as leave requests, should be electronically saved and stored in specifically identifiable and searchable electronic folders. The use of automated systems in the recording and reporting of employee attendance [may be required] is preferred and, when not available, time cards completed by the employee and signed by a supervisor, are the next preferred alternative. Approval of time cards by an employee's direct subordinate shall never be permitted. Individuals with access to electronic time records are prohibited from approving their own records. Special procedures shall be developed by the Commissioner of Human Resources for an employee who has no immediate supervisor to approve his or her time. No employee may modify their own records. There is no exception to this rule.

B) Article XIV, entitled "Infractions", is amended as follows:

"It is the County's policy to base the disciplining of employees on just cause and all instances of cause for disciplinary action shall be considered in their full context. The County endorses a policy of progressive discipline in which attempts are made to provide employees with notice of deficiencies and an opportunity to improve. There are, however, certain misdeeds that by their very nature are particularly inappropriate to the workplace and may require the County to seek immediate removal of an employee, even for a first time offense. The infractions listed below include some, but not all, offenses that may necessitate immediate disciplinary action:

- Use, sale, dispensing, distribution, purchase, possession or manufacture of illegal drugs, controlled substances, narcotics or alcoholic beverages on County premises or work sites;
- Being under the influence of the above while on the job;
- Profane and/or abusive language;
- Gross insubordination, including but not limited to, a direct refusal to obey a lawful order of a supervisor;
- Unauthorized use of equipment;
- Theft of property or services;
- Falsification of employment applications;
- Deliberate falsification of a time and attendance record;
- Sleeping on duty;
- Unauthorized absence;
- Possession of unauthorized firearms, explosives and other weapons on County premises and work sites;
- <u>Performing political work, other than for the Board of Elections, for candidates, political parties, political appointees, or elected officials while at work on the County payroll."</u>

BE IT FURTHER RESOLVED, that nothing in this policy amendment pertaining to campaign work shall discourage the First Amendment rights of Albany County employees, as the right to exercise personal political beliefs is cherished by Albany County, but that does not mean that it can or should be subsidized by the taxpayers. Such activities must be performed outside of public paid time; and

BE IT RESOLVED, that this resolution shall take effect immediately.

RESOLUTION NO. 276

REQUESTING THE ALBANY COUNTY COMPTROLLER AND THE COMMISSIONER OF HUMAN RESOURCES TO REVIEW THE ALBANY COUNTY RULES AND REGULATIONS FOR EMPLOYEES AND PROVIDE RECOMMENDATIONS CONCERNING TIMEKEEPING PRACTICES

Introduced: 8/10/20
By Messrs. A. Joyce and Feeney:

WHEREAS, This Honorable Body has adopted the Rules and Regulations for Albany County Employees, as amended, governing County Employees not otherwise subject to a collective bargaining agreement, and

WHEREAS, By Resolution No. 455 for 1997, this Honorable Body authorized the purchase and implementation of the Kronos Time and Attendance Management System to streamline the process of timekeeping for employee records consistent with the Rules and Regulations for Albany County Employees, and

WHEREAS, Issues have been raised regarding the current timekeeping practices of Albany County, and

WHEREAS, The Albany County Comptroller issued a Final Report regarding an audit of time and attendance records for employees of Albany County, which included various recommendations, and

WHEREAS, It is important that this Honorable Body be advised on potential modifications to the current timekeeping practices in order to best serve the interests of the taxpayers and the efficient operation of county government, and

WHEREAS, The Albany County Comptroller and the Commissioner of the Department of Human Resources are best situated to advise this Honorable Body on this issue, now, therefore be it

RESOLVED, By the Albany County Legislature, that the Albany County Comptroller and the Commissioner of the Department of Human Resources are hereby requested to conduct a review of the issues presented in the Comptroller's Final Report, and to report back to the Albany County Legislature on potential modifications to the Rules and Regulations for Albany County Employees regarding the current timekeeping process, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

TIMES UNION CENTER
ALBANY, NEW YORK

AN ASM MANAGED FACILITY

51 South Pearl Street Albany, New York 12207 (518) 487-2000 Fax (518) 487-2020

MEMORANDUM

To: Honorable Members – Albany County Legislature
Honorable Albany County Chairman – Andrew Joyce
Honorable Albany County Executive – Daniel McCoy
Honorable Albany County – Deputy County Executive – Daniel Lynch

From: Bob Belber
General Manager

Date: August 19, 2020

Re: Request for Legislative Action – Amendment & Short Extension of Contract
TICKETMASTER L.L.C.
Provider of Ticketing Services at the Times Union Center

The Agreement as authorized pursuant to **Resolution No. 243 for 2010** by and between the County of Albany and Ticketmaster L.L.C. commencing on September 23, 2010 and ending on September 23, 2015. And, pursuant to **Resolution No. 215 for 2015** by and between the same parties, which extended the Agreement from September 23, 2015 thru September 22, 2020; In early 2020 SMG/ASM Global recommended to the Albany County Executive's office that the ticketing service agreement with Ticketmaster following the term of the current agreement should be combined within a much bigger company-wide negotiated deal with Ticketmaster with negotiations leveraged by SMG/ASM Global using its size and number of accounts worldwide (over 325 on five continents) in order to improve the financial arrangements such that Albany County will be able to receive an enhancement and improvement to the bottom line. In early 2020 the County Executive's office asked the Albany County Attorney's office for an opinion on the issue and it was deemed by the County Attorney to be within the scope of SMG/ASM Global's management agreement and permission was granted to include Albany – Times Union Center in the overall negotiations for a master agreement between all SMG/ASM Global and Ticketmaster, which would improve the net funds being distributed back to the Times Union Center while continuing to receive the best quality of ticketing services.

However, due to the delays caused by COVID19, which prevented meetings and travel from taking place the bigger TM contract negotiations were not able to get completed and while the negotiations are continuing now, it is unlikely that an agreement will be in place by September 22, 2020, which is the expiration of the current contract with Ticketmaster for Albany. On August 17, 2020, a representative from Ticketmaster sent us a proposed simple amendment that will extend the current contract term to December 31, 2020. All current terms and conditions within the TM agreement will remain in effect thru this extended date.

SMG/ASM Global is hereby recommending to Albany County to approve and execute this proposed amendment to the TM contract, which will extend the current Agreement with Ticketmaster L.L.C. from September 22, 2020 thru December 31, 2020. This ticketing company has done a good job of handling all ticketing for events at the arena for the last ten years. By extending the expiration date thru the end of this year, it will enable our company to finalize the best possible terms with Ticketmaster that will keep the quality of services while increasing revenue to Albany County's bottom line.

Given that this is time sensitive, please add this to the agenda for the next available Public Works Committee or Finance Committee meeting.

Sincerely;

Bob Belber
General Manager

File #: TMP-1843, **Version:** 1

REQUEST FOR LEGISLATIVE ACTION

Description (e.g., Contract Authorization for Information Services):
Requesting Authorization to Amend the Albany County/SMG User License Agreement with Ticketmaster L.L.C.

Date:	8/18/2020
Submitted By:	Robert Belber
Department:	Times Union Center
Title:	General Manager
Phone:	518-487-2008
Department Rep.	
Attending Meeting:	Robert Belber

Purpose of Request:

☐ Adopting of Local Law
☐ Amendment of Prior Legislation
☐ Approval/Adoption of Plan/Procedure
☐ Bond Approval
☐ Budget Amendment
☒ Contract Authorization
☐ Countywide Services
☐ Environmental Impact/SEQR
☐ Home Rule Request
☐ Property Conveyance
☐ Other: (state if not listed) Click or tap here to enter text.

CONCERNING BUDGET AMENDMENTS

Increase/decrease category (choose all that apply):
☐ Contractual
☐ Equipment
☐ Fringe
☐ Personnel

☐ Personnel Non-Individual
☐ Revenue

Increase Account/Line No.: Click or tap here to enter text.
Source of Funds: Click or tap here to enter text.
Title Change: Click or tap here to enter text.

CONCERNING CONTRACT AUTHORIZATIONS

Type of Contract:
☒ Change Order/Contract Amendment
☐ Purchase (Equipment/Supplies)
☐ Lease (Equipment/Supplies)
☐ Requirements
☐ Professional Services
☐ Education/Training
☐ Grant
Choose an item.
Submission Date Deadline Click or tap to enter a date.
☐ Settlement of a Claim
☐ Release of Liability
☐ Other: (state if not listed) Click or tap here to enter text.

Contract Terms/Conditions:

Party (Name/address):
Ticketmaster L.L.C., a Delaware Limited Liability Company
550 W. Van Buren, 13th Floor
Chicago, IL 60607

Additional Parties (Names/addresses):
Click or tap here to enter text.

Amount/Raise Schedule/Fee: Click or tap here to enter text.
Scope of Services: Second Amendment to the User License Agreement between Ticketmaster L.L.C. and Albany County & SMG, which will extend the current contract term for the period 9/23/2020 thru 12/31/2020. The current agreement expires on 9/22/2020. All terms and conditions of current contract shall remain in force.

Bond Res. No.: Click or tap here to enter text.
Date of Adoption: Click or tap here to enter text.

CONCERNING ALL REQUESTS

Mandated Program/Service: Yes ☐ No ☒

If Mandated Cite Authority: Click or tap here to enter text.

Is there a Fiscal Impact: Yes ☐ No ☒
Anticipated in Current Budget: Yes ☐ No ☐

County Budget Accounts:
Revenue Account and Line: Click or tap here to enter text.
Revenue Amount: Click or tap here to enter text.

Appropriation Account and Line: Click or tap here to enter text.
Appropriation Amount: Click or tap here to enter text.

Source of Funding - (Percentages)
Federal: Click or tap here to enter text.
State: Click or tap here to enter text.
County: 100
Local: Click or tap here to enter text.

Term
Term: (Start and end date) 9/23/2020 - 12/31/2020
Length of Contract: ~3 Months

Impact on Pending Litigation Yes ☐ No ☒
If yes, explain: Click or tap here to enter text.

Previous requests for Identical or Similar Action:
Resolution/Law Number: Reso 215 for 2015
Date of Adoption: 6/8/2015

Justification: (state briefly why legislative action is requested)
The Agreement as authorized pursuant to Resolution No. 243 for 2010 by and between the County of Albany and Ticketmaster L.L.C. commencing on September 23, 2010 and ending on September 23, 2015. And, pursuant to Resolution No. 215 for 2015 by and between the same parties, which extended the Agreement from September 23, 2015 thru September 22, 2020; In early 2020 SMG/ASM Global recommended to the Albany County Executive's office that the ticketing service agreement with Ticketmaster following the term of the current agreement should be combined within a much bigger company-wide negotiated deal with Ticketmaster with negotiations leveraged by SMG/ASM Global using its size and number of accounts worldwide (over 325 on five continents) in order to improve the financial arrangements such that Albany County will be able to receive an enhancement and improvement to the bottom line. In early 2020 the County Executive's office asked the Albany County Attorney's office for an opinion on the issue and it was deemed by the County Attorney to be within the scope of SMG/ASM Global's management agreement and permission was granted to include Albany - Times Union Center in the overall negotiations for a master agreement between all SMG/ASM Global and Ticketmaster, which would improve the net funds being distributed back to the Times Union Center while continuing to receive the best quality of ticketing services.

However, due to the delays caused by COVID19, which prevented meetings and travel from taking place the bigger TM contract negotiations were not able to get completed and while the negotiations are continuing now, it is unlikely that an agreement will be in place by September 22, 2020, which is the expiration of the current contract with Ticketmaster for Albany. On August 17, 2020, a representative from Ticketmaster sent us a proposed simple amendment that will extend the current contract term to December 31, 2020. All current terms and conditions within the TM agreement will remain in effect thru this extended date.

SMG/ASM Global is hereby recommending to Albany County to approve and execute this proposed amendment to the TM contract, which will extend the current Agreement with Ticketmaster L.L.C. from September 22, 2020 thru December 31, 2020. This ticketing company has done a good job of handling all ticketing for events at the arena for the last ten years. By extending the expiration date thin the end of this year, it will enable our company to finalize the best possible terms with Ticketmaster that will keep the quality of services while increasing revenue to Albany County's bottom line.

Given that this is time sensitive, please add this to the agenda for the next available Public Works Committee or Finance Committee meeting.

AMENDMENT TO AGREEMENT BY AND AMONG THE COUNTY OF ALBANY, SMG , AND TICKETMASTER L.L.C. PURSUANT TO RESOLUTION NO. 215 of 2015 AMENDING THE DULY EXECUTEDAGREEMENT AMONG THE PARTIES PURSUANT TO RESOLUTION No. 243 of 2010

This is an Amendment to an Agreement by and among the County of Albany (hereinafter called "the County" or "the Owner"), a municipal corporation duly organized under the laws of the State of New York, SMG, a Pennsylvania general partnership as managing agent for the County at the Times Union Center, and Ticketmaster L.L.C., a Virginia limited liability company for a computerized ticketing and distribution system for the civic center.

It is hereby agreed among the County of Albany, SMG and Ticketmaster. L.L.C., as follows:

1. That except as amended or revised by this AMENDMENT to the original Agreement, for a computerized ticketing and distribution system for the civic center that was fully executed by and among the parties hereto, shall remain in full force and effect. The original Agreement was adopted pursuant to Resolution No. 243 for 2010.

2. That Article 2 (a) of the Agreement: Term of the Agreement, is amended to reflect that the parties mutually agree renew the Agreement for an additional period of five (5) years. The amended Agreement shall begin effective September 23, 2015 and shall continue through September 22, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this AMENDMENT to the Agreement on the dates set forth.

COUNTY OF ALBANY

DATED: ____________________

____
Daniel P. McCoy
County Executive

or

DATED: 8/7/15

____
Philip F. Calderone
Deputy County Executive

TICKETMASTER, L.L.C.

DATED: 7-28-15

Geoff Curt - SVP
Name and Title

SMG

DATED: 7-30-15

____
Robert H. Belber
General Manager

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Los Angeles

On July 28, 2015 (Date) before me, Maria Hernandez, Notary Public (Here Insert Name and Title of the Officer),

personally appeared Geoff Carns (Name(s) of Signer(s)),

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

MARIA D. HERNANDEZ
COMM. # 1996807
NOTARY PUBLIC-CALIFORNIA
LOS ANGELES COUNTY
My Comm. Expires Nov. 25, 2016

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature [signature] (Signature of Notary Public)

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document Resolution No. 215 of 2015

Title or Type of Document: Amendment to Agreement - Albany County, SMG & Ticketmaster, LLC.

Document Date: July 21, 2015 Number of Pages: 2

Signer(s) Other Than Named Above: N/A

Capacity(ies) Claimed by Signer(s)

Signer's Name: Geoff Carns
- ☐ Individual
- ☒ Corporate Officer — Title(s): SVP, Venues & Promoters
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other:

Signer Is Representing: Ticketmaster, LLC.

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name:
- ☐ Individual
- ☐ Corporate Officer — Title(s):
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other:

Signer Is Representing:

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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STATE OF NEW YORK)
COUNTY OF ALBANY) SS.:

On the ____ day of _____________, 2015, before me, the undersigned, a notary public in and for the state, personally appeared Daniel P. McCoy, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the attached instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

STATE OF NEW YORK)
COUNTY OF ALBANY) SS.:

On the 7th day of August, 2015, before me, the undersigned, a notary public in and for the state, personally appeared Philip F. Calderone, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the attached instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

EUGENIA K. CONDON
Notary Public, State of New York
No. 4969817
Qualified In Albany County
Commission Expires July 23, 2018

STATE OF NEW YORK)
COUNTY OF ALBANY) SS.:

On the 30th day of July, 2015, before me, the undersigned, a notary public in and for the state personally appeared Robert H. Belber, G.M. of the T.U.Center, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the attached instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or, the person upon whose behalf the individual acted, executed the instrument.

NOTARY PUBLIC

JOHN E MANEY
NOTARY PUBLIC STATE OF NEW YORK
ALBANY COUNTY, LIC. #02MA4924423
COMM. EXP. March 23, 2018

STATE OF)
COUNTY OF __________) SS.:

On the ____ day of _____________, 2015, before me, the undersigned, a notary public in and for the state, personally appeared ____________________, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the attached instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon whose behalf the individual acted, executed the instrument.

____
NOTARY PUBLIC

STATE OF)
COUNTY OF __________) SS.:

On the ____ day of _____________, 2015, before me, the undersigned, a notary public in and for the state, personally appeared ____________________, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the attached instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon whose behalf the individual acted, executed the instrument.

____
NOTARY PUBLIC

2015 MAY 13 AM 9 52

FOR COUNSEL USE ONLY	
Date Received:	
Received by:	
Method: Hand:	✓
Courier:	
Mail:	

REQUEST FOR LEGISLATIVE ACTION

RLA #1342: Contract authorization for ticket sales

DATE:	Thursday, May 07, 2015
DEPARTMENT:	Management & Budget
Contact Person:	David Reilly, Sr. Budget Analyst
Telephone:	518-447-7034
Dept. Representative Attending Committee Meeting:	John Evers, Director

PURPOSE OF REQUEST:

Adopting of Local Law	
Amendment of Prior Legislation	
Approval/Adoption of Plan/Procedure	
Bond Approval	
Budget Amendment (see below)	
Contract Authorization (see below)	X
Environmental Impact	
Home Rule Request	
Property Conveyance	
Other: (State briefly if not listed above)	

CONCERNING BUDGET AMENDMENTS STATE THE FOLLOWING:

Increase Account/Line No.	
Source of Funds:	
Title Change:	

CONCERNING CONTRACT AUTHORIZATION STATE THE FOLLOWING:

TYPE OF CONTRACT:

Change Order/Contract Amendment	
Purchase (Equipment/Supplies)	
Lease (Equipment/Supplies)	
Requirements Professional Services	X
Education/Training	
Grant:	
New	
Renewal	
Submission Deadline Date	
Settlement of a Claim	
Release of Liability	
Other: (State briefly)	

CONCERNING CONTRACT AUTHORIZATION (Cont'd)
STATE THE FOLLOWING:

Contract Terms/Conditions:

Party (Name/Address)	Ticketmaster LLC 550 W Van Buren, 13th Floor Chicago, IL 60607
Amount/Raise Schedule/Fee	$632,650.44
Scope of Services	Resolution 243 of 2010 authorized the award of a five year contract with Ticketmaster to provide comprehensive ticketing services. This contract will be up for renewal in the near future and we would prefer to stay with the existing vendor and continue this mutually beneficial relationship by exercising the previously agreed upon 5 year renewal term.

Contract Funding:

Bond Res. No.:	
Date of Adoption:	

CONCERNING ALL REQUESTS:

Mandated Program/Service:	No
If Mandated Cite: Authority	
Anticipated in Current Adopted Budget	Yes
County Budget Accounts:	
Revenue	
Appropriation	
Fiscal Impact - Funding: (Dollars or Percentages)	
Federal	
State	
County	
Local	
Term/Length of Funding:	60 Months (9/23/2015 - 9/22/2020)
Impact on Pending Litigation	No
If yes, please explain:	

Previous Requests for Identical or Similar Action

Resolution/Law Number	
Date of Adoption	

Justification: (State briefly why legislative action is requested)

Ticketmaster is the biggest and most reliable ticketing company in the United States. The programs that are available to service the Siena Basketball team and Albany Devils season ticket holders has been extremely effective. The marketing arm of Ticketmaster with extensive data and reach to hundreds of thousands of email addresses in the Upstate NY Region has greatly helped us sell tickets and the service provided to our box office has been very reliable and expeditious when problems have occurred. Over the previous five years the average annual revenue has been $632,650.44. Included in the attachments for the RLA are the factors that go into calculating that amount.

LICENSED USER AGREEMENT

THIS LICENSED USER AGREEMENT (this "Agreement") is made and entered into as of August 27, 2010 and is effective as of 5:01pm on September 23, 2010 ("Effective Date"), by and among Ticketmaster L.L.C., a Delaware limited liability company ("Ticketmaster"), the County of Albany, New York ("Owner"), the owner of the Facility, and SMG, a Pennsylvania general partnership, as agent for the Owner. (SMG and the Owner are collectively referred to as the "Principal").

W I T N E S S E T H:

Ticketmaster provides comprehensive ticketing services for entertainment facilities and events, and maintains a distribution network for the sale of tickets to the public, via any and all means and methods, including the TM System. SMG has the right to manage, operate and promote the Facility pursuant to a Management Agreement with the Owner, as agent for the Owner.

Principal desires to engage Ticketmaster, and Ticketmaster desires to be engaged, to sell Tickets for Attractions pursuant to the terms and conditions of this Agreement.

In consideration of the foregoing and the mutual promises and covenants set forth herein, the parties, intending to be legally bound, hereby agree as follows:

1. **Definitions.** As used in this Agreement, the following terms shall have the respective meanings indicated below unless the context otherwise requires:

(a) "Account Balance" is defined in Section 13(b) hereof.

(b) "AccountManager" means the Ticketmaster AccountManager software and hosting services that allow Subscribers to manage their Season/Contract Ticket accounts.

(c) "Archtics" means Ticketmaster's software that delivers extensive season, miniplan and single ticket functionality in connection with the Ticketmaster host system and distribution channels for inventory control by Ticketmaster and Principal.

(d) "Archtics Transaction Fees" means the amounts Ticketmaster charges for certain Products transactions as described in Section 6.

(e) "Attraction" means a concert, sporting, entertainment or other act or event of any kind or nature whatsoever to be held at the Facility; provided, however, that events for which there is no performance and no charge for admission (e.g., private catered events that utilize all or part of the Facility) are specifically excluded.

(f) "Attraction Taxes" means any and all sales, amusement, admissions and other taxes, charges, fees, levies or other assessments measured by reference to a charge per Ticket sold or determined based upon the purchase price of a Ticket assessed by federal, state, county, municipal or other governmental or quasi-governmental authorities as a result of, or in connection with, any Attraction, including Principal Taxes and Ticketmaster Taxes as further described below. To the extent such taxes relate to the Ticket Receipts and funds paid or owed to Principal under this Agreement such portion of Attraction Taxes may also be referred to herein as Principal Taxes, and to the extent such taxes relate to the Convenience Charges and other amounts collected and retained by Ticketmaster under this Agreement, such portion of Attraction Taxes may also be referred to herein as Ticketmaster Taxes.

(g) "Auction Base" means the Face Value of a Ticket plus the related Convenience Charge for such Ticket (which Convenience Charge shall be subject to Royalty payments as set forth in Section 4(a)).

(h) "Auction Fee" means the amount Ticketmaster charges the customer to sell Tickets via a Ticketmaster online auction.

(i) "Auction Lift" means the difference between the ultimate price a consumer pays for a Ticket sold via a Ticketmaster online auction less the Auction Base.

(j) "Cancelled Attraction" is defined in Section 13(b) hereof.

(k) "Chargebacks" is defined in Section 13(c) hereof.

(l) "Convenience Charge" means the per Ticket amount charged by Ticketmaster to a consumer for the convenience of purchasing Tickets through the TM System as set forth in Section 3(b) hereof.

(m) "Deficiency Amount" is defined in Section 13(d) hereof.

(n) "Delivered E-mails" means all e-mails generated by Principal using Ticketmaster MailManager that are not indicated as having been returned to Principal as "undeliverable" in Ticketmaster's records.

(o) "Event of Default" is defined in Section 10(a) hereof.

(p) "Face Value" means the face price of a Ticket as determined by Principal, which shall be inclusive of all applicable Attraction Taxes and Facility, parking and similar fees.

(q) "Facility" means the venue located at 51 South Pearl Street, Albany, NY 12207 and currently known as Times Union Center.

(r) "Facility Box Office" means the Facility's Ticket sales location that is operated by Principal and located at the Facility.

(s) "Facility Website" means an Internet website(s) owned and/or operated and maintained by Principal pertaining solely to the Facility (and not any other website maintained by SMG or Owner generally or for other public assembly facilities managed by SMG or Owner), as the same may be modified from time to time, and any successor format of the same.

(t) "GroupManager" means the Ticketmaster GroupManager software and hosting services that allow Principal and Principal's customers to manage their group ticket experience.

(u) "Group Sales" means sales of Tickets to one person, on behalf of a group of at least ten (10) people to attend an Attraction as a group, and not to attend individually or to purchase Tickets with the intent to resell such Tickets.

(v) "Hardware" means all of that certain computer hardware, communications equipment, terminals and hook-ups (including replacements thereof) listed with particularity on Exhibit B, which is attached hereto and incorporated herein by this reference, or otherwise supplied by Ticketmaster to Principal at any time during the Term of this Agreement, but excluding (i) any computer hardware, communications equipment, terminals and hook-ups purchased by Principal to provide the connectivity to and interfacing with the TM System required under this Agreement, and (ii) any computer hardware, communications equipment, terminals and hook-ups purchased by Principal from Ticketmaster.

(w) "Hosted Platform" shall mean the equipment, operating system, hardware and software specifications, and networking environment on and with which the TM System and Software are hosted by Ticketmaster, and additions or replacements to the foregoing which may be implemented by Ticketmaster in accordance with the terms of this Agreement.

(x) "House Seats" means Tickets that are provided or held by Principal (e.g., complimentary, band holds and venue holds) to the promoter or presenter of an Attraction, the performing act or event or members thereof, or their managers or agents, or to others for legitimate promotional or business purposes, including for distribution through legitimate fan clubs in accordance with current Ticketmaster guidelines (i.e., fan club holds) (collectively, "House Seat Recipients"); provided, however, that at no time shall such Tickets be sold or issued to the general public and provided further that House Seats shall not include Tickets provided to fan clubs or similar organizations.

(y) "Inside Charges" means the amounts Ticketmaster charges the Ticket purchaser to sell, issue and process Tickets utilizing the TM System under this Agreement.

(z) "Interface Page" means a co-branded web page interface for use with Software transactions designed, created and maintained by Ticketmaster to have, in general, the look and feel of Principal's Website and hosted on Ticketmaster's web servers.

(aa) "Internal Ticket Forwarding" means the ability of Principal to forward a reasonable number of House Seats Tickets (other than Tickets for fan clubs) directly from Archtics to a recipient with a valid email address

(bb) "Internet Sales" means all sales of Tickets over the Internet or any other means of interaction with the TM.com Website.

(cc) "MailManager" means the Ticketmaster MailManager software and hosting services that allows Principal to build a permissible marketing database and supports targeted, trackable direct email communication to Principal's customers.

(dd) "Material Financial Event" is defined in Section 13(d) hereof.

(ee) "MiniPlan Tickets" means specifically designated Tickets sold directly by Principal to a single consumer on an annual or season basis across a set of at least two (2) Attractions.

(ff) "On-Sale Date" is defined in Section 8(d) hereof.

(gg) "Outlet" means a retail Ticket selling agency (other than the Facility Box Office) where Tickets for an Attraction are made available and offered for sale to the public through the TM System.

(hh) "Principal's Website" means an Internet website(s) owned, operated and maintained by Principal, which shall contain links to the Interface Page.

(ii) "Processing Fee" means the per order amount charged by Ticketmaster to a consumer for purchasing Tickets via Internet Sales or Telephone Sales.

(jj) "Products" means the additional ticket sales software and Internet-based premium Ticketmaster products indicated with an X in Section 6 hereof.

(kk) "Season/Contract Tickets" means specifically designated Tickets sold directly by Principal on an annual basis across all Attractions or across a category of Attractions (i.e., luxury suites, club level seats and season tickets).

(ll) "Sellable Capacity" means the number of Tickets that can be sold for an Attraction other than Season/Contract Tickets.

(mm) "Set-Up Information" is defined in Section 8(d) hereof.

(nn) "Software" means Ticketmaster's ticketing system software known and marketed as Ticketmaster Classic, Ticketmaster AccessManager, TM Charge, the Products and any new versions thereof that are provided to Principal by Ticketmaster.

(oo) "Subscribers" means any person who holds an account on Principal's AccountManager.

(pp) "Telephone Sales" means all sales of Tickets through the TM System by telephone, interactive voice response (IVR) and similar means.

(qq) "Term" is defined in Section 2 hereof.

(rr) "Third Party Provider" is defined in Section 5(c) hereof.

(ss) "Ticket" means a printed, electronic or other type of evidence of the right, option or opportunity to occupy (i) space at or to enter or attend an Attraction or Attractions, including, without limitation, tickets printed via *ticketFast*™ at home or elsewhere by the purchaser even if not evidenced by any physical manifestation of such right, such as a "smart card."

(tt) "ticketFast Delivery Fee" means the per order amount charged by Ticketmaster to a consumer for electing to have Tickets delivered via Ticketmaster's *ticketFast*™ print at home service.

(uu) "Ticket Forwarding" means the ability of Subscribers to forward Tickets purchased through AccountManager to a recipient with a valid email address.

(vv) "Ticket Forwarding Fee" means amounts Ticketmaster charges Subscribers for authentication and delivery of Tickets sent via Ticket Forwarding.

(ww) "Ticketmaster AccessManager" means the Ticketmaster AccessManager software which interfaces with the TM System to facilitate certain reporting systems and to provide various enhanced services to the patron admissions process through the use of bar codes or other media printed on Tickets.

(xx) "Ticket Receipts" means the Face Value of a Ticket less the applicable Inside Charge.

(yy) "TM Charge" means the credit card processing system within the TM System that utilizes the global banking association networks to authorize credit card purchases of Tickets to Attractions sold by Ticketmaster at Outlets, via Telephone Sales or Internet Sales, or sold by Principal from the Facility Box Office as permitted under this Agreement.

(zz) "TM.com Website" means any Internet websites owned, operated and maintained by Ticketmaster, as the same may be modified from time to time, and any successor format of the same and any ticketing property, feature, or product acquired by Ticketmaster or its affiliates that may become available subsequent to the Effective Date, including, without limitation, any co-branded versions and any version distributed through any broadband distribution platform or through any platform or device including television, broadband and wireless technologies.

(aaa) "TM System" means the Hardware, Software, TM.com Website, related procedures and personnel, and repair and maintenance services established and maintained by Ticketmaster and its affiliates for the purpose of selling, distributing, auditing and controlling the sale of Tickets for Attractions, including, without limitation, at Outlets, by Internet Sales and by Telephone Sales.

2. **Term of Agreement.**

(a) The initial term of this Agreement shall begin on the Effective Date and shall continue through September 22, 2015 (the "Initial Term"). This Agreement may be renewed for an additional period of five (5) years, provided that the parties mutually agree to the terms in effect during such renewal term no later than one hundred twenty (120) days prior to the end of the Initial Term. The Initial Term and such renewal term, if applicable, shall be hereinafter the "Term." Each twelve (12) month period commencing on September 23 and continuing through the following September 22 shall be a "Contract Year" as such term is used herein.

(b) Upon the expiration or termination of this Agreement (where Ticketmaster's services hereunder are not renewed or extended) and upon the request of Principal, Ticketmaster shall cooperate with Principal for a period not to exceed sixty (60) days in order to have a smooth transition of such services to such successor ticketing company; provided, however, such cooperation shall not result in the disclosure of any confidential or proprietary information relating to Ticketmaster's business or systems to any third party.

3. **Compensation**. In consideration for the license by Ticketmaster of the Hardware and Software to Principal, the license by Ticketmaster to Principal of the right to deeplink to the TM.com Website granted herein, and Ticketmaster's continuing services to be performed in connection herewith, Ticketmaster shall be entitled to receive the fees and compensation described herein. Principal consents to the imposition of the charges described herein on all Tickets purchased through the TM System hereunder. Those fees and compensation that are owed by Principal may be deducted by Ticketmaster from the Ticket Receipts (or the Face Value with respect to Inside Charges) collected by Ticketmaster on behalf of Principal under the settlement procedures described in Section 13 hereof.

(a) **Inside Charges**: Ticketmaster shall be entitled to assess and receive from gross Ticket proceeds collected by it on behalf of Principal an Inside Charge with respect to each Ticket sold through Outlets, Telephone Sales and Internet Sales. The amount of the Inside Charge shall initially be as follows:

Type of Transaction	**Inside Charge**
Outlet Sales	$0.00 per Ticket
Telephone Sales and Internet Sales	Credit card fees set forth in Section 3(c) below
Other Tickets (including complimentary Tickets) printed by or on behalf of Principal	$0.00 per Ticket

The amount of Inside Charges owed by Principal to Ticketmaster shall be deducted from the Face Value collected by Ticketmaster on behalf of Principal in the manner provided in Section 13 hereof.

(b) **Convenience Charge (Per Ticket or Per Parking Pass)**: Ticketmaster shall assess a Convenience Charge against purchasers of Tickets for Tickets sold by Ticketmaster via the TM System. The amount of the Convenience Charge for each applicable category of Ticket sale shall initially be as follows:

LICENSED USER AGREEMENT

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WITNESSETH:

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(c) "Archtics" means Ticketmaster's software that delivers extensive season, miniplan and single ticket functionality in connection with the Ticketmaster host system and distribution channels for inventory control by Ticketmaster and Principal.

(d) "Archtics Transaction Fees" means the amounts Ticketmaster charges for certain Products transactions as described in Section 6.

(e) "Attraction" means a concert, sporting, entertainment or other act or event of any kind or nature whatsoever to be held at the Facility; provided, however, that events for which there is no performance and no charge for admission (e.g., private catered events that utilize all or part of the Facility) are specifically excluded.

(f) "Attraction Taxes" means any and all sales, amusement, admissions and other taxes, charges, fees, levies or other assessments measured by reference to a charge per Ticket sold or determined based upon the purchase price of a Ticket assessed by federal, state, county, municipal or other governmental or quasi-governmental authorities as a result of, or in connection with, any Attraction, including Principal Taxes and Ticketmaster Taxes as further described below. To the extent such taxes relate to the Ticket Receipts and funds paid or owed to Principal under this Agreement such portion of Attraction Taxes may also be referred to herein as Principal Taxes, and to the extent such taxes relate to the Convenience Charges and other amounts collected and retained by Ticketmaster under this Agreement, such portion of Attraction Taxes may also be referred to herein as Ticketmaster Taxes.

(g) "Auction Base" means the Face Value of a Ticket plus the related Convenience Charge for such Ticket (which Convenience Charge shall be subject to Royalty payments as set forth in Section 4(a)).

(h) "Auction Fee" means the amount Ticketmaster charges the customer to sell Tickets via a Ticketmaster online auction.

(i) "Auction Lift" means the difference between the ultimate price a consumer pays for a Ticket sold via a Ticketmaster online auction less the Auction Base.

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(p) "Face Value" means the face price of a Ticket as determined by Principal, which shall be inclusive of all applicable Attraction Taxes and Facility, parking and similar fees.

(q) "Facility" means the venue located at 51 South Pearl Street, Albany, NY 12207 and currently known as Times Union Center.

(r) "Facility Box Office" means the Facility's Ticket sales location that is operated by Principal and located at the Facility.

(s) "Facility Website" means an Internet website(s) owned and/or operated and maintained by Principal pertaining solely to the Facility (and not any other website maintained by SMG or Owner generally or for other public assembly facilities managed by SMG or Owner), as the same may be modified from time to time, and any successor format of the same.

(t) "GroupManager" means the Ticketmaster GroupManager software and hosting services that allow Principal and Principal's customers to manage their group ticket experience.

(u) "Group Sales" means sales of Tickets to one person, on behalf of a group of at least ten (10) people to attend an Attraction as a group, and not to attend individually or to purchase Tickets with the intent to resell such Tickets.

(v) "Hardware" means all of that certain computer hardware, communications equipment, terminals and hook-ups (including replacements thereof) listed with particularity on Exhibit B, which is attached hereto and incorporated herein by this reference, or otherwise supplied by Ticketmaster to Principal at any time during the Term of this Agreement, but excluding (i) any computer hardware, communications equipment, terminals and hook-ups purchased by Principal to provide the connectivity to and interfacing with the TM System required under this Agreement, and (ii) any computer hardware, communications equipment, terminals and hook-ups purchased by Principal from Ticketmaster.

(w) "Hosted Platform" shall mean the equipment, operating system, hardware and software specifications, and networking environment on and with which the TM System and Software are hosted by Ticketmaster, and additions or replacements to the foregoing which may be implemented by Ticketmaster in accordance with the terms of this Agreement.

(x) "House Seats" means Tickets that are provided or held by Principal (e.g., complimentary, band holds and venue holds) to the promoter or presenter of an Attraction, the performing act or event or members thereof, or their managers or agents, or to others for legitimate promotional or business purposes, including for distribution through legitimate fan clubs in accordance with current Ticketmaster guidelines (i.e., fan club holds) (collectively, "House Seat Recipients"); provided, however, that at no time shall such Tickets be sold or issued to the general public and provided further that House Seats shall not include Tickets provided to fan clubs or similar organizations.

(y) "Inside Charges" means the amounts Ticketmaster charges the Ticket purchaser to sell, issue and process Tickets utilizing the TM System under this Agreement.

(z) "Interface Page" means a co-branded web page interface for use with Software transactions designed, created and maintained by Ticketmaster to have, in general, the look and feel of Principal's Website and hosted on Ticketmaster's web servers.

(aa) "Internal Ticket Forwarding" means the ability of Principal to forward a reasonable number of House Seats Tickets (other than Tickets for fan clubs) directly from Archtics to a recipient with a valid email address.

(bb) "Internet Sales" means all sales of Tickets over the Internet or any other means of interaction with the TM.com Website.

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(ee) "MiniPlan Tickets" means specifically designated Tickets sold directly by Principal to a single consumer on an annual or season basis across a set of at least two (2) Attractions.

(ff) "On-Sale Date" is defined in Section 8(d) hereof.

(gg) "Outlet" means a retail Ticket selling agency (other than the Facility Box Office) where Tickets for an Attraction are made available and offered for sale to the public through the TM System.

(hh) "Principal's Website" means an Internet website(s) owned, operated and maintained by Principal, which shall contain links to the Interface Page.

(ii) "Processing Fee" means the per order amount charged by Ticketmaster to a consumer for purchasing Tickets via Internet Sales or Telephone Sales.

(jj) "Products" means the additional ticket sales software and Internet-based premium Ticketmaster products indicated with an **X** in Section 6 hereof.

(kk) "Season/Contract Tickets" means specifically designated Tickets sold directly by Principal on an annual basis across all Attractions or across a category of Attractions (i.e., luxury suites, club level seats and season tickets).

(ll) "Sellable Capacity" means the number of Tickets that can be sold for an Attraction other than Season/Contract Tickets.

(mm) "Set-Up Information" is defined in Section 8(d) hereof.

(nn) "Software" means Ticketmaster's ticketing system software known and marketed as Ticketmaster Classic, Ticketmaster AccessManager, TM Charge, the Products and any new versions thereof that are provided to Principal by Ticketmaster.

(oo) "Subscribers" means any person who holds an account on Principal's AccountManager.

(pp) "Telephone Sales" means all sales of Tickets through the TM System by telephone, interactive voice response (IVR) and similar means.

(qq) "Term" is defined in Section 2 hereof.

(rr) "Third Party Provider" is defined in Section 5(c) hereof.

(ss) "Ticket" means a printed, electronic or other type of evidence of the right, option or opportunity to occupy (i) space at or to enter or attend an Attraction or Attractions, including, without limitation, tickets printed via *ticketFast*™ at home or elsewhere by the purchaser even if not evidenced by any physical manifestation of such right, such as a "smart card."

(tt) "ticketFast Delivery Fee" means the per order amount charged by Ticketmaster to a consumer for electing to have Tickets delivered via Ticketmaster's *ticketFast*™ print at home service.

(uu) "Ticket Forwarding" means the ability of Subscribers to forward Tickets purchased through AccountManager to a recipient with a valid email address.

(vv) "Ticket Forwarding Fee" means amounts Ticketmaster charges Subscribers for authentication and delivery of Tickets sent via Ticket Forwarding.

(ww) "Ticketmaster AccessManager" means the Ticketmaster AccessManager software which interfaces with the TM System to facilitate certain reporting systems and to provide various enhanced services to the patron admissions process through the use of bar codes or other media printed on Tickets.

(xx) "Ticket Receipts" means the Face Value of a Ticket less the applicable Inside Charge.

(yy) "TM Charge" means the credit card processing system within the TM System that utilizes the global banking association networks to authorize credit card purchases of Tickets to Attractions sold by Ticketmaster at Outlets, via Telephone Sales or Internet Sales, or sold by Principal from the Facility Box Office as permitted under this Agreement.

(zz) "TM.com Website" means any Internet websites owned, operated and maintained by Ticketmaster, as the same may be modified from time to time, and any successor format of the same and any ticketing property, feature, or product acquired by Ticketmaster or its affiliates that may become available subsequent to the Effective Date, including, without limitation, any co-branded versions and any version distributed through any broadband distribution platform or through any platform or device including television, broadband and wireless technologies.

(aaa) "TM System" means the Hardware, Software, TM.com Website, related procedures and personnel, and repair and maintenance services established and maintained by Ticketmaster and its affiliates for the purpose of selling, distributing, auditing and controlling the sale of Tickets for Attractions, including, without limitation, at Outlets, by Internet Sales and by Telephone Sales.

2. **Term of Agreement.**

(a) The initial term of this Agreement shall begin on the Effective Date and shall continue through September 22, 2015 (the "Initial Term"). This Agreement may be renewed for an additional period of five (5) years, provided that the parties mutually agree to the terms in effect during such renewal term no later than one hundred twenty (120) days prior to the end of the Initial Term. The Initial Term and such renewal term, if applicable, shall be hereinafter the "Term." Each twelve (12) month period commencing on September 23 and continuing through the following September 22 shall be a "Contract Year" as such term is used herein.

(b) Upon the expiration or termination of this Agreement (where Ticketmaster's services hereunder are not renewed or extended) and upon the request of Principal, Ticketmaster shall cooperate with Principal for a period not to exceed sixty (60) days in order to have a smooth transition of such services to such successor ticketing company; provided, however, such cooperation shall not result in the disclosure of any confidential or proprietary information relating to Ticketmaster's business or systems to any third party.

3. **Compensation**. In consideration for the license by Ticketmaster of the Hardware and Software to Principal, the license by Ticketmaster to Principal of the right to deeplink to the TM.com Website granted herein, and Ticketmaster's continuing services to be performed in connection herewith, Ticketmaster shall be entitled to receive the fees and compensation described herein. Principal consents to the imposition of the charges described herein on all Tickets purchased through the TM System hereunder. Those fees and compensation that are owed by Principal may be deducted by Ticketmaster from the Ticket Receipts (or the Face Value with respect to Inside Charges) collected by Ticketmaster on behalf of Principal under the settlement procedures described in Section 13 hereof.

(a) **Inside Charges**: Ticketmaster shall be entitled to assess and receive from gross Ticket proceeds collected by it on behalf of Principal an Inside Charge with respect to each Ticket sold through Outlets, Telephone Sales and Internet Sales. The amount of the Inside Charge shall initially be as follows:

Type of Transaction	Inside Charge
Outlet Sales	$0.00 per Ticket
Telephone Sales and Internet Sales	Credit card fees set forth in Section 3(c) below
Other Tickets (including complimentary Tickets) printed by or on behalf of Principal	$0.00 per Ticket

The amount of Inside Charges owed by Principal to Ticketmaster shall be deducted from the Face Value collected by Ticketmaster on behalf of Principal in the manner provided in Section 13 hereof.

(b) **Convenience Charge (Per Ticket or Per Parking Pass)**: Ticketmaster shall assess a Convenience Charge against purchasers of Tickets for Tickets sold by Ticketmaster via the TM System. The amount of the Convenience Charge for each applicable category of Ticket sale shall initially be as follows:

Type of Attraction/Face Value of Tickets	Convenience Charges – Outlets, Internet Sales and Telephone Sales
Family Attractions (excluding Feld Attractions) for Tickets with a Face Value of: $24.99 and below $25.00 and above	 $5.00 $6.00
Minor League Hockey Attractions and Collegiate Attractions for Tickets with a Face Value of: $24.99 and below $25.00 and above	 $3.00 $4.00
All Other Attractions for Tickets with a Face Value of: $34.99 and below $35.00 and above	 $6.25 6.35 $8.25 9.25
Only For Parking Passes at the Facility Parking Garage Face Value of such parking pass to be determined by Principal in advance of the Attraction	Up to a maximum amount of $1.50

The Convenience Charges set forth above relating to Tickets for Attractions (not for parking passes) shall be subject to automatic increase on the first day of the third Contract Year and on the first day of every other Contract Year thereafter during the Term in the amount of $0.35 per Ticket. Additionally, on a case-by-case basis, the parties may agree to increase or reduce the Convenience Charges set forth above for Tickets for Attractions (not for parking passes).

(c) **Credit Card Sales**: Principal hereby authorizes Ticketmaster to accept American Express, MasterCard, Visa, Discover and Diner's Club charges (and any other credit card, debit card or other electronic method of payment and membership/loyalty program reward points backed by those program sponsors whom Ticketmaster in its reasonable discretion chooses to authorize as a method of payment and which may hereafter be approved by Ticketmaster) in connection with sales of Tickets purchased from Ticketmaster with credit cards. Ticketmaster agrees to absorb the credit card company charge relative to the Convenience Charge and Processing Fee. With respect to all Tickets purchased via Telephone Sales and Internet Sales, the Convenience Charge will be adjusted to include the credit card company charge in an amount equal to 2.285% of the Face Value of such Tickets, provided that the Convenience Charge will be rounded up to the nearest nickel. With respect to Tickets sold via Outlets, the Convenience Charge will be adjusted to include the credit card company charge in an amount equal to 2.78% of the Face Value of such Tickets, provided that the Convenience

Charge will be rounded up to the nearest nickel. Such rates set forth above are subject to automatic increase due to changes to the interbank rates imposed on Ticketmaster.

(d) **Processing Fee (Per Order)**: Ticketmaster shall assess a Processing Fee against purchasers of Tickets in the amount of $3.25 with respect to each order of Tickets ordered by Internet Sales and Telephone Sales. The Processing Fee shall be subject to automatic increase on the first day of the third Contract Year and on the first day of every other Contract Year thereafter during the Term in the amount of $0.35 per order and shall be subject to increase at any time in an amount equal to the actual amount of increases in the applicable postal service rates (it being understood that the first of any such postal increase during the Term may be, at Ticketmaster's sole option, rounded up to the nearest $0.05, but any subsequent postal increases may not be so rounded up unless and until the cumulative total of actual increases in the applicable postal service rates during the Term equals or exceeds the sum of (A) $0.01 plus (B) $0.05 or a multiple of $0.05 – e.g. $0.06, $0.11, $0.16, etc. – as applicable).

(e) **ticketFast Delivery Fee**: Ticketmaster shall assess a ticketFast Delivery fee against purchasers of Tickets who elect the ticketFast delivery option in the amount of $2.50 per order. The ticketFast Delivery fee may be increased upon mutual agreement of the parties, or may be reduced or eliminated by Ticketmaster at any time during the Term consistent with Ticketmaster's ticketFast Delivery fees at similar facilities.

(f) **TM Charge**:

(i) Features. Ticketmaster shall provide TM Charge to Principal for use in processing Principal's credit card sales of Tickets and related transactions from the Facility Box Office utilizing the TM System. TM Charge is compatible with Ticketmaster's technology solutions and includes the following features:

- immediate credit card authorization for Ticket sales using major credit cards;
- ability to accept all major credit cards, including Visa, MasterCard, American Express, Discover and Diners Club;
- generation of printed receipts for the consumer and the Facility Box Office at the time of sale;
- settlement of Principal's credit card transactions after the close of Ticketmaster's business day;
- deposit of funds directly in Principal's specified merchant bank accounts; and
- daily access to reports regarding authorized and settled transactions.

(ii) Operation. Principal shall establish its own merchant numbers as necessary to process the credit cards that Principal wants to accept. Ticketmaster shall transmit data relating to Ticket sales made by Principal using TM Charge to Ticketmaster's credit card processor (the "Processor"). Processor will then transmit such data to the applicable credit card company for payment to Principal, subject to Principal having entered into the applicable Principal Processor Agreements (as further described below). Ticketmaster shall use its best efforts to ensure the timely and accurate transfer of information from the Processor via TM Charge, but Ticketmaster does not guarantee the accuracy and timeliness of such information. Principal shall comply with all applicable credit card association or company guidelines (e.g. swiping all retail transactions and using customer address information for all non-face-to-face transactions).

(iii) Information Provided by Principal. As soon as practicable after the date of this Agreement, Principal shall (x) provide Ticketmaster with the account name and location for Ticketmaster to use for the transmission of sales data and (y) notify Ticketmaster and Processor of the account(s) where Principal wishes settlement deposits to be made by the Processor. Principal shall be responsible for promptly notifying Ticketmaster and Processor, if applicable, of any changes to the information provided pursuant to this section.

(iv) Reports. Ticketmaster shall provide Principal with daily transaction reports regarding authorized and settled transactions. Principal shall review, on a regular basis, all reports provided to Principal by Ticketmaster. Principal also agrees that, for operational and monitoring purposes, the Processor may provide Ticketmaster with processing and settlement reports related to sales of Tickets via TM Charge.

(v) Fees. In connection with Principal's credit card sales of Tickets at the Facility Box Office authorized via TM Charge, using either Visa or MasterCard, the Processor shall deduct merchant fees equal to 2.285% of the transactions processed on a daily basis. The fees are subject to automatic increases equal to any actual changes in Ticketmaster's Processor fees or based on changes in credit card association or credit card company fees (such as interchange, assessments or other charges). Ticketmaster or Processor shall promptly provide written notice to Principal of any such changes in the amount of merchant fees charged to Principal pursuant to this subsection. Principal shall also be responsible for any and all other amounts charged to Ticketmaster (if any) by a Processor for processing Principal's transactions, including, without limitation, chargebacks, fraudulent credit card use and additional charges for failure to meet the specific timing or other qualifications of the applicable credit card association or company, except those that arise from the negligence of Ticketmaster (e.g., failure of the Software or Hardware to perform properly, etc.). In the event that Principal desires to process any credit cards other than Visa or MasterCard utilizing TM Charge, then the fees for such service shall be mutually agreed upon by Principal and the Processor, and Principal shall enter into its own merchant agreement with the Processor.

(vi) Effect of Termination of Ticketmaster's Processor Agreement. Ticketmaster has entered into an agreement with the Processor (the "Processor Agreement"), and Principal agrees to enter into an agreement with such Processor (the "Principal Processor Agreement") as soon as practicable after the date of this Agreement. The Principal Processor Agreement shall provide that if the related Processor Agreement expires or terminates, then the Principal Processor Agreement shall also expire or terminate without any early termination penalties or charges. In order to facilitate streamlined credit card authorization processing for

Ticketmaster and its clients, Ticketmaster continues to seek to maintain relationships with superior processors throughout the Term of this Agreement. In the event that Ticketmaster elects to use a different or new Processor, Principal shall enter into an agreement with such new Processor, provided, however, that such agreement shall not result in increased obligations to Principal and shall provide costs and rates at least as favorable as those contained in the prior Principal Processor Agreement.

(vii) License and Maintenance Fees. The license and maintenance fees for TM Charge shall be waived during the Term of this Agreement.

(g) **Ticketmaster AccessManager**: Ticketmaster shall provide to Principal for use by Principal at the Facility, the Ticketmaster AccessManager Hardware listed on Section B of Exhibit B and the related software thereto, and Principal agrees to utilize and make Ticketmaster AccessManager available to the public at all times throughout the Term of this Agreement at the door(s) of the Facility. Ticketmaster agrees to waive the annual software license fees and annual maintenance fees for the Ticketmaster AccessManager Hardware and related software during the Term of the Agreement. All wiring and electrical costs related to the installation and operation of Ticketmaster AccessManager shall be paid for by Principal.

(h) **Mailing Fee**: Ticketmaster shall assess a mailing fee (the "Mailing Fee") against purchasers of Tickets who elect such option in the amount of $3.00 per order. The Mailing Fee may be increased upon mutual agreement of the parties, or may be reduced or eliminated by Ticketmaster at any time during the Term consistent with Ticketmaster's Mailing Fees at similar facilities.

(i) **Auction Fee**: Ticketmaster shall assess the Ticket purchaser a fee (the "Auction Fee") for each Ticket sold via a Ticketmaster online auction in an amount equal to 10% of the Auction Lift plus a credit card fee in the amount of 2.9% of the Auction Lift (plus applicable taxes). Such Auction Fee and credit card fee shall be deducted as an Inside Charge from the Auction Lift otherwise payable to Principal hereunder.

4. **Compensation to Principal.**

(a) **Principal's Royalties**: Principal shall be entitled to receive Ticket sales royalties (collectively, "Royalties") from Ticketmaster with respect to (i) each Convenience Charge, (ii)each Processing Fee, (iii) each ticketFast Delivery Fee, and (iv) each Mailing Fee; all to the extent received (and not refunded) by Ticketmaster. The amount of the Royalties shall be as set forth below:

Type of Royalty	**Royalties Amount**
Convenience Charge:	45% of the Convenience Charge
	46.5% of the Convenience Charge+
0-110,000 Tickets per Contract Year	48% of the Convenience Charge+
110,001 – 135,000 Tickets per Contract Year	
135,001 Tickets and above per Contract Year	+ Once the applicable Ticket threshold is met for such year, the higher sharing percentage does not apply incrementally, but rather it

	applies back to the first ticket sold for such year.
Processing Fee	$1.00 per order
ticketFast Delivery Fee*	$0.75 per order
Mailing Fee**	$1.00 per order
Parking Pass Convenience Charge	$0.50 per parking pass

* In the event the ticketFast Delivery Fee is eliminated by Ticketmaster at any time during the Term of the Agreement, Principal shall no longer be entitled to such ticketFast Delivery Fee Royalty; provided, however, Ticketmaster shall provide an alternative form of compensation to Principal to reasonably offset the loss of such Royalty.

** In the event the Mailing Fee is eliminated by Ticketmaster at any time during the Term of the Agreement, Principal shall no longer be entitled to such Mailing Fee Royalty; provided, however, Ticketmaster shall provide an alternative form of compensation to Principal to reasonably offset the loss of such Royalty.

With respect to any Cancelled Attractions, Principal shall only be entitled to its Royalties on the Convenience Charge on the above described types of Tickets in the event that Ticketmaster retains the Convenience Charge for the sale of Tickets to such Attraction. The Royalties shall be payable weekly, along with the next settlement after the end of such period conducted under Section 13(a) below. Principal may use the Royalties in such manner as it determines in its sole discretion.

(b) __Advertising Allowance__: Ticketmaster shall provide Principal with an annual advertising allowance (the "Advertising Allowance") to advertise and promote Ticketmaster as the source for advance Tickets to Attractions at the Facility in an amount equal to Eighty Thousand Dollars ($80,000) calculated at the rate of $6,666.67 per month during each Contract Year of the Term of the Agreement. The Advertising Allowance shall be paid to Principal within thirty (30) days following the execution of this Agreement and shall be paid to Principal within thirty (30) days of the beginning of each Contract Year thereafter, starting with the second Contract Year, during the Term of this Agreement. In the event that less than 135,000 Tickets are sold per Contract Year due to a reduction in the number or quality of Attractions presented by Principal in any Contract Year (an "Attractions Termination") or in the event that the Agreement terminates before the conclusion of any applicable Contract Year for any reason other than an uncured Event of Default by Ticketmaster, then Principal shall return to Ticketmaster, within fourteen (14) days of such termination or Attractions Termination, an amount equal to $6,666.67 for each remaining month of the applicable Contract Year. Any return of any portion of the Advertising Allowance by Principal shall be by wire transfer or certified check. Each of the advertisements to be placed using the Advertising Allowance shall include the Naming Rights Sponsor's Website address (www.timesunion.com), the TM.com Website address, Ticketmaster logo, Outlets and charge by phone number as well as the American Express logo and the following wording under Ticketmaster's charge by phone number: "The American Express Card - The Preferred Card of Ticketmaster," or any other sponsor's name, logo or other representation as solely designated by Ticketmaster. In the event Ticketmaster designates a sponsor other than American Express, each of the advertisements to be placed using the Advertising Allowance shall include the TM.com Website address, Ticketmaster logo, Outlets and charge by phone number as well as such other sponsor's logo and the wording designated by Ticketmaster under Ticketmaster's charge by phone number.

(c) **Signing Bonus**: Within thirty (30) days of the full execution of the Agreement, Ticketmaster shall pay Principal a signing bonus ("Signing Bonus") in the amount of Fifty Thousand Dollars ($50,000), calculated at the rate of $10,000 per each Contract Year of the Term of the Agreement. Ticketmaster's agreement to provide the Signing Bonus to Principal is based upon Ticketmaster's exclusive rights to sell Tickets for Attractions during the Term and is contingent upon and subject to certain terms as described below. In the event of an Attractions Termination or in the event that the Agreement terminates before September 22, 2015 for any reason other than an uncured Event of Default by Ticketmaster, then Principal shall return to Ticketmaster, within fourteen (14) days of such termination or Attractions Termination, an amount equal to $833.33 for each remaining month of the Term. Any return of any portion of the Signing Bonus by Principal shall be by wire transfer or certified check.

(d) **Volume Incentive Payments**: In such Contract Years in which Ticketmaster sells at least 200,000 Tickets for Attractions (not including parking passes) (the "Minimum Volume") via Outlets, Internet Sales and Telephone Sales for which Ticketmaster receives (and does not refund) a Convenience Charge, then Ticketmaster shall pay Principal the amounts set forth below for each such Ticket sold above the Minimum Volume ("Volume Incentive Payment"):

Volume of Tickets (not including parking passes)	**Amount of Volume Incentive Payment (per Ticket)**
200,000 Tickets to 224,999 Tickets	$0.25 per Ticket
225,000 Tickets to 249,999 Tickets	$0.35 per Ticket
250,000 Tickets to 274,999 Tickets	$0.45 per Ticket
275,000 Tickets to 299,999 Tickets	$0.55 per Ticket
300,000 Tickets to 324,999 Tickets	$0.65 per Ticket
325,000 Tickets and above	$0.75 per Ticket

Any Volume Incentive Payment due Principal shall be paid to Principal within thirty (30) days of the conclusion of the applicable Contract Year.

5. **Ticket Sales; Exclusivity.**

(a) **Grant of Rights**: Principal hereby grants to Ticketmaster, and Ticketmaster accepts from Principal, the exclusive right during the Term of this Agreement to sell on behalf of Principal all Tickets for the Sellable Capacity for every Attraction, via any and all means and methods, including, without limitation, on the Internet, by telephone, computer, IVR, television, clubs, or outlets, or by any other means of distribution. Principal shall ensure that the entire Sellable Capacity for every Attraction shall be made available for distribution on the TM System in accordance with the terms and conditions set forth in this Agreement. Notwithstanding anything to the contrary contained herein, following written confirmation to Ticketmaster from the current ticketing services company at the Facility in form reasonably acceptable to Ticketmaster, upon the request of the Albany Devils and Siena College basketball (two long term tenants at the Facility), Ticketmaster shall, prior to the Effective Date, build the seating inventory for such tenants' Attractions and be prepared to sell such Tickets prior to the Effective Date, and to collect and share with Principal the fees related thereto as provided in this Agreement. The parties further acknowledge that (i) the grant of rights hereunder includes Ticketmaster's processing through the TM System of parking passes at the Facility's parking garage that is owned and operated by the Principal, (ii) Principal consents under Section 3 hereof to the imposition of the charges described therein on all such parking passes processed through the TM System, (iii) the parties will share the Royalties in respect of the sales of such parking passes via the TM System as provided in this Agreement, and (iv) parking passes processed through the TM System will be included in the provisions of Section 13 hereof.

(b) **Sales by Principal**: Subject to the terms of this Section 5 and notwithstanding the above, Principal retains the right to: (i) sell single Tickets from the Facility Box Office to persons physically present at the Facility Box Office; (ii) sell Season/Contract Tickets; (iii) conduct Group Sales of Tickets; (iv) provide a reasonable number of House Seats for any Attraction to House Seat Recipients; (v) provide Tickets to legitimate fan clubs in accordance with Ticketmaster's fan club policies (a copy of which has been provided to Principal) or as the parties may otherwise reasonably agree, and (vi) sell Tickets in accordance with past practices to Attractions appealing to limited segments of the population which are not promoted or marketed through normal ticket distribution channels such as trade shows, certain charitable functions, and certain gospel and Christian Attractions.

(c) **No Third Party Systems or Services**: Notwithstanding the above, Principal shall not directly or indirectly from the Facility Box Office or otherwise (i) use, sponsor, promote, authorize or permit the use of any Internet website other than the TM.com Website or any equipment or services of any computerized or Internet ticketing company or system other than the TM System (any such website, equipment, services, company or system, a "Third Party Provider") in connection with the sale, resale or issuance of Tickets; or (ii) sell or issue Tickets to any person who Principal believes (or has a reasonable basis to believe) will sell or issue such Tickets using a Third Party Provider. In addition, Principal shall not directly or indirectly authorize or permit any Tickets for any Attraction which are retained, purchased, controlled or otherwise acquired or obtained by any House Seat Recipient or any of its affiliates to be sold or issued in any way and for any purpose using a Third Party Provider. Principal will be deemed to have a reasonable basis to believe that a person will sell or issue Tickets using a Third Party Provider if Principal is aware that such person is currently doing so with respect to tickets for current attractions or has actually done so in the past with respect to any of Principal's tickets. Notwithstanding the foregoing, for those national touring events where Ticketmaster, Principal and the artist mutually agree in writing on a tour-wide fan club allotment, Principal shall be permitted to issue Tickets to a third party ticketing system or fulfillment house pursuant to the artist's direction for the distribution and sale of tickets to such fan club members.

(d) **No Minimum Sales**: It is agreed and understood that neither Ticketmaster nor Principal guarantees or will guarantee that any minimum or fixed number of Tickets will be sold through the TM System for any Attraction.

(e) **New Methods of Sales**: The parties agree that the exclusive ticketing rights granted to Ticketmaster herein are to include all future methods of and technologies for primary Ticket distribution which may be developed from time to time during the Term of this Agreement, including, without limitation, new ways of selling, distributing and accepting Tickets.

6. **Premium Ticketmaster Products.**

(a) **Definitions; Products to be Provided**: Ticketmaster shall provide Principal with each of the premium Ticketmaster products indicated with an X in the box next to the respective definition set forth below upon the terms and conditions set forth herein.

☒ "Ticketmaster AccountManager" means the Ticketmaster AccountManager software and hosting services that allow Principal's Subscribers to manage their season ticket accounts.

☒ "Ticketmaster Archtics" means Ticketmaster's software that delivers extensive season, miniplan and single ticket functionality in connection with the Ticketmaster host system and distribution channels for inventory control by Ticketmaster and Principal.

☒ "Ticketmaster GroupManager" means the Ticketmaster GroupManager software and hosting services that allow Principal and Principal's customers to manage their group ticket experience. Group members may purchase or receive Tickets via an email invitation or via a link on an entity's intranet. Ticketmaster GroupManager also allows group rsvp tracking and individual Ticket pick-up via *ticketFast*™.

☒ "Ticketmaster MailManager" means the Ticketmaster MailManager software and hosting services that allows Principal to build a permissible marketing database and supports targeted, trackable direct email communication to Principal's customers.

(b) **License and Maintenance Fees**:

(i) Ticketmaster shall provide Principal with the Products for the license fees and maintenance fees set forth below:

Products	**License Fees**	**Annual Maintenance Fees**
Ticketmaster Archtics	Contract Year 1: $20,000 - WAIVED Contract Years 2-5: $10,000 per year - WAIVED	N/A
Ticketmaster Archtics – Hosting Fee	$15,000 per year, commencing in Contract Year 1	N/A
Ticketmaster Archtics – Sybase Adaptive Server Anywhere	Waived because bundled with annual Archtics License and Maintenance Fee	N/A

Products	License Fees	Annual Maintenance Fees
Ticketmaster AccountManager	For the first AccountManager site: WAIVED For up to two (2) additional AccountManager sites: $10,000.00 per site per Contract Year*	N/A
Ticketmaster GroupManager	Waived because bundled with Ticketmaster AccountManager	N/A
Ticketmaster MailManager	Waived Base and supplemental annual fees described below**	N/A

* The parties acknowledge that the two long-term tenants currently at the Facility are anticipated to view their respective Ticket information through Principal's version of Ticketmaster Archtics (which shall result in no additional fees or charges for such usage of Archtics) and not through their own additional Ticketmaster AccountManager sites, the development of which would be subject to the additional license fee(s) set forth above.

** Principal shall also pay to Ticketmaster an annual supplemental license fee for Ticketmaster MailManager in the amounts determined in accordance with the plan selected by Principal in the schedule below (as indicated with an X).

Plan Selected By Principal	Base License Fee Per Contract Year	Supplemental License Fee Per Contract Year
X	Waived	Unlimited Usage

(ii) Payment of one-time and first annual license fees shall be due and payable within thirty (30) days after the full execution of this Agreement. Thereafter, installments of annual license fees (other than supplemental license fees for Ticketmaster MailManager) and annual maintenance fees shall be invoiced and payable on the first day of each Contract Year during the Term. Ticketmaster shall deliver to Principal an invoice for the amount of the supplemental license fee for Ticketmaster MailManager then due and payable, if any, from time to time as Ticketmaster determines, but not less frequently than on an annual basis. Unless otherwise provided in writing, all invoices are payable within thirty (30) days of the date thereon and in U.S. dollars. If any sums payable to Ticketmaster under this Agreement are not paid within thirty (30) days of the date of the invoice, Ticketmaster shall charge interest at the rate of 1.5% per month or the maximum legal rate, if lower. The receipt or request for payment on such charges on overdue accounts will not prejudice any of Ticketmaster's other rights in respect of Principal's failure to pay on the due dates.

(c) **Transaction Fees**: The initial Transaction Fees associated with the use of the transaction capabilities of the Products are set forth below. Ticketmaster shall be entitled to assess and receive Transaction Fees with respect to the Products transactions. Except for those Transaction Fees that are expressly specified in this Agreement to be charged to the purchaser of the Ticket (including without limitation Subscribers) (e.g., Convenience Charges), Ticketmaster, at its option, may deduct the Transaction Fees from the amounts owed to Principal under this Agreement or may invoice Principal for such Transaction Fees. Principal, at its option, may pay such Transaction Fees related to Products transactions or may charge Subscriber or others (if applicable) for such Transaction Fees. In the event Principal elects to charge Subscribers or others (if applicable) an amount for the Products transactions in addition to the base Transaction Fees set forth below, the additional amount charged by Principal up to 100% of the base Transaction Fee may be retained by Principal and any excess amounts charged (i.e., in excess of double the amount of the base Transaction Fee) shall then be divided equally between Principal and Ticketmaster. Any portion of the Transaction Fees paid to Principal from Transaction Fees that Ticketmaster receives (and does not refund) shall be paid to Principal as royalties ("Transaction Fee Royalties").

Type of Transaction Fee	**Amount of Transaction Fee**	
Ticketmaster AccountManager Transactions		
New Season/Contract Ticket sales	$2.00 per seat	
MiniPlan Ticket sales	Same Seat MiniPlans with 4 or more Attractions:	$2.00 per seat
	Different Seat MiniPlans with 6 or more Attractions:	$2.00 per seat
	Same Seat MiniPlans with 2 to 3 Attractions:	The Convenience Charge set forth in Section 3(b) less any Convenience Charge Royalties due to Principal per seat
	Different Seat MiniPlans with 2 to 5 Attractions (available only at playoffs):	The Convenience Charge set forth in Section 3(b) less any Convenience Charge Royalties due to Principal per seat
Suite additionals	$2.00 per Ticket	
Right of first refusal to purchase Tickets	$2.00 per Ticket	
Per invoice processing	$1.00 per payment processed	
Ticket Forwarding Fee	$1.95 per Ticket	

Type of Transaction Fee	Amount of Transaction Fee
Internal Ticket Forwarding	Paid House Seats Tickets: reasonable number of Tickets per Attraction, up to a maximum of 5,000 Tickets per Contract Year at Ticketmaster's *ticketFast*™ fee (currently $2.50 per order) Complimentary House Seats Tickets: reasonable number of Tickets per Attraction at Ticketmaster's *ticketFast*™ fee (currently $2.50 per order)
Single Ticket sales to Subscribers	The Convenience Charge for such Tickets set forth in Section 3(b) hereof less any Royalties due to Principal in connection with such Tickets
Ticketmaster GroupManager Transactions	
Group Sales	$1.00 per Ticket
Corporate Group Sales	Tickets for team sports events: $1.00 per Ticket

Notwithstanding the foregoing, complimentary suite Tickets will be forwarded to the suite holders at no cost to Principal or the suite holder, and the suite holder may forward those Tickets to their clients at no cost. In addition, Principal may forward complimentary single Tickets to official sponsors of the Facility at no charge; provided, that any subsequent forwarding of such Tickets by the applicable sponsors shall be subject to the Ticket Forwarding Fee above.

(d) **Credit Card Charges for Products Transactions**: With respect to Products transactions processed by Ticketmaster, Ticketmaster agrees to absorb the credit card company charge with respect to the portion of the Transaction Fees payable to Ticketmaster, and Principal agrees to absorb the credit card company charge with respect to all other proceeds from Products transactions in an amount equal to 2.285% of such proceeds, which percentage rate may be deducted from amounts owed to Principal pursuant to this Agreement or invoiced by Ticketmaster as a Transaction Fee, and any chargebacks related thereto. Such percentage rate is subject to automatic increase due to increase to the interbank rates imposed on Ticketmaster.

7. **License and Use of Hardware and Software.**

(a) **License of Hardware and Software**: Ticketmaster hereby grants Principal a non-exclusive, non-transferable license to use the executable code and any associated online documentation and instruction manuals of the Software and a license to use the Hardware (collectively, the "License") in exchange for the fees and compensation set forth herein. Principal shall permit Ticketmaster, at Ticketmaster's sole discretion and upon reasonable written notice, the right at a reasonable time to inspect, at Ticketmaster's expense, Principal's pertinent sites and equipment (including any existing LAN or other network user monitor device) for the purpose of determining compliance with the terms of the License granted hereunder.

(b) **Use of Hardware and Software**: The Hardware and Software and all materials related to such Hardware and Software may only be used by Principal in connection with systems used, operated and owned by Ticketmaster, and only for the purposes stated in this Agreement, and may not be utilized (i) with any Third Party Provider or (ii) by or for any other person or entity. Principal shall comply in all material respects with and conform to all federal, state, county, municipal and other laws, ordinances and regulations in any way relating to the possession, use or maintenance of the Hardware. Principal hereby agrees: (i) not to permit copying or reproduction of the Software in any manner, including without limitation, use in a sharing arrangement or transmission over the Internet or over e-mail and similar electronic transmission; (ii) not to disassemble, re-manufacture, repair, re-configure, enhance, upgrade, modify, translate, adapt, create derivative works, decompile or reverse engineer the Hardware or Software in any way nor merge them into any other program for any purpose; (iii) not to transfer, license or sub-license, assign, rent, sell, grant, publish, disclose, display, dispose or otherwise make available the Hardware or Software, or any rights therein or copies or derivatives thereof, including other templates or working systems; (iv) not to delete, remove, change or otherwise alter any trademarks, copyright notices or other proprietary marks in or on the Hardware or Software, or any copies, modifications or partial copies thereof; (v) not to "hack," or attempt to "hack," any of the Software, the servers on which the Software is hosted or any other portion of the Ticketmaster network, or otherwise attempt to circumvent, or navigate outside of, the borders of such Software servers in any manner whatsoever; (vi) not to use the Hardware or Software in conjunction with any other ticket distribution company and/or software other than Ticketmaster's software or products; and (vii) not to perform any SQL database operations other than "SELECT" for any system production tables (i.e., tables starting with dba.t_<wildcard>) from any non-Archtics interface to the database (e.g., ISQL, Access, Crystal Reports, etc.). Neither Principal, nor its employees, agents, servants or representatives, shall alter, modify, copy or add to the Software without the prior written consent of Ticketmaster; and (viii) while accessing Ticketmaster MailManager, not to download any content over the Internet or otherwise access any portion of the Internet, except as may be strictly necessary to conduct e-mail campaigns for Principal in connection with Principal's use of Ticketmaster MailManager and only to the extent that Principal has obtained the right and authority to download, access and otherwise use such content; and (ix) use Ticketmaster MailManager in violation of applicable laws, including, but not limited to, federal, state or other laws applicable to commercial emails. Principal may make a single copy of Archtics only to be used for archival or backup purposes; **COPYING FOR ANY OTHER PURPOSE IS PROHIBITED.**

(c) **New Versions of Software**: Ticketmaster shall timely provide to Principal, from time to time, all upgrades or enhancements to the current version of the Software, and in connection therewith, it will issue copies of the upgraded or enhanced versions of the Software to Principal for no additional fee. The provision of new releases of the Software by Ticketmaster shall be subject to the conditions, limitations and restrictions of this Agreement.

(d) **New Functionalities or New Hardware**: Ticketmaster reserves the right to levy additional reasonable charges for new functionalities added to the Software that are not included in new versions of such Software or for upgraded Hardware, in either case which are requested by Principal. Ticketmaster reserves the right to determine whether requests by Principal for new options for or enhancements to the Software shall be incorporated in new versions of the Software or instead considered new functionalities.

(e) **Passwords**: Principal agrees that use of the Software by Principal shall be restricted to a reasonable number of Principal's personnel having passwords in the event that Ticketmaster assigns such passwords. Such passwords shall not be transferable without the written permission of Ticketmaster, which permission shall not be unreasonably delayed or withheld. Upon Ticketmaster's reasonable request, Principal (i) shall identify, as the case may be, the users (by name, position and site address), which use or view the Software or from where the Software is used and (ii) shall provide to Ticketmaster access to any database which records access to the Software.

(f) **Ticket Forwarding**: Principal shall notify all Subscribers that Subscribers may not utilize Ticket Forwarding in connection with any third party ticket transactions, such as forwarding to ticket brokers or any other Internet sites that utilize forwarding in connection with commercial applications. Principal shall notify Ticketmaster immediately if it becomes aware of any such activity; and Ticketmaster reserves the right to suspend any Subscriber from using the Software for any violations of the above or for violations of any other rules and regulations reasonably adopted by Ticketmaster from time to time.

(g) **Principal's Website/Interface Page**: Beginning on or shortly after the execution of this Agreement, and subject to the completion of the installation of Archtics no later than the Effective Date, Ticketmaster will develop the Interface Page that will enable Principal's Subscribers to access their account information and conduct "real-time" transactions by linking to the Interface Page from the Principal's Website. The Interface Page may contain a short, related textual description of AccountManager features and shall contain Ticketmaster's designated wording and graphic depiction thereof, currently "by Ticketmaster."

(h) **GroupManager Restrictions**: All Group Sales must comply with Ticketmaster's current Group Sales policies. In the event that Ticketmaster determines that a Group Sale is not a valid Group Sale, Ticketmaster shall have the right to assess against Principal the amount of fees that Ticketmaster would otherwise have been entitled to assess under this Agreement with respect to any such Tickets had they been purchased through Ticketmaster as single Tickets, and not from Principal as a Group Sale.

(i) **Hosting**: During the Term, Ticketmaster shall host the Software and provide and maintain the Hosted Platform on which the Software will be installed and run, including provision of the physical environment including physical security, HVAC and power for the required server hardware for the Hosted Platform and the Software. Ticketmaster will also provide access via certain Internet connectivity, by being responsible for network operation and availability from the public Internet up to the termination cables at the network interface card on the server hardware for the Hosted Platform. Ticketmaster will not be responsible for power at the Facility or Principal's connectivity to the Internet.

8. **Ticketmaster's Services**.

(a) **Installation; Line Costs**: Following the earlier of the Effective Date or the execution of this Agreement, and subject to Principal's obligations below, Ticketmaster shall proceed with due diligence to install at its own cost and expense the Hardware and to provide Principal with access to the Software. Such installation shall be performed in a good and workmanlike manner. Principal will provide connectivity and interfacing that satisfy Ticketmaster's minimum system requirements. Ticketmaster shall have no responsibility for any internal wiring or cabling (e.g., electrical, data lines, etc.) at the Facility, Principal's administrative office or Principal's pertinent sites necessary for the proper functioning of the TM System. Principal will make its technical personnel available to meet with Ticketmaster personnel to discuss the installation of the Hardware and Software. The cost of all telephone line connections between the central computer facility and the Facility, and all monthly telephone line costs with respect to the operation of the TM System between the Facility and the central computer facility, shall be borne solely by Ticketmaster.

(b) **Telephone Sales**: Ticketmaster shall provide telephone Ticket sales services on behalf of Principal with respect to Attractions and, in that regard, shall receive telephone calls for Ticket sales Monday through Sunday, except on Christmas Day. Such telephone service will be adequately staffed to perform ongoing licensed user assistance with respect to such Ticket sales.

(c) **Internet Sales**: Following the earlier of the Effective Date or the execution of this Agreement, Ticketmaster shall proceed with due diligence to create pages within the applicable version of the TM.com Website to present information with respect to Tickets for Attractions to facilitate Internet Sales to such Attractions. Such pages shall be designed in accordance with the look and feel of the TM.com Website, as such design may change from time to time. Ticketmaster shall operate one or more versions of the TM.com Website with respect to the sale of Tickets to Attractions or a successor website on the World Wide Web or any successor thereto every day of the year, excepting such reasonable down time as may be necessary or appropriate for website maintenance and updating for the purpose of, among other things, sales of Tickets to Attractions.

(d) **Attraction Set-Up**: In order to effectively utilize Ticketmaster's distribution technologies, within a reasonable time before (but in no event less than the time period described below) the scheduled on-sale date of Tickets for each Attraction (the "On-Sale Date"), Principal shall furnish Ticketmaster with all necessary information with respect to the Attraction, including, without limitation, seating layout of the Facility, Ticket structure, discounts permissible, Attraction Taxes, Ticket header information, color logos, entry information, vision and hearing information, wheelchair and other accessible seating information and such other information as is necessary for the proper sale of Tickets at the Facility Box Office, at all Outlets, by Internet Sales and by Telephone Sales (collectively, the "Set-Up Information"). The parties intend that all accessible seating Tickets that are available for sale to persons desiring accessible seating shall be made available for sale on the TM System. The parties acknowledge that in certain instances the sale of Tickets to persons desiring accessible seating may be better handled by the Facility Box Office and the parties will work together to accomplish such objective as needed. Principal must provide the Set-Up Information to Ticketmaster at least five (5) business days prior to the On-Sale Date for new Attractions that do not utilize seating charts then existing in the TM System. Principal must provide the Set-Up Information to Ticketmaster at least two (2) business days prior to the On-Sale Date for new Attractions that utilize seating charts then existing in the TM System. Notwithstanding anything contained herein to the contrary, Ticketmaster shall have no responsibility and Principal shall indemnify and hold Ticketmaster harmless from and against any and all liabilities, claims, expenses (including court costs and reasonable attorneys' fees) and causes of action directly resulting from the inaccuracy of any Set-Up Information furnished by Principal pursuant hereto.

(e) **Ticket Stock**: Principal shall be responsible for the security of Ticket stock in its possession, and the risk of loss of Ticket stock shall shift to Principal upon the delivery thereof to Principal or Principal's authorized representative, agent or employee. In addition, Ticketmaster shall be responsible for the security of Ticket stock in its possession and the risk of loss related thereto or unauthorized dissemination thereof.

(f) **Supplies**: Nondurable operational supplies which are used at the Facility in connection with the operation of the Hardware and Software, including, without limitation, line printer paper, printer toner and ribbons, shall be paid for by Principal, and Principal shall be responsible for maintaining adequate supplies thereof to assure continuous operations at the Facility.

(g) **Ticketmaster MailManager**:

(i) General Services. Ticketmaster shall (x) configure Ticketmaster MailManager such that it will function for Principal and (y) provide Principal with reasonable orientation, training and other assistance in connection with Principal's use of Ticketmaster MailManager with respect to Principal's first email campaign utilizing Ticketmaster MailManager. Additionally, Ticketmaster shall monitor Principal's use of Ticketmaster MailManager and maintain records of all Delivered E-Mails sent by Principal, which records Principal shall have the right to access via the Internet.

(ii) Purchaser Database. Subject to applicable laws, Ticketmaster will populate the database related to Principal's version of Ticketmaster MailManager with personally identifiable information with regard to persons who actually purchased Tickets through Ticketmaster (via Telephone Sales, Internet Sales and, if Ticketmaster commences collecting such data on behalf of its clients generally, then also Outlet Sales) to attend an Attraction. Principal shall solely own any data it independently collects on its websites and even if Principal adds, or asks Ticketmaster to add, such data to the database related to Principal's version of Ticketmaster MailManager.

(h) **Outlet Coverage**: In the event of a significant loss in the number of Walmart retail outlets in the Albany area during the Term of the Agreement, Ticketmaster agrees to use commercially reasonable efforts to replace such lost Walmart retail outlets with alternative retail outlets; provided such distribution method remains a commercially viable and relevant channel for distributing Tickets.

9. **Maintenance and Support of Software and Hardware.**

(a) **Hardware and Software Maintenance and Support**: Ticketmaster shall provide maintenance, repair and support of the Hardware and Software at the Facility for functions in connection with the sale of Tickets to Attractions at no additional cost to Principal, provided that such maintenance, repair or support is not necessitated by the negligence or willful misconduct of Principal, its employees, agents or representatives. Ticketmaster will not be obligated to continue to provide maintenance with respect to any version of any particular Software hosted by Principal for more than one year after a release by Ticketmaster of an upgraded version of the same Software.

(b) **Notification by Principal**: In the event of any breakdown or malfunction in the operation of the Hardware, or difficulties encountered in connection with access to the Software, Principal agrees to promptly notify Ticketmaster of any such breakdown, malfunction or difficulty to assist Ticketmaster in performing its obligations hereunder.

(c) **Central Computer Facility**: Ticketmaster shall, at its sole expense, maintain one or more central computer facility(ies) at such location(s) as it shall deem necessary for the operation of the TM System. Ticketmaster represents and warrants that adequate support personnel on duty at the central computer facility will be available to meet the reasonably anticipated service needs of Principal from time to time. In the event of any emergency, Ticketmaster further agrees to respond to such emergency as quickly as possible to provide Principal with repair services. Support services will be provided, on a return call basis, during Ticketmaster's normal business hours by personnel qualified to answer telephone inquiries by Principal seeking advice on questions and problems. Non-emergency calls made at the end of the day, which require support services that would keep staff beyond normal working hours, will be deferred to the following business day. Pager support will be provided for off-hour critical system emergencies. Notwithstanding the foregoing, Ticketmaster shall, at its sole expense, maintain appropriate system back-up and redundance for the TM System in order to avoid, as much as reasonably possible, and to minimize the length of, interruptions in the operation of the TM System.

(d) **Access to Principal's Equipment and Data**: In order to correctly diagnose faults in the equipment and data and otherwise to determine compliance with the terms of this Agreement, Principal will provide Ticketmaster 24 hour remote electronic access to Principal's installation, pertinent sites, equipment (including any existing LAN or other network user monitor device) and user data. Failure to provide such access may prohibit effective action by Ticketmaster and render Ticketmaster unable to proceed, and in such circumstances, Ticketmaster shall be under no liability for failure to perform its obligations hereunder.

(e) **Performance of Services**. In connection with performing its services under this Agreement, Ticketmaster covenants and agrees that (i) the Set-Up Information provided to Ticketmaster by Principal will be correctly input into the TM System, (ii) it will perform its services hereunder in accordance with all applicable laws and regulations, and (iii) it will maintain sufficient equipment and personnel necessary to handle the sale of Tickets for Attractions through Outlets, Telephone Sales and Internet Sales in a timely and efficient manner. In addition, without limiting the obligations of Ticketmaster under this Agreement (including without limitation this subparagraph (e)), it shall be an Event of Default by Ticketmaster under this Agreement if the TM System is unable to process Ticket sales for a period of twenty-four (24) consecutive hours or for a period of forty-eight (48) hours during any rolling thirty (30) day period, except to the extent such failure to process Ticket sales is caused in whole or part from the acts or omissions of Principal or any third parties not under Ticketmaster's reasonable control.

(f) **Additional Archtics Services**: With respect to initial implementation of Archtics, Ticketmaster shall also provide, at no additional cost to Principal, (i) on-site support from Ticketmaster's national or regional personnel, (ii) unique Archtics customization (e.g., diagrams, invoices, other executables, etc.), (iii) custom reporting, and (iv) customized on-line assistance (the services described in clauses (ii) through (iv) are referred to herein as "Customization Services".) Generally two hours of Customization Services each week are included in the annual maintenance fees of Archtics set forth in Section 6. Customization Services that far exceed this level of support shall be charged to Principal in accordance with Ticketmaster's standard rates; provided that Ticketmaster shall furnish Principal with an estimate of such costs in advance of commencing any such additional services.

10. **Training of Principal's Employees**. Principal shall staff the Facility Box Office with its employees for the proper operation of the TM System for Ticket sales made through the Facility. Ticketmaster shall train, at its expense, Principal's employees who shall be reasonably necessary for the initial staffing of the Facility Box Office and for initial operation of the TM System at the Facility. Ticketmaster shall also provide additional training at its cost to other employees of Principal to the extent such training is necessary as a consequence of changes in, or a modification of, the Hardware or Software initiated by Ticketmaster or in Ticketmaster's method of operation. To the extent of any change in personnel by Principal in connection with Facility Box Office sales requiring additional training beyond that initially contemplated hereunder, Principal agrees to absorb all of the reasonable expenses (including any and all travel expenses) thereof.

11. **Facility Box Office Will-Call Services**. At all times during the Term of this Agreement, Principal shall maintain a designated Facility Box Office location for the pick-up of Tickets purchased through Internet Sales and Telephone Sales. The pick-up location shall be open during the normal hours of operation of the Facility Box Office. Principal shall notify Ticketmaster of Principal's will-call capabilities and will-call Facility Box Office hours. Each time a Ticket purchaser picks up a Ticket at will-call, Principal shall use the will-call command function of the TM System which requires swiping the credit card used to purchase the Tickets, shall verify the identity of each person picking up Tickets at will-call via a valid photo identification (government issued) and shall follow any other Ticketmaster will-call procedures provided in advance in writing to Principal. In furtherance of the above, Ticketmaster shall provide to Principal credit card swiping devices for use by the Facility Box Office to execute such will-call command function. Principal shall not release Tickets to any customer whose identity has not been verified in accordance with the foregoing provisions.

12. **Advertising**.

(a) **Advertising on Tickets and Envelopes**: Ticketmaster shall pay for all Ticket stock for Tickets printed or sold at the Facility Box Office. Principal shall have the right to sell advertising on Ticket stock printed or sold at the Facility Box Office and Ticket envelopes to the extent such Ticket stock and envelopes are paid for by Principal. Principal shall have the right to put advertising sold by Principal (collectively, "Principal Placements") on approximately 50% of the available advertising spaces on TicketFast Tickets, provided that such Principal Placements conform to the Advertising Restrictions. Principal may change the Principal Placements on TicketFast Tickets upon sixty (60) days prior notice to Ticketmaster. Ticketmaster shall have the right to sell advertising on Ticket stock or envelopes with respect to (i) hard Tickets sold by Ticketmaster, (ii) hard Tickets sold by Principal to the extent such Ticket stock and envelopes are paid for by Ticketmaster, and (iii) ticketFast Tickets; provided that such advertising sold by Ticketmaster shall not violate any sponsorship, advertising, promotional or related agreement applicable to the Facility as indicated on Exhibit C attached hereto. Principal may update Exhibit C once each Contract Year or as Ticketmaster and Principal shall otherwise mutually agree.

(b) **Advertising Restrictions**: All Principal Placements on TicketFast Tickets are subject to the prior consent of Ticketmaster which will not be withheld provided the requirements described in this subsection (the "Advertising Restrictions") are met. First, all Principal Placements are subject to any hardware or software limitations, technical requirements and Ticketmaster's standard space and text limitations. Second, no Principal Placements can (i) relate to any products or services of Ticketmaster's competitors (e.g., ticket sellers, brokers and resellers), the competitors Ticketmaster's controlled affiliates or sister companies or the competitors of Ticketmaster's principal sponsors and advertisers (including, but not limited to its current principal sponsors, American Express and Apple), (ii) include any "prohibited" content (e.g., pornography, gambling, hard liquor) or (iii) contain any links to any of the foregoing. Third, Principal may not broker, resell, or use as barter, any of its placement rights to any third parties. Any changes to Principal Placements are subject to Ticketmaster's reasonable lead times which will vary depending on the complexity of the request.

(c) **Advertisement of Attractions**: Principal hereby grants to Ticketmaster the right, in Ticketmaster's sole discretion, to advertise, in any medium determined by Ticketmaster, including on the TM.com Website or other Ticketmaster or affiliated websites, Attractions and the availability of Tickets at the Facility Box Office, at all Outlets, and by Internet Sales and Telephone Sales and, in connection therewith, to use the name and logo of Principal, the Attraction, the Facility and all other information respecting the Attraction. Principal may, during the Term hereof, provide and place advertisements in any form of media which Principal shall desire to promote the availability of Tickets (except on websites or other media operated by, or on behalf of, third-party ticketing companies); provided, however, that in the event Principal shall place any such advertisements, it shall use its best efforts to cause Ticketmaster's name, logos, applicable TM.com Website address and charge-by-phone number to be displayed in the advertisement, as well as the address of the Facility and, if possible, the identity of the Outlets where Tickets may be purchased. For sake of clarity, in connection with any such advertising for the sale of Tickets placed by Principal (or by Ticketmaster pursuant to an advertising campaign conducted at Principal's express direction), such advertising shall also include the Website address of the Naming Rights Sponsor (which is currently www.timesunion.com). In this regard, Principal shall cause the Facility Website to deeplink to specified web page(s) within the applicable TM.com Website where ticket purchasers can begin the process of purchasing Tickets to Attractions bypassing earlier web pages shown to other ticket purchasers within the TM.com Website. Principal agrees to promote the availability of Tickets on the TM.com Website by including, at a minimum, one "above-the-fold" graphic Ticketmaster branded link to the TM.com Website on each web page featuring one or more of the Attractions on the Facility Website. Such link will include the TM.com Website graphic logo and a call to action such as "buy tickets."

(d) **Advertising Revenue**: Ticketmaster and Principal shall separately receive and retain all income derived from advertising which each is entitled to sell under subsections (a) and (b) above.

(e) **Ticketmaster Client Style Guide**: The look and feel of any and all links from Facility Website to the TM.com Website are subject to Ticketmaster's prior approval (which shall not be unreasonably withheld or delayed). Principal shall comply with all terms and conditions of Ticketmaster's Client Style Guide, as it may be updated from time to time. A current copy is available online at http://ticketmaster.com/client.

(f) **Banner Ads**: Neither Principal nor Ticketmaster will serve banner ads or other promotional ad units of any kind or allow any third party to serve any such ad units on the Interface Page, without the other party's prior consent.

13. **Accounting Procedures; Reports.**

(a) **Weekly Payments**: Ticketmaster shall collect and deposit all Ticket Receipts derived from Outlet sales, Telephone Sales and Internet Sales in an account to be maintained by Ticketmaster and shall hold the amount of such Ticket Receipts that are payable to Principal hereunder in trust for the sole benefit of Principal, the Owner and as applicable in the event of Cancelled Attractions and in accordance with Section 13(b) below, the purchasers of such Tickets. Withdrawals of the Ticket Receipts to which Principal is entitled shall be made from such account by Ticketmaster and sent to Principal on Friday (unless Friday is a holiday in which case such Ticket Receipts shall be sent the following Monday) of each week with each weekly payment to be on account of TM System Ticket sales for Attractions made by Ticketmaster during Monday through Sunday of the week preceding such payment date. Unless Ticketmaster consents to a different form of payment, all payments to Principal shall be made by ACH transfer to an account designated by Principal for the Facility. Each weekly payment shall be accompanied by a written accounting. If Ticketmaster fails to transfer the requisite payment to Principal on Friday of each week (or the following Monday if Friday is a holiday), Principal will notify Ticketmaster of such failure and Ticketmaster shall have two (2) additional business days from Ticketmaster's receipt of such notice to make such payment. If such payment is not made by such later date, then Ticketmaster shall pay Principal a late charge equal to one quarter of one percent (0.25%) of the amount of such payment that is late.

(b) **Cancelled Attractions; Refunds**: In the event that any Attraction for which Ticketmaster sold Tickets or processed transactions hereunder is cancelled, postponed, or modified (e.g., substitute acts) for any reason (each, a "Cancelled Attraction"), the Account Balance shall be held and made available for distribution by Ticketmaster to Ticket purchasers entitled to refunds for Tickets for Cancelled Attractions purchased from Ticketmaster. Notwithstanding the above, a modified Attraction will not be considered a Cancelled Attraction if the promoter does not permit refunds for such modified Attraction and if the modification does not alter the information presented on the original Ticket. For purposes of this Agreement, the term "Account Balance" shall mean the amount of funds held at any time by Ticketmaster on account of Ticket sales for all Attractions, less the amount of Ticket sales proceeds which Ticketmaster is entitled to retain hereunder. Principal authorizes Ticketmaster to refund the Ticket price at the original point of purchase (e.g., at Outlets or by Internet Sales or Telephone Sales) and to exchange Tickets pursuant to any exchange policy that may be adopted by Principal and Ticketmaster. It is agreed and understood that given Ticketmaster's engagement under this Agreement, Ticketmaster's agreement to make any refunds on behalf of Principal is subject and limited to Ticketmaster holding or receiving from Principal the full amount of funds necessary to make refunds to all Ticket purchasers properly entitled to a refund. Principal and Ticketmaster agree that Ticketmaster shall be entitled to retain the Inside Charges, Convenience Charges and Processing Fees assessable with respect to the initial sale of Tickets to Cancelled Attractions and any other fees assessable and payable to Ticketmaster although no additional compensation shall be payable to, or fee assessed by, Ticketmaster with respect to the exchange of any Tickets initially purchased from Ticketmaster. However, Ticketmaster's current policy is to refund Inside Charges and Convenience Charges with respect to Cancelled Attractions. Ticketmaster shall provide Principal with prior notice of any change to such policy during the Term of this Agreement; provided, that Ticketmaster shall indemnify Principal for any claims relating to Ticketmaster's retention of its fees in the event of refunds to consumers. Principal shall be responsible for all refunds and exchanges of Tickets initially purchased at the Facility Box Office.

(c) **Chargebacks**: Ticketmaster reserves the right to deduct from Principal's settlement, portions of any Chargebacks that Ticketmaster is assessed by its merchant bank related to Tickets sold by Ticketmaster, but printed out and picked up at the will-call window of the Facility Box Office for up to twelve (12) months after the occurrence or cancellation of an Attraction if Principal does not follow the will-call procedures required by Section 11 of this Agreement. Ticketmaster shall be responsible for any other Chargebacks it is assessed by its merchant bank; provided, however, that Principal shall be responsible for any Chargebacks resulting from its negligence or misconduct or related to the Attraction as opposed to the Ticket purchase process (e.g., Chargebacks related to Ticket purchaser's dissatisfaction with the Attraction). For purposes of this Agreement, "Chargebacks" shall mean the amounts that the merchant bank is charged back by a cardholder or a card issuer under the card organization's rules (e.g., cardholder dispute, fraud, declined transaction, returned Tickets for Cancelled Attractions, etc.).

(d) **Insolvency; Deficiency Amounts; Security for Repayment**: Principal shall provide immediate written notice to Ticketmaster in the event it files any voluntary or involuntary petition under the bankruptcy or insolvency laws or upon any appointment of a receiver for all or any portion of Principal's business or the assignment of all or substantially all of the assets of Principal for the benefit of creditors (each, a "Material Financial Event"). The parties agree that this Agreement constitutes a financial accommodation by Ticketmaster to Principal as such term is utilized in 11 U.S.C. §365. If at any time, the Account Balance is not sufficient to pay for anticipated refunds or Chargebacks, Principal shall deliver the amount of such deficiency ("Deficiency Amount") to Ticketmaster no later than one (1) business day after notice by Ticketmaster to Principal. Ticketmaster shall have the right to setoff any Deficiency Amount against any amounts held by Ticketmaster on behalf of Principal. In the event of any Material Financial Event or in the event Principal has not paid any Deficiency Amount when due, Ticketmaster shall have the option to require Principal to provide additional security to Ticketmaster of a type (e.g., letter of credit, guaranty or performance bond) and in an amount as reasonably requested by Ticketmaster, which Principal shall provide to Ticketmaster within five (5) business days after Ticketmaster's request, and/or to suspend payment of Ticket Receipts in advance of the occurrence of Attractions and instead deliver Ticket Receipts to which Principal is entitled post-performance (i.e. Friday of each week with respect to Attractions that occurred Monday through Sunday of the week preceding such payment date). Ticketmaster reserves the right to require Principal to provide current financial statements of Principal pertaining only to its operations at the Facility to Ticketmaster within five (5) business days after Ticketmaster's written request.

(e) **Counterfeit Tickets**: It is agreed and understood that Ticketmaster shall not be liable to Principal for the printing and sale of counterfeit Tickets, including, without limitation, *ticketFast*™ Tickets, provided that Ticketmaster has previously taken reasonable efforts to prevent the printing of counterfeit Tickets by adopting reasonable control procedures.

14. **Taxes**.

(a) **Taxes on Hardware**. Principal shall keep the Hardware free and clear of all levies, liens and encumbrances which are caused by Principal or under Principal's control and shall promptly reimburse Ticketmaster for all license fees, registration fees, assessments, charges and taxes, whether federal, state, county, municipal or other governmental or quasi-governmental, with respect to the Hardware located at the Facility, including, without limitation, use, excise and property taxes, and penalties and interest with respect thereto, except and excluding, however, any taxes based on or measured solely by Ticketmaster's net income.

(b) **Taxes on License Fees and Maintenance Fees**. The license fees and maintenance fees set forth in Section 6(b) of this Agreement are exclusive of any sales, use, value added, excise or other taxes, and Principal shall be responsible for paying all such applicable taxes.

(c) **Attraction Taxes**. Principal shall be responsible for calculating any and all Principal Taxes, for preparing and timely filing any and all tax returns or reports required to be filed in respect of any such Principal Taxes, and for timely remitting Principal Taxes to the appropriate taxing authority. Ticketmaster will collect and turn over to Principal the amounts to which Principal is entitled as provided in Section 13. In the event that Ticketmaster is required by law to pay any Principal Taxes on behalf of Principal, Principal shall promptly reimburse Ticketmaster for any and all such Principal Taxes paid by Ticketmaster, including penalties and interest assessed with respect thereto (other than Principal Taxes, penalties and interest that Ticketmaster pays directly out of Principal's Ticket Receipts), and shall also promptly reimburse Ticketmaster for any and all expenses (including reasonable attorneys' fees) or damages that result from the failure by Principal to properly calculate and timely remit Principal Taxes assessed on all amounts received by Principal under this Agreement, to timely file all related returns or reports, or to timely reimburse Ticketmaster for any and all such Principal Taxes, interest and penalties as provided above. Ticketmaster shall be responsible for calculating any and all Ticketmaster Taxes, for preparing and timely filing any and all tax returns or reports required to be filed in respect of any such Ticketmaster Taxes, and for timely remitting such Ticketmaster Taxes to the appropriate taxing authority.

(d) **Principal's Taxpayer ID Number**. Principal certifies that Principal's federal taxpayer identification number (FEIN or SSN) is 23-2511871. Principal further certifies that its state taxpayer identification or registration number for the state in which the Facility is located is New York.

15. **Audit of Sales**. At all times during the Term of this Agreement, (i) Principal shall have the right at its own expense to audit Ticket sales for Attractions by Ticketmaster to assure Ticketmaster's compliance with the terms of this Agreement, and (ii) Ticketmaster shall have the right at its own expense to audit Ticket sales for Attractions made by Principal and by others (including, without limitation, the promoter and sponsor of any Attraction and the act or event itself) to assure their compliance with the terms of this Agreement.

16. **Protection of Hardware and Software.**

(a) **Loss and Damage to the Hardware**: Principal acknowledges that the Hardware will be used by Principal at the Facility, and that Ticketmaster does not own, operate or control such location. Accordingly, Principal hereby assumes and shall bear the entire risk of loss and damage to the Hardware, ordinary wear and tear excepted, whether or not insured against, once installed, unless occasioned by the negligence of Ticketmaster, from any and every cause whatsoever from the date of delivery of the Hardware to the Facility until removal thereof following termination of this Agreement. In the event of loss or damage to any Hardware that is not caused by Ticketmaster, Principal, at its sole option, shall within thirty (30) days after such loss or damage:

(i) Place the same, or replace the same with similar property, in good repair, condition and working order to the satisfaction of Ticketmaster; or

(ii) Pay Ticketmaster in cash the full replacement cost of the Hardware, and Ticketmaster, at its own cost and expense, shall promptly install new hardware to replace the lost or damaged Hardware.

(b) **Insurance of the Hardware**:

(i) Principal shall, at its own expense, provide and maintain at all times during the Term hereof insurance to protect the Hardware against loss caused by fire (with extended coverage), vandalism, malicious mischief, theft, or any other cause in an amount equal to the full replacement value of the Hardware as reasonably determined by Ticketmaster. Should Principal become unable to provide or maintain such insurance coverage, Principal shall promptly notify Ticketmaster in writing prior to the expiration of any such coverage, and, thereafter, Ticketmaster shall have the right, but shall not be obligated, to provide insurance coverage for the occurrences specified above and charge Principal the costs of such insurance coverage;

(ii) Principal shall provide, at its sole expense, comprehensive or commercial general liability and property damage insurance with minimum limits of $1,000,000 per occurrence and $2,000,000 in the aggregate for its protection and the protection of Ticketmaster; and

(iii) Except as expressly provided in clause (ii) above, all insurance provided and maintained by Principal shall be in such amounts, under such forms of policies, upon such terms, for such periods and written by such companies as Ticketmaster and Principal shall agree upon, and in all cases such insurance policies shall provide for the waiver of the insurer's right of subrogation against Principal and Ticketmaster. All policies of insurance shall name Ticketmaster as an additional insured and shall provide for at least ten (10) days' prior written notice of cancellation, non-renewal or material modification to Ticketmaster. Principal shall furnish Ticketmaster with certificates of such insurance or other evidence satisfactory to Ticketmaster as to its compliance with the provisions of this Section.

(c) **Title to the Hardware and Software**: Principal covenants and agrees that the Hardware, Software, and any deliverables or work product furnished by Ticketmaster under this Agreement are, and shall at all times be and remain, personal property which shall, at all times, remain the sole and exclusive property of Ticketmaster, and Principal shall have no right, title or interest therein or thereto except as a licensed user thereof. Principal hereby agrees that it will, whenever reasonably requested by Ticketmaster, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, agreements, instruments, and documents necessary or desirable, in form satisfactory to Ticketmaster, to protect the rights and ownership of Ticketmaster to and of the Hardware and Software, including but not limited to certificates from parties with a real property interest in the premises wherein the Hardware may be located waiving any claim with respect to the Hardware. Except as may be necessary to prevent damage to or destruction of the Hardware, Principal will not move the Hardware nor permit such Hardware to be moved without Ticketmaster's prior written consent, which consent shall not be unreasonably withheld, and shall give Ticketmaster prompt written notice of any attachment or other judicial process affecting any item of Hardware. Upon the expiration or termination of this Agreement, Principal shall return the Hardware and Software to Ticketmaster. The Hardware returned to Ticketmaster shall be in good repair, condition and working order, ordinary wear and tear resulting from proper use thereof alone excepted, and any and all licenses and other rights to the Software shall terminate with respect to Principal. Principal's obligations under this Section 16 shall survive the termination or expiration of this Agreement.

(d) **Designation of Ownership**: If, at any time during the Term hereof, Ticketmaster supplies Principal with labels, plates or other markings stating that the Hardware or Software is owned by Ticketmaster, Principal shall affix and keep the same in a prominent place on the Hardware or Software, as applicable, in recognition of Ticketmaster's ownership of the same.

17. **Insurance**. Ticketmaster, as its own expense, shall provide and maintain during the Term of this Agreement workers compensation insurance, employer's liability insurance, commercial general liability, automobile liability insurance, errors and omissions insurance, business interpretation and extra expenses insurance, and crime coverage, each in the amounts set forth in Section 15.1 of the County's RFP-2010-011 for Computerized Ticketing System (the "County's RFP"), with such terms and conditions as are reasonable given the context of its business. The insurance policies may be obtained as part of a group of insurance policies issued to Ticketmaster's corporate parent and its subsidiaries, provided, however, that such insurance may be obtained by Ticketmaster's parent company through a self-insurance program reasonably acceptable to Principal. Ticketmaster shall name each of SMG, the Owner and the then current naming rights sponsor for the Facility, which as of the date hereof is Hearst Corporation (the "Naming Rights Sponsor") as an additional insured under all such policies, except the workers compensation insurance, and all policies shall provide for at least thirty (30) days' prior written notice of cancellation, non-renewal or material modification to Principal. Ticketmaster also

agrees to a waiver of insurer's rights of subrogation against SMG and the Owner under all such policies, as applicable.

18. **Termination.**

(a) Upon an Event of Default pursuant to Exhibit A by Ticketmaster, Ticketmaster shall, without demand, forthwith pay to Principal all amounts due and owing pursuant hereto, and Principal may:

(i) require Ticketmaster, at its own cost and expense, to remove all Hardware and if applicable, all Software from the Facility and leave the Facility in a clean, proper and orderly condition; and

(ii) terminate this Agreement.

(b) Upon an Event of Default pursuant to Exhibit A by Principal, Principal shall, without demand, forthwith pay to Ticketmaster all amounts due and owing pursuant hereto, and Ticketmaster may:

(i) terminate Principal's right to access and use the TM System and take immediate possession of the Hardware and Software wherever the same may be located without demand, notice or court order; and

(ii) terminate this Agreement.

(c) No remedy referred to in this Section is intended to be exclusive, but each shall be cumulative and in addition to any other remedy herein or otherwise available at law or in equity, each and all of which are subject to the limitations contained in Section 8 of Exhibit A.

19. **Miscellaneous.**

(a) **Representatives**: During the Term of this Agreement, each party shall designate in writing an individual who will serve as its representative with respect to the resolution of disputes which may arise in connection with the administration of this Agreement. Principal initially designates Bob Belber as Principal's representative in such capacity. Ticketmaster initially designates David Shipitofsky as Ticketmaster's representative in such capacity.

(b) **Name Changes**: In the event Ticketmaster changes, revises or updates any Software or the applicable TM.com Website names or website addresses, the terms and conditions of this Agreement shall continue in full force and effect throughout the Term with the new name as a replacement, at Ticketmaster's expense, for the previous name.

(c) **Additional Documents**: Each of the parties hereto agrees to execute and deliver such additional and further documents and instruments as may be necessary or appropriate to carry out the intents and purposes of this Agreement.

(d) **<u>Entire Agreement; Interpretation</u>**. This Agreement consists of this Agreement, the Exhibits attached hereto, the County's RFP, and all materials provided by Ticketmaster in connection with its response to the County's RFP ("Ticketmaster's Response"), which RFP and response thereto is incorporated by reference herein, and all of which supersede any prior or contemporaneous oral or written agreement with respect to the subject matter hereof. If there is any conflict or inconsistency among or between the terms of this Agreement, the Exhibits hereto, the County's RFP and Ticketmaster's Response, such conflict or inconsistency shall be resolved by reference to the following priority rules: (i) <u>Exhibit A</u> has the highest priority, (ii) this Agreement has the next highest priority, (iii) the Exhibits (other than <u>Exhibit A</u>) have the next highest priority, (iv) Ticketmaster's Response has the next highest priority and the County's RFP has the lowest priority, and (v) the document with the higher priority shall govern and control any such conflict or inconsistency.

(e) **<u>MacBride Principles</u>**:

(i) Ticketmaster hereby represents that it is in compliance with the MacBride Principles of Fair Employment as set forth in Albany County Local Law No. [3] for 1993, in that Ticketmaster either (a) has no business operations in Northern Ireland or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Principles, and shall permit independent monitoring of their compliance with such principles. In the event of a violation of this stipulation, the Owner reserves all rights to take remedial measures as authorized under section 4 of Local Law No. [3] in 1993, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring Ticketmaster in default and/or seeking debarment or suspension of Ticketmaster.

(ii) In the case of a contract which must be let by competitive sealed bidding, whenever the lowest bidder has not agreed to stipulate to the conditions set forth in this Section 19(e), and another bidder who has agreed to stipulate to such conditions has submitted a bid within five percent of the lowest bid for a contract to supply goods, services or construction of comparable quality, the contracting entity shall refer the contract to the County Legislature, which shall determine whether the lowest bidder is responsible. In making such determination, the County Legislature may consider, as a factor bearing on responsibility, whether the lowest bidder discriminates in employment in Northern Ireland.

(iii) As used in this Section 19(e), the term "contract" shall not include contracts with government and non-profit organizations, contracts awarded pursuant to an emergency procurement procedure or contracts, resolutions, indentures, declarations of trust or other instruments of authorizing or relating to the authorization, issuance, award, sale or purchase or bonds, certificates of indebtedness, notes or other fiscal obligations of the County, provided that the policies of this Section 19(e) shall be considered when selecting managing underwriters in connection with such activities.

(iv) The provisions of this Section 19(e) shall not apply to contracts for which the County receive funds administered by the United States Department of Transportation, except to the extent Congress has directed that the Department of Transportation not withhold funds from states and localities that choose to implement selective purchasing policies based on agreement to comply with the MacBride Principles, or to the extent that such funds are not otherwise withheld by the Department of Transportation.

(f) **Antidiscrimination Clause**: Pursuant to Section 220-E of the NYS Labor Law, regarding provisions in contracts prohibiting discrimination on account of race, creed, color or national origin in employment of citizens upon public works, Ticketmaster agrees: (i) That in the hiring of employees for the performance of work under this Agreement or any subcontract hereunder, no contractor, subcontractor, nor any person acting on behalf of Ticketmaster or subcontractor, shall by reason of race, creed, color, disability, gender, marital status, military status, sexual orientation or national origin discriminate against any citizen of the state of New York who is qualified and available to perform the work in which the employment relates; (ii) That no contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this Agreement on account of race, creed, color, disability, gender, marital status, military status, sexual orientation or national origin; (iii) That this Agreement may be canceled or terminated by the Owner, and all monies due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this Section 19(f); and (iv) The aforesaid provisions of this Section 19(f) covering every contract for or on behalf of the County for the manufacture, sale or distribution of materials, equipment or supplies shall be limited to operations performed within the territorial limits of the state of New York.

(g) **Non Appropriations Clause**: Notwithstanding anything contained herein to the contrary, no default shall be deemed to occur in the event no funds or insufficient funds are appropriated and budgeted by or are otherwise unavailable to the Owner for payment under this Agreement. The Owner will immediately notify Ticketmaster of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to either party of any kind whatsoever, except as to those portions herein agreed upon for which funds shall have been appropriated and budgeted.

IN WITNESS WHEREOF, Ticketmaster and Principal have caused this Licensed User Agreement to be duly executed as of the date first above written.

TICKETMASTER L.L.C.,
a Delaware limited liability company

By: ______________________

Title: SVP

Date: 8/31/10

Address: 550 W. Van Buren, 13th Floor
Chicago, IL 60607
Attn: George Wood

With a copy to:

Ticketmaster L.L.C.
Address: 888 Seventh Avenue, 2nd Floor
New York, NY 10019
Attn: Executive Vice President, North East Region

and with a copy to:

Ticketmaster L.L.C.
8800 Sunset Boulevard
West Hollywood, CA 90069
Attn: General Counsel

SMG,
a Pennsylvania general partnership,
as agent for the County of Albany, New York

By: Bob Belber

Title: Gen. Mgr.

Date: 9/1/10

Address: 51 South Pearl Street
Albany, NY 12207
Attn: Bob Belber

With a copy to:

SMG
701 Market Street, Suite 4400
Philadelphia, PA 19106
Attn: Chief Financial Officer

COUNTY OF ALBANY, NEW YORK

By: ______________________

Name: Michael Perrin

Title: Deputy County Exec.

Date: 9/1/10

Address: County of Albany
112 State Street
Albany, NY 12207
Attn: County Executive

EXHIBIT A

STANDARD TERMS AND CONDITIONS

In the event that any of the provisions of this Exhibit A conflict or are inconsistent with the provisions of the Agreement to which it is attached, the applicable provision of this Exhibit A will govern.

1. **Definitions.**

(a) "Confidential Information" is defined in Section 11(a).
(b) "Event of Default" is defined in Section 10(a).
(c) "Intellectual Property" is defined in Section 2(a).
(d) "Principal's Indemnitees" is defined in Section 9(b).
(e) "Principal's Representatives" is defined in Section 9(a).
(f) "Proprietary Information" is defined in Section 3.
(g) "Purchaser Data" is defined in Section 4.
(h) "Systems" is defined in Section 7(a).
(i) "Ticketmaster's Indemnitees" is defined in Section 9(a).

2. **Intellectual Property/Limited License.**

(a) Each party shall retain all right, title and interest in and to its respective trademarks, service marks and trade names worldwide ("Intellectual Property") subject to a limited non-exclusive, non-transferable license necessary to perform this Agreement. Each party grants the other a royalty-free, non-exclusive, non-transferable license, during the Term, within the territory, to include such party's pre-approved Intellectual Property solely in connection with the promotions and marketing contemplated in this Agreement.

(b) Each party shall use the other's Intellectual Property only as provided, and shall not alter the Intellectual Property in any way, nor shall it act or permit action in any way that would impair the rights of owning party in its Intellectual Property. Each party acknowledges that its use of the other party's Intellectual Property shall not create any right, title or interest in or to such Intellectual Property. Each party shall have the right to monitor the quality of the other party's use of its Intellectual Property. Additionally, each party shall notify the other promptly in writing of any known infringement of the other's Intellectual Property. Any references to a party's Intellectual Property shall contain the appropriate trademark, copyright or other legal notice provided from time to time by owning party.

3. **Proprietary Information.** Principal acknowledges and agrees that all information, methods, formulae, techniques, processes, system and programs devised, produced or supplied by Ticketmaster in text or displayed on the computer screens when utilizing the TM System or any other information disclosed to Principal regarding the TM System, future modifications or product direction for current or future products, is confidential and proprietary (hereafter "Proprietary Information") and shall be and remain the property of Ticketmaster or its licensors. In addition to the proprietary rights described above, Principal is warned and acknowledges that Ticketmaster has invention rights, copyrights, and other intellectual property rights in the TM System and the information contained therein which prohibit copying, sale, modification and re-

manufacture of the TM System and information regarding the TM System and which will be enforced. Nothing contained in this Section 3 is deemed to apply to the Purchaser Data, which is covered in Section 4 below.

4. **Purchaser Data/Use of Opt-Outs**. Principal and Ticketmaster each has rights in the personally identifiable information with respect to persons who actually purchased tickets to Principal's Attractions through Ticketmaster by whatever means, including, but not limited to, by telephone call, outlet or via the Internet, to the extent such information is collected ("Purchaser Data"), subject to the terms hereof. Ticketmaster and Principal each takes seriously its efforts to ensure the privacy rights of ticket purchasers. Principal and Ticketmaster therefore agree to use the Purchaser Data only in compliance with all applicable laws and administrative rulings and in accordance with their own posted privacy policies. Both Ticketmaster and Principal shall each include in any email communications that such party may make based on the Purchaser Data a mechanism to provide the recipient with the right to "opt-out" from receiving further communications from such party and such party shall honor such opt-out preferences. Upon the expiration or termination of this Agreement for any reason, Ticketmaster shall provide a copy of the Purchaser Data to Principal in an electronic format that is readable by Principal.

5. **Approvals**. All materials submitted to either party for approval must be submitted in writing to the location and person(s) as indicated by such party from time to time.

6. **Representations and Warranties**.

(a) Each party represents, warrants and covenants to the other that:

(i) It is duly organized and in good standing under the laws of the State indicated as its state of organization in the first paragraph of this Agreement (to the extent such good standing is applicable to such party) and has the requisite power to enter into and perform this Agreement;

(ii) This Agreement has been duly authorized, executed and delivered on behalf of such party and constitutes the legal, valid, and binding agreement of such party, enforceable in accordance with its terms;

(iii) The entering into and performance of this Agreement will not violate any judgment, order, law, regulation or agreement applicable to such party or any provision of such party's charter or bylaws, or violate the rights of any third party, or result in any breach of, constitute a default under, or result in the creation of, any lien, charge, security interest or other encumbrance upon any assets of such party (or, in the case of Principal, result in any such encumbrance upon any aspect of the TM System), pursuant to any instrument to which such party is a party or by which it or its assets may be bound; and

(iv) It owns or controls the rights granted or licensed to the other party in this Agreement.

(b) Ticketmaster represents, warrants and covenants to Principal that:

(i) Ticketmaster owns and has title to the Hardware (if applicable) and has license rights in and to the Software;

(ii) The Hardware (if any) and Software will perform, and operation of the TM System, including all repair and service responsibilities, will be undertaken in a manner reasonably adequate for the performance of Ticketmaster's obligations under this Agreement and in accordance with any representations contained in Ticketmaster's Response; provided, however, that such warranties do not extend or become applicable with respect to any delays, stoppages or malfunctions which are caused by the acts of any third parties, or which are not under or are caused by events or causes beyond the control of Ticketmaster; and

(iii) Ticketmaster's services, if any, shall be performed by competent personnel of a professional quality consistent with generally accepted industry standards for the performance of such services so that the deliverables shall comply with functional specifications, if any, agreed upon by the parties in writing or provided in Ticketmaster's Response.

(c) Principal represents, warrants and covenants to Ticketmaster that:

(i) SMG is the sole and exclusive operator of the Facility and with the Owner has the sole and exclusive right and authority to enter into this Agreement and to schedule and present the Attractions at the Facility; and

(ii) No agreement or understanding between Principal and any third party (including, without limitation, the promoter or sponsor of any Attraction or the act or event itself) with respect to rights to sell Tickets contains or shall contain any provision inconsistent with any provision, or the purpose or intent, of this Agreement.

(d) The representations and warranties contained in this Section shall be deemed "material" as such term is used in Section 10 below, for all purposes related to this Agreement. ALL IMPLIED WARRANTIES EXISTING BY OPERATION OF LAW, INCLUDING SPECIFICALLY ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY DISCLAIMED AND NEGATED BY THE EXPRESS WARRANTIES PROVIDED IN THIS AGREEMENT.

7. **Disclaimer of Warranty.**

(a) Each party expressly disclaims any warranty that the use of its computer systems (including the TM System) or other online services (collectively, "Systems") will be uninterrupted or error free or that the specifications will meet the other party's requirements. Except for the express warranties and other provisions stated in this Agreement including, without limitation, Ticketmaster's Response, neither party makes any warranty as to its respective Systems hereunder.

(b) Except for the express warranties and other provisions stated in this Agreement including, without limitation, Ticketmaster's Response, each party's Systems are provided to the other party on an "AS-IS" basis without warranties of any kind, either express or implied, including without limitation warranties of merchantability or fitness for a particular purpose or use with respect to the Internet or use of information in connection with any Systems provided in this Agreement. Each party acknowledges that electronic communications and databases are subject to errors, tampering and break-ins. While each party agrees to take reasonable security precautions to avoid such occurrences, neither party guarantees nor warrants that such events will not take place.

8. **Limitation on Liability**. In no event shall either party be liable to the other for any indirect, consequential, exemplary, incidental, special or punitive damages, including also lost profits, lost savings, lost or destroyed data, lost ticket revenues, lost opportunity costs or any other economic loss, of any type or nature, or for events or circumstances beyond such party's reasonable control, even if such party has been advised of the possibility of such damages; provided, however, that Principal's liability shall not be limited as set forth in this Section 8 with respect to breaches by Principal of Section 5 of the Agreement. Without limiting the provisions of Section 9(e) of this Agreement, neither occasional short term interruptions of service which are not unreasonable under comparable industry standards nor interruptions of service resulting from events or circumstances beyond Ticketmaster's reasonable control shall be cause for any liability or claim against Ticketmaster hereunder, nor shall any such occasion render Ticketmaster in default under this Agreement.

9. **Indemnification**.

(a) Principal shall indemnify Ticketmaster and its parents, subsidiaries, and their officers, directors, employees and agents and their successors and assigns (collectively, for purposes of this Section, "Ticketmaster's Indemnitees") against, and hold Ticketmaster's Indemnitees harmless from, any and all claims, actions, damages, expenses (including court costs and reasonable attorneys' fees), obligations, losses, liabilities and liens, imposed on, incurred by, or asserted against Ticketmaster's Indemnitees occurring as a result of, or in connection with: (i) any Event of Default under this Agreement by Principal or any of its officers, directors, employees and agents (collectively, "Principal's Representatives"); (ii) use of the TM System (including without limitation any customization of Facility Website or the Interface Page (if applicable) and any e-mail campaigns) or possession and use of the Hardware (if any) by Principal or any of Principal's Representatives; (iii) any Attraction held or scheduled to be held at the Facility (including any injuries or deaths occurring at or in connection with any Attraction or the failure of any Attraction to occur or to occur in the manner advertised or promoted) (iv) a claim that Ticketmaster's release of the Purchaser Data to Principal violates any applicable (United States or foreign) law, rule or regulation, including without limitation Canada's Personal Information Protection and Electronic Documents Act; (v) Principal's use of the Purchaser Data; (vi) violations of laws relating to the resale of Tickets; or (vii) any email campaigns or distributions conducted by Ticketmaster on Principal's request or conducted by Principal including, without limitation, email campaigns or distributions in violation of federal, state or other laws applicable to commercial emails; except, in each case, to the extent that any such claims shall relate to Ticketmaster's negligence or willful misconduct with respect thereto.

(b) Ticketmaster shall indemnify SMG (in its own right and as agent for the Owner), the Owner, the Naming Rights Sponsor and their respective parents, subsidiaries, officers, directors, employees and agents and their successors and assigns (collectively, for purposes of this Section, "Principal's Indemnitees") against, and hold Principal's Indemnitees harmless from, any and all claims, actions, damages, expenses (including court costs and reasonable attorneys' fees), obligations, losses, liabilities and liens, imposed on, incurred by, or asserted against Principal's Indemnitees occurring as a result of, or in connection with: (i) any Event of Default under this Agreement by Ticketmaster or any of its officers, directors, employees and agents (collectively, "Ticketmaster's Representatives"); (ii) any alleged patent, trademark or copyright infringement asserted against Principal's Indemnitees with respect to Principal's use of the TM System, (iii) a claim that Ticketmaster's use of the Purchaser Data as provided herein violates any applicable (United States or foreign) law, rule or regulation, or (iv) Ticketmaster's use of the Purchaser Data; except, in each case, to the extent that any such claim shall relate to Principal's negligence or willful misconduct with respect thereto.

(c) The indemnified party must notify the other party promptly in writing of any claim hereunder, and provide, at such other party's expense, all reasonably necessary assistance, information and authority to allow the other party to control the defense and settlement of such claim.

10. **Termination.**

(a) This Agreement may be terminated by either party in the event of any material default in or material breach of the terms and conditions of this Agreement by the other party, after the other party has received written notice of default and thirty (30) days (or ten (10) days, in the case of a monetary default) to cure such default (each such occurrence, after the expiration of such cure period, shall be an "Event of Default"); or the filing of any voluntary or involuntary petition against the other party under the bankruptcy or insolvency laws of any applicable jurisdiction, which petition is not dismissed within sixty (60) days of filing, or upon any appointment of a receiver for all or any portion of the other party's business, or any assignment of all or substantially all of the assets of such other party for the benefit of creditors.

(b) This Agreement may be terminated by Ticketmaster in the event any act by Principal threatens with reasonable certainty to cause any infringement of any Ticketmaster (or Ticketmaster licensor) intellectual property or other property right, including without limitation, any copyright, license right or trade secret right, and Principal fails to refrain from so acting within ten (10) business days' written notice from Ticketmaster.

(c) Upon the effective date of any termination or expiration of this Agreement, provisions regarding ownership of intellectual property rights, representations and warranties, confidentiality, indemnification, limitation of liability, non-solicitation, jurisdiction and venue shall remain in full force and effect; each party shall immediately cease the use of the other party's Intellectual Property; and each party shall return, or at the other party's request, destroy all copies of Confidential Information, and all other property belonging to and/or received from the other party.

11. **Confidential Information.**

(a) The parties acknowledge that by reason of their relationship hereunder, they may from time to time disclose information regarding their business, products, software technology, Intellectual Property and other information (including without limitation the Proprietary Information) that is confidential and of substantial value to the other party, which value would be impaired if such information were disclosed to third parties ("Confidential Information"). The provisions of this Agreement shall be deemed to be Confidential Information.

(b) Confidential Information shall not include information that (i) is or becomes generally available to the public other than as a result of the breach of the confidentiality obligations in this Agreement by the receiving party, (ii) is or has been independently acquired or developed by the receiving party without violating any of the confidentiality obligations in this Agreement, (iii) was within the receiving party's possession prior to it being furnished to the receiving party by or on behalf of the disclosing party, (iv) is received from a source other than the disclosing party, or (v) subject to subparagraph (d) below, is required by court order to disclose to such tribunal; provided that, in the case of (iii) and (iv) above, the source of such information was not known by the receiving party to be bound by a confidentiality obligation to the disclosing party or any other party with respect to such information.

(c) Each party agrees that it will keep the Confidential Information strictly confidential and will not use in any way for its own account or the account of any third party, nor disclose to any third party, any Confidential Information revealed to it by the other party without the other party's prior written consent, except to the extent expressly permitted by this Agreement; provided, however, that the receiving party may disclose the Confidential Information, or any portion thereof, to its directors, officers, employees, legal and financial advisors, controlling persons and entities who need to know such information to perform such party's obligations under this Agreement and who agree to treat the Confidential Information in accordance with the confidential obligations in this Agreement. Each party shall use the same degree of care to avoid disclosure or use of the other party's Confidential Information as it employs with respect to its own Confidential Information of like importance and represents that it has adequate procedures to protect the secrecy of such Confidential Information including without limitation the requirement that employees have executed non-disclosure agreements which have the effect of adequately protecting Confidential Information.

(d) In the event that either party receives a request to disclose all or any part of the Confidential Information under the terms of a subpoena, document request, notice of deposition or other legal proceeding, such party agrees to notify the other pursuant to Section 19 below, within forty-eight (48) hours after receipt of such legal document, and such party agrees to cooperate with the other in any attempt to obtain a protective order.

(e) As provided in Section 18.1 of the County's RFP, the parties acknowledge that (i) the Owner is subject to the Freedom of Information Law (New York State Public Officers Law, Sections 84-90) (as the same may be amended or replace, collectively, the "NY FOIA") and (ii) the obligations of Principal under this Section 11 are in all respects subordinate to the requirements of the NY FOIA.

12. **Governing Law**. This Agreement shall be interpreted and governed by the laws of the State of New York, without reference to conflict of laws principles.

13. **Waiver of Jury Trial**. In the event the parties are required for any reason to submit any dispute hereunder to trial, the parties expressly agree to waive the right to a jury trial, because the parties hereto, all of whom are represented by counsel, believe that the complex commercial and

professional aspects of their dealing with one another make a jury determination neither desirable nor appropriate.

14. **Modification**. No modification to this Agreement, nor any waiver of any rights, shall be effective unless assented to in writing by the party to be charged and the waiver of any breach or default shall not constitute a waiver of any other right hereunder or any subsequent breach or default. A party's delay in enforcing its rights hereunder shall not be construed as a waiver of such rights or remedies.

15. **Assignment**. Without the prior written consent of Ticketmaster, Principal shall not (i) directly or indirectly assign, transfer, pledge or hypothecate its rights or obligations in this Agreement or any interest therein; or (ii) permit the Hardware (if any) or any part thereof to be used, or access to the Software or any part thereof to be had, by anyone other than Principal or Principal's authorized employees; provided, however, that the foregoing shall not preclude (A) SMG assigning its rights and obligations hereunder to a successor management company selected by the Owner in connection with the expiration or termination of SMG's management agreement at the Facility or (B) an assignment of right and obligations hereunder by SMG to any parent, subsidiary, affiliate or successor in interest (including, without limitation, a successor by virtue of an acquisition) that is not an entity whose primary business is the sale of ticket or ticketing software or a competitor of Ticketmaster, in which case no such consent shall be required. Any such assignment pursuant to clause (B) above shall not relieve SMG of any of its obligations hereunder. Without the prior written consent of Principal, Ticketmaster shall not assign or transfer its rights or obligations in this Agreement or any interest therein, except in the event of an assignment by Ticketmaster to any parent, subsidiary, affiliate or successor-in-interest (including, without limitation, a successor by virtue of an acquisition) that is not an entity whose primary business is the management of public assembly facilities or a competitor of SMG, in which event no such consent shall be required. Any assignment, transfer, pledge or hypothecation for which consent is required hereby and which is made without such consent shall be void. In the event Owner assigns this Agreement pursuant to this Section, Principal shall, at Ticketmaster's election, either (1) remit the outstanding balance of any Signing Bonus to Ticketmaster or (2) require in writing that Owner's permitted assignee expressly agrees to assume this Agreement, including responsibility for the return of any unpaid amount of any Signing Bonus to Ticketmaster in the event the outstanding amount of the Signing Bonus is not fully earned by Principal or such assignee and fully recouped by Ticketmaster during the term of this Agreement.

16. **Relationship of the Parties**. Each party is an independent contractor and not an agent or partner of, or joint-venturer with, the other party for any purpose other than as set forth in this Agreement (e.g., Ticketmaster is the agent of Principal with respect to ticket sales and distribution). Neither party by virtue of this Agreement shall have any right, power, or authority to act or create any obligation, express or implied, on behalf of the other party.

17. **Delays**. Neither party shall be liable or deemed in default, and no Event of Default shall be deemed to have occurred, as a result of any delay or failure in performance of this Agreement resulting directly or indirectly from any cause completely, solely and exclusively beyond the control of that party, but only for so long as such delay shall continue to prevent performance.

18. **Severability**. If any provision of this Agreement is held to be invalid by a court of competent jurisdiction, then the remaining provisions will nevertheless remain in full force and effect.

19. **Notices**. Any notices required to be given under this Agreement must be sent to each party, in writing, at the address set forth immediately below the signature line hereto or at such address as may be provided by each party in writing from time to time, by certified or registered mail, return receipt requested, by an overnight courier or by e-mail. Notices will be deemed effective the day of receipt if successfully sent by e-mail (and followed by a copy of such email being sent by overnight courier), the day following sending if sent by overnight courier or five days after sending if sent by certified or registered mail.

20. **Binding Agreement/Counterparts**. The terms, conditions, provisions and undertakings of this Agreement shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and permitted assigns; provided, however, that this Agreement shall not be binding until executed by each of the parties. This Agreement may be executed in multiple counterparts which when taken together constitute a single instrument.

21. **Legal Review**. Each of the parties has had the opportunity to have its legal counsel review this Agreement on its behalf. If an ambiguity or question of intent arises with respect to any provision of this Agreement, this Agreement will be construed as if drafted jointly by the parties. The parties expressly agree that the construction and interpretation of this Agreement shall not be strictly construed against the drafter.

22. **Attorneys' Fees**. In addition to any other rights hereunder, the substantially prevailing party, as a court of competent jurisdiction may determine, in any claim or other dispute which relates to this Agreement, regardless of whether such claim or other dispute arises from a breach of contract, tort, violation of a statute or other cause of action, shall have the right to recover and collect from the other party its reasonable costs and expenses incurred in connection therewith, including, without limitation, its reasonable attorneys' fees. If a party substantially prevails on some aspects of such claim or dispute but not others, the court may apportion any award of costs or attorneys' fees in such manner as it deems equitable.

EXHIBIT B

HARDWARE

A. Facility Box Office Hardware

Quantity	Description	Value
25	Box office sets	$
25	Boca ticket printers	$
1	Router	$

B. Ticketmaster AccessManager Hardware

Quantity	Description	Value
35	Scanners	$
1	Network Server	$
	Annual License Fee	Waived
	Annual Maintenance Fee	Waived

EXHIBIT C

PRINCIPAL'S SPONSORSHIP LIST

General Sponsors:

1. Freihofer's
2. Price Chopper
3. Trans World Entertainment Corporation

Naming Rights Sponsor:

1. Capital Newspapers Division of The Hearst Corporation

Pouring Rights Sponsor:

1. Pepsi Bottling Group

EXHIBIT D

TICKETMASTER'S RESPONSE TO THE RFP

RESOLUTION NO. 215

AUTHORIZING AN AGREEMENT WITH TICKETMASTER REGARDING A COMPUTERIZED TICKETING AND DISTRIBUTION SYSTEM FOR THE CIVIC CENTER

Introduced: 6/8/15
By Civic Center Committee:

WHEREAS, By Resolution No. 243 of 2010, this Honorable Body authorized a five year agreement with Ticketmaster regarding a computerized ticketing and distribution system for the Civic Center for the period beginning September 23, 2010 through September 22, 2015 with option to renew for an additional five year period, and

WHEREAS, The General Manager of the Civic Center has requested authorization to extend the agreement with Ticketmaster for the period beginning September 23, 2015 through September 22, 2020 regarding a computerized ticketing and distribution system for the Civic Center, now, therefore be it

RESOLVED, By the Albany County Legislature that the County Executive is authorized to extend the agreement with Ticketmaster regarding a computerized ticketing and distribution system for the Civic Center for the period beginning September 23, 2015 through September 22, 2020, and, be it further

RESOLVED, That the County Attorney is authorized to approve said agreement as to form and content, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

Adopted by unanimous vote. 6/8/15

State of New York
County of Albany

This is to certify that I, the undersigned, Clerk of the Albany County Legislature, have compared the foregoing copy of the resolution and/or local law with the original resolution and/or local law now on file in the office, and which was passed by the Legislature of said County on the 8th day of June, 2015 a majority of all members elected to the Legislature voting in favor thereof, and that the same is a correct and true transcript of such original resolution and/or local law and the whole thereof.

IN WITNESS THEREOF, I have hereunto set my hand and the official seal of the County Legislature this 9th day of June, 2015

Clerk, Albany County Legislature

SECOND AMENDMENT TO AGREEMENT BY AND AMONG THE COUNTY OF ALBANY, SMG , AND TICKETMASTER L.L.C. PURSUANT TO RESOLUTION NO. 243 for 2010 & PURSUANT TO RESOLUTION NO. 215 for 2015

This is an Amendment to an Agreement by and among the County of Albany (hereinafter called "the County" or "the Owner"), a municipal corporation duly organized under the laws of the State of New York, SMG, a Pennsylvania general partnership as managing agent for the County at the Times Union Center, and Ticketmaster L.L.C., a Virginia limited liability company for a computerized ticketing and distribution system for the civic center.

It is hereby agreed among the County of Albany, SMG and Ticketmaster L.L.C., as follows:

1. That except as amended or revised by this AMENDMENT to the original Agreement, for a computerized ticketing and distribution system for the civic center that was fully executed by and among the parties hereto, shall remain in full force and effect. The original Agreement was adopted pursuant to Resolution No. 243 for 2010 and was extended pursuant to Resolution No. 215 for 2015.

2. That Article 2 (a) of the Agreement: Term of the Agreement, is amended to reflect that the parties mutually agree to renew the Agreement until December 31, 2020. The amended Agreement shall begin effective September 23, 2020 shall continue through December 31, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this AMENDMENT to the Agreement on the dates set forth.

COUNTY OF ALBANY

DATED: ____________________

____
Daniel P. McCoy
County Executive

or

DATED: ____________________

____
Daniel Lynch
Deputy County Executive

TICKETMASTER L.L.C.

DATED: ____________________

____
Name and Title

SMG

DATED: ____________________

____
Robert H. Belber
General Manager

RESOLUTION NO. 278

AUTHORIZING AN AGREEMENT WITH TICKETMASTER REGARDING THE COMPUTERIZED TICKETING AND DISTRIBUTION SYSTEM FOR THE TIMES UNION CENTER

Introduced: 9/14/20
By Public Works Committee:

WHEREAS, By Resolution No. 243 of 2010, this Honorable Body authorized a five year agreement with Ticketmaster regarding a computerized ticketing and distribution system for the Times Union Center for the period beginning September 23, 2010 through September 22, 2015 with an option to renew for an additional five year period, and

WHEREAS, By Resolution No. 215 for 2015, this Honorable Body authorized to extend the agreement with Ticketmaster regarding a computerized ticketing and distribution system for the Times Union Center for the period beginning September 23, 2015 through September 22, 2020, and

WHEREAS, The General Manager of the Times Union Center has requested authorization to extend the agreement with Ticketmaster with the current terms and conditions for the period beginning September 22, 2020 through December 31, 2020 regarding a computerized ticketing and distribution system for the Times Union Center, now, therefore be it

RESOLVED, By the Albany County Legislature that the County Executive is authorized to extend the agreement with Ticketmaster regarding a computerized ticketing and distribution system for the Times Union Center with the current terms and conditions for the period beginning September 22, 2020 through December 31, 2020, and, be it further

RESOLVED, That the County Attorney is authorized to approve said agreement as to form and content, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

TIMES UNION CENTER
ALBANY, NEW YORK
AN ASM MANAGED FACILITY

51 South Pearl Street Albany, New York 12207 (518) 487-2000 Fax (518) 487-2020

MEMORANDUM

To: Honorable Members – Albany County Legislature
Honorable Albany County Chairman- Andrew Joyce
Honorable Albany County Executive – Daniel McCoy
Honorable Albany County – Deputy County Executive – Daniel Lynch

From: Bob Belber
Regional General Manager

Date: July 28, 2020

Re: Request For Legislative Action – Lease Suite #20
Stanley Steemer of Albany County, Inc.

New Suite Lease – Term – Start date – 1st of the month that the TU Center Reopens with events thru three years thereafter. Actual dates will be inserted once known.

This suite holder will be a new tenant within suite # 20. This suite opened up during the pandemic when Blue Shield signed a three-year lease and moved to suite # 9. Blue Shield had previously been a tenant in suite # 20. Suite #9 opened up when General Electric decided not to renew their lease. Stanley Steemer would like to lease this suite and we are seeking approval from the Albany County Legislature to proceed with entering a new lease agreement with Stanley Steemer whereby they will pay an annual lease amount of $51,000 per year.

A letter of intent has been received with a deposit and pending approval, the County Attorney's office will produce a new lease document with the resolution number assigned.

The tenant will also be responsible for sales tax on tickets to sporting events, monthly cable TV charges as well as any catered food they purchase through Aramark.

Thank you for adding this to the agenda of the next available Civic Center Committee.

Sincerely,

Bob Belber

Bob Belber
General Manager

File #: TMP-1820, **Version:** 1

REQUEST FOR LEGISLATIVE ACTION

Description (e.g., Contract Authorization for Information Services):
Request to Lease TU Suite 20 - Stanley Steemer

Date:	8/2/20
Submitted By:	Robert Belber
Department:	Times Union Center
Title:	General Manager
Phone:	518-487-2008
Department Rep.	
Attending Meeting:	Robert Belber

Purpose of Request:

☐ Adopting of Local Law
☐ Amendment of Prior Legislation
☐ Approval/Adoption of Plan/Procedure
☐ Bond Approval
☐ Budget Amendment
☒ Contract Authorization
☐ Countywide Services
☐ Environmental Impact/SEQR
☐ Home Rule Request
☐ Property Conveyance
☐ Other: (state if not listed) Click or tap here to enter text.

CONCERNING BUDGET AMENDMENTS

Increase/decrease category (choose all that apply):
☐ Contractual
☐ Equipment
☐ Fringe
☐ Personnel
☐ Personnel Non-Individual

☐ Revenue

Increase Account/Line No.: Click or tap here to enter text.
Source of Funds: Click or tap here to enter text.
Title Change: Click or tap here to enter text.

CONCERNING CONTRACT AUTHORIZATIONS

Type of Contract:
☐ Change Order/Contract Amendment
☐ Purchase (Equipment/Supplies)
☒ Lease (Equipment/Supplies)
☐ Requirements
☐ Professional Services
☐ Education/Training
☐ Grant
Choose an item.
Submission Date Deadline Click or tap to enter a date.
☐ Settlement of a Claim
☐ Release of Liability
☐ Other: (state if not listed) Click or tap here to enter text.

Contract Terms/Conditions:

Party (Name/address):
Stanley Steemer of Albany County, Inc.
Attn: John Eaton - VP
41 Albany Avenue
Green Island, NY 12183

Additional Parties (Names/addresses):
Click or tap here to enter text.

Amount/Raise Schedule/Fee: $51,000/year
Scope of Services: Renting Suite #20

Bond Res. No.: Click or tap here to enter text.
Date of Adoption: Click or tap here to enter text.

CONCERNING ALL REQUESTS

Mandated Program/Service: Yes ☐ No ☒
If Mandated Cite Authority: Click or tap here to enter text.

Is there a Fiscal Impact: Yes ☒ No ☐

Anticipated in Current Budget: Yes ☒ No ☐

County Budget Accounts:
Revenue Account and Line: 7128 - 02541
Revenue Amount: $51,000

Appropriation Account and Line: Click or tap here to enter text.
Appropriation Amount: Click or tap here to enter text.

Source of Funding - (Percentages)
Federal: Click or tap here to enter text.
State: Click or tap here to enter text.
County: 100%
Local: Click or tap here to enter text.

Term
Term: (Start and end date) Starting the first day of the month in which the TU Center reopens with events.
Length of Contract: 3 Years

Impact on Pending Litigation Yes ☐ No ☒
If yes, explain: Click or tap here to enter text.

Previous requests for Identical or Similar Action:
Resolution/Law Number: Click or tap here to enter text.
Date of Adoption: Click or tap here to enter text.

Justification: (state briefly why legislative action is requested)
Leasing Suite # 20 for a 3 year period - term as noted above. This is a new agreement and this suite holder is taking over a suite that opened up when Blue Shield moved to Suite # 9. Stanley Steemer has been a very good business operator in Albany County. The tenant has paid a $3,000 deposit required with the Letter of Intent.

51 South Pearl Street Albany, New York 12207 (518) 487-2000 FAX (518) 487-2020

LETTER OF INTENT
BY
<u>STANLEY STEEMER OF ALBANY CO. INC.</u>
<u>FOR</u>
<u>CORPORATE SUITE # 20</u>

The above named party or parties recognizes that Corporate support is vital to the continued success of the Albany County Civic Center a.k.a. the TIMES UNION CENTER (hereinafter the "TIMES UNION CENTER") and evidencing our support of this facility by this *Letter of Intent.*

This *Letter of Intent* demonstrates our intention to lease one full Private Corporate Suite, namely Suite # 20 (hereinafter the Suite). The cost to lease one full suite will be FIFTY ONE THOUSAND DOLLARS ($51,000) per contract year for a three (3) year term. The parties will endeavor to negotiate mutually acceptable lease terms within ninety (90) days of signing the *Letter of Intent.*

The SUITE will be furnished and consist of sixteen (16) seats. The basic amenities typically included in a SUITE are appended and made part or the *Letter of Intent.* Sixteen (16) passes will be provided at no charge for all Siena Men's Basketball home games. Sixteen (16) passes will also be provided for every ticketed event at the TIMES UNION CENTER in each contract year with the exception of the NCAA events. SUITE tickets for NCAA events can be purchased by the SUITE holder.

Furthermore, each SUITE holder will be entitled to purchase up to sixteen (16) additional tickets for all ticketed events. These tickets shall be in preferred locations outside of the SUITE. Certain events may be restricted to four (4) additional "outside seats".

To further solidify this *Letter of Intent,* <u>a non-refundable deposit of $3,000 (THREE THOUSAND DOLLARS)</u> for the SUITE has been made upon the signing of this document. This deposit represents the first payment as indicated in the lease agreement.

LETTER OF INTENT
PAGE 2 CONT'D

Stanley Steemer of Albany Co. Inc.
41 Albany Avenue
Green Island, NY 12183
518-273-6437

Date: 7-28-2020

John Eaton

John Eaton
Vice President
Stanley Steemer of Albany Co. Inc.

THIS DOCUMENT IS PROTECTED BY INVISIBLE FIBERS AND CHEMICALLY REACTIVE PAPER. HOLD TO LIGHT TO VERIFY A TRUE WATERMARK.

STANLEY STEEMER OF ALBANY COUNTY, INC.
41 ALBANY AVENUE
GREEN ISLAND, NY 12183-1011
(518) 273-6449

CAPITAL BANK
A division of Chemung Canal Trust Company
50-111-213

14791

7/28/2020

PAY TO THE ORDER OF Times Union Center $ **3,000.00

Three Thousand and 00/100*** DOLLARS

Times Union Center
51 South Pearl St
Albany NY 12207

MEMO

AUTHORIZED SIGNATURE

[redacted]

RESOLUTION NO. 279

AUTHORIZING A LEASE AGREEMENT FOR THE RENTAL OF CORPORATE SUITE NO. 20 AT THE TIMES UNION CENTER

Introduced: 9/14/20
By Public Works Committee:

WHEREAS, Stanley Steemer of Albany County, Inc., 41 Albany Ave., Green Island, New York, 12183 (Suiteholder) has indicated an interest in leasing Corporate Suite No. 20 at the Times Union Center (TUC) in accordance with terms and conditions approved by the County Attorney, and

WHEREAS, The Suiteholder has agreed to pay an annual rental fee of $20,500 for said suite, and

WHEREAS, The Suiteholder has also agreed to pay $28,000 annually for advertising within the Arena, and

WHEREAS, Annual payments totaling $51,000 are to be made as follows: a $20,500 payment on or before July 1st preceding the contract year, and the remaining $30,500 payment is due on or before December 15th during each contract year, and

WHEREAS, The term of said lease shall be for a three (3) year period, commencing on the 1st day of the month that the TUC reopens for events and ending three years thereafter, now, therefore be it

RESOLVED, By the Albany County Legislature that the County Executive is authorized to enter into a lease agreement with the aforesaid Suiteholder to lease Corporate Suite No. 20 at the Times Union Center pursuant to the aforementioned terms, and, be it further

RESOLVED, That the County Attorney is authorized to approve said lease agreement as to form and content prior to the execution thereof, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

Daniel P. McCoy
County Executive

County of Albany
Department of Social Services
162 Washington Avenue
Albany, New York 12210-2304
(518) 447-7300
www.albanycounty.com

Michele G. McClave
Commissioner

Erin M. Stachewicz
Executive Deputy
Commissioner

Valerie Sacks
Deputy Commissioner

August 4, 2020

Hon. Andrew Joyce, Chairman
Legislative Clerk's Office
112 State St., Room 710
Albany, NY 12207

Dear Chairman Joyce,

Authorization is requested to contract with Community Maternity Service (CMS) to provide Maternity shelter care via a State-certified 11-bed maternity shelter for pregnant females who require temporary accommodations, supervision and services. Only the stays of individuals eligible for public assistance will be reimbursed under this contract.

CMS is a Transitional Living Program of Albany County which provides specialized services to youth who are parenting children. The services that are offered are not provided anywhere else in our system and the focus is on developing life skills and independence. By removing this type of client from the general shelter population, and placing them in a shelter program tailored to their specific needs, we feel that this service would be extremely valuable to young women and provide better outcomes for long-term self-sufficiency.

Sincerely,

Michele G. McClave
Commissioner

cc: Dennis A. Feeney, Majority Leader
Frank A. Mauriello, Minority Leader
Rebekah Kennedy, Majority Counsel
Minority Counsel

Legislation Text

File #: TMP-1772, **Version:** 1

REQUEST FOR LEGISLATIVE ACTION

Description (e.g., Contract Authorization for Information Services):
Contract Authorization for Social Services (Community Maternity Services)

Date:	7/21/20
Submitted By:	Joseph J DeAngelis
Department:	Social Services
Title:	Contract Administrator
Phone:	518-447-7583
Department Rep. Attending Meeting:	Michele G. McClave

Purpose of Request:

☐ Adopting of Local Law
☐ Amendment of Prior Legislation
☐ Approval/Adoption of Plan/Procedure
☐ Bond Approval
☐ Budget Amendment
☒ Contract Authorization
☐ Countywide Services
☐ Environmental Impact/SEQR
☐ Home Rule Request
☐ Property Conveyance
☐ Other: (state if not listed) Click or tap here to enter text.

CONCERNING BUDGET AMENDMENTS

Increase/decrease category (choose all that apply):
☐ Contractual
☐ Equipment
☐ Fringe
☐ Personnel
☐ Personnel Non-Individual

☐ Revenue

Increase Account/Line No.: Click or tap here to enter text.
Source of Funds: Click or tap here to enter text.
Title Change: Click or tap here to enter text.

CONCERNING CONTRACT AUTHORIZATIONS

Type of Contract:
☐ Change Order/Contract Amendment
☐ Purchase (Equipment/Supplies)
☐ Lease (Equipment/Supplies)
☐ Requirements
☒ Professional Services
☐ Education/Training
☐ Grant
Choose an item.
Submission Date Deadline Click or tap to enter a date.
☐ Settlement of a Claim
☐ Release of Liability
☐ Other: (state if not listed) Click or tap here to enter text.

Contract Terms/Conditions:

Party (Name/address):
Community Maternity Services
27 North Main Avenue, Albany, NY 12208

Additional Parties (Names/addresses):
Click or tap here to enter text.

Amount/Raise Schedule/Fee: $300,000
Scope of Services: Maternity shelter care will be provided through a State-certified 11-bed maternity shelter for pregnant females who require temporary accommodations, supervision and services. Only the stays of individuals eligible for public assistance will be reimbursed under this contract.

Bond Res. No.: Click or tap here to enter text.
Date of Adoption: Click or tap here to enter text.

CONCERNING ALL REQUESTS

Mandated Program/Service: Yes ☒ No ☐
If Mandated Cite Authority: 18 NYCRR 352.8

Is there a Fiscal Impact: Yes ☒ No ☐
Anticipated in Current Budget: Yes ☒ No ☐

<u>County Budget Accounts:</u>
Revenue Account and Line: AA6109 04609
Revenue Amount: $300,000.00

Appropriation Account and Line: AA6109 44046
Appropriation Amount: $300,000.00

<u>Source of Funding - (Percentages)</u>
Federal: 100%
State:
County:
Local:

<u>Term</u>
Term: (Start and end date) 1/1/2021- 12/31/2021
Length of Contract: 12 months

<u>Impact on Pending Litigation</u> Yes ☐ No ☒
If yes, explain: Click or tap here to enter text.

<u>Previous requests for Identical or Similar Action:</u>
Resolution/Law Number: 377
Date of Adoption: 9/9/18

Justification: (state briefly why legislative action is requested)

Authorization is requested to contract with Community Maternity Services (CMS) to provide services for homeless or parenting/pregnant young woman 16-22 years of age. Local social services districts are required to establish per diem rates with non-profit providers of maternity shelter care operating within their county. Only those eligible for public assistance will be reimbursed under this contract (reimbursement is also provided under the foster care system, for pregnant adolescents under the custody of the Commissioner. Maximum rates for foster care placement are State-established and are higher than those proposed for public assistance recipients).

CMS is a Transitional Living Program providing specialized services to homeless or parenting young woman of Albany County, as well as adolescents that are parenting children. The mission of CMS is to provide transitional housing including room, board, supervision, information, referral, case management, parenting education, independent living skills building, advocacy, medical, mental health systems and other appropriate support services to women ages 16 through 22. Such homeless persons must be able to demonstrate eligibility for public assistance through Albany County Department of Social Services.

The services that are offered are not provided anywhere else in our system and the focus is on developing life skills and independence. By removing this type of client from the general shelter population, and placing them in a shelter program tailored to their specific needs, we feel that this service would be extremely valuable to young women and provide better outcomes for long-term self-sufficiency. Between 7/1/19 - 6/30/20 Albany County Department of Social Services had six unduplicated instances of homelessness with females aged 16 to 22 years old.

AGREEMENT
BY AND BETWEEN
THE COUNTY OF ALBANY
AND
COMMUNITY MATERNITY SERVICES

PURSUANT TO RESOLUTION NO. 377, ADOPTED 9/9/2019

This is an Agreement, made by and between the County of Albany (hereinafter referred to as the "County"), a municipal corporation, acting by and through the Albany County Department of Social Services (hereinafter referred to as the "Department"), having its principal office at Albany County Office Building, 112 State Street, Albany, New York 12207 and Community Maternity Services (hereinafter referred to as the "Provider") , a non-profit organization having its principal office at 27 North Main Avenue, Albany, New York 12203.

WITNESSETH:

WHEREAS, the Commissioner of Social Services of the County of Albany, hereinafter called the Commissioner, is an authorized social services official charged with the responsibility, insofar as funds are available for that purpose, to administer such care, treatment and services that may be necessary to restore persons unable to maintain themselves to a condition of self-support or self-care, pursuant to the Social Services Law of the State of New York, and

WHEREAS, 18 NYCRR Section 352.8 requires local districts to establish a rate and provide reimbursement to operators of maternity homes on behalf of public assistance-eligible residents, and

WHEREAS, the Provider, a qualified non-profit organization, is willing and able to deliver the service required by the County and to ensure that the aforementioned requirements are met efficiently and effectively, and

WHEREAS, the County has accepted the Provider's offer to deliver the necessary emergency shelter services to meet the needs of the County and to meet the needs of the aforementioned persons unable to maintain themselves to a condition of self-support or self-care residing in Albany County.

NOW, THEREFORE, the parties hereto do mutually covenant and agree as follows:

ARTICLE I. SERVICES TO BE PERFORMED BY PROVIDER

The Provider shall provide all maternity shelter services, as herein set forth and as more particularly described in Exhibit 1 attached hereto and made a part of this Agreement.

ARTICLE II. SCOPE OF SERVICES

Maternity shelter services to be provided under this Agreement shall be defined as the provision of temporary residential care, including room, board, supervision, information and referral and other appropriate services, only at the locations further specified under Exhibit 1.

ARTICLE III. GENERAL PROVISIONS

The Provider agrees to comply in all respects with the provisions of this Agreement and the attachments thereto. The Provider specifically agrees to perform services as outlined in Exhibits 1 and 2 attached hereto and made a part hereof. Any requests by either party to the Agreement for modifications to the provision of these exhibits must be mutually agreed upon by both parties in writing before the additional or modified provisions shall commence.

The Department will designate a staff person who shall have authority for overseeing the Provider's performance of those services designated herein. Reports and issues of interpretation or direction relating to this Agreement shall be directed to the designated staff member.

The Provider will be fully responsible for the provision of all equipment and services for Provider's staff necessary to the performance of services designated under this Agreement.

As part of this Agreement, the Provider agrees to comply in all respects with the provisions of this Agreement and the schedules, attachments and exhibits attached hereto and made a part hereof.

ARTICLE IV. ASSIGNMENTS

The Provider specifically agrees as required by Section 109 of the New York General Municipal Law that the Provider is prohibited from assigning, transferring, conveying, subletting, or otherwise disposing of this Agreement, or of the Provider's right, title or interest therein, without the previous written consent of the County.

The Provider or its employees will provide all activities required to be performed by it under this Agreement. The Provider shall not subcontract for any portion of the services required under this Agreement without the prior written approval of the County and subject to such conditions and provisions as the County may deem necessary.

ARTICLE V. CONFIDENTIALITY REQUIREMENTS

The Provider shall observe all applicable Federal and State requirements relating to confidentiality of records and information, and shall not allow the examination of records or disclose information, except as may be necessary by the County to assure that the purpose of the Agreement will be effectuated, and also to otherwise comply with the County's requirements and obligations under law. In addition, the Provider shall be bound by the provisions of 45 CFR 205.50, and all amendments thereof, and any other relevant provision of the state service operation work plans and Federal regulations.

ARTICLE VI. INFORMATION ACCESS

The Provider agrees to provide the County and authorized State and/or Federal personnel access to any and all books, documents, records, charts, software or any other information relevant to performance under this Agreement, upon request. The Provider agrees to retain all of the above information for six (6) years after final payment or the termination of this Agreement, and shall make such information available to the County, State, and/or Federal personnel, and/or to any person(s) duly authorized by any of them during such period.

The County and the State reserve the right to conduct on-site evaluations of the services provided under this Agreement, and shall be afforded full access by the Provider to the grounds, buildings, books, papers, employees and recipients relating to such service provision, and may require from the officers and persons in charge thereof any information deemed necessary to such an evaluation.

All technical or other data relative to the work pertaining to this Agreement in the possession of the County or in the possession of the Provider shall be made available to the other party to this Agreement without expense to the other party.

ARTICLE VII. COOPERATION

The Provider shall cooperate with representatives, agents and employees of the County and the County shall cooperate with the Provider, its representatives, agents and employees to facilitate the economic and expeditious provision of services under this Agreement.

ARTICLE VIII. FAIR HEARINGS

The Provider will establish a system through which recipients may present grievances about the operation of the service program. The Provider will advise recipients of this right and will also advise applicants and recipients of their right to appeal.

The County shall notify applicants for services and recipients of care and services of their right to a fair hearing to appeal the denial, reduction or termination of a service, or failure to act upon a request for services with reasonable promptness.

The Provider, upon the request of the County, shall participate in appeals and fair hearings as witnesses when necessary for a determination of the issues.

ARTICLE IX. ACCOUNTING RECORDS

Proper and full accounting records shall be maintained by the Provider, which records shall clearly identify the costs of the work performed under this Agreement. Such records shall be subject to periodic and final audit by the County and the State for a period of six (6) years following the date of final payment by the County to the Provider for the performance of the work contemplated herein.

If the Provider is subject to an audit by an agency of the United States government, then a copy of such annual audit, including exit conference results, if any, shall be provided to the Albany County Department of Social Services and the Comptroller of the County of Albany within ten (10) days after receipt by Provider of the final audit and the exit conference results, if any.

If Provider is not subject to an annual audit by an agency of the United States government, but receives from Albany County Department of Social Services funds in excess of $50,000 in its fiscal year, then Provider shall engage an independent auditor acceptable to the Albany County Department of Social Services to: 1) review the records and accounts of the Provider; 2) render an opinion as to the accuracy and sufficiency of Provider's records and accounting methods; 3) render an opinion of Provider's financial position for the fiscal year being audited and any change therein, including but not limited to its net income or net loss. The audit report by the independent auditor shall be submitted to the Albany County Department of Social Services and the Comptroller of the County of Albany within ten (10) days of its receipt by the Provider.

ARTICLE X. FEES

In consideration of the terms and obligations of this Agreement, the County agrees to pay and the Provider agrees to accept One hundred thirty-five dollars and nineteen cents ($135.19) per day, per eligible resident, up to an amount not to exceed **THREE HUNDRED THOUSAND AND 00/100 DOLLARS ($300,000.00)**, as full compensation for the Service rendered under this Agreement.

The Department agrees to reimburse the Provider for care and services provided, when such claims are submitted to the Department in accordance with the specifications included under Exhibit 2.

ARTICLE XI. RELATIONSHIP

The Provider is, and will function as, an independent contractor under the terms of this Agreement and shall not be considered an agent or employee of the County of Albany or the State of New York for any purpose, and the employees and representatives of the Provider shall not in any manner be, or be held to be, agents or employees of the County or the State.

ARTICLE XII. SCHEDULE

The Provider shall complete all work in a timely manner to protect the interests and rights of the County to the fullest extent reasonably possible. The Provider agrees to notify the Department in writing, within three days of occurrence, of any problem(s) which may threaten performance of the provisions of this Agreement, and shall submit therewith recommendations for solution(s).

ARTICLE XIII. INDEMNIFICATION

The Provider shall defend, indemnify and save harmless the County, its employees and agents, from and against all claims, damages, losses and expenses (including, without limitation, reasonable attorney's fees) arising out of, or in consequence of, any negligent or intentional act or omission of the Provider, its employees or agents, to the extent of its or their responsibility for such claims, damages, losses and expenses.

ARTICLE XIV. INSURANCE

The Provider agrees to procure and maintain without additional expense to the County, insurance of the kinds and in the amounts provided under Schedule A attached hereto and made a part hereof. Before commencing, the Provider shall furnish to the County, a certificate(s) showing that the requirements of this Article are met and the certificate(s) shall provide that the policy shall not be changed or canceled until thirty (30) days prior written notice has been given to the County, and the County of Albany is named as an additional insured.

The Provider shall provide to the County documentation and proof that automobile insurance coverage has been obtained and will continue to exist during the term of this agreement that will hold the County harmless from any and all liability incurred for the use of a motor vehicle to transport individuals in conjunction with or for the purpose of providing the services described in this agreement or shall instead fill out, sign and execute the Automobile Insurance Waiver in Schedule B attached hereto and made a part hereof.

ARTICLE XV. NON-APPROPRIATIONS

Notwithstanding anything contained herein to the contrary, no default shall be deemed to occur in the event no funds or insufficient funds are appropriated and budgeted by either the County or the State, or are otherwise unavailable to the County for payment. The County will immediately notify the Provider of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which appropriations were made without penalty or expense to the County of any kind whatsoever, except as to those portions herein agreed upon for which funds shall have been appropriated and budgeted.

ARTICLE XVI. NON-DISCRIMINATION

In accordance with 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 Subscriber 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 person 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.

ARTICLE XVII. GOVERNING LAWS

This Agreement shall be governed by and construed according to the Laws of the State of New York.

ARTICLE XVIII. TERMINATION OF AGREEMENT

This Agreement may be terminated at any time upon mutual written agreement of the contracting parties.

This Agreement may be terminated if the Department deems that termination would be in the best interests of the County, provided that the Department shall give written notice to the Provider not less than thirty (30) days prior to the date upon which termination shall become effective. Such notice is to be made via registered or certified mail return receipt requested or hand delivered to the last known address of the Provider. The date of such notice shall be deemed to be the date the notice is received by the Provider established by the receipt returned, if delivered by registered or certified mail, or by an affidavit of the person delivering the notice to the Provider, if the notice is delivered by hand.

Upon the County's knowledge of a breach of this Agreement by the Provider, the County may terminate the Agreement if it determines that such a breach violated a material term of this Agreement. Notwithstanding that, the County may provide an opportunity for the Provider to cure the breach within a time set by the County and, if cure is not possible or does not occur within the time limit, immediately terminate the Agreement without penalty.

This Agreement shall be deemed terminated immediately upon the filing of a petition of bankruptcy or insolvency, by or against the Provider. Such termination shall be immediate and complete, without termination costs or further obligation by the Department to the Provider.

This Agreement shall be deemed terminated immediately should Federal and/or State funds for this Agreement become unavailable.

In the event of termination for any reason, the Provider shall not incur new obligations for the terminated portion and the Provider shall cancel as many outstanding obligations as possible.

Any violation by the Provider of any of the terms of this Agreement may result in the County's decision at its sole discretion, to immediately terminate this Agreement.

ARTICLE XIX. TERM OF AGREEMENT

The term of this Agreement shall commence on January 1, 2020 and will continue in effect through December 31, 2020. It is agreed by the Provider that performance without this Agreement will not be paid for by the Department.

ARTICLE XX. FEDERAL LOBBYING

The Federal Lobbying Act states that no Federal appropriated funds may be spent by the recipient of a Federal grant, or a sub tier contractor or sub grantee, to pay any person for influencing or attempting to influence an officer or employee of any Federal agency or a Member of Congress in connection with any of the following covered Federal actions: the awarding of a Federal contract, or the making of any Federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement. If any funds or other Federal appropriated funds have been or will be expended by the Provider to pay any person for influencing any Federal officer, employee or Member of Congress described above in connection with such Federal grant the Provider agrees to make a written disclosure on the appropriate specified disclosure form.

The parties hereunto represent that they have not committed or authorized, nor will they commit or authorize the commission of any act in violation of the Federal Lobbying Act.

ARTICLE XXI. SUSPENSION AND DEBARMENT

The Provider certifies that its company/entity and any person associated therewith in the capacity of independent contractor, not-for-profit provider, for profit provider, owner, director, officer, or major stockholder (5% or more ownership):

a. is not currently under suspension, debarment, voluntary exclusion, or determined ineligible by any federal agency;
b. has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three (3) years;
c. does not have a proposed debarment pending; and
d. has not been indicted, convicted, nor had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

ARTICLE XXII. REMEDY FOR BREACH

In the event of a breach by Provider, Provider shall pay to the County all direct and consequential damages caused by such breach, including, but not limited to, all sums expended by the County to procure a substitute contractor to satisfactorily complete the contract work, together with the County's own costs incurred in procuring a substitute contractor.

ARTICLE XXIII. MACBRIDE PRINCIPLES

Provider hereby represents that said Provider is in compliance with the MacBride Principles of Fair Employment as set forth in Albany County Local Law No. [3] for 1993, in that said Provider either (a) has no business operations in Northern Ireland or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Principles, and shall permit independent monitoring of their compliance with such principles. In the event of a violation of this stipulation, the County reserves all rights to take remedial measures as authorized under section 4 of Local Law No. [3] in 1993, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the Provider in default and/or seeking debarment or suspension of the Provider.

ARTICLE XXIV. LICENSES

The provider shall at all times obtain and maintain all licenses required by New York State, or other relevant regulating body, to perform the services required under this Agreement.

ARTICLE XXV. INVALID PROVISIONS

It is further expressly understood and agreed by and between the parties hereto that in the event any covenant, condition or provision herein contained is held to be invalid by any court or competent jurisdiction, the invalidity of such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained; provided, however, that the invalidity of any such covenant, condition or provision does not materially prejudice either County or Provider in their respective rights and obligations contained in the valid covenants, conditions or provisions in this Agreement.

ARTICLE XXVI. CHANGE IN LEGAL STATUS OR DISSOLUTION

During the term of this Agreement, the Provider agrees that, in the event of its reorganization or dissolution as a business entity or change in business, the Provider shall give the County thirty (30) days written notice in advance of such event.

ARTICLE XXVII. IRANIAN ENERGY SECTOR DIVESTMENT

Provider hereby represents that Provider is in compliance with New York State General Municipal Law Section 103-g entitled "Iranian Energy Sector Divestment," in that Provider has not:

(a) Provided goods or services of $20 Million or more in the energy sector of Iran including but not limited to the provision of oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran; or

(b) Acted as a financial institution and extended $20 Million or more in credit to another person for forty-five (45) days or more, if that person's intent was to use the credit to provide goods or services in the energy sector in Iran.

ARTICLE XXVIII. ADDITIONAL ASSURANCES

The Provider agrees that no part of any submitted claim will have previously been paid by the County, State, and/or other funding sources.

The Provider agrees that funds received from other sources for specific services already paid for by the County shall be reimbursed to the County.

The Provider agrees to comply with all applicable State and Federal statutes and regulations.

The Provider agrees to comply with the requirements of the Federal Lobbying Act and the Drug-Free Workplace Act of 1988 and has signed the certifications contained in Schedules C and D, which are attached hereto and made a part thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year indicated below.

COUNTY OF ALBANY

Dated: 11/7/19

By: ______________________
Daniel P. McCoy
Albany County Executive
or
Philip F. Calderone
Deputy County Executive

COMMUNITY MATERNITY SERVICES

Dated: 9/30/19

By: ______________________

Executive Director
Title

STATE OF NEW YORK)
COUNTY OF ALBANY) SS.:

On the ____ day of ________________, 20__, before me, the undersigned, personally appeared Daniel P. McCoy, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

____
NOTARY PUBLIC

STATE OF NEW YORK)
COUNTY OF ALBANY) SS.:

On the 6 day of November, 2019, before me, the undersigned, personally appeared Phillip F. Calderone, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

MICHAEL A. LALLI
NOTARY PUBLIC - STATE OF NEW YORK
No. 01LA6322012
Qualified in Albany County
My Commission Expires March 30, 2023

NOTARY PUBLIC

STATE OF New York **)**
COUNTY OF Albany **) SS.:**

On the 30th day of September, 2019 before me, the undersigned, personally appeared Anne Marie Couser personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in her/his capacity, and that by her/his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

GENEVIEVE M. COUSER
Notary Public, State of New York
Qualified in Albany County
Commission Expires 2/6/23

Genevieve M Couser
NOTARY PUBLIC

SCHEDULE A

INSURANCE COVERAGE

The kinds and amounts of insurance to be provided are as follows:

1. **Workers' Compensation and Employers Liability Insurance:** A policy or policies providing protection for employees in the event of job related injuries.

2. **Automobile Liability Insurance:** A policy or policies with the limits of not less than $500,000 for each accident because of bodily injury, sickness or disease, including death at any time, resulting therefrom, sustained by any person caused by accident, and arising out of the ownership, maintenance or use of any automobiles, and with the limits of $500,000 for damage because of injury to or destruction of property, including the loss of use thereof, caused by accident and arising out of the ownership, maintenance or use of any automobiles.

3. **General Liability Insurance:** A policy or policies including comprehensive form, personal injury, contractual, products/completed operations, premises operations and broad form property insurance shall be furnished with limits of not less than:

Liability for:	**Combined Single Limit:**
Bodily Injury	$1,000,000.
Property Damage	$1,000,000.
Personal Injury	$1,000,000.

SCHEDULE C

CERTIFICATION REGARDING
DRUG FREE WORKPLACE REQUIREMENTS
GRANTEES OTHER THAN INDIVIDUALS

This certification is required by regulations implementing Sections 5151-5160 of the Drug-free Workplace Act of 1988 (Pub. L.100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.) 7 CFR Part 3017, Subpart F, Section 3017.600 and 45 CFR Part 76, Subpart F. The January 31, 1989 regulations were amended and published as Part II of the May 25, 1990 Federal Register (Page 21681-21691).

The grantee certifies that it will provide a drug-free workplace by:

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

(b) Establishing a drug-free awareness program to inform employees about:

- (1) The dangers of drug abuse in the workplace;
- (2) The grantee'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 employees for drug abuse violations occurring in the workplace.

(c) Making it a requirement that each employee to be engaged in the performance of the grant 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 grant, the employee will:

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

(e) Notifying the agency within ten days after receiving notice under subparagraph (d) (2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d) (2), with respect to the employee who is so convicted:

- (1) Taking appropriate personnel action against such an employee, up to and including termination; 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 paragraph (a), (b), (c), (d), (e) and (f).

Community Maternity Services
Organization

[signature]
Authorized Signature

Executive Director 9/30/19
Title Date

SCHEDULE D

Certification Regarding Lobbying
Certification for Contracts, Grants, Loans and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into or any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each failure.

Community Maternity Services
Organization

[signature]
Authorized Signature

Executive Director 9/30/19
Title Date

Note: If Disclosure Forms are required, please contact: Mr. William Saxton, Deputy Director, Grants and Contracts Management Division, Room 341F, HHH Building, 200 Independence Avenue, SW, Washington, D.C. 20201-0001.

EXHIBIT 1

Service Provision Responsibility

Under this Agreement, the Provider will provide maternity shelter care and services to eligible persons, through the operation of a maternity home, as follows.

I. Service Definition- Services shall be defined as the provision of temporary residential care, including room, board, supervision, information and referral, and other appropriate services, as allowed under 18 NYCRR Parts 352.8 and 361.1 (a), (b).

II. Eligible Persons- Eligibility for reimbursement under this Agreement will be confined to women, ages 16 and older, who are in need of temporary accommodations, supervision and services. Such persons must demonstrate eligibility for public assistance through Albany County in order for the Department to provide reimbursement under the terms of this Agreement. Pregnant adolescents and youth who are under the custody of the Commissioner of Albany County Department of Social Services will be reimbursed through the foster care system, and are therefore not eligible under the terms of this Agreement.

III. Service Provision- The Provider will maintain and operate the facility in a manner that assures compliance with all applicable federal, state and local statutes, regulations, codes and ordinances, and most particularly all those applicable to the operation as specified in 18 NYCRR 352.8 and 361.1 (a), (b). The Provider hereby certifies that it will maintain full compliance with all related laws and regulations. In the event that the Provider should fail to maintain NYS certification, this Agreement shall terminate immediately, according to the provisions previously described in this Agreement. It will be the Provider's responsibility to immediately notify the Department of any such change in its certification status.

IV. Establishment of Public Assistance Eligibility- The Provider agrees to cooperate fully with the Department in its efforts to establish public assistance eligibility for residents of the Provider who make application to the Department. Further, with regards to applicants who by virtue of their age (under 21 years) remain the financial responsibility of their parents or guardians, the Provider agrees to provide assessment information related to both the youth and their family, to the extent that such is available and necessary to the required "Under 21 Assessment" process related to establishing public assistance eligibility.

V. Bed Capacity- The Provider will not admit or retain a number of persons in excess of 11.

VI. Monitoring and Evaluation

1. The Department reserves the right to conduct on-site visits and request information relevant to the provision of services, as previously described in this Agreement.

2. The Provider agrees to provide the Department with a copy of its by-laws, upon request.

3. The Provider agrees to provide the Department with such statistical reports as may be required, using a mutually agreeable format.

4. All reports and information required under this section are to be submitted to the Department's Special Assistant on Community Affairs.

VII. Location of Services

The Provider will provide the agreed services only at the following location(s):

Administrative Offices

27 North Main Avenue
Albany, New York 12203

Maternity Centers

29 North Main Avenue
Albany, New York 12203

4 Colby St.
Albany, NY 12206

The provision of services at any other location(s) will not be paid for under this Agreement, unless the Department's prior written approval has been secured, and attached to this Agreement.

EXHIBIT 2

Reimbursement and Reporting

Billing and Reimbursement- the Department will reimburse the Provider for expenses incurred according to the following.

A. Eligibility

1. The Department will reimburse the Provider for shelter stays of individuals who have established eligibility under the appropriate public assistance programs.
2. Eligibility determinations, reimbursements, and payment of benefits to the recipient will be made in compliance with current federal and State regulations.
3. Reimbursement will be provided from the date that initial eligibility is established. However, in the instance that admission occurs on an emergency basis during Department non-working hours, or after 3 p.m. on a working day, the Department will provide reimbursement retroactive to the date of admission, if eligibility is established on the next working day.
4. Reimbursement will be provided only for dates of stay where an individual is actually present overnight at the facility. Overnight absences are not reimbursable under public assistance regulations, and must not be included on bills submitted to the Department, unless case-specific approval has been obtained from the Department. Note that the Department's routine authorization process for a period of shelter stay is not sufficient for these purposes.
5. The Department will indicate the results of its initial eligibility determination on a designated form, and will provide it to the resident. This form will include an indication of acceptance or denial, as well as the per diem rate to be paid. In the instance that a resident has an alternate source(s) of income, yet is still entitled to partial assistance, the Department will provide reimbursement to the Provider in the appropriate pro-rated amount. The Provider will be fully responsible for collection of any remaining amount directly from the resident.
6. Should an applicant be determined ineligible at the time of the initial interview, the Department shall not be held responsible for any portion of the shelter stay. In the instance that ineligibility is determined, subsequent to the initial interview, the Department will assume payment responsibility up to the date ineligibility is established.
7. In the event that an inter-jurisdictional dispute arises, the Department will provide reimbursement for the resident's stay, if the individual has made application to the Department and meets all eligibility requirements.

B. Reimbursement

1. The Provider will bill the Department for each resident determined eligible for reimbursement by the Department, and will send such to the designated public assistance contact person. The bill will include the name of each resident, social security or PA case numbers, and the actual dates of shelter stay charged. A copy of the Department's authorization(s) for the billed dates should also be attached. The Provider must sign each bill, with such signature being considered to attest to the validity of the claim.

2. Following receipt of the bill, the Department will generate a voucher to the Provider, to be reviewed for accuracy, signed and returned to the Department's Accounting Division. Payment will be generated upon receipt of the signed voucher.

APPENDIX A

OBLIGATIONS AND ACTIVITIES OF THE CONSULTANT AS A BUSINESS ASSOCIATE PURSUANT TO 45 CFR SECTION 164.504

The parties to the Agreement hereby agree to comply with the following provisions to ensure their compliance with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996.

Pursuant to the terms of the Agreement, and in accordance with the requirements of 45 CFR Sections 160 and 164, the Provider herein shall be considered a "Business Associate." The following terms are hereby incorporated in this AGREEMENT and shall be binding upon the parties hereto:

A. DEFINITIONS

1. "Business Associate" – under the terms of this Agreement, the term "Business Associate" shall mean Community Maternity Services.
2. "Covered Entity" – for purposes of this Agreement, the term "Covered Entity" shall mean the County and/or the Department.
3. "Individual" – under the terms of this Agreement, the term "Individual" shall have the same meaning as the term "individual" in 45 CFR Section 160.103, and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.502(g).
4. "Privacy Rule" – shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
5. "Protected Health Information" - shall have the same meaning as the term "protected health information" in 45 CFR Section 160.103, limited to the information created, received, maintained or transmitted by the Business Associate from or on behalf of the Covered Entity.
6. "Required by Law" – shall have the same meaning as the term "required by law" in 45 CFR Section 164.103.
7. "Secretary" – shall mean the Secretary of the Department of Health and Human Services or his/her Designee.
8. "Subcontractor" – shall have the same meaning as the term "subcontractor" in 45 CFR Section 160.103.

B. OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE

1. Pursuant to the terms of the Agreement, the Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by the Agreement, or as required by law.
2. The Business Associate agrees to use appropriate safeguards to prevent the use or disclosure of electronic Protected Health Information other than as provided for by this Agreement in accordance with the requirements of 45 CFR Section 164.314(a)(2)(i).
3. Pursuant to the terms of the Agreement and as more particularly described in the INDEMNIFICATION provisions of the Agreement, the Business Associate hereby agrees, and shall be required to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of Protected Health Information by the Business Associate which is in violation of the requirements of the Agreement.

4. The Business Associate shall immediately report to the Covered Entity any use or disclosure of unsecured Protected Health Information not provided for by the Agreement, of which it shall become aware in accordance with the provisions of 45 CFR Section 164.410.
5. The Business Associate agrees to ensure that any agent, including a subcontractor, that creates, receives, maintains or transmits Protected Health Information on behalf of the Business Associate agrees to the same restrictions and conditions that apply through this Agreement to the Business Associate with respect to such information pursuant to 45 CFR Section 164.502(e)(1)(ii) by entering into a contract or other arrangement in accordance with the requirements of 45 CFR Section 164.314.
6. Business Associate agrees to provide access, at the request of the Covered Entity, to Protected Health Information in a Designated Record Set, to the Covered Entity or as directed by the Covered Entity, to an Individual, in order to meet the requirements under 45 CFR Section 164.524.
7. Business Associate agrees to make any necessary amendments to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees pursuant to 45 CFR Section 164.526, at the request of Covered Entity or an Individual, in a timely manner.
8. Business Associate agrees to make its internal practices, books, and records, including policies and procedures relating to the use and disclosure of Protected Health Information received from, or created or received by the Business Associate on behalf of the Covered Entity, available to the Secretary for purposes of the Secretary determining the Covered Entity's compliance with the Privacy Rule.
9. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with the requirements of 45 CFR Section 164.528.
10. Business Associate agrees to provide to the Covered Entity or an Individual, upon request, information which may be collected by the Business Associate during the term of this Agreement, for purposes of permitting the Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information, in accordance with the provisions of 45 CFR Section 164.528.
11. To the extent that the Business Associate is to carry out an obligation of the Covered Entity as a term of this Agreement, Business Associate agrees to comply with the requirements of the Privacy Rule under 45 CFR Section 164.504 that apply to the Covered Entity in the performance of such obligation.

C. PERMITTED USES AND DISCLOSURE

1. General Uses and Disclosure - Except as otherwise limited in this Agreement, the Business Associate may use or disclose Protected Health Information to perform the functions, activities, or services as defined in this Agreement, provided that such use or disclosure would not violate the Privacy Rule if said disclosure were done by the Covered Entity, or the minimum necessary policies and procedures of the Covered Entity, as well as the applicable provisions of the New York State Mental Hygiene and/or Social Services Law.
2. Specific Uses and Disclosure – Except as otherwise limited in this Agreement, the Business Associate may disclose Protected Health Information for the proper management and administration of the services to be provided by the Business

Associate in this Agreement, provided that disclosures are Required by Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law, or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.

3. Except as otherwise limited in this Agreement, the Business Associate may use Protected Health Information to provide information required to the Covered Entity as permitted by 45 CFR Section 164.504 (e)(2)(i)(B).
4. Except as otherwise limited in this Agreement, the Business Associate may use Protected Health Information to carry out the legal responsibilities of the Business Associate.
5. The Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR Section 164.502 (j)(1).
6. Nothing within this section shall be construed as to inhibit the disclosure of information as may be required by the New York State Mental Hygiene and/or Social Services Law, Sections 33.13 or 33.16, or other provisions, as may be required by Law.

D. OBLIGATIONS OF COVERED ENTITY WITH REGARD TO PRIVACY PRACTICE AND RESTRICTIONS

1. The Covered Entity shall notify the Business Associate of any limitations in its notice of privacy practices in accordance with 45 CFR Section 164.520, to the extent that such limitation may affect the Business Associate's use or disclosure of Protected Health Information.
2. The Covered Entity shall notify the Business Associate of any changes in, or revocation of, permission by the Individual to use or disclose Protected Health Information, to the extent that such changes may affect the Business Associate's use or disclosure of Protected Health Information.
3. The Covered Entity shall notify the Business Associate of any restriction to the use or disclosure of Protected Health Information that the Covered Entity has agreed to in accordance with 45 CFR Section 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of Protected Health Information.

E. PERMISSIBLE REQUESTS BY COVERED ENTITY

The Covered Entity shall not request the Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity.

F. COVERED ENTITY'S RESPONSIBILITIES UPON TERMINATION

1. The term of this Agreement shall be January 1, 2020 - December 31, 2020. Upon termination of this Agreement, the Covered Entity shall take such necessary precautions to ensure the confidentiality of the Protected Health Information, in accordance with the provisions of 45 CFR Section 164.

2. Termination for Cause – In the event that the Covered Entity becomes aware of a material breach by the Business Associate of the terms of this Appendix, the Covered Entity shall have the right, at its sole discretion, to proceed as follows:
   (a) Provide an opportunity to the Business Associate to cure the breach, and end the violation within ten (10) business days. If the Business Associate does not cure the breach and end the violation within ten (10) business days, the Covered Entity shall have the right to immediately terminate the agreement; or,
   (b) Immediately terminate the agreement if the Business Associate has breached a material term of this Appendix, and cure is not possible; or
   (c) If neither termination of the agreement nor cure is feasible, the Covered Entity shall report the violation to the Secretary.

G. EFFECT OF TERMINATION

1. Upon termination of the Agreement, the Business Associate shall take all necessary precautions and extend the protections of this Agreement to all Protected Health Information, as if the Agreement were still in force and effect.
2. At the end of all audit and other relevant periods, as more particularly described in the RECORDS provisions of the Agreement, the Business Associate shall, if feasible, return or destroy all Protected Health Information received from or created or received by the Business Associate on behalf of the Covered Entity that the Business Associate still maintains in any form.

H. MISCELLANEOUS

1. **Regulatory References** – A reference in this Agreement to a section in the Privacy Rule or in the New York State Mental Hygiene and/or Social Services Law means the section as in effect or as amended.
2. **Amendment** – The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996.
3. **Survival** – The respective rights and obligations of the Business Associate with regard to this Appendix shall survive the termination of this Agreement.
4. **Interpretation** – Any ambiguity in this Agreement shall be resolved to permit the Covered Entity to comply with the Privacy Rule.
5. **Incorporation in the Agreement** – The terms of this Appendix "A" are hereby incorporated into the Agreement between the parties hereto.

Certificate of Coverage

Date: 4/17/2019

Certificate Holder
The Roman Catholic Diocese of Albany
40 North Main Avenue
Albany, NY 12203

This Certificate is issued as a matter of information only and confers no rights upon the holder of this certificate. This certificate does not amend, extend or alter the coverage afforded below.

Company Affording Coverage
THE CATHOLIC MUTUAL RELIEF
SOCIETY OF AMERICA
10843 OLD MILL RD
OMAHA, NE 68154

Covered Location
COMMUNITY MATERNITY SERVICES
27 N MAIN AVENUE

ALBANY, NY 12203-0000

Coverages

This is to certify that the coverages listed below have been issued to the certificate holder named above for the certificate 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 coverage afforded described herein is subject to all the terms, exclusions and conditions of such coverage. Limits shown may have been reduced by paid claims.

Type of Coverage	Certificate Number	Coverage Effective Date	Coverage Expiration Date	Limits	
Property				Real & Personal Property	
D. General Liability ☑ Occurrence ☐ Claims Made	9072	7/1/2019	7/1/2020	Each Occurrence	1,000,000
				General Aggregate	
				Products-Comp/OP Agg	
				Personal & Adv Injury	
				Fire Damage (Any one fire)	
				Med Exp (Any one person)	
Excess Liability				Each Occurrence	
				Annual Aggregrate	
Other Automobile Liability	SI	7/1/2019	7/1/2020	Each Occurrence	
				Claims Made	500,000
				Annual Aggregrate	
				Limit/Coverage	

Description of Operations/Locations/Vehicles/Special Items (the following language supersedes any other language in this endorsement or the Certificate in conflict with this language)

Coverage is verified for claims arising out of the Agreement by and between the County of Albany and Community Maternity Services, for the term of the certificate. Includes $1,000,000 Property Damage Liability.

The National Catholic Risk Retention Group also participates in this coverage through Policy No. RRG 10239-12.

Holder of Certificate

County of Albany
Department of Social Services
162 Washington Avenue
Albany, NY 12210

0085000741

Cancellation

Should any of the above described coverages be cancelled before the expiration date thereof, the issuing company will endeavor to mail 30 **days written notice to the holder of certificate named to the left, but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives.**

Authorized Representative [signature]

NEW YORK STATE OF OPPORTUNITY. | Workers' Compensation Board

ANDREW M. CUOMO
GOVERNOR

CLARISSA M. RODRIGUEZ
CHAIR

Office of the Secretary
Compliance With Workers' Compensation Law

I, Kim McCarroll, Secretary for the Workers' Compensation Board, DO HEREBY Certify that:

Name: Community Maternity Services

WCB #: W591127

Tax ID #: 141541210

Qual Date: 9/1/1978

has secured compensation to its employees as a self-insurer in the following manner:

Pursuant to Section 50, subdivision 3 of the Workers' Compensation Law.

The status of the self-insurer was effective as noted above and remains in full force.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Workers' Compensation Board this 11th day of September 2019.

Kim McCarroll

KIM MCCARROLL
SECRETARY

Status Confirmed By
Nkia Vroman- Dan
9/11/2019

328 State Street, Schenectady, NY 12305 | (518) 402-0247 | www.WCB.NY.gov

RESOLUTION NO. 377

AUTHORIZING AN AGREEMENT WITH COMMUNITY MATERNITY SERVICES REGARDING MATERNITY SHELTER AND SUPPORT SERVICES

Introduced: 9/9/19:
By Social Services Committee:

WHEREAS, Local Social Services districts are required to provide temporary transitional shelter services to public assistance eligible homeless pregnant or parenting young women sixteen to twenty-two years of age, and

WHEREAS, The Commissioner of the Albany County Department of Social Services has requested authorization to enter into an agreement with Community Maternity Services regarding a Transitional Living Program and the provision of temporary transitional housing for public assistance eligible homeless pregnant or parenting young women sixteen to twenty-two years of age, and

WHEREAS, The maternity shelter is a state-certified 11-bed shelter for females who require transitional housing, room, board, supervision, information referral, case management, parenting education, independent living skills, advocacy, medical, mental health systems and other appropriate support services, now, therefore be it

RESOLVED, By the Albany County Legislature that the County Executive is authorized to enter into an agreement with Community Maternity Services regarding the provision of temporary transitional shelter services to public assistance eligible homeless pregnant or parenting young women sixteen to twenty-two years of age for the term commencing January 1, 2020 and ending December 31, 2020 in an amount not to exceed $300,000, and, be it further

RESOLVED, That the County Attorney is authorized to approve said agreement as to form and content, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

Adopted by unanimous vote – 9/9/19

RESOLUTION NO. 280

AUTHORIZING AN AGREEMENT WITH COMMUNITY MATERNITY SERVICES REGARDING MATERNITY SHELTER AND SUPPORT SERVICES

Introduced: 9/14/20:
By Social Services Committee:

WHEREAS, Local Social Services districts are required to provide temporary transitional shelter services to public assistance eligible homeless pregnant or parenting young women sixteen to twenty-two years of age, and

WHEREAS, The Commissioner of the Albany County Department of Social Services has requested authorization to enter into an agreement with Community Maternity Services regarding a Transitional Living Program and the provision of temporary transitional housing for public assistance eligible homeless pregnant or parenting young women sixteen to twenty-two years of age, and

WHEREAS, The maternity shelter is a state-certified eleven-bed shelter for females who require transitional housing, room, board, supervision, information referral, case management, parenting education, independent living skills, advocacy, medical, mental health systems and other appropriate support services, now, therefore be it

RESOLVED, By the Albany County Legislature that the County Executive is authorized to enter into an agreement with Community Maternity Services regarding the provision of temporary transitional shelter services to public assistance eligible homeless pregnant or parenting young women sixteen to twenty-two years of age in an amount not to exceed $300,000 for the term commencing January 1, 2021 and ending December 31, 2021, and, be it further

RESOLVED, That the County Attorney is authorized to approve said agreement as to form and content, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

DANIEL P. MCCOY
COUNTY EXECUTIVE

COUNTY OF ALBANY
DEPARTMENT OF SOCIAL SERVICES
162 WASHINGTON AVENUE
ALBANY, NEW YORK 12210-2304
(518) 447-7300
WWW.ALBANYCOUNTY.COM

MICHELE G. MCCLAVE
COMMISSIONER

ERIN M. STACHEWICZ
EXECUTIVE DEPUTY
COMMISSIONER

VALERIE SACKS
DEPUTY COMMISSIONER

August 4, 2020

Hon. Andrew Joyce, Chairman
Legislative Clerk's Office
112 State St., Room 710
Albany, NY 12207

Dear Chairman Joyce,

The Department of Social Services respectfully requests legislative approval for the following:

Authorization is requested to renew agreements with Albany County Department of Social Services (DSS) approved providers of moving and storage services, for eligible Temporary Assistance recipients, when relocation and/or storage of household belongings are necessary.

Department procedures require recipients to contact both providers to obtain the lowest quote for their moving and/or storage services. DSS is also required to issue an allowance for storage of furniture and personal belongings when it is essential for circumstances such as relocation, eviction or temporary shelter, so long as eligibility for public assistance continues and the circumstances necessitating the storage continue to exist.

DSS contracts with all willing and authorized providers, thus an RFP is not required. In order to be a qualified bidder for moving services, the firm must possesses a certificate as a common carrier of household goods by motor vehicle, issued by the New York State Department of Transportation.

Sincerely,

Michele G. McClave
Commissioner

cc: Dennis A. Feeney, Majority Leader
Frank A. Mauriello, Minority Leader
Rebekah Kennedy, Majority Counsel
Minority Counsel

112 State Street
Albany, NY 12207

County of Albany

Legislation Text

File #: TMP-1773, **Version:** 1

REQUEST FOR LEGISLATIVE ACTION

Description (e.g., Contract Authorization for Information Services):
Contract Authorization for Social Services (Moving)

Date:	7/21/2020
Submitted By:	Joseph J DeAngelis
Department:	Social Services
Title:	Contract Administrator
Phone:	518-447-7583
Department Rep. Attending Meeting:	Michele G. McClave

Purpose of Request:

☐ Adopting of Local Law
☐ Amendment of Prior Legislation
☐ Approval/Adoption of Plan/Procedure
☐ Bond Approval
☐ Budget Amendment
☒ Contract Authorization
☐ Countywide Services
☐ Environmental Impact/SEQR
☐ Home Rule Request
☐ Property Conveyance
☐ Other: (state if not listed) Click or tap here to enter text.

CONCERNING BUDGET AMENDMENTS

Increase/decrease category (choose all that apply):
☐ Contractual
☐ Equipment
☐ Fringe
☐ Personnel
☐ Personnel Non-Individual

☐ Revenue

Increase Account/Line No.: Click or tap here to enter text.
Source of Funds: Click or tap here to enter text.
Title Change: Click or tap here to enter text.

CONCERNING CONTRACT AUTHORIZATIONS

Type of Contract:
☐ Change Order/Contract Amendment
☐ Purchase (Equipment/Supplies)
☐ Lease (Equipment/Supplies)
☐ Requirements
☒ Professional Services
☐ Education/Training
☐ Grant
Choose an item.
Submission Date Deadline Click or tap to enter a date.
☐ Settlement of a Claim
☐ Release of Liability
☐ Other: (state if not listed) Click or tap here to enter text.

Contract Terms/Conditions:

Party (Name/address):
Don’s Moving & Storage
981 Broadway
Albany, NY

Additional Parties (Names/addresses):
Liedkie Moving & Storage
2696 Curry Rd
Schenectady, NY

Amount/Raise Schedule/Fee: $150,000
Scope of Services: Moving and storage services for eligible Temporary Assistance recipients when relocation and/or storage of household belongings are necessary

Bond Res. No.: Click or tap here to enter text.
Date of Adoption: Click or tap here to enter text.

CONCERNING ALL REQUESTS

Mandated Program/Service: Yes ☒ No ☐

If Mandated Cite Authority: 18 NYCRR 352.6

Is there a Fiscal Impact: Yes ☒ No ☐
Anticipated in Current Budget: Yes ☒ No ☐

County Budget Accounts:
Revenue Account and Line: AA6109 04609 AA6140 03640 AA6142 03642
Revenue Amount: $70,950.00 $14,834.00 $13,950.00

Appropriation Account and Line: AA6109 44046 AA6140 44046 AA6142 44046
Appropriation Amount: $70,950.00 $51,150.00 $27,900.00

Source of Funding - (Percentages)
Federal: 47.3%
State: 19.2%
County: 33.5%
Local: .

Term
Term: (Start and end date) 1/1/2021-12/31/2021
Length of Contract: 12 Months

Impact on Pending Litigation Yes ☐ No ☒
If yes, explain: Click or tap here to enter text.

Previous requests for Identical or Similar Action:
Resolution/Law Number: 413
Date of Adoption: 10/15/2019

Justification: (state briefly why legislative action is requested)

Authorization is requested to renew agreements with Albany County Department of Social Services (DSS) approved providers of moving and storage services, for eligible Temporary Assistance recipients, when relocation and/or storage of household belongings are necessary. Department procedures require recipients to contact both vendors to obtain the lowest quote for their moving and/or storage services.

Local Social Services districts (DSS) are required to provide for payment of moving services on behalf of a temporary assistance recipient when the client demonstrates the need and the relocation falls into any of the following categories:

(1) The move is to a less expensive rental property and the amount paid for a security deposit and moving expenses is less than the amount of a two-year difference in rentals; or

(2) The move is necessitated by one of the following criteria:
a) The need to move results from a disaster/catastrophe and/or a vacate order placed against the premises by a health agency or code enforcement agency;
b) The move is necessitated by a serious medical or physical handicap condition. Such need must be verified by

specific medical diagnosis;

c) The individual or family is rendered homeless as a result of having been put out by another occupant with whom they were sharing accommodations;

d) The move is from temporary to permanent housing;

e) The move is from permanent housing to temporary housing whenever necessary due to the unavailability of permanent housing;

f) Move is from one temporary accommodation to another temporary accommodation whenever necessary due to the unavailability of permanent housing;

g) The move is from an approved relocation site or to an approved cooperative apartment; or

h) There is a living situation which adversely affects the mental or physical health of the individual or family, and the need for alternate housing is urgent, and not issuing a security deposit, moving expenses and/or brokers' or finders' fees would prove detrimental to the health, safety and well-being of the individual or family.

DSS is also required to issue an allowance for storage of furniture and personal belongings when it is essential for circumstances such as relocation, eviction or temporary shelter, so long as eligibility for public assistance continues and the circumstances necessitating the storage continue to exist.

DSS contracts with all willing and authorized providers, thus an RFP is not required. In order to be a qualified bidder for moving services, the firm must possesses a certificate as a common carrier of household goods by motor vehicle, issued by the New York State Department of Transportation.
During calendar year 2019 110 clients were served for Moving and/or Storage services.

AGREEMENT
BETWEEN
THE COUNTY OF ALBANY
AND
LIEDKIE MOVING AND STORAGE. INC.

PURSUANT TO RESOLUTION NO. 413, ADOPTED 10/15/2019

This is an Agreement, made by and between the County of Albany (hereinafter referred to as the "County"), acting by and through the Albany County Department of Social Services (hereinafter referred to as the "Department"), having its principal office at Albany County Office Building, 112 State Street, Albany, New York 12207 and Liedkie Moving and Storage, Inc., located at 2696 Curry Rd Schenectady, New York 12203 (hereinafter referred to as the "Provider").

WITNESSETH:

WHEREAS, the County, acting through the Department, pursuant to Section 352.2 of the Social Services Law, is responsible for providing moving and storage of household goods including furniture and personal belongings to residents in receipt of Temporary Assistance under eligible conditions; and

WHEREAS, the County has heretofore requested moving and storage services for the Albany County Department of Social Services, and

WHEREAS, the Provider has heretofore submitted a proposal for moving and storage services; and

WHEREAS, the County has accepted the proposal of the Provider to provide the aforementioned services.

NOW THEREFORE, the parties hereto do mutually covenant and agree as follows:

ARTICLE I. SERVICES TO BE PERFORMED BY THE PROVIDER

Moving services are services to move household items for a recipient of Temporary Assistance (hereinafter referred to as "Customer") whom the Department has determined to be eligible to receive said services.

Storage services are services to temporarily store household items for a Customer whom the Department has determined to be eligible to receive such services.

The Provider will bill the Department as detailed in Exhibit 1 of this Agreement, at rates equal to or less than the Provider's Proposal Package, which are incorporated by reference and made a part of this Agreement:

ARTICLE II. TERM OF CONTRACT

The term of this Agreement shall commence on January 1, 2020 and will continue in effect through December 31, 2020. It is agreed by the Provider that performance outside the scope of this Agreement will not be paid for by the Department or the County.

ARTICLE III. ACCOUNTING RECORDS

Proper and full accounting records shall be maintained by the Provider, which records shall clearly identify the costs of the work performed under this Agreement. Such records shall be subject to periodic and final audit by the County and the State for a period of six (6) years following the date of final payment by the County to the Provider for the performance of the work contemplated herein.

If the Provider is subject to an audit by an agency of the United States government, then a copy of such annual audit, including exit conference results, if any, shall be provided to the Albany County Department of Social Services and the Comptroller of the County of Albany within ten (10) days after receipt by Provider of the final audit and the exit conference results, if any.

If Provider is not subject to an annual audit by an agency of the United States government, but receives from Albany County Department of Social Services funds in excess of $50,000 in its fiscal year, then Provider shall engage an independent auditor acceptable to the Albany County Department of Social Services to: 1) review the records and accounts of the Provider; 2) render an opinion as to the accuracy and sufficiency of Provider's records and accounting methods; 3) render an opinion of Provider's financial position for the fiscal year being audited and any change therein, including but not limited to its net income or net loss. The audit report by the independent auditor shall be submitted to the Albany County Department of Social Services and the Comptroller of the County of Albany within ten (10) days of its receipt by the Provider.

ARTICLE IV. ASSIGNMENTS

The Provider specifically agrees as required by Section 109 of the New York General Municipal Law that the Provider is prohibited from assigning, transferring, conveying, subletting, or otherwise disposing of this Agreement, or of the Provider's right, title or interest therein, without the previous written consent of the County.

The Provider or its employees will provide all activities required to be performed by it under this Agreement. The Provider shall not subcontract for any portion of the services required under this Agreement without the prior written approval of the County and subject to such conditions and provisions as the County may deem necessary.

ARTICLE V. COOPERATION

The Provider shall cooperate with representatives, agents and employees of the County and the County shall cooperate with the Provider, its representatives, agents and employees to facilitate the economic and expeditious provision of services under this Agreement.

ARTICLE VI. SCHEDULE

The Provider shall complete all work in a timely manner to protect the interests and rights of the County to the fullest extent reasonably possible. The Provider agrees to notify the

Department in writing, within three days of occurrence, of any problem(s) which may threaten performance of the provisions of this Agreement, and shall submit therewith recommendations for solution(s).

ARTICLE VII. RELATIONSHIP

The Provider is, and will function as an independent Provider under the terms of this Agreement and shall not be considered an agent or employee of the County for any purposes and the employees of the Provider shall not in any manner be, or hold out to be, agents or employees of the County.

ARTICLE VIII. INDEMNIFICATION

The Provider shall defend, indemnify and save harmless the County, its employees and agents, from and against all claims, damages, losses and expenses (including, without limitation, reasonable attorney's fees) arising out of, or in consequence of, any negligent or intentional act or omission of the Provider, its employees or agents, to the extent of its or their responsibility for such claims, damages, losses and expenses.

ARTICLE IX. INSURANCE

The Provider agrees to procure and maintain without additional expense to the County, insurance of the kinds and in the amounts provided under Schedule A attached hereto. Before commencing, the Provider shall furnish to the County, a certificate(s) showing that the requirements of this Article are met and the certificate(s) shall provide that the policy shall not be changed or canceled until thirty (30) days prior written notice has been given to the County, and the County of Albany is named as an additional insured.

The Provider shall provide to the County documentation and proof that automobile insurance coverage has been obtained and will continue to exist during the term of this agreement that will hold the County harmless from any and all liability incurred for the use of a motor vehicle to transport individuals in conjunction with or for the purpose of providing the services described in this agreement or shall instead fill out, sign and execute the Automobile Insurance Waiver in Schedule B attached hereto.

ARTICLE X. REMEDY FOR BREACH

In the event of a breach by the Provider, the Provider shall pay the County all direct and consequential damages caused by such breach, including, but not limited to, all sums expended by the County to procure a substitute Provider to satisfactorily complete the contract work, together with the County's own costs incurred in procuring a substitute Provider.

ARTICLE XI. SUSPENSION AND DEBARMENT

The Provider certifies that its company/entity and any person associated therewith in the capacity of independent contractor, not-for-profit provider, for profit provider, owner, director, officer, or major stockholder (5% or more ownership):

a. is not currently under suspension, debarment, voluntary exclusion, or determined ineligible by any federal agency;
b. has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;
c. does not have a proposed debarment pending; and

d. has not been indicted, convicted, nor had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

ARTICLE XII. NON-DISCRIMINATION

In accordance with 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 Subscriber 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 person 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.

ARTICLE XIII. TERMINATION OF AGREEMENT

This Agreement may be terminated at any time upon mutual written agreement of the contracting parties.

This Agreement may be terminated if the Department deems that termination would be in the best interests of the County, provided that the Department shall give written notice to the Provider not less than thirty (30) days prior to the date upon which termination shall become effective. Such notice is to be made via registered or certified mail return receipt requested or hand delivered to the last known address of the Provider. The date of such notice shall be deemed to be the date the notice is received by the Provider established by the receipt returned, if delivered by registered or certified mail, or by an affidavit of the person delivering the notice to the Provider, if the notice is delivered by hand.

Upon the County's knowledge of a breach of this Agreement by the Provider, the County may terminate the Agreement if it determines that such a breach violated a material term of this Agreement. Notwithstanding that, the County may provide an opportunity for the Provider to cure the breach within a time set by the County and, if cure is not possible or does not occur within the time limit, immediately terminate the Agreement without penalty.

This Agreement shall be deemed terminated immediately upon the filing of a petition of bankruptcy or insolvency, by or against the Provider. Such termination shall be immediate and complete, without termination costs or further obligation by the Department to the Provider.

This Agreement shall be deemed terminated immediately should Federal and/or State funds for this Agreement become unavailable.

In the event of termination for any reason, the Provider shall not incur new obligations for the terminated portion and the Provider shall cancel as many outstanding obligations as possible.

Any violation by the Provider of any of the terms of this Agreement may result in the County's decision at its sole discretion, to immediately terminate this Agreement.

ARTICLE XIV. FEDERAL LOBBYING

The Federal Lobbying Act states that no Federal appropriated funds may be spent by the recipient of a Federal grant, or a sub tier contractor or sub grantee, to pay any person for influencing or attempting to influence an officer or employee of any Federal agency or a Member of Congress in connection with any of the following covered Federal actions: the awarding of a

Federal contract, or the making of any Federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement. If any funds or other Federal appropriated funds have been or will be expended by the Provider to pay any person for influencing any Federal officer, employee or Member of Congress described above in connection with such Federal grant the Provider agrees to make a written disclosure on the appropriate specified disclosure form.

The parties hereunto represent that they have not committed or authorized, nor will they commit or authorize the commission of any act in violation of the Federal Lobbying Act.

ARTICLE XV. INTERPRETATION

In the event of any discrepancy, disagreement, or ambiguity among the documents that comprise this Agreement, the documents shall be given preference in the following order to interpret and resolve such discrepancy, disagreement or ambiguity: 1. this Agreement; 2. the Provider Proposal Package.

ARTICLE XVI. MACBRIDE PRINCIPLES

Contractor hereby represents that said Provider is in compliance with the MacBride Principles of Fair Employment as set forth in Albany County Local Law No. [3] for 1993, in that said Provider either (a) has no business operations in Northern Ireland or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Principles, and shall permit independent monitoring of their compliance with such principles. In the event of a violation of this stipulation, the County reserves all rights to take remedial measures as authorized under section 4 of Local Law No. [3] in 1993, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the Provider in default and/or seeking debarment or suspension of the Provider.

ARTICLE XVII. LICENSES

The provider shall at all times obtain and maintain all licenses required by New York State, or other relevant regulating body, to perform the services required under this Agreement.

ARTICLE XVIII. GOVERNING LAWS

This Agreement shall be governed by and construed according to the Laws of the State of New York and any or all legal proceedings or actions shall be brought in a county, state, federal or local Court or other tribunal in the County of Albany.

ARTICLE XIX. INVALID PROVISIONS

It is further expressly understood and agreed by and between the parties hereto that in the event any covenant, condition or provision herein contained is held to be invalid by any court or competent jurisdiction, the invalidity of such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained; provided, however, that the invalidity of any such covenant, condition or provision does not materially prejudice either County or Provider in their respective rights and obligations contained in the valid covenants, conditions or provisions in this Agreement.

ARTICLE XX. MODIFICATION

This Agreement may only be modified by a formal written amendment executed by the parties.

ARTICLE XXI. IRANIAN ENERGY SECTOR DIVESTMENT

Contractor hereby represents that Contractor is in compliance with New York State General Municipal Law Section 103-g entitled "Iranian Energy Sector Divestment," in that Contractor has not:

(a) Provided goods or services of $20 Million or more in the energy sector of Iran including but not limited to the provision of oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran; or

(b) Acted as a financial institution and extended $20 Million or more in credit to another person for forty-five (45) days or more, if that person's intent was to use the credit to provide goods or services in the energy sector in Iran.

ARTICLE XXII. NON-APPROPRIATIONS

Notwithstanding anything contained herein to the contrary, no default shall be deemed to occur in the event no funds or insufficient funds are appropriated and budgeted by either the County or the State, or are otherwise unavailable to the County for payment. The County will immediately notify the Provider of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which appropriations were made without penalty or expense to the County of any kind whatsoever, except as to those portions herein agreed upon for which funds shall have been appropriated and budgeted.

ARTICLE XXIII. ADDITIONAL ASSURANCES

The Provider agrees to comply with all applicable State and Federal statutes and regulations.

The Provider agrees to comply with the requirements of the Federal Lobbying Act and the Drug-Free Workplace Act of 1988 and has signed certifications contained in Schedules C and D, which are attached hereto and made part thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year indicated below.

COUNTY OF ALBANY

DATE: 1/29/2020

BY: ____________________

Daniel P. McCoy
Albany County Executive
or
Daniel C Lynch
Deputy County Executive

LIEDKIE MOVING AND STORAGE, INC.

DATE: 12/13/19

BY: ____________________
Signature

____
Title

STATE OF NEW YORK)
COUNTY OF ALBANY) SS.:

On the ____ day of ________________, 20__, before me, the undersigned, personally appeared Daniel P. McCoy, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

____
NOTARY PUBLIC

STATE OF NEW YORK)
COUNTY OF ALBANY) SS.:

On the 29 day of January, 2020 before me, the undersigned, personally appeared Daniel C Lynch, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

MICHAEL A. LALLI
NOTARY PUBLIC - STATE OF NEW YORK
No. 01LA6322012
Qualified in Albany County
My Commission Expires March 30, 2023

____
NOTARY PUBLIC

STATE OF New York **)**
COUNTY OF Schenectady **) SS.:**

On the 13 day of December, 2019, before me, the undersigned, personally appeared Thomas A. Tama personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in her/his capacity, and that by her/his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

HANNAH BARR
Notary Public, State of New York
Qualified in Schenectady County
No. 01BA6385876
Commission Expires Jan. 14, 2023

____
NOTARY PUBLIC

SCHEDULE A

INSURANCE COVERAGE

The kinds and amounts of insurance to be provided are as follows:

1. **Workers' Compensation and Employers Liability Insurance:** A policy or policies providing protection for employees in the event of job related injuries.

2. **Automobile Liability Insurance:** A policy or policies with the limits of not less than $500,000 for each accident because of bodily injury, sickness or disease, including death at any time, resulting therefrom, sustained by any person caused by accident, and arising out of the ownership, maintenance or use of any automobiles, and with the limits of $500,000 for damage because of injury to or destruction of property, including the loss of use thereof, caused by accident and arising out of the ownership, maintenance or use of any automobiles.

3. **General Liability Insurance:** A policy or policies including comprehensive form, personal injury, contractual, products/completed operations, premises operations and broad form property insurance shall be furnished with limits of not less than:

Liability for:	**Combined Single Limit:**
Bodily Injury	$1,000,000
Property Damage	$1,000,000
Personal Injury	$1,000,000

SCHEDULE B

CERTIFICATION REGARDING
DRUG FREE WORKPLACE REQUIREMENTS
GRANTEES OTHER THAN INDIVIDUALS

This certification is required by regulations implementing Sections 5151-5160 of the Drug-free Workplace Act of 1988 (Pub. L.100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.) 7 CFR Part 3017, Subpart F, Section 3017.600 and 45 CFR Part 76, Subpart F. The January 31, 1989 regulations were amended and published as Part II of the May 25, 1990 Federal Register (Page 21681-21691).

The grantee certifies that it will provide a drug-free workplace by:

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

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

1. The dangers of drug abuse in the workplace;
2. The grantee'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 employees for drug abuse violations occurring in the workplace.

C. Making it a requirement that each employee to be engaged in the performance of the grant 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 grant, the employee will:

1. Abide by the terms of the statement; and
2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

E. Notifying the agency within ten days after receiving notice under subparagraph (d) (2) from an employee or otherwise receiving actual notice of such conviction;

F. Taking one of the following actions, within 30 days of receiving notice under subparagraph (d) (2), with respect to the employee who is so convicted:

1. Taking appropriate personnel action against such an employee, up to and including termination; 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 paragraph (a), (b), (c), (d), (e) and (f).

Liedkie Moving & Storage Inc.
Organization

[signature]
Authorized Signature

[signature] 12-13-19
Title Date

SCHEDULE C

Certification Regarding Lobbying
Certification for Contracts, Grants, Loans and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into or any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each failure.

Liebke Moving & Storage Inc
Organization

Authorized Signature

Title 12-13-19
Date

Note: If Disclosure Forms are required, please contact: Mr. William Saxton, Deputy Director, Grants and Contracts Management Division, Room 341F, HHH Building, 200 Independence Avenue, SW, Washington, D.C. 20201-0001.

EXHIBIT 1

Rate for Service/Fiscal Reporting

I. Rate for Service

The County will reimburse the Provider for services rendered at the rate **equal to or less than** those presented in the provider's proposal Package.

a. A voucher, signed by a Department agent authorizing amounts and specific household items to be moved and/or stored and/or delivered to a household individual. Upon receipt of the authorized voucher and after delivery and/or storage, the household member whose name appears on the authorized voucher would sign it.

b. Move/Storage of essential household item rates were established in response to the request for purchasing as follows:

Moving Cost at hourly rate:

Hourly Rate	**$96**	(3 hour minimum)	2 workers
Additional Help	**$30**	per hour	1 additional worker if needed

Moving Cost at flat rate:

# of Household Members	Amount of Boxes (maximum)	# of Bedrooms	Flat Rate
1	**10**	1	288
2	**15**	2	384
3	**20**	3	504
4	**25**	4	786
5	**30**	5	882
6+	**35**	6+	1,008
Flat rate charge includes moves within a 25 mile radius			

Storage Cost:

Overnight storage	**$150** a day	storage on a truck	26-28 foot
Short Term Storage	**$1.44** per day	per pod	5'x7'x7'
Medium Term Storage	**$9** per week	per pod	5'x7'x7'
Long Term Storage	**$36** per Month	per pod	5'x7'x7'

Authorized rates cannot exceed, but can be less than those in the above schedule.

II. Billing and Reimbursement

The County will reimburse the Provider for the moving and storage of items authorized and provided to an eligible person(s) as follows:

a. A Department representative will authorize a signed voucher to the Customer, who will in turn give the voucher to the Provider. The voucher is an authorization to either move and/or store household listed items from a residential or to a storage facility. The Customer will sign the voucher once the purchase and delivery are complete. The Provider will then send the voucher, with Customer and Provider signatures, to the Department for request of payment.

b. The County will reimburse the Provider who bills with original authorized and signed vouchers to the Department as follows:

Albany County Department of Social Services
162 Washington Ave.
Albany, New York 12210-2304
Attn. David Bradley

c. Eligibility authorizations, in behalf of the Customer, will be made in compliance with current federal and State regulations.

d. The Provider will be responsible for directly billing other local social services departments, in the event that they have authorized household items to a recipient, as they would be fiscally responsible for the payment.

e. No delivery substitutions may be made for an authorized voucher specified delivery. For example, an authorized voucher to relocate items from one residential address to another cannot be delivered to any other address then specified on the voucher.

f. The Customer will list all items to be moved and/or stored to the Provider. The Provider will only move those items based on a rate agreed upon before authorization of a voucher will be given to the Customer.

g. If not all items for move and/or storage are listed prior to the voucher approval, the Provider must return the voucher authorization to the Department and request approval for a new voucher at the rate that includes the additional items to be moved and/or stored.

h. Provider is responsible to arrange and confirm appropriate date/time prior to approved move and/or storage with the Customer. County will not be liable for additional charges resulting from scheduling conflicts due to lack of communication between Provider and Customer.

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 1/17/2020

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

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

PRODUCER
USI Insurance Services
220 Salina Meadows
Suite 210
Syracuse, NY 13212

CONTACT NAME: USI Insurance Services
PHONE (A/C, No, Ext): (315) 295-3799 | FAX (A/C, No): (315) 295-3785
E-MAIL ADDRESS: CLSyracuse@usi.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Transguard Insurance Company of America	28886
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Liedkie Moving & Storage, Inc.
2696 Curry Road
Rotterdam NY 12303

COVERAGES CERTIFICATE NUMBER: 53676497 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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	✓ COMMERCIAL GENERAL LIABILITY			TCP000131202	1/19/2020	1/19/2021	EACH OCCURRENCE	$1,000,000
	CLAIMS-MADE ✓ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$100,000
							MED EXP (Any one person)	$5,000
							PERSONAL & ADV INJURY	$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$2,000,000
	✓ POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$Included
	OTHER:						Employee Benefits	$1,000,000
A	AUTOMOBILE LIABILITY			TCP000131202	1/19/2020	1/19/2021	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	✓ ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	✓ HIRED AUTOS ONLY / ✓ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
B	✓ UMBRELLA LIAB ✓ OCCUR			TCU000088902	1/19/2020	1/19/2021	EACH OCCURRENCE	$5,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$5,000,000
	DED ✓ RETENTION $10,000							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N						PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	N/A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
A	Inland Marine Including Cargo			TCP000131202	1/19/2020	1/19/2021	Per Vehicle 200,000 Per Occurrence 400,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

Albany County DDS
162 Washington Avenue
Albany NY 12210

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Bruce Rogers

Bruce W. Rogers

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AGENCY CUSTOMER ID: 00010096
LOC #:

ACORD®

ADDITIONAL REMARKS SCHEDULE

Page ___ of ___

AGENCY USI Insurance Services		NAMED INSURED Liedkie Moving & Storage, Inc. 2696 Curry Road Rotterdam NY 12303
POLICY NUMBER TCP000131202		
CARRIER Transguard Insurance Company of America	NAIC CODE 28886	EFFECTIVE DATE: 1/19/2020

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 **FORM TITLE:** Certificate of Liability (03/16)

HOLDER: Albany County DDS
ADDRESS: 162 Washington Avenue Albany NY 12210

To the extent covered by endorsement form(s):

General Liability
064043 (11/08) - General Liability Enhancements-includes additional insured, waiver of subrogation.
064044 (11/08) - AI-Insured Contracts

Auto Liability
014089NY (04/12) - Motor Carrier Enhancement-includes additional insured and waiver of subrogation.
CA9944 (12-93) - Loss Payable Clause

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ATTACHMENT

NYSIF
New York State Insurance Fund

199 CHURCH STREET, NEW YORK, N.Y. 10007-1100
| nysif.com

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

^^^^^ 141707071
LOVELL SAFETY MGMT CO., LLC
110 WILLIAM STREET 12TH FLR
NEW YORK NY 10038

SCAN TO VALIDATE
AND SUBSCRIBE

POLICYHOLDER	CERTIFICATE HOLDER
LIEDKIE MOVING AND STORAGE INC 2696 CURRY ROAD SCHENECTADY NY 12303	ALBANY COUNTY DEPARTMENT OF SOCIAL SERVICE 162 WASHINGTON AVE 3RD FL ALBANY NY 12210

POLICY NUMBER	CERTIFICATE NUMBER	POLICY PERIOD	DATE
Z2059 485-9	750621	10/01/2019 TO 10/01/2020	1/23/2020

THIS IS TO CERTIFY THAT THE POLICYHOLDER NAMED ABOVE IS INSURED WITH THE NEW YORK STATE INSURANCE FUND UNDER POLICY NO. 2059 485-9, COVERING THE ENTIRE OBLIGATION OF THIS POLICYHOLDER FOR WORKERS' COMPENSATION UNDER THE NEW YORK WORKERS' COMPENSATION LAW WITH RESPECT TO ALL OPERATIONS IN THE STATE OF NEW YORK, EXCEPT AS INDICATED BELOW.

IF YOU WISH TO RECEIVE NOTIFICATIONS REGARDING SAID POLICY, INCLUDING ANY NOTIFICATION OF CANCELLATIONS, OR TO VALIDATE THIS CERTIFICATE, VISIT OUR WEBSITE AT HTTPS://WWW.NYSIF.COM/CERT/CERTVAL.ASP. THE NEW YORK STATE INSURANCE FUND IS NOT LIABLE IN THE EVENT OF FAILURE TO GIVE SUCH NOTIFICATIONS.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS NOR INSURANCE COVERAGE UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICY.

NEW YORK STATE INSURANCE FUND

DIRECTOR,INSURANCE FUND UNDERWRITING

VALIDATION NUMBER: 92728555

RESOLUTION NO. 413

AUTHORIZING AGREEMENTS REGARDING MOVING AND STORAGE SERVICES FOR ELIGIBLE TEMPORARY ASSISTANCE RECIPIENTS

Introduced: 10/15/19
By Social Services Committee:

WHEREAS, Local Social Services districts are required to provide for payment of moving services on behalf of eligible temporary assistance recipients, and

WHEREAS, The Commissioner of the Department of Social Services has recommended that the County enter into agreements with New York State Department of Transportation approved carriers, Don's Moving & Storage and Liedkie Moving & Storage, for moving and storage services in an amount not to exceed $150,000 for a term commencing January 1, 2020 and ending December 31, 2020, now, therefore be it

RESOLVED, By the Albany County Legislature that the County Executive is authorized to enter into agreements with the following carriers regarding moving and storage services for eligible public assistance recipients in an amount not to exceed $150,000 for a term commencing January 1, 2020 and ending December 31, 2020:

Don's Moving & Storage
897 Broadway
Albany, NY 12207

Liedkie Moving & Storage
2696 Curry Rd.
Schenectady, NY 12303

and, be it further

RESOLVED, That the County Attorney is authorized to approve said agreements as to form and content, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

Adopted by unanimous vote – 10/15/19

RESOLUTION NO. 281

AUTHORIZING AGREEMENTS REGARDING MOVING AND STORAGE SERVICES FOR ELIGIBLE TEMPORARY ASSISTANCE RECIPIENTS

Introduced: 9/14/20
By Social Services Committee:

WHEREAS, Local Social Services districts are required to provide for payment of moving services on behalf of eligible temporary assistance recipients, and

WHEREAS, The Commissioner of the Department of Social Services has recommended that the County enter into agreements with New York State Department of Transportation approved carriers, Don's Moving & Storage and Liedkie Moving & Storage, for moving and storage services in an amount not to exceed $150,000 for a term commencing January 1, 2021 and ending December 31, 2021, now, therefore be it

RESOLVED, By the Albany County Legislature that the County Executive is authorized to enter into agreements with the following carriers regarding moving and storage services for eligible public assistance recipients in an amount not to exceed $150,000 for a term commencing January 1, 2021 and ending December 31, 2021:

Don's Moving & Storage
981 Broadway
Albany, NY 12207

Liedkie Moving & Storage
2696 Curry Rd.
Schenectady, NY 12303

and, be it further

RESOLVED, That the County Attorney is authorized to approve said agreements as to form and content, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

DANIEL P. MCCOY
COUNTY EXECUTIVE

COUNTY OF ALBANY
DEPARTMENT OF SOCIAL SERVICES
162 WASHINGTON AVENUE
ALBANY, NEW YORK 12210-2304
(518) 447-7300
WWW.ALBANYCOUNTY.COM

MICHELE G. MCCLAVE
COMMISSIONER

ERIN M. STACHEWICZ
EXECUTIVE DEPUTY
COMMISSIONER

VALERIE SACKS
DEPUTY COMMISSIONER

August 4, 2020

Hon. Andrew Joyce, Chairman
Albany County Legislature
112 State St., Room 710
Albany, NY 12207

Dear Chairman Joyce,

Approval is requested to renew an agreement with The Altamont Program, Inc. to provide employment and related services for recipients of Temporary Assistance to achieve the most efficient and effective means of facilitating people from public dependency to the workforce and, therefore, to self-supporting lifestyles.

The Altamont Program, Inc. will provide in-program retention services from the first day the individual is enrolled. Strategies will be developed to keep individuals active in all aspects at all points in the program and specific efforts will be made to keep the drop-out rate to a minimum. The provider will also be providing intensive case management and linkage services.

Sincerely,

Michele G. McClave
Commissioner

cc: Dennis A. Feeney, Majority Leader
Frank A. Mauriello, Minority Leader
Rebekah Kennedy, Majority Counsel
Minority Counsel

File #: TMP-1774, **Version:** 1

REQUEST FOR LEGISLATIVE ACTION

Description (e.g., Contract Authorization for Information Services):
Contract Authorization for Social Services (Altamont)

Date:	7/21/2020
Submitted By:	Joseph J DeAngelis
Department:	Social Services
Title:	Contract Administrator
Phone:	518-447-7583
Department Rep. Attending Meeting:	Michele G. McClave

Purpose of Request:

☐ Adopting of Local Law
☐ Amendment of Prior Legislation
☐ Approval/Adoption of Plan/Procedure
☐ Bond Approval
☐ Budget Amendment
☒ Contract Authorization
☐ Countywide Services
☐ Environmental Impact/SEQR
☐ Home Rule Request
☐ Property Conveyance
☐ Other: (state if not listed) Click or tap here to enter text.

CONCERNING BUDGET AMENDMENTS

Increase/decrease category (choose all that apply):
☐ Contractual
☐ Equipment
☐ Fringe
☐ Personnel
☐ Personnel Non-Individual

☐ Revenue

Increase Account/Line No.: Click or tap here to enter text.
Source of Funds: Click or tap here to enter text.
Title Change: Click or tap here to enter text.

CONCERNING CONTRACT AUTHORIZATIONS

Type of Contract:
☐ Change Order/Contract Amendment
☐ Purchase (Equipment/Supplies)
☐ Lease (Equipment/Supplies)
☐ Requirements
☒ Professional Services
☐ Education/Training
☐ Grant
Choose an item.
Submission Date Deadline Click or tap to enter a date.
☐ Settlement of a Claim
☐ Release of Liability
☐ Other: (state if not listed) Click or tap here to enter text.

Contract Terms/Conditions:

Party (Name/address):
The Altamont Program, Inc.
428 Duane Avenue
Schenectady, New York 12304

Additional Parties (Names/addresses):
Click or tap here to enter text.

Amount/Raise Schedule/Fee: $529,700
Scope of Services: The Altamont Program will provide the necessary tools and resources to facilitate Albany County Department of Social Services clients' readiness for, and access to, employment that will lead to self-sufficiency.

Bond Res. No.: Click or tap here to enter text.
Date of Adoption: Click or tap here to enter text.

CONCERNING ALL REQUESTS

Mandated Program/Service: Yes ☐ No ☒
If Mandated Cite Authority: Click or tap here to enter text.

Is there a Fiscal Impact: Yes ☒ No ☐
Anticipated in Current Budget: Yes ☒ No ☐

County Budget Accounts:
Revenue Account and Line: AA6010 04615
Revenue Amount: $501,700.00

Appropriation Account and Line: AA6010 44052
Appropriation Amount: $529,700.00

Source of Funding - (Percentages)
Federal: 94.7%
State:
County: 5.3%
Local:

Term
Term: (Start and end date) 1/1/2021-12/31/2021
Length of Contract: 12 Months

Impact on Pending Litigation Yes ☐ No ☒
If yes, explain: Click or tap here to enter text.

Previous requests for Identical or Similar Action:
Resolution/Law Number: 375
Date of Adoption: 9/9/2019

Justification: (state briefly why legislative action is requested)
Approval is requested to renew an agreement with The Altamont Program, Inc. to provide employment and related services for recipients of Temporary Assistance to achieve the most efficient and effective means of facilitating people from public dependency to the workforce and, therefore, to self-supporting lifestyles. ACDSS has adopted a Work First/Labor force attachment approach utilizing three steps:

1. Preparation for employment;

2. Employment, retention and re-employment

3. Skills upgrade for income enhancement and better employment opportunities

The Altamont Program provides in-program retention services from the first day the individual is enrolled. Strategies are developed to keep individuals active in all aspects, at all points, in the program. Specific efforts are made to keep the drop-out rate to a minimum. The Altamont Program provides intensive case management and linkage through:

• Preparation to employment beginning with orientation to employment requirements

• Individual assessments and the development of an Individual Employment Plan (IEP) with short and long term goals, reassessment and update of the IEP as necessary

• Pre-employment job readiness and job skills training including employment preparedness skills

• Resume preparation

• Job searching skills

• Referral to cooperating programs and services; single point of referral and linkage to appropriate community resources for specified services including, but not limited to:

o essential expertise and resources,

o vocational rehabilitation services,

o employment services,

o educational and training services

o job development

o work experience and community service development/placement

• Employment, retention and re-employment (understanding the correlation between employment, budgeting, asset development, credit/banking and self-sufficiency):

o Accessing tax credits

o Job placement to facilitate achievement if the maximum degree of self-sufficiency through work appropriate to an individual's skill levels that will secure them full-time employment with a focus on a career or employment ladder

o Retentions services for 6 months post TA closing aimed at increasing an individual's economic stability maximizing available assets

o Providing an outreach packet on transitional services available designed to improve an individual's prospect of long term self-sufficiency and economic independence by developing skills and resources that support an individual and preventing a return to public assistance

• Skills upgrade for income enhancement and better employment opportunities include but not limited to:

o Maximize education and training to prepare an individual for the current job market

o Increase access to targeted training for jobs in high growth industries and Career Pathways programing

o Encourage participation in up to a 4 year college degree program for individuals who participate in work activities for 20 hours per week and are able to maintain an appropriate GPA of C

o Reassess and evaluate the underemployed for skills enhancement o Linkage to Job Clubs and other mentoring resources

As a result of COVID-19, Altamont Program, Inc. has and will continue to work with our clients through phone and electronic contact, to track employment for those clients who have remained employed and who are moving toward Zoom and/or Google Meet Career Adult Life Skill classes, for those clients who have access to the technology. Additionally, the Altamont Program has been able to reach out to the Albany County community to explore and develop Work Experience Program (WEP) opportunities as well as volunteer opportunities that will benefit clients by offering the opportunities to acquire and enhance marketable employment skills in a true work setting once we are able to resume face to face interactions.

The Altamont Program was selected through a competitive bid for services under RFP #2017-094. This request is for year three of an optional five year contract.

COMPREHENSIVE EMPLOYMENT SERVICE AGREEMENT BETWEEN THE COUNTY OF ALBANY AND THE ALTAMONT PROGRAM, INC

PURSUANT TO RESOLUTION NO. 375, ADOPTED 9/9/2019

This is an Agreement made by and between the County of Albany, a municipal corporation (hereinafter referred to as the "County"), acting by and through the Albany County Department of Social Services (hereinafter referred to as the "Department"), with principal offices located at the Albany County Office Building, 112 State Street, Albany, New York 12207 and The Altamont Program, Inc., a corporation authorized to do business in the State of New York, located at 428 Duane Avenue, Schenectady, New York 12304 (hereinafter referred to as the "Provider").

WITNESSETH:

WHEREAS, the County has heretofore requested proposals for the provision of comprehensive employment services for the Department, said request for proposals having been denominated RFP# 2017-094 and which is incorporated by reference into this Agreement and made a part hereof; and

WHEREAS, the Provider has heretofore submitted a proposal for services that will provide the necessary tools and resources to facilitate clients' readiness for, and access to, employment which will lead to self-sufficiency. The Provider will engage clients in appropriate programs that lead to employment and financial independence including and verifying engagement activities. These programs and engagement activities will include: orientation to employment requirements, individual assessments/reassessments, pre-employment job readiness/job skills training including employment preparedness skills, resume preparation, job searching skills, job development/ placement, post-employment retention services, work experience development/placement and other countable activities, in accordance with regulations, to recipients of Temporary Assistance, through a connection with our community.

WHEREAS, the County has accepted the proposal of the Provider to provide comprehensive employment services as the lowest responsible bidder; and

WHEREAS, the County has accepted the offer of the Provider to provide comprehensive employment services.

NOW THEREFORE, the parties hereto do mutually covenant and agree as follows:

ARTICLE I. SCOPE OF SERVICES TO BE PROVIDED BY THE PROVIDER

As part of this Agreement, the Provider shall provide all services set forth in their proposal and as more particularly described in Exhibits 1and 2 of this Agreement attached hereto and made a part hereof.

ARTICLE II. GENERAL PROVISIONS

The County shall be responsible for establishing the standards, policies and procedures for determining the eligibility of persons for whom the above services will be provided. The Provider shall furnish such services in accordance with applicable requirements of law and shall cooperate with the County, as may be required so that the County and the New York State Department of Social Services will be able to fulfill their function and responsibility.

The Provider shall complete the service in a timely manner to protect the interests and rights of the County to the fullest extent reasonably possible.

The Provider will be fully responsible for the provision of all equipment and services for Provider's staff necessary to the performance of the requirements of this Agreement.

As part of this Agreement, the Provider agrees to comply in all respects with the provisions of this Agreement and any Exhibits attached hereto and made a part hereof.

ARTICLE III. CONFIDENTIALITY REQUIREMENTS

The Provider shall observe all applicable Federal and State requirements relating to confidentiality of records and information, and shall not allow the examination of records or disclose information, except as may be necessary by the County to assure that the purpose of the Agreement will be effectuated, and also to otherwise comply with the County's requirements and obligations under law. Further, to the extent it may be applicable, the Provider herein agrees to abide by the terms and conditions of Appendix "A" attached hereto and made a part hereof regarding the Healthcare Insurance Portability and Accountability Act of 1996.

ARTICLE IV. INFORMATION ACCESS

The Provider agrees to provide the County and authorized State and/or Federal personnel access to any and all books, documents, records, charts, software or any other information relevant to performance under this Agreement, upon request. The Provider agrees to retain all of the above information for six (6) years after final payment of the termination of this Agreement, and shall make such information available to the County, State, and/or Federal personnel during such period.

The County reserves the right to conduct on-site evaluations of the services provided under this Agreement, and shall be afforded full access by the Provider to the grounds, buildings, books, papers, employees, and recipients relating to such service provision, and may require from the officers and persons in charge thereof any information deemed necessary to such an evaluation. All technical or other data relative to the work pertaining to this Agreement, in the possession of the County or in the possession of the Provider, shall be made available to either party to this Agreement without expense to the other party. All client records and either forms, reports, statistics and materials shall be retained by and at the County.

ARTICLE V. COOPERATION

The Provider shall cooperate with representatives, agents and employees of the County and the County shall cooperate with the Provider, its representatives, agents and employees to facilitate the economic and expeditious provision of services under this Agreement.

ARTICLE VI. FAIR HEARINGS

The Provider will establish a system through which recipients may present grievances about the operation of the service program. The Provider will advise recipients of this right and will also advise applicants and recipients of their right to appeal.

The County shall notify applicants for services and recipients of care and services of their right to a fair hearing to appeal the denial, reduction or termination of a service, or failure to act upon a request for services with reasonable promptness.

The Provider, upon the request of the County, shall participate in appeals and fair hearings as witnesses when necessary for a determination of the issues.

ARTICLE VII. RELATIONSHIP

The Provider is, and will function as, an independent contractor under the terms of this Agreement and shall not be considered an agent or employee of the County for any purpose, and the employees of the Provider shall not in any manner be, or be held out to be, agents or employees of the County.

ARTICLE VIII. SCHEDULE

The Provider shall complete the work in a timely manner to protect the interests and rights of the County to the fullest extent reasonably possible.

ARTICLE IX. ACCOUNTING RECORDS AND AUDITS

Proper and full accounting records shall be maintained by the Provider whose records shall clearly identify the costs of the work performed under this Agreement. Such records shall be subject to periodic and final audit by the County and the State for a period of six (6) years following the date of final payment by the County to the Provider for the performance of the work contemplated herein.

If the Provider is subject to an audit by an agency of the United States government, then a copy of such annual audit, including exit conference results, if any, shall be provided to the Albany County Department of Social Services and the Comptroller of the County of Albany within ten (10) days after receipt by Provider of the final audit and the exit conference results, if any.

If Provider is not subject to an annual audit by an agency of the United States government, but receives from Albany County Department of Social Services funds in excess of $50,000 in its fiscal year, then Provider shall engage an independent auditor acceptable to the Albany County Department of Social Services to: 1) review the records and accounts of the Provider; 2) render an opinion as to the accuracy and sufficiency of Provider's records and accounting methods; 3) render an opinion of Provider's financial position for the fiscal year being audited and any change therein, including but not limited to its net income or net loss. The audit report by the independent auditor shall be submitted to the Albany County Department of Social Services and the Comptroller of the County of Albany within ten (10) days of its receipt by the Provider.

ARTICLE X. FEES

In consideration of the terms of this Agreement, the County agrees to pay and the Provider agrees to accept reimbursement on a quarterly basis for benchmarks achieved in accordance with the rates and maximums specified in the performance-based budget section of Exhibit 1, attached hereto and made a part hereof, but not to exceed a total amount of **FIVE HUNDRED TWENTY NINE THOUSAND, SEVEN HUNDRED AND 00/100 DOLLARS ($529,700.00).**

Fees for the service provided shall be payable upon submission by the Provider of a claim form signed by the Provider to the Albany County Department of Social Services. The claim form or attached invoice must contain itemized detail of the services rendered.

ARTICLE XI. NON-APPROPRIATIONS

Notwithstanding anything contained herein to the contrary, no default shall be deemed to occur in the event no funds or insufficient funds are appropriated and budgeted by or are otherwise unavailable to the County for payment. The County will immediately notify the Provider of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which appropriations were made without penalty or expense to the County of any kind whatsoever, except as to those portions herein agreed upon for which funds shall have been appropriated and budgeted.

ARTICLE XII. INDEMNIFICATION

The Provider shall defend, indemnify, and save harmless the County, its employees and agents, from and against all claims, damages, losses and expenses (including, without limitation, reasonable attorney's fees) arising out of, or in consequence of, any negligent or intentional act or omission of the Provider, its employees or agents, to the extent of its or their responsibility for such claims, damages, losses and expenses.

ARTICLE XIII. INSURANCE

The Provider agrees to procure and maintain without additional expense to the County, insurance of the kinds and in the amounts provided under Schedule A attached hereto. Before commencing, the Provider shall furnish to the County, a certificate(s) showing that the requirements of this Article are met and the certificate(s) shall provide that the policy shall not be changed or canceled until thirty (30) days prior written notice has been given to the County, and the County of Albany is named as an additional insured.

The Provider shall provide to the County documentation and proof that automobile insurance coverage has been obtained and will continue to exist during the term of this agreement that will hold the County harmless from any and all liability incurred for the use of a motor vehicle to transport individuals in conjunction with or for the purpose of providing the services described in this agreement or shall instead fill out, sign and execute the Automobile Insurance Waiver in Schedule B attached hereto.

ARTICLE XIV. ASSIGNMENTS

The Provider agrees to be bound by the provisions of Sections 103-a and 103-b of the General Municipal Law of the State of New York, The Provider specifically agrees as required by Section 109 of the New York General Municipal Law that the Provider is prohibited from assigning, transferring, conveying, subcontracting, or otherwise disposing of this Agreement, or the Provider's right, title or interest therein without the previous consent in writing of the County.

ARTICLE XV. CONFLICT OF INTEREST

The Provider hereby warrants that it has no conflict of interest with respect to the activities to be performed hereunder. If any conflict or potential conflict of interest arises in the future, the Provider shall promptly notify the County.

ARTICLE XVI. NON-DISCRIMINATION

In accordance with 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 Provider 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 person 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.

ARTICLE XVII. SUSPENSION AND DEBARMENT

The Provider certifies that its company/entity and any person associated therewith in the capacity of independent contractor, not-for-profit provider, for profit provider, owner, director, officer, or major stockholder (5% or more ownership):

a) is not currently under suspension, debarment, voluntary exclusion, or determined ineligible by any federal agency;
b) has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;
c) does not have a proposed debarment pending; and
d) has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

ARTICLE XVIII. GOVERNING LAWS

This Agreement shall be governed by and construed according to the Laws of the State of New York and any or all legal proceedings or actions shall be brought in a county, state, federal or local Court or other tribunal in the County of Albany.

ARTICLE XIV. TERM OF AGREEMENT

The term of this Agreement shall commence on January 1, 2019 and will continue in effect through December 31, 2019. It is agreed by the Provider that performance outside the scope of this Agreement will not be paid for by the Department or the County.

ARTICLE XX. TERMINATION OF AGREEMENT

This Agreement may be terminated at any time upon mutual written agreement of the contracting parties.

This Agreement may be terminated if the Department deems that termination would be in the best interests of the County, provided that the Department shall give written notice to the Provider not less than thirty (30) days prior to the date upon which termination shall become effective. Such notice is to be made via registered or certified mail, return receipt requested, or hand delivered with receipt granted by the Provider. The date of such notice shall be deemed to be the date the notice is received by the Provider established by the receipt returned, if delivered by registered or certified mail, or by the receipt granted by the Provider, if the notice is delivered by hand.

Upon the County's knowledge of a breach of this Agreement by the Provider, the County may terminate the Agreement if it determines that such a breach violated a material term of this Agreement. Notwithstanding that, the County may provide an opportunity for the Provider to cure the breach within a time set by the County and, if cure is not possible or does not occur within the time limit, immediately terminate the Agreement without penalty.

This Agreement shall be deemed terminated immediately upon the filing of a petition of bankruptcy or insolvency, by or against the Provider. Such termination shall be immediate and complete, without termination costs or further obligation by the Department to the Provider.

This Agreement shall be deemed terminated immediately should Federal and/or State funds for this Agreement become unavailable.

In the event of termination for any reason, the Provider shall not incur new obligations for the terminated portion and the Provider shall cancel as many outstanding obligations as possible.

ARTICLE XXI. REMEDY FOR BREACH

In the event of a breach by Provider, Provider shall pay to the County all direct and consequential damages caused by such breach, including, but not limited to, all sums expended by the County to procure a substitute contractor to satisfactorily complete the contract work, together with the County's own costs incurred in procuring a substitute contractor(s).

ARTICLE XXII. FEDERAL LOBBYING

The Federal Lobbying Act states that no Federal appropriated funds may be spent by the recipient of a Federal grant or a sub tier contractor or sub grantee to pay any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of a Federal contract, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement. If any funds other than Federal appropriated funds have been or will be expended by the Provider to pay any person for influencing any Federal officer, employee or Member of Congress described above in connection with such Federal grant, the Provider agrees to make a written disclosures on a specified disclosure form.

The parties hereunto represent that they have not committed or authorized, nor will they commit or authorize, the commission of any acts in violation of Federal Lobby Act.

ARTICLE XXIII. MACBRIDE PRINCIPLES

Provider hereby represents that said Provider is in compliance with the MacBride Principles of Fair Employment as set forth in Albany County Local Law No. [3] for 1993, in that said Provider either (a) has no business operations in Northern Ireland or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Principles, and shall permit independent monitoring of their compliance with such principles. In the event of a violation of this stipulation, the County reserves all rights to take remedial measures as authorized under section 4 of Local Law No. [3] in 1993, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the Provider in default and/or seeking debarment or suspension of the Provider.

ARTICLE XXIV. PRIVACY OF PERSONAL HEALTH INFORMATION

In order to comply with the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Provider (deemed a BUSINESS ASSOCIATE as defined at 45 CFR § 164.501), its employees, administrators and agents shall not use or disclose Protected Health Information (PHI) (as defined in 45 CFR § 164.501) other than as permitted or required by this Agreement with the County (deemed a Hybid Entity as defined at 45 CFR § 164.504) or as Required By Law (as defined in 45 CFR § 164.501). The Provider shall maintain compliance with all U.S. Department of Health and Human Services, Office for Civil Rights, policies, procedures, rules and regulations applicable in the context of this Agreement, as more particularly set forth on Appendix A attached hereto and made a part hereof.

ARTICLE XXV. INTERPRETATION

In the event of any discrepancy, disagreement, or ambiguity among the documents that comprise this Agreement, the documents shall be given preference in the following order to interpret and resolve such discrepancy, disagreement or ambiguity: 1. this Agreement; 2. the RFP; 3. the Proposal.

ARTICLE XXVI. IRANIAN ENERGY SECTOR DIVESTMENT

Provider hereby represents that Provider is in compliance with New York State General Municipal Law Section 103-g entitled "Iranian Energy Sector Divestment," in that Provider has not:

(a) Provided goods or services of $20 Million or more in the energy sector of Iran including but not limited to the provision of oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran; or

(b) Acted as a financial institution and extended $20 Million or more in credit to another person for forty-five (45) days or more, if that person's intent was to use the credit to provide goods or services in the energy sector in Iran.

ARTICLE XXVII. LICENSES

The provider shall at all times obtain and maintain all licenses required by New York State, or other relevant regulating body, to perform the services required under this Agreement.

ARTICLE XXVIII. CHANGE IN LEGAL STATUS OR DISSOLUTION

During the term of this Agreement, the Provider agrees that, in the event of its reorganization or dissolution as a business entity or change in business, the Provider shall give the County thirty (30) days written notice in advance of such event.

ARTICLE XXIX. MODIFICATION

This Agreement may only be modified by a written amendment executed by the Parties.

ARTICLE XXX. INVALID PROVISIONS

If any term, part, provision, section, subdivision, or paragraph of this Agreement shall be held to be unconstitutional, invalid, or ineffective, in whole or in part, that determination shall not invalidate the remaining terms, parts, provisions, sections, subdivisions, or paragraphs thereof.

ARTICLE XXXI. ADDITIONAL ASSURANCES

The Provider agrees that no part of any submitted claim will have previously been paid by the County, State and/or other funding sources.

The Provider agrees that funds received from other sources for specific services already paid for by the County shall be reimbursed to the County.

The Provider agrees to comply with all applicable State and Federal statutes and regulations.

The Provider agrees to comply with the requirements of the Federal Lobbying Act and the Drug-Free Workplace Act of 1988 and has signed the certifications contained in Schedules C and D, which are attached hereto and made a part thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year indicated below.

ALBANY COUNTY

DATE: 11/1/19

BY: ____________________
Daniel P. McCoy
Albany County Executive
or
Philip F. Calderone
Deputy County Executive

ALTAMONT PROGRAM, INC

DATE: 9/29/19

BY: ____________________
Chief Operating Officer

STATE OF NEW YORK)
COUNTY OF ALBANY) SS.:

On the ____ day of ________________, 20__, before me, the undersigned, personally appeared Daniel P. McCoy, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

____
NOTARY PUBLIC

STATE OF NEW YORK)
COUNTY OF ALBANY) SS.:

On the 6 day of November, 2019, before me, the undersigned, personally appeared Phillip F. Calderone, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

MICHAEL A. LALLI
NOTARY PUBLIC - STATE OF NEW YORK
No. 01LA6322012
Qualified in Albany County
My Commisson Expires March 30. 2023

NOTARY PUBLIC

STATE OF New York **)**
COUNTY OF Albany **) SS.:**

On the 29th day of September, 2019 before me, the undersigned, personally appeared Earle P. Kelsey personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in her/his capacity, and that by her/his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Erica L. Kelsey
NOTARY PUBLIC

ERICA L. KELSEY
Notary Public, State of New York
No. 01KE6123696
Qualified In Albany County
Commission Expires March 14, 2021

SCHEDULE A

INSURANCE COVERAGE

The kinds and amounts of insurance to be provided are as follows:

1. **Workers' Compensation and Employers Liability Insurance**: A policy or policies providing protection for employees in the event of job related injuries.

2. **Automobile Liability Insurance**: A policy or policies with the limits of not less than $500,000 for each accident because of bodily injury, sickness or disease, including death at any time, resulting therefrom, sustained by any person caused by accident, and arising out of the ownership, maintenance or use of any automobiles; and with the limits of $500,000 for damage because of injury to or destruction of property, including the loss of use thereof, caused by accident and arising out of the ownership, maintenance or use of any automobiles.

3. **General Liability Insurance**: A policy or policies including comprehensive form, personal injury, contractual, products/completed operations, premises operations and broad form property insurance shall be furnished with limits of not less than:

Liability for:	**Combined Single Limit:**
Bodily Injury	$1,000,000.
Property Damage	$1,000,000.
Personal Injury	$1,000,000.

SCHEDULE B

AUTOMOBILE INSURANCE WAIVER STATEMENT

I, [illegible], do hereby affirm that during the term of Albany County's contract with The Altamont Program for the provision of ______________________, a motor vehicle will not be used to transport individuals in conjunction with or for the purpose of providing the agreed to services.

Date: 9/29/19 By: [illegible]
Signature

Chief Operating Officer
Title

SCHEDULE C

CERTIFICATION REGARDING
DRUG FREE WORKPLACE REQUIREMENTS
GRANTEES OTHER THAN INDIVIDUALS

This certification is required by regulations implementing Sections 5151-5160 of the Drug-free Workplace Act of 1988 (Pub. L.100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.) 7 CFR Part 3017, Subpart F, Section 3017.600 and 45 CFR Part 76, Subpart F. The January 31, 1989 regulations were amended and published as Part II of the May 25, 1990 Federal Register (Page 21681-21691).

The grantee certifies that it will provide a drug-free workplace by:

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

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

1. The dangers of drug abuse in the workplace;
2. The grantee'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 employees for drug abuse violations occurring in the workplace.

C. Making it a requirement that each employee to be engaged in the performance of the grant 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 grant, the employee will:

1. Abide by the terms of the statement; and
2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

E. Notifying the agency within ten days after receiving notice under subparagraph (d) (2) from an employee or otherwise receiving actual notice of such conviction;

F. Taking one of the following actions, within 30 days of receiving notice under subparagraph (d) (2), with respect to the employee who is so convicted:

1. Taking appropriate personnel action against such an employee, up to and including termination; 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 paragraph (a), (b), (c), (d), (e) and (f).

The Altamont Program Inc
Organization

[signature]
Authorized Signature

Chief Operating Officer 9/29/19
Title Date

SCHEDULE D

Certification Regarding Lobbying
Certification for Contracts, Grants, Loans and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into or any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each failure.

The Attainment Program Inc
Organization

Authorized Signature

Chief Operating Officer 9/29/19
Title Date

Note: If Disclosure Forms are required, please contact: Mr. William Saxton, Deputy Director, Grants and Contracts Management Division, Room 341F, HHH Building, 200 Independence Avenue, SW, Washington, D.C. 20201-0001.

EXHIBIT 1

TANF/Safety Net Employment Services Contract
Contract Period: 1/1/20 – 12/31/20
TANF: $501,700
Safety Net: $18,000
Post TA Closing Incentive: $10,000
Total Funding: $529,700.00

The Altamont Program is the single source provider of Employment Services for Albany County Department of Social Services (ACDSS). Altamont Program's employment services will be based out of The Schuyler Inn shelter allowing them to better assist families on Temporary Assistance (TA) by providing direct access to their program.

As a single source provider the Altamont Program will provide an efficient and effective transition to employment and self-sufficiency through a "campus" type model. Gaining employment has been shown to directly impact an individual's ability to obtain housing and vice versa having secure stable housing directly impacts the ability to maintain employment. Stable housing and employment are crucial for individuals to obtain self-sufficiency. The Altamont Program housing case management team will support and encourage employment as a way to obtain stable housing.

The Altamont Program will support and encourage employment through the following activities and services:

<u>Orientation Plan/Approach (within 1 week of referral):</u>
In addition to covering all the employment program requirements, the Altamont Program will focus on the benefits of employment and how this is a direct correlation to self-sufficiency. The Altamont Program will use a proven Intake Orientation model, which focuses on the importance of establishing a simulated work environment thus setting the foundation for preparedness for the workforce.
All clients will participate in a group Orientation conducted by the Altamont Program Senior Case Manager. This Orientation will consist of an introduction to the Altamont Program and the sequence of activities the client can expect as they are guided through the process of growth towards employment and self-sufficiency. In addition, the clients are introduced to the major welfare to work provisions of PRWORA that includes critical issues such as time limitations and compliance with work requirements that are mandatory. Orientation also includes the following information:

- How each client can most effectively benefit from the Altamont Program on their path to self-sufficiency;
- Rights and responsibilities of clients including, but not limited to the client's responsibility to cooperate in establishing paternity and enforcing child support obligation;

- Supportive services available through ACDSS and the obligations of the district to provide them;
- The assistance available upon request to help clients assigned to work activities obtain child care services;
- Education, employment and training opportunities available, including those that are at no cost to the client and the client's responsibilities associated with the repayment of student financial aid;
- Work activities available to each client;
- Education and assistance related to taking advantage of the Federal and State Earned Income Tax Credit, Child Tax Credit and other applicable client and employer targeted tax credits available to include VITA sites to assist with filing taxes annually;
- Information regarding the development of a self-sufficiency plan; the IEP.

Assessment/Pre-employment/Job-Readiness Plan/Approach:

The Altamont Program assessment process will occur on day one which will begin the road to employment and self-sufficiency. The assessment will address work histories, work skills, mobility, communication, motivation, short and long-term goals, hygiene and other activities of daily living that relate directly to work and the individuals ability to function effectively in a work environment. The intake assessment is the foundation for the development of an Individualized Employment Plan (IEP). Throughout the life of the TA case all IEP's and modifications will be developed in partnership with Altamont Program staff and the client and will be signed and dated by both parties. The IEP will include 4 components; goals, action steps, agreements, information/referral. The Altamont Program case managers will conduct a re-assessment meeting approximately 2 weeks after the initial assessment to further develop the IEP and assess progress to date and compliance thus far. During the re-assessment, the client's circumstances, strengths, limitations; disabilities as well identify needs to be met and services to be provided will be re-evaluated and additional services or issues that may prevent a client from succeeding will be identified so a plan towards self-sufficiency can be developed. Understanding that the IEP is a working document, the frequency of follow up assessment will be determined through routine monitoring by the Altamont Program case management team and will be based on the activities to which the client is assigned or the challenges the client may be facing. The IEP will be updated and modified as needed. Altamont Program's model of coach and counsel sessions will provide the support necessary to assist the client in staying on track with their goals.

For those clients who are referred to the Altamont Program and who are already engaged with another community agency at time of referral, the Altamont Program will review and take into consideration any case management, planning, IEP development and scheduling that may already be in place with the existing provider. The Altamont Program will work with the client to make any modifications to the IEP that will assist in moving towards self-sufficiency

Career Adult Life Skills (CALS) classes. The Altamont Program will offer Career Adult Life Skills classes to assist in addressing some of the barrier's that clients may face in securing employment._These classes provide an excellent opportunity for networking among the client's, opens conversations about barriers to employment and fosters activities such as mock interviewing. Altamont Program has found that by offering this class first thing in the day it not only provides a positive start and support - but propels client's motivation towards their day.

Sample CALS Topics include:

- Why Should I Change My Life?
- Perception Verses Reality
- Empowerment and Motivation
- Workplace Conflict
- Resume Preparation
- Dress and Attendance
- Mock Interviewing
- Child Care Back-Up Plans and Their Importance
- What an Employer is Looking for in a Good Employee
- Criminal History
- Workplace Drug Testing
- How to Address Gaps in Employment
- Soft Skills Training
- Financial Literacy

Individual case conferences will be scheduled as needed to discuss the particular needs of a client who may be struggling or requiring additional linkages throughout the Capital District.

Referral to Other Programs/Services Plan/Approach

The Altamont Program Community Service Case Navigator is an integral part of the team and is a direct resource for the case managers and clients providing education and linkages to community resources. Networking under this service model will increase communication amongst service providers and enable the client to focus on their success in a more coordinated effort.

The Altamont Program Community Service Navigator is responsible for the identification and connection of the clients to services and education opportunities available within the Capital District. Additionally, the Altamont Program Community Service Navigator will identify programs and services that may be available through other State and Federal funds to augment programs and services provided by this contract. Referrals to community partnerships and resources will be made based on the individual's needs and obstacles to employment.

The Altamont Program Community Service Navigator will develop and expand upon the Altamont Program's resources and partnership pool within the community. The Altamont Program Community Service Navigator will establish a provider meeting facilitating an environment where Capital District providers, including Albany County Department of Social Services, can come together on a routine basis to share information and gain knowledge on services available in the Capital District. The Schuyler Inn is an excellent venue for these community meetings offering adequate meeting space and convenient parking. These meetings will provide an excellent opportunity for all service providers to understand what resources are available in the community, what might be lacking, and how best to address those concerns that may prevent clients from achieving self-sufficiency.

The Altamont Program will also work with this provider group to develop a comprehensive service provider manual identifying what is available in the community.

Job Search (6 weeks)
The Altamont Program will ensure that clients are conducting job search activities. Job search activities include linkage to the One Stop Employment Center, NYSDOL Job Bank/Development and registration in the Job Zone which is required of all job ready clients. Clients are required to conduct a minimum of 15 verified job contacts each week in an active effort to secure employment. All job search documentation will be reviewed by the client's case manager. Any Altamont Program center based job search activities implemented will be closely supervised.

Due to the changing workforce it has become increasingly apparent for the need for basic computer skills for efficient job searching and to navigate the on-line application process which is becoming the more expected process of employment application. The Altamont Program will provide a computer lab which will accommodate resume development, on line job searching and skills teaching which will improve a client's ability to directly apply for jobs on line in a more efficient manner.

Work Experience/Community Service (3-6 months)
For those clients who are unable to secure unsubsidized employment following supervised job search for at least six weeks the Altamont program, as a not-for-profit agency has the ability to provide work experience in areas of clerical, food service, hospitality, janitorial and maintenance. The Altamont Program will provide individuals with job experience in real-world employment settings as a transition step to permanent employment. The work experience through the Altamont Program provides clients with the opportunity to learn and practice both soft skills such as coming to work on time, following directions, interpersonal relationships, problem solving and job related skills. Clients also have the opportunity to learn and practice job skills in an environment in which they can make mistakes without losing their jobs. Furthermore, it encourages confidence, improves self-esteem, builds on their resume and increases their reference base. This work experience approach also provides Altamont Program staff an opportunity to observe clients in a real-world setting and identify issues that can interfere with employment success. All placements and participation hours will be determined on mandatory requirements.

In addition to this work experience opportunity, The Altamont Program Community Service Navigator will also develop new work experience and employment partners with public/non-profit agencies. The Altamont Program will work closely with these public/non-profit agencies/providers to best assist the client in their success.

Education and Training Services

The Altamont Program must obtain prior approval from Albany County Department of Social Services for all educational and training services.

The Altamont Program has a long standing relationship with the Capital Region BOCES, and will have High School Equivalency (HSE) classes brought on-site at the Schuyler Inn. These classes allow a student to register, enroll, complete the Test of Adult Basic Education (TABE) and attend classes up to 6 hours per week by a BOCES certified teacher. Attendance reports will be provided following each class. Progress and testing results as administered by BOCES per their schedule are provided to Altamont Program's employment staff. Families who begin at the Schuyler Inn will have the ability to continue attending classes either on site or at another BOCES location following their transition to permanent housing.

Altamont Program will provide short-term training in the fields of Janitorial and Culinary. These trainings are supported by the following NYS Department of Labor Occupational Job Codes as "very favorable" for employment opportunities, Food Service/35-0000, Janitor/37-2011, and General Maintenance/49-9071.

These programs include the following training topics:

- Maintenance/Janitorial:
    - Cleaning Chemical Overview
    - Floor and Floor Care Equipment
    - Restroom Care and Sanitization
    - Carpet and Upholstery Care
    - Up to 40 hours of Practicum Experience
    - Separate Blood Borne Pathogen certification is also completed

- Food Service:
    - Food Service terms and definitions
    - Sanitation and Food Safety
    - Weights Measurements and Knife Skills
    - Demonstrations and Hands On Experience
    - Up to 40 hours of Practicum Experience
    - Separate Serve Safe certification is also completed

Clients will receive certificates of completion for the job training program they have successfully participated in.

Depending upon budgetary constraints, the Altamont Program will consider reintroducing short-term training in General Office Skills and Housekeeping as these are also listed as "very favorable" for employment opportunities according to the NYS Department of Labor.

Job Placement

The Altamont Program case managers will work individually with a client to provide encouragement and motivation to empower client he/she to achieve his/her own success. The Altamont Program will also have a Retention Specialist available to build relationships with employers to not only increase job retention but to develop additional job opportunities within the employers businesses.

Retention Services

The Altamont Program will provide up to 2 Retention Specialists to support and encourage client retention efforts including the provision of retention services for 6 months post Temporary Assistance closing due to income.

The Altamont Program Retention Specialist will meet with each client early to establish a relationship which not only extends to the IEP and employment but will also be the client's point of contact for issues or concerns that may affect his/her ability to maintain employment or gain re-employment if needed. The Altamont Program Retention Specialist will also reevaluate whether skills enhancement and/or job search activities should be required of clients.

Client engagement with the Retention Specialist is voluntary for those whose TA case has closed due to income. The Altamont Program will offer the flexible hours and ability to meet someone at their job site or at a mutually agreed upon community location, including evening and/or weekend hours, in order to try and engage clients in services and contacts. The Retention Specialist will be expected to work with the client to assist he/she in reaching their long term goals including; skills upgrades and income enhancement for opportunities for better employment.

The Altamont Program Retention Specialist will work closely with the Altamont Program Community Services Case Manager on services the client may need post-employment or at DSS case closing. The Altamont Program Retention Specialist will also work closely with employers identifying areas of success, skills upgrades or where business growth is needed. The information compiled from the employers should be used to further enhance the Altamont Program Career Adult Life Skills (CALS) classes and community partnerships.

Case Management Plan/Approach

Clients who are primarily engaged with the Altamont Program, will be monitored on a daily basis for progress and attendance and IEP's will be adjusted as needed. For clients engaged with other providers within the Capital District, the Altamont Program case managers will have regular contact with providers to monitor client's progress and attendance. The Altamont Program case managers will conduct on-site visits to develop relationships, problem solve when needed and/or address crisis intervention needs. The Altamont Program, as lead agency, will be proactive in ensuring all clients are moving forward with their IEP.

Monitoring and Reporting

The Altamont Program will regularly monitor all clients, regardless of whether they are engaged with the Altamont Program or with other Capital District providers. Resistant behaviors of clients will be monitored through the Altamont Program's coach and counseling sessions. These sessions may include other providers working with the client who may be struggling in their ability to follow through on the agreed upon IEP. If necessary, the team will determine whether modifications should be made to the IEP.

The Altamont Program will make every attempt to reintegrate a non-compliant individual into program immediately. If unable to reintegrate an individual, all no show and non-compliance notification will be provided to the ACDSS Employment Unit Contract Manager within 48 hours.

The Altamont Program will establish a computerized database to document, track and report all employment related activities for all clients. In addition to this data base, information will be retained on paper in case files for clients. The Altamont Program agrees to have the reporting database approved by ACDSS so that all reports requested by ACDSS can be produced and in the format desired,

The Altamont Program agrees to electronically submit daily attendance reports along with weekly evaluations of the client's progress to the ACDSS Employment Unit Contract Manager. All attendance and/or data from the various agencies that clients are involved with will be compiled into a single document to be provided to ACDSS, The Altamont Program will record all information on a DSS approved time sheet form and provide all information timely to the ACDSS Employment Unit Contract Manager. These reports will be entered into the Welfare to Work Caseload Management System (WTWCMS) so participation rates can be generated.

In order to measure success and monitor job placement and retention, the Altamont Program will analyze the data collected on clients, especially following program completion and will discuss with ACDSS any modifications to program efforts to better assist clients in achieving self-sufficiency.

EXHIBIT 2
Payment Schedule

ALTAMONT PROGRAM, INC. TOTAL CONTRACT - $529,700
TANF: $501,700
Safety Net: $18,000
Post TA Closing Incentive: $10,000
Total Funding Available: $529,700.00

Reimbursement under this contract will be made based on the following payment schedule:

$129,925 per quarter will be paid to the provider, Altamont Program, for a maximum of four (4) quarters, not to exceed the maximum funding amount for the contract period of $529,700, for an acceptable level of compliance for all quarterly standard performance levels as specified in this Exhibit. A quarterly review will be conducted by the Albany County Department of Social Services Employment Unit, after the end of each applicable quarter, to determine if Altamont Program has reached an acceptable level of compliance for the quarter.

It is the expectation that Altamont Program will engage all clients in countable employment activities on their path towards economic self-sufficiency. No client can be claimed in multiple quarterly standard performance levels in any given quarter.

Payment will be made upon approval by designated ACDSS staff for the number of achieved standard performance levels, as defined in this Exhibit. If ACDSS determines that the provider has not met the acceptable quarterly standard performance level for a particular activity during a quarter, the applicable percentage set forth herein for that quarterly standard performance level will be withheld and the amount paid to Altamont Program for the quarter will be reduced accordingly. ACDSS may completely waive the reduction for a particular unmet quarterly standard performance level based upon a written request submitted by Altamont Program demonstrating that such a failure was due to extraordinary or unforeseen circumstances. ACDSS shall notify Altamont Program in writing of the Agency's approval of any such request, or shall notify the disapproval of any such waiver and delineate the reasons for such disapproval.

Performance Standards
Quarterly Standard Performance Level 1 – ***Engagement in high school or equivalent, or basic and remedial education consistent with employment goals contained in an Individual Employment Plan (IEP).***

Ten (10) clients shall be engaged in high school education or education designed to prepare the client for high school equivalency certificate, including alternative high school and High School Equivalency (HSE) courses. Each client must be concurrently engaged in a countable core activity as outlined in Exhibit 3 for a minimum of 20 hours weekly to meet full participation requirements.

Each quarter, Altamont Program will assess, identify the need, develop an IEP and engage 10 adults in high school or equivalent, or basic and remedial education for a minimum of 5 consecutive weeks within the quarter. Altamont Program will follow each individual through their engagement with the educational goal to ensure attendance and progress in concurrence with a minimum of 20 hours of a countable core activity as outlined in Exhibit 3. NOTE: An individual cannot be counted in a specific performance level more than one time in a 12 month period. If the previous quarter's Quarterly Standard Performance Level 1 – ***Ten (10) clients*** are engaged in high school or equivalent, or basic and remedial education consistent with employment goals contained in an IEP is not met, 2.5% of the quarterly contract amount will be withheld.

Quarterly Standard Performance Level 2 – *Engagement in vocational education consistent with employment goals contained in an IEP*

Five (5) clients shall be engaged in organized educational programs offering a sequence of courses that are directly related to the preparation of individuals for employment in current or emerging occupations that require training of up to four years of post-secondary education or the part-time equivalent. All actual hours are fully countable but only for 12 months lifetime. Participation beyond this limit must be in concurrence with a minimum of 20 hours of a countable core activity as outlined in Exhibit 3 to meet full participation requirements.

Each quarter, Altamont Program will assess, identify the need, develop an IEP and engage 5 adults in vocational education for a minimum of 5 consecutive weeks within the quarter. Altamont Program will follow each individual through their engagement with the educational goal to ensure attendance and progress in concurrence with a minimum of 20 hours of a countable core activity as outlined in Exhibit 3 when applicable. NOTE: An individual cannot be counted in a specific performance level more than one time in a 12 month period. If the previous quarter's Quarterly Standard Performance Level 2 – ***Five (5) clients*** are engaged in vocational education consistent with employment goals contained in an IEP is not met, 2.5% of the quarterly contract amount will be withheld.

Quarterly Standard Performance Level 3 – *Engagement in work experience consistent with employment goals contained in an IEP.*

Clients who have been unsuccessful in securing full-time employment after having completed a supervised six week job search will benefit from opportunities to acquire and enhance marketable employment skills. ***Ten (10) clients*** shall be engaged in a work activity in which they perform unpaid work in the public or not-for-profit sector to improve employability of the client, including unpaid internships. The monthly work experience hours will be determined on a case by case basis by the Employment Unit. Work experience hours will be balanced by and in concurrence with a countable core activity as outlined in Exhibit 3 to meet full participation requirements.

Each quarter, Altamont Program will assess, identify the need, develop an IEP and engage 10 adults in work experience for a minimum of 5 consecutive weeks in the quarter. Altamont Program will follow each individual through their engagement with the work experience goal to ensure attendance and progress in concurrence with a balance of a countable core activity as outlined in Exhibit 3. NOTE: An individual cannot be counted in a specific performance level more than one time in a 12 month period. If the previous quarter's Quarterly Standard Performance Level 3 – ***Ten (10) clients*** are engaged in work experience consistent with employment goals contained in an IEP is not met, 2.5% of the quarterly contract amount will be withheld.

Quarterly Standard Performance Level 4 – *Job placement in unsubsidized employment (employment does not have to result in TA closing) consistent with employment goals contained in an IEP.*

Employment is the primary path to self-sufficiency with clients. Facilitating clients from Temporary Assistance to the work force and, therefore to self-supporting lifestyles is a progression for each individual. ***Five (5) clients*** shall be engaged in full-time employment (30 or more) hours per week with a focus on a career or employment ladder.

Each quarter, Altamont Program will assess, identify the need, develop an IEP and facilitate 5 adults in full-time employment (30 or more hours per week) with a focus on a career or employment ladder for a minimum of 5 consecutive weeks in the quarter. A career or employment ladder must be substantiated by the employer. Altamont Program will follow each individual through their engagement with the employment goal to ensure attendance and capability. NOTE: An individual cannot be counted in a specific performance level more than one time in a 12 month period. If the previous quarter's Quarterly Standard Performance Level 4 – ***Five (5) clients*** are in engaged in job placement in unsubsidized employment consistent with employment goals contained in an IEP is not met, 2.5 % of the quarterly contract amount will be withheld.

Post TA Closing Incentive: $10,000

Altamont Program will secure job and wage information each month for each client with a TA case closing for 120 continuous days due to earned income. Upon submission and verification of this secure job and wage information, ACDSS will provide Altamont Program with a flat $200.

EXHIBIT 3

POLICY AND PROCEDURE

1) Provider will engage all clients in countable employment activities on their path towards economic self-sufficiency.

2) Provider will provide countable pre-employment services and activities leading to full time employment (unsubsidized and/or subsidized public or private employment) for up to 40 hours per week.

   <u>Core Activities up to 40 hours per week</u>

   - Work experience
   - Job readiness/ job skills training
   - Supervised job search (combination of directed and self-directed)

3) Provider will make every effort to place clients into an equivalent of full time employment.

4) Provider shall develop, maintain and monitor work experience sites where clients who are in need of work experience and/or who do not find paid employment are placed.

4) Provider will provide the Employment Unit with preferred dates and times for intake appointments.

5) The Employment Unit will provide the Provider referral letters with the name, time and date of the intake appointment for each individual requiring employment related services.

6) Each individual's enrollment status or failure to attend shall be reported by the Provider within two business days of the intake date to the appropriate Employment Unit contact via the CMS Referral feedback form.

7) Provider will maintain a computerized data base to track participation in all employment related activities. In addition to this data base, a written case file containing comprehensive information for each client will be retained.

8) Provider will provide ACDSS with any requested reporting will be provided as requested by ACDSS.

9) Provider is responsible to submit monthly attendance records for each client documenting the appropriate daily activity including, but not limited to absences and/or as may be required due to changes in the client's status. Each time sheet must be signed and dated by the client and the Provider.

10) Signed and dated monthly attendance records must be submitted to the Employment Unit Contract Manager by the close of business on the 6th day of the succeeding month (when the 6th falls on a weekend, the close of business is set as the last work day prior to the 6th) and/or as may be required due to changes in the client's status.

11) ACDSS will provide training on the WTW/CMS system to the Provider so Provider has the ability, if requested by ACDSS, to enter countable hours into the WTW/CMS system prior to the 6th day of the month following the month countable hours were performed.

12) For billing purposes, Provider will submit all billing documents electronically to the Employment Unit Contract Manager no later than the 15th of the month following the billing quarter. All original paper documents must be retained by the Provider for a period of time to be determined by Albany County DSS.

13) If completion of the billing documents occurs on or after the 25th of the month following the billing quarter, an extension may be granted at the discretion of the Employment Unit Contract Manager. All requests for extension must be submitted in writing to the Employment Unit Contract Manager prior to the end of the billing cycle in which the completion of the billing documents occurs.

14) Provider agrees to provide employment related services to each client for the entire year of the contract.

15) Provider shall provide to the County a calendar indicating holidays and days the organization will be closed or days they are unable to offer programming during the contract year.

16) Provider agrees to attend and be prepared for scheduled case conferences as needed. Employment Unit and/or Provider may request case conferences through the Employment Unit Contract Manager.

17) Provider agrees to assist, attend and/or prepare for Fair Hearings as requested by ACDSS.

18) No protected health information shall be released by the Provider unless a signed release is in effect as specified in federal regulations 42 CFR Part II and HIPAA.

APPENDIX A

OBLIGATIONS AND ACTIVITIES OF THE CONSULTANT AS A BUSINESS ASSOCIATE PURSUANT TO 45 CFR SECTION 164.504

The parties to the Agreement hereby agree to comply with the following provisions to ensure their compliance with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996.

Pursuant to the terms of the Agreement, and in accordance with the requirements of 45 CFR Sections 160 and 164, the Provider herein shall be considered a "Business Associate." The following terms are hereby incorporated in this AGREEMENT and shall be binding upon the parties hereto:

A. DEFINITIONS

1. "Business Associate" – under the terms of this Agreement, the term "Business Associate" shall mean The Altamont Program, Inc.
2. "Covered Entity" – for purposes of this Agreement, the term "Covered Entity" shall mean the County and/or the Department.
3. "Individual" – under the terms of this Agreement, the term "Individual" shall have the same meaning as the term "individual" in 45 CFR Section 160.103, and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.502(g).
4. "Privacy Rule" – shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
5. "Protected Health Information" - shall have the same meaning as the term "protected health information" in 45 CFR Section 160.103, limited to the information created, received, maintained or transmitted by the Business Associate from or on behalf of the Covered Entity.
6. "Required by Law" – shall have the same meaning as the term "required by law" in 45 CFR Section 164.103.
7. "Secretary" – shall mean the Secretary of the Department of Health and Human Services or his/her Designee.
8. "Subcontractor" – shall have the same meaning as the term "subcontractor" in 45 CFR Section 160.103.

B. OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE

1. Pursuant to the terms of the Agreement, the Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by the Agreement, or as required by law.
2. The Business Associate agrees to use appropriate safeguards to prevent the use or disclosure of electronic Protected Health Information other than as provided for by this Agreement in accordance with the requirements of 45 CFR Section 164.314(a)(2)(i).
3. Pursuant to the terms of the Agreement and as more particularly described in the INDEMNIFICATION provisions of the Agreement, the Business Associate hereby agrees, and shall be required to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of Protected Health

Information by the Business Associate which is in violation of the requirements of the Agreement.

4. The Business Associate shall immediately report to the Covered Entity any use or disclosure of unsecured Protected Health Information not provided for by the Agreement, of which it shall become aware in accordance with the provisions of 45 CFR Section 164.410.
5. The Business Associate agrees to ensure that any agent, including a subcontractor, that creates, receives, maintains or transmits Protected Health Information on behalf of the Business Associate agrees to the same restrictions and conditions that apply through this Agreement to the Business Associate with respect to such information pursuant to 45 CFR Section 164.502(e)(1)(ii) by entering into a contract or other arrangement in accordance with the requirements of 45 CFR Section 164.314.
6. Business Associate agrees to provide access, at the request of the Covered Entity, to Protected Health Information in a Designated Record Set, to the Covered Entity or as directed by the Covered Entity, to an Individual, in order to meet the requirements under 45 CFR Section 164.524.
7. Business Associate agrees to make any necessary amendments to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees pursuant to 45 CFR Section 164.526, at the request of Covered Entity or an Individual, in a timely manner.
8. Business Associate agrees to make its internal practices, books, and records, including policies and procedures relating to the use and disclosure of Protected Health Information received from, or created or received by the Business Associate on behalf of the Covered Entity, available to the Secretary for purposes of the Secretary determining the Covered Entity's compliance with the Privacy Rule.
9. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with the requirements of 45 CFR Section 164.528.
10. Business Associate agrees to provide to the Covered Entity or an Individual, upon request, information which may be collected by the Business Associate during the term of this Agreement, for purposes of permitting the Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information, in accordance with the provisions of 45 CFR Section 164.528.
11. To the extent that the Business Associate is to carry out an obligation of the Covered Entity as a term of this Agreement, Business Associate agrees to comply with the requirements of the Privacy Rule under 45 CFR Section 164.504 that apply to the Covered Entity in the performance of such obligation.

C. PERMITTED USES AND DISCLOSURE

1. General Uses and Disclosure - Except as otherwise limited in this Agreement, the Business Associate may use or disclose Protected Health Information to perform the functions, activities, or services as defined in this Agreement, provided that such use or disclosure would not violate the Privacy Rule if said disclosure were done by the Covered Entity, or the minimum necessary policies and procedures of the Covered Entity, as well as the applicable provisions of the New York State Social Service and/or Mental Hygiene Law.
2. Specific Uses and Disclosure – Except as otherwise limited in this Agreement, the Business Associate may disclose Protected Health Information for the proper

management and administration of the services to be provided by the Business Associate in this Agreement, provided that disclosures are Required by Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law, or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.

3. Except as otherwise limited in this Agreement, the Business Associate may use Protected Health Information to provide information required to the Covered Entity as permitted by 45 CFR Section 164.504 (e)(2)(i)(B).
4. Except as otherwise limited in this Agreement, the Business Associate may use Protected Health Information to carry out the legal responsibilities of the Business Associate.
5. The Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR Section 164.502 (j)(1).
6. Nothing within this section shall be construed as to inhibit the disclosure of information as may be required by the New York State Social Service and/or Mental Hygiene Law, or other provisions, as may be required by Law.

D. OBLIGATIONS OF COVERED ENTITY WITH REGARD TO PRIVACY PRACTICE AND RESTRICTIONS

1. The Covered Entity shall notify the Business Associate of any limitations in its notice of privacy practices in accordance with 45 CFR Section 164.520, to the extent that such limitation may affect the Business Associate's use or disclosure of Protected Health Information.
2. The Covered Entity shall notify the Business Associate of any changes in, or revocation of, permission by the Individual to use or disclose Protected Health Information, to the extent that such changes may affect the Business Associate's use or disclosure of Protected Health Information.
3. The Covered Entity shall notify the Business Associate of any restriction to the use or disclosure of Protected Health Information that the Covered Entity has agreed to in accordance with 45 CFR Section 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of Protected Health Information.

E. PERMISSIBLE REQUESTS BY COVERED ENTITY

The Covered Entity shall not request the Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity.

F. COVERED ENTITY'S RESPONSIBILITIES UPON TERMINATION

1. The term of this Agreement shall be January 1, 2020 through December 31, 2020. Upon termination of this Agreement, the Covered Entity shall take such necessary precautions to ensure the confidentiality of the Protected Health Information, in accordance with the provisions of 45 CFR Section 164.
2. Termination for Cause – In the event that the Covered Entity becomes aware of a material breach by the Business Associate of the terms of this Appendix, the Covered Entity shall have the right, at its sole discretion, to proceed as follows:

(a) Provide an opportunity to the Business Associate to cure the breach, and end the violation within ten (10) business days. If the Business Associate does not cure the breach and end the violation within ten (10) business days, the Covered Entity shall have the right to immediately terminate the agreement; or,

(b) Immediately terminate the agreement if the Business Associate has breached a material term of this Appendix, and cure is not possible; or

(c) If neither termination of the agreement nor cure is feasible, the Covered Entity shall report the violation to the Secretary.

G. EFFECT OF TERMINATION

1. Upon termination of the Agreement, the Business Associate shall take all necessary precautions and extend the protections of this Agreement to all Protected Health Information, as if the Agreement were still in force and effect.
2. At the end of all audit and other relevant periods, as more particularly described in the RECORDS provisions of the Agreement, the Business Associate shall, if feasible, return or destroy all Protected Health Information received from or created or received by the Business Associate on behalf of the Covered Entity that the Business Associate still maintains in any form.

H. MISCELLANEOUS

1. **Regulatory References** – A reference in this Agreement to a section in the Privacy Rule or in the Social Service and/or Mental Hygiene Law means the section as in effect or as amended.
2. **Amendment** – The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996.
3. **Survival** – The respective rights and obligations of the Business Associate with regard to this Appendix shall survive the termination of this Agreement.
4. **Interpretation** – Any ambiguity in this Agreement shall be resolved to permit the Covered Entity to comply with the Privacy Rule.
5. **Incorporation in the Agreement** – The terms of this Appendix "A" are hereby incorporated into the Agreement between the parties hereto.

ALTAPRO-01 MMELLO

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 9/30/2019

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

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

PRODUCER	
Commercial Coverage, Inc. PO Box 5060 Saratoga Springs, NY 12866	CONTACT NAME: PHONE (A/C, No, Ext): (518) 602-2024 FAX (A/C, No): (518) 602-0236 E-MAIL ADDRESS: mmello@commercialcoverage.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Philadelphia Insurance Co	
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED

Altamont Program Inc
428 Duane Ave
Schenectady, NY 12304

COVERAGES

CERTIFICATE NUMBER: REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC OTHER:			PHPK1982590	5/17/2019	5/17/2020	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
							MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 1,000,000
							GENERAL AGGREGATE	$ 3,000,000
							PRODUCTS - COMP/OP AGG	$ 3,000,000
							Emp Ben.	$ 1,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY			PHPK1982590	5/17/2019	5/17/2020	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10,000			PHUB630428	5/17/2019	5/17/2020	EACH OCCURRENCE	$ 4,000,000
							AGGREGATE	$ 4,000,000
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					PER STATUTE / OTH-ER	
							E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
A	Property Section			PHPK1982590	5/17/2019	5/17/2020	BLKT BPP	1,735,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Albany County Department of Social Services is added as additional insured if required by written contract per endorsement PI-GLD-HS NY.

CERTIFICATE HOLDER	CANCELLATION
Albany County Department of Social Services 62 Washington Ave 3rd Floor Albany, NY 12210	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE

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NYSIF
New York State Insurance Fund

1 WATERVLIET AVENUE ALBANY, NEW YORK 12206-1649
| nysif.com

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

^^^^^^ 141708881
COMMERCIAL COVERAGE INC
PO BOX 5060
SARATOGA SPRINGS NY 12866

SCAN TO VALIDATE
AND SUBSCRIBE

POLICYHOLDER	CERTIFICATE HOLDER
THE ALTAMONT PROGRAM INC 428 DUANE AVE SCHENECTADY NY 12304	ALBANY COUNTY DEPARTMENT OF SOCIAL SERVICES 62 WASHINGTON AVE ALBANY NY 12210

POLICY NUMBER	CERTIFICATE NUMBER	POLICY PERIOD	DATE
A1400 994-8	485927	10/25/2018 TO 10/25/2019	9/30/2019

THIS IS TO CERTIFY THAT THE POLICYHOLDER NAMED ABOVE IS INSURED WITH THE NEW YORK STATE INSURANCE FUND UNDER POLICY NO. 1400 994-8, COVERING THE ENTIRE OBLIGATION OF THIS POLICYHOLDER FOR WORKERS' COMPENSATION UNDER THE NEW YORK WORKERS' COMPENSATION LAW WITH RESPECT TO ALL OPERATIONS IN THE STATE OF NEW YORK, EXCEPT AS INDICATED BELOW, AND, WITH RESPECT TO OPERATIONS OUTSIDE OF NEW YORK, TO THE POLICYHOLDER'S REGULAR NEW YORK STATE EMPLOYEES ONLY.

IF YOU WISH TO RECEIVE NOTIFICATIONS REGARDING SAID POLICY, INCLUDING ANY NOTIFICATION OF CANCELLATIONS, OR TO VALIDATE THIS CERTIFICATE, VISIT OUR WEBSITE AT HTTPS://WWW.NYSIF.COM/CERT/CERTVAL.ASP. THE NEW YORK STATE INSURANCE FUND IS NOT LIABLE IN THE EVENT OF FAILURE TO GIVE SUCH NOTIFICATIONS.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS NOR INSURANCE COVERAGE UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICY.

NEW YORK STATE INSURANCE FUND

DIRECTOR,INSURANCE FUND UNDERWRITING

VALIDATION NUMBER: 777520839

RESOLUTION NO. 375

AUTHORIZING AN AGREEMENT WITH THE ALTAMONT PROGRAM, INC. REGARDING EMPLOYMENT SERVICES FOR TANF AND SAFETY NET RECIPIENTS

Introduced: 9/9/19
By Social Services Committee and Ms. McKnight:

WHEREAS, The New York State Welfare Reform Act allows for the utilization of education and training programs to provide the necessary tools to facilitate client's employment readiness and access to employment that will lead to self-sufficiency and end welfare dependency, and

WHEREAS, The Albany County Department of Social Services has recommended the Altamont Program, Inc. to provide the aforementioned services based on their demonstrated abilities, ability to reach the target population, project location, and experience and expertise, and

WHEREAS, The Altamont Program, Inc. will provide work preparation training, job placement, post-employment services, and educational and vocational training services for Temporary Assistance for Needy Families (TANF) and/or Safety Net recipients including those who are non-English speaking, now, therefore be it

RESOLVED, By the Albany County Legislature that the County Executive is authorized to enter into an agreement with the Altamont Program, Inc. regarding employment services for TANF and/or Safety Net recipients for the term commencing January 1, 2020 and ending December 31, 2020 in an amount not to exceed $529,700 and, be it further

RESOLVED, That the County Attorney is authorized to approve said agreement as to form and content, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

Adopted by unanimous vote – 9/9/19

RESOLUTION NO. 282

AUTHORIZING AN AGREEMENT WITH THE ALTAMONT PROGRAM, INC. REGARDING EMPLOYMENT SERVICES FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES AND SAFETY NET RECIPIENTS

Introduced: 9/14/20
By Social Services Committee:

WHEREAS, The New York State Welfare Reform Act allows for the utilization of education and training programs to provide the necessary tools to facilitate clients' employment readiness and access to employment that will lead to self-sufficiency and end welfare dependency, and

WHEREAS, The Commissioner of the Department of Social Services has recommended the Altamont Program, Inc. to provide the aforementioned services based on their demonstrated abilities, ability to reach the target population, project location, and experience and expertise, and

WHEREAS, The Altamont Program, Inc. will provide work preparation training, job placement, post-employment services, and educational and vocational training services for Temporary Assistance for Needy Families (TANF) and/or Safety Net recipients including those who are non-English speaking, now, therefore be it

RESOLVED, By the Albany County Legislature that the County Executive is authorized to enter into an agreement with the Altamont Program, Inc. regarding employment services for TANF and/or Safety Net recipients for the term commencing January 1, 2021 and ending December 31, 2021 in an amount not to exceed $529,700 and, be it further

RESOLVED, That the County Attorney is authorized to approve said agreement as to form and content, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

DANIEL P. MCCOY
COUNTY EXECUTIVE

COUNTY OF ALBANY
DEPARTMENT OF ECONOMIC DEVELOPMENT CONSERVATION AND PLANNING
112 STATE STREET – ROOM 1310
ALBANY, NEW YORK 12207-2021
(518) 447-5670

July 29, 2020

Hon. Andrew Joyce
Albany County Legislature
112 State St., Rm. 710
Albany, NY 12207

Dear Chairman Joyce:

Please find enclosed a Request for Legislative Action to be considered at the June Conservation, Sustainability and Green Initiatives Committee meeting.

In accordance with NYS Agriculture and Markets Law, following the public hearing held on July 28, 2020, the proposed additions to Albany County Agricultural Districts must be approved by the County Legislature. If you have any questions, please feel free to contact me at 447-5670.

Sincerely,

Laura DeGaetano

Laura DeGaetano
Sr. Natural Resource Planner

cc: Dennis Feeney, Majority Leader
Frank Mauriello, Minority Leader
Rebekah Kennedy, Majority Counsel
Arnis Zilgme, Minority Counsel

File #: TMP-1803, **Version:** 1

REQUEST FOR LEGISLATIVE ACTION

Description (e.g., Contract Authorization for Information Services):
Approval of modifications to Agricultural Districts - Annual review

Date:	July 29, 2020
Submitted By:	Laura DeGaetano
Department:	Economic Development, Conservation and Planning
Title:	Sr. Natural Resource Planner
Phone:	518-469-9517
Department Rep. Attending Meeting:	Laura DeGaetano

Purpose of Request:

☐ Adopting of Local Law
☐ Amendment of Prior Legislation
☒ Approval/Adoption of Plan/Procedure
☐ Bond Approval
☐ Budget Amendment
☐ Contract Authorization
☐ Countywide Services
☐ Environmental Impact/SEQR
☐ Home Rule Request
☐ Property Conveyance
☐ Other: (state if not listed) Click or tap here to enter text.

CONCERNING BUDGET AMENDMENTS

Increase/decrease category (choose all that apply):
☐ Contractual
☐ Equipment
☐ Fringe
☐ Personnel
☐ Personnel Non-Individual

☐ Revenue

Increase Account/Line No.: Click or tap here to enter text.
Source of Funds: Click or tap here to enter text.
Title Change: Click or tap here to enter text.

CONCERNING CONTRACT AUTHORIZATIONS

Type of Contract:
☐ Change Order/Contract Amendment
☐ Purchase (Equipment/Supplies)
☐ Lease (Equipment/Supplies)
☐ Requirements
☐ Professional Services
☐ Education/Training
☐ Grant
Choose an item.
Submission Date Deadline Click or tap to enter a date.
☐ Settlement of a Claim
☐ Release of Liability
☐ Other: (state if not listed) Click or tap here to enter text.

Contract Terms/Conditions:

Party (Name/address):
Click or tap here to enter text.

Additional Parties (Names/addresses):
Click or tap here to enter text.

Amount/Raise Schedule/Fee: Click or tap here to enter text.
Scope of Services: Click or tap here to enter text.

Bond Res. No.: Click or tap here to enter text.
Date of Adoption: Click or tap here to enter text.

CONCERNING ALL REQUESTS

Mandated Program/Service: Yes ☒ No ☐
If Mandated Cite Authority: NYS Department of Agriculture and Markets 25AA

Is there a Fiscal Impact: Yes ☐ No ☒
Anticipated in Current Budget: Yes ☐ No ☐

County Budget Accounts:

Revenue Account and Line:	Click or tap here to enter text.
Revenue Amount:	Click or tap here to enter text.
Appropriation Account and Line:	Click or tap here to enter text.
Appropriation Amount:	Click or tap here to enter text.

<u>Source of Funding - (Percentages)</u>

Federal:	Click or tap here to enter text.
State:	Click or tap here to enter text.
County:	Click or tap here to enter text.
Local:	Click or tap here to enter text.

<u>Term</u>

Term: (Start and end date)	Click or tap here to enter text.
Length of Contract:	Click or tap here to enter text.

<u>Impact on Pending Litigation</u>	Yes ☐ No ☒
If yes, explain:	Click or tap here to enter text.

<u>Previous requests for Identical or Similar Action:</u>

Resolution/Law Number:	296
Date of Adoption:	07/08/2019

<u>Justification</u>: (state briefly why legislative action is requested)

In accordance with NYS Agriculture and Markets Law, following the public hearing held July 28, 2020, the proposed additions to the Agricultural Districts must be approved by the County Legislature.

RESOLUTION NO. 296

ADOPTING THE PROPOSED MODIFICATIONS TO ALBANY COUNTY AGRICULTURAL DISTRICT NOS. 1, 2 AND 3

Introduced: 7/8/19
By Messrs. Reinhardt and Fein:

WHEREAS, Section 303-b of the Agriculture and Markets Law mandates the annual review of agricultural districts, and

WHEREAS, In connection with such review a proposal for the modification of Agricultural Districts 1, 2 and 3 has been submitted by the Agricultural and Farmland Protection Board, and

WHEREAS, The recommendations include adding 238.5 acres of actively viable farm land in the Towns of Bethlehem, Guilderland, Knox, New Scotland, Rensselaerville, and Westerlo, and

WHEREAS, In conducting such review, Section 303-b of the Agriculture and Markets Law requires this Honorable Body to hold a public hearing, which public hearing was held on May 28, 2019 in the William J. Conboy II Legislative Chambers at the County Courthouse, Albany, New York for the purpose of receiving the comments of any interested persons regarding the proposed modifications, now, therefore be it

RESOLVED, By the Albany County Legislature that the following proposed modifications to the Albany County Agricultural Districts submitted by the Agricultural and Farmland Protection Board and filed with the Albany County Clerk are hereby approved and adopted:

Town	Tax Map No.	Acres	Ag District
Bethlehem	96.-2-11	78.5	3
	95.-4-31.42	4	3
Guilderland	38.-5-4	72.4	3
	38.-3-25	11.8	3
	38.-3-26	3	3
Knox	36.-3-42.21	60	1
	36.-3-28	5	1
New Scotland	106.-2-17.4	23	3
	95.-3-33.3	7	3
	131.00-1-2.1	40	3
	131.00-1-2.2	3	3
Rensselaerville	160.00-1-58	7.8	2
Westerlo	116.-3-37	67	2

and, be it further

RESOLVED, That a copy of the modifications shall be submitted to the New York State Commissioner of Agriculture and Markets along with a certified copy of this resolution, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

Adopted by unanimous vote – 7/8/19

Albany County
Agricultural and Farmland Protection Board

Recommendations of the Albany County Agricultural and Farmland Protection Board
Annual Agricultural District Review 2020

Prepared by Laura DeGaetano – Albany County Department of Economic Development, Conservation and Planning March 2020

Pursuant to Article 25-AA section 303-b of NYS Agricultural and Markets Law, the Albany County Legislature established an annual review period beginning on February 1 during which property owners may apply to add land to any of the County's three Agricultural Districts. On behalf of the County Legislature, the County Office of Natural Resource Conservation conducted a review of all landowner applications for inclusion in a District. The findings of this review, which relied on information provided by the landowner, analysis of aerial photos, and in some cases, a field assessment of the subject parcels, have been reviewed by the Agricultural and Farmland Protection Board. Based on this review, the following report and recommendations are submitted for consideration by the County Legislature.

A total of eleven (11) parcels were submitted for consideration to be included in Albany County Agricultural Districts during the 30-day annual review period beginning February 1, 2019. Of the parcels submitted, seven (7) were found to be consistent with the intent of agricultural districting and are recommended for inclusion in the appropriate Agricultural District. Parcels 93.-1-1-1.2, 93.-1-1.11, 93.-1-1.22 are included as a correction to include the entire parcels created through a subdivision during the 2018 Agricultural District #3 review. Parcels 9.2-2-72.14 and 9.2-2-72.13 were found not to have predominantly viable agricultural land or production as defined in Agricultural District Law 25AA at this time and so were not recommended for inclusion in the District. A summary of parcel information and Board recommendations are in included in the table below.

TOWN	PARCEL	# OF ACRES	AG DISTRICT	Recommendation Of AFPB	Principal Enterprise
Bethlehem	97.11-1-6	.72	3	ADD	Livestock
Bethlehem	94.-1-47.14	11.3	3	ADD	Equine
Colonie	9.2-2-72.14 9.2-2-72.13	4.55 7.87	3	DO NOT ADD	Orchard
Guilderland	14.00-1-1	10.5	3	DO NOT ADD	Horticultural
New Scotland	93.-1-1.12 93.-1-1.11 93.-1-1.22	13.43 11.6 15.01	3	ADD	
Berne	113.-1-4.310	42.5	1	ADD	Hay
Guilderland	36.00-1-12.1	26.7	3	ADD	Poultry
Westerlo	116.-3-37	67	2	ADD	Agriforestry
Total Acres Added		**188.26**			

Tom DellaRocco – Chairman / Maggie Alix / Laura DeGaetano / Harold E. Hahn / Tom Gallagher / Gary Kleppel / John O'Pezio / John Santacrose / Chris Smith / Mark Stanton / Michael Zakens

NEW YORK STATE
DEPARTMENT OF AGRICULTURE AND MARKETS

State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
For UNLISTED ACTIONS Only

PART I – PROJECT INFORMATION

1. The proposed action is located in the County of ________ Albany ______________ and the Town(s) of Berne, Bethlehem, Guilderland, New Scotland, Westerlo

2. The agency responsible for preparing this Short Environmental Assessment Form and determining environmental significance is the County Legislative Body of ______ Albany ____ County.

3. The name and address for the Clerk of the above named County is Hon. Bruce A. Hidley – Albany County Court House Room 128, 16 Eagle Street, Albany NY 12207-1077

4. Is this an application to modify an existing agricultural district? xYes ☐No

   - If yes, what is the total number of acres comprising the district as it exists prior to modification? _____N/A______ acres

5. If this application involves a modification, will such modification result in a change in the size of the district? x Yes ☐No

   - If yes, how many acres are involved in the change? 188.26 acres

   - Does this represent an x increase or ☐ decrease?

6. Zoning and Planning Information

   - Does the agricultural district correspond with a town(s) zoning district(s)?

     X Yes No

     If Yes, please cite the applicable zoning district(s):
     Bethlehem- Residential/Agriculture (RA)
     Guilderland – Residential/Agriculture (RA 3), RA5
     New Scotland – Residential/Agricultural
     Westerlo- Rural Development/Agricultural

   - Is/are the zoned district(s) within the modified agricultural district compatible with the goals and objectives of the Agricultural Districts Law, as set forth in Article 25-AA of the Agriculture and Markets Law? X Yes No

   - If Yes, please cite the applicable language: Agriculture allowed by right.

7. What is present land use in the vicinity of the proposed modification?

   x Residential Industrial Commercial x Agriculture x Park/Forest/Open Space ☐Other

   Describe: ____
   ____

8. Is there a public controversy related to this district proposal? ☐Yes x No If yes, describe below:

(Attach additional sheets if necessary.)

9. Attach any additional information as may be needed to clarify the proposed action.

I CERTIFY THAT THE INFORMATION PROVIDED
ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE

Authorized signature: Laura DiGaetano

Date: July 29, 2020

PART II– ENVIRONMENTAL ASSESSMENT

General Information

In providing responses to each of the questions, the reviewer should keep in mind that the action proposed is the modification or termination of an agricultural district or districts. The action is not the land use or activity which will, or may, take place in the district(s). For example, it is not appropriate to consider the effects of management action that may be taken by individual operators in conducting farming. Agricultural farm management practices, including construction, maintenance and repair of farm buildings, and land use changes consistent with generally accepted principles of farming are listed as Type II actions in 6 NYCRR §617.5(c)(3), and these actions have been determined not to have a significant impact on the environment.

A. Does action exceed any Type I threshold in 6 NYCRR, Part 617.4 ? ☐Yes x No

If Yes, coordinate the review process and use the FULL EAF.

B. Will action receive coordinated review as provided for Unlisted actions in 6 NYCRR, Part 617.5 ?

☐Yes x No

If No, a negative declaration may be superseded by another involved agency.

C. Could action result in any adverse effects associated with the following:

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:
NO

C2. Aesthetic, agricultural, archaeological, historic or other natural or cultural resources; or community or neighborhood character? Explain briefly:

NO

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:
NO

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:
NO

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:
NO

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:
NO

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

D. Will the project have an impact on the environmental characteristics that caused the establishment of a CEA? ☐Yes x No

E. Is there, or is there likely to be, controversy related to potential adverse environmental impacts?

☐Yes x No If Yes, explain briefly:

PART III– DESIGNATION OF LEAD AGENCY

Please indicate desire for lead agency status by checking the appropriate box below:

x Since the proposed action will be undertaken by this County Legislative Body and since any adverse environmental impacts will be primarily of local significance, it is hereby recommended that this County Legislative Body serve as lead agency to ensure compliance with the requirements of the State Environmental Quality Review Act. It has been determined that the only other agency required to undertake an action in this case is the Department of Agriculture and Markets.

☐ The County Legislative Body does not choose to nominate itself to serve as lead agency.

PART IV - DETERMINATION OF SIGNIFICANCE

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e., urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination and significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

☐ Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

X Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide on attachments as necessary, the reasons supporting this determination:

Albany County Legislature
Name of Lead Agency

Hon. Andrew Joyce
Print or Type Name of Responsible Officer in Lead Agency

Chairman
Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Laura DeGaetano
Signature of Preparer (If different from Responsible Officer)

Date

RESOLUTION NO. 283

ADOPTING THE PROPOSED MODIFICATIONS TO ALBANY COUNTY AGRICULTURAL DISTRICT NOS. 1, 2 AND 3

Introduced: 9/14/20
By Conservation, Sustainability, and Green Initiatives Committee:

WHEREAS, Section 303-b of the Agriculture and Markets Law mandates the annual review of agricultural districts, and

WHEREAS, In connection with such review, a proposal for the modification of Agricultural District Nos. 1, 2 and 3 has been submitted by the Agricultural and Farmland Protection Board, and

WHEREAS, The recommendations include adding 188.26 acres of actively viable farm land in the Towns of Berne, Bethlehem, Guilderland, New Scotland, and Westerlo, and

WHEREAS, In conducting such review, Section 303-b of the Agriculture and Markets Law requires this Honorable Body to hold a public hearing, which public hearing was held remotely with participation instructions available on the Albany County website at 7:15 p.m. on Tuesday, July 28, 2020 for the purpose of receiving the comments of any interested persons regarding the proposed modifications, now, therefore be it

RESOLVED, By the Albany County Legislature that the following proposed modifications to the Albany County Agricultural Districts submitted by the Agricultural and Farmland Protection Board and filed with the Albany County Clerk are hereby approved and adopted:

Town	Tax Map No.	Acres	Ag District
Berne	113.-1-4.310	42.5	1
Bethlehem	97.11-1-6	.72	3
	94.-1-47.14	11.3	3
Guilderland	36.00-1-12.1	26.7	3
New Scotland	93.-1-1.12	13.43	3
	93.-1-1.11	11.6	3
	93.-1-1.22	15.01	3
Westerlo	116.-3-37	67	2

and, be it further

RESOLVED, That a copy of the modifications shall be submitted to the New York State Commissioner of Agriculture and Markets along with a certified copy of this resolution, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

File #: TMP-1791, **Version:** 1

REQUEST FOR LEGISLATIVE ACTION

Description (e.g., Contract Authorization for Information Services):
Celtic Consulting to Provide Minimum Data Set (MDS) Consulting Services

Date:	July 23, 2020
Submitted By:	Larry I. Slatky
Department:	Shaker Place Rehabilitation and Nursing Center
Title:	Executive Director
Phone:	518-213-8940
Department Rep. Attending Meeting:	Larry I. Slatky

Purpose of Request:

☐ Adopting of Local Law
☐ Amendment of Prior Legislation
☐ Approval/Adoption of Plan/Procedure
☐ Bond Approval
☐ Budget Amendment
☒ Contract Authorization
☐ Countywide Services
☐ Environmental Impact/SEQR
☐ Home Rule Request
☐ Property Conveyance
☐ Other: (state if not listed) Click or tap here to enter text.

CONCERNING BUDGET AMENDMENTS

Increase/decrease category (choose all that apply):
☐ Contractual
☐ Equipment
☐ Fringe
☐ Personnel
☐ Personnel Non-Individual

☐ Revenue

Increase Account/Line No.: Click or tap here to enter text.
Source of Funds: Click or tap here to enter text.
Title Change: Click or tap here to enter text.

CONCERNING CONTRACT AUTHORIZATIONS

Type of Contract:
☐ Change Order/Contract Amendment
☐ Purchase (Equipment/Supplies)
☐ Lease (Equipment/Supplies)
☐ Requirements
☒ Professional Services
☐ Education/Training
☐ Grant
Choose an item.
Submission Date Deadline Click or tap to enter a date.
☐ Settlement of a Claim
☐ Release of Liability
☐ Other: (state if not listed) Click or tap here to enter text.

Contract Terms/Conditions:

Party (Name/address):
Celtic Consulting, LLC

Additional Parties (Names/addresses):
507 East Main Street
Suite 308
Torrington, CT 06790

Amount/Raise Schedule/Fee: $198,000.00
Scope of Services: Celtic Consulting will provide Minimum Data Set (MDS) consulting and monitoring of the clinical staff to ensure accurate documentation for Medicaid and Medicare reimbursement, educate staff on Patient Driven Payment Model for CMS reimbursement. (see attachments)

Bond Res. No.: Click or tap here to enter text.
Date of Adoption: Click or tap here to enter text.

CONCERNING ALL REQUESTS

Mandated Program/Service: Yes ☒ No ☐
If Mandated Cite Authority: NYSDOH

Is there a Fiscal Impact: Yes ☒ No ☐

Anticipated in Current Budget: Yes ☒ No ☐

County Budget Accounts:

Revenue Account and Line:	Click or tap here to enter text.
Revenue Amount:	Click or tap here to enter text.
Appropriation Account and Line:	44069
Appropriation Amount:	$198,000.00

Source of Funding - (Percentages)

Federal:	Click or tap here to enter text.
State:	Click or tap here to enter text.
County:	100%
Local:	Click or tap here to enter text.

Term

Term: (Start and end date)	1/1/2021 - 12/31/2021
Length of Contract:	12 months

Impact on Pending Litigation Yes ☐ No ☒

If yes, explain: Click or tap here to enter text.

Previous requests for Identical or Similar Action:

Resolution/Law Number:	463
Date of Adoption:	11/12/2019

Justification: (state briefly why legislative action is requested)

Celtic Consulting is responsible for the monitoring of the MDS reimbursement and documentation process. They work with the clinical staff to ensure compliance to all regulatory requirements and the accuracy of documentation and the timely submissions of all documents. This is the third year of a three year contract and we recommend the continuance of this relationship that has proven fruitful for the nursing home finances and care of our residents.

REHABILITATION & NURSING CENTER

Daniel P. McCoy
County Executive

Larry I. Slatky
Executive Director

July 23, 2020

The Honorable Andrew Joyce
Chairman, Albany County Legislature
Legislative Clerk's Office
112 State Street, Suite 710
Albany, New York 12207

Dear Chairman Joyce:

Shaker Place Rehabilitation and Nursing Center respectfully requests to contract with Celtic Consulting to provide Minimum Data Set (MDS) consulting services.

Celtic Consulting has provided these services for the last two (2) years and has assisted the clinical team in accurate and timely MDS submissions and continues to work with clinicians understanding CMS regulatory requirements as it applies to the Patient Driven Payment Method (PDPM).

This contract will be for twelve (12) months and is the last year of their three (3) year engagement.

We respectfully request approval of this contract so that we can maintain our relationship with Celtic consulting. Thank you for your consideration.

Sincerely,

Larry I. Slatky
Executive Director

cc: Dennis Feeney, Majority Leader
Frank Mauriello, Minority Leader
Rebekah Kennedy, Majority Counsel
Arnis Zilgme, Minority Counsel

AGREEMENT
BETWEEN
THE COUNTY OF ALBANY
AND
CELTIC CONSULTING, L.L.C.
FOR
CASE MANAGEMENT REVIEW
SERVICES AT
THE ALBANY COUNTY NURSING HOME

Resolution No. 585 of 2018—passed on December 27,2018

THIS AGREEMENT is made by and between the County of Albany, a municipal corporation organized under the laws of the State of New York, acting by and through its County Executive, with a principal office at the Albany County Office Building, 112 State Street, Albany, New York 12207 (hereinafter, the "County"), and Celtic Consulting L.L.C., a Connecticut corporation with its principal office at 507 East Main Street, Suite 308, Torrington, Connecticut (hereinafter, the "Contractor"). The County and Contractor may each individually be referred to as the "[P]arty" and together as the "[P]arties" as appropriate.

WITNESSETH:

WHEREAS, the County (on behalf of the Albany County Nursing Home) has a need for MDS Case Management Review Services, said request having been denominated RFP #2018—103, and having been issued by the Albany County Department of General Services Purchasing Division (hereinafter called the "Purchasing Division") on September 18, 2018 and published on September 27, 2018 (hereinafter called the "RFP"); and

WHEREAS, the County has issued a single addendum to RFP #2018-103 on October 16, 2018 (hereinafter called the "Addendum"); and

WHEREAS, in response thereto, the Contractor has submitted a Proposal on October 25, 2018 (hereinafter called the "Proposal"); and

WHEREAS, the County has accepted the Proposal of the Contractor to provide the aforesaid MDS Case Management Review Services on November 19, 2018; and

WHEREAS, the Albany County Legislature has authorized the County Executive to enter into an Agreement with the Contractor to provide the aforesaid MDS case management review services through Resolution No. 585 of 2018, adopted December 27, 2018; and

WHEREAS, in furtherance thereof, the parties hereto desire to formalize their understanding and agreement regarding the provision of the aforementioned supplies, and to execute a fully-integrated Agreement with respect thereto;

NOW, THEREFORE, THE PARTIES HERETO DO MUTUALLY COVENANT AND AGREE AS FOLLOWS:

ARTICLE 1. THE CONTRACT DOCUMENTS; INTERPRETATION

1.1 The Contract Documents consist of the following: this Agreement; the Addendum, which is incorporated by reference and made a part hereof; the RFP, which is incorporated herein and made a part hereof in its entirety by reference; and the Proposal, which is incorporated herein and made a part hereof in its entirety by reference (collectively called "the Agreement" hereinafter).

1.2 In the event of any discrepancy, disagreement, or ambiguity among the documents which comprise this Agreement, the documents shall be given preference in the following order to interpret and to resolve such discrepancy, disagreement, or ambiguity: 1) this Agreement; 2) the Addendum; 3) the RFP; 4) the Proposal.

ARTICLE 2. SCOPE OF SERVICES TO BE PERFORMED BY CONTRACTOR

The Contractor shall provide MDS Case Management Review Services to the Albany County Nursing Home, located at 780 Albany Shaker Road, according to the Scope of Services and Addendum contained within the RFP. Such services shall include:

2.1 Identifying areas of opportunity to improve patient care based upon caregiver observations, staff interviews, clinical assessments, and on-site review of medical record documentation.

2.2 Recommendations for improvement that shall highlight both the clinical and financial impact of services. Such recommendations shall be supported under Medicare guidelines.

2.3 Creating a service plan for the Albany County Nursing Home to ensure accurate and appropriate reimbursement, provide ongoing staff education, and improve documentation compliance.

2.4 The key elements of the services to be rendered by the Contractor will include being on-site at the Nursing Home each month to focus on the following matters:

- An Initial audit and evaluation of existing supporting documentation including, but not limited to: AD and Discipline specific coding in order to determine necessary case management strategies and education.
- Individualized Medicare and Medicaid Case Mix medical record audits for MDS accuracy, MDS supporting documentation, and therapy.

These services shall require:

a) The Contractor shall provide a plan focused exclusively on assisting a Skilled Nursing Facility to improve patient care at the Albany County Nursing Home. This plan shall identify areas of opportunity based upon caregiver observations, staff interviews, clinical assessments, and on-site review of medical record documentation.

b) The Contractor's recommendations shall highlight both the clinical and financial impact of services, which are supported under Medicare guidelines.

c) The Contractor's service plan for the Albany County Nursing Home shall ensure accurate and appropriate reimbursement, provide ongoing staff education, and improve documentation compliance.

2.5 The Contractor shall provide consultant services via a monthly on-site visit at the Albany County Nursing Home. The key elements of these visits shall be:

I. Initial audit and evaluation of existing supporting documentation including, but not limited to: ADL and Discipline specific coding in order to determine necessary case management strategies and education.

II. Individualized Medicare and Medicaid Case Mix medical record audits for MDS accuracy, MDS supporting documentation, therapy documentation, nursing documentation, physician certification completion, and medical necessity.

III. Patient-specific clinical case management strategies and associated impact.

IV. Ongoing facility staff education.

V. A comprehensive written report detailing findings and recommendations.

VI. Monthly Medicare Clinically Appropriate Stay analysis.

VII. Monthly Medicare Part A reimbursement analysis.

VIII. Therapy Program analysis and consultation.

IX. UB-04 Diagnosis Coding Audit.

X. Off-site access to Clinical consultants in between site visits.

XI. Formal and informal educational in-services conducted at the facility during scheduled site visits, to include but not be limited to:

i. Medicare Entitlement, Eligibility, and Coverage Criteria
ii. Medicare Nursing Documentation in a Skilled Nursing Facility
iii. Medicare Rehabilitation Documentation in a Skilled Nursing Facility
iv. ADL Coding Accuracy (MDS, Nursing, and Nursing Assistants)
v. MDS 3.0; Discipline Specific (MDS, Therapy, Social Services, Dietician, Direct Care Nurses)
vi. Medicare Resource Utilization Groups (RUG-IV)

vii. Restorative Nursing Program Development
viii. New York State Specific Case Mix Reimbursement Criteria
ix. Rehabilitation Program Development

2.5 The Contractor shall employ a diverse group, including but not limited to PT, OT, SLP, and RN clinical staff.

2.6 The Contractor shall include one (1) AANAC RAC Master Trainer.

2.7 The Contractor shall be familiar with and have a working relationship with Casamba. The cost for the facility is included in the annual compensation under Article 3 of this Agreement. The Contractor may recommend an alternate Rehabilitation electronic medical record software, however, the Albany County Nursing Home will make the final determination on the software used.

2.8 The Contractor must be fully willing and able to train Albany County Nursing Home staff and monitor the Nursing Home's implementation of the proposed rule for FY-2019, Patient-Driven Payment Model (PDPM)

2.9 The Contractor must secure for the Nursing Home an individual qualified and interested in becoming a full time MDS Director that will be employed at the Nursing Home.

ARTICLE 3. COMPENSATION

3.1 In consideration of the terms and obligations of this Agreement, the County agrees to pay, and the Contractor agrees to accept, an annual amount not to exceed ONE HUNDRED NINETY-EIGHT THOUSAND AND 00/100 DOLLARS ($198,000.00) (US CURRENCY) as full compensation for all goods furnished under this Agreement.

3.2 The prices set forth in the Proposal shall remain fixed for the entire term of this Agreement and any renewals.

3.3 The County is not subject to federal, state, or local taxes.

ARTICLE 4. PAYMENT AND DELIVERY

Payment shall be made to the Contractor by the County upon the Contractor's submission of a properly executed Albany County Claim Form, plus all supporting documentation, to the Albany County Nursing Home, and acceptance by the County of the claim form.

ARTICLE 5. TERM OF THE AGREEMENT

The term of this Agreement shall commence on January 1, 2019 and continue in effect until December 31, 2019. At the end of the initial one-year contract term, the Agreement may be renewed for two (2) additional years, in two (2) consecutive one-year intervals, upon mutual agreement of the Parties. Each renewal shall be dependent upon a renewal of all terms within this Agreement; partial renewals shall not be accepted by the County.

ARTICLE 6. TERMINATION OF AGREEMENT; REMEDY FOR BREACH

6.1 This Agreement may be terminated by the County or the Contractor as follows:

6.1.1 The County may terminate this Agreement if the Contractor refuses or fails to supply enough properly skilled workers or proper materials to meet any of its requirements, if the Contractor fails to make payment to County-approved subcontractors for materials or labor, or disregards laws, ordinances, or rules and regulations or orders of a public entity having jurisdiction over the work, or if the Contractor is substantially in breach of any of its provisions. Additionally, the County may, without cause, order the Contractor in writing, to suspend, delay, or interrupt the work in whole or in part for such period of time as the County may determine.

6.1.2 The Contractor may terminate this Agreement if the County is substantially in breach of it.

6.2 In the event of a breach by the Contractor, the Contractor shall pay to the County all direct and consequential damages caused by such breach, including, but not limited to, all sums expended by the County to procure a substitute Contractor to satisfactorily complete the work, together with the County's own costs incurred in procuring a substitute Contractor.

ARTICLE 7. ASSIGNMENT

7.1 Pursuant to §109 of the General Municipal Law, the Contractor is prohibited from assigning, transferring, conveying, subcontracting, or otherwise disposing of this Agreement, or of its right, title, or interest therein, to any other person or entity without the prior written consent of the County.

7.2 The Contractor shall not subcontract for any portion of the services required under this Agreement without the prior written approval of the County. Any such subcontractor shall be subject to the terms and conditions of this Agreement and any additional terms and conditions the County may deem necessary or appropriate.

ARTICLE 8. AVAILABLE DATA

All technical or other data related to this Agreement in the possession of the County or in the possession of the Contractor shall be made available to the other party to this Agreement without expense to the other party.

ARTICLE 9. COOPERATION

Contractor shall cooperate with the agents, representatives, and employees of the County and the County shall cooperate with the agents, representatives, and employees of the Contractor to ensure that the work delineated herein proceeds and concludes as expeditiously as possible.

ARTICLE 10. NON-DISCRIMINATION

In accordance with 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 agrees that neither it nor its County-approved subcontractors shall, by reason of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, or marital status refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions, or privileges of employment.

ARTICLE 11. EXTRA WORK

If the Contractor is of the opinion that any work it has been directed to perform is beyond the scope of this Agreement and constitutes extra work, the Contractor shall promptly notify the County of that opinion. The County shall be the sole judge as to whether or not such work is in fact beyond the scope of this Agreement and whether or not it constitutes extra work. In the event the County determines such work does constitute extra work, it shall provide extra compensation to the Contractor on a negotiated basis.

ARTICLE 12. COMPLIANCE WITH MACBRIDE PRINCIPLES

The Contractor hereby represents that it is in compliance with the MacBride Principles of Fair Employment as set forth in Albany County Local Law No. 3 for 1993, in that Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Principles, and shall permit independent monitoring of its compliance with such principles. In the event of a violation of this stipulation, the County reserves all rights to take remedial measures as authorized under § 4 of the said Local Law No. 3 for 1993 including, but not limited to, imposing sanctions, enforcing compliance, recovering damages, declaring the Contractor in default, and/or seeking debarment or suspension of the Contractor.

ARTICLE 13. IRANIAN ENERGY SECTOR DIVESTMENT

The Contractor hereby represents that the Contractor is in compliance with New York State General Municipal Law Section 103-g entitled "Iranian Energy Sector Divestment," in that Contractor has not:

(a) Provided goods or services of $20 Million or more in the energy sector of Iran including but not limited to the provision of oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran; or

(b) Acted as a financial institution and extended $20 Million or more in credit to another person for forty-five days or more, if that person's intent was to use the credit to provide goods or services in the energy sector in Iran.

ARTICLE 14. RELATIONSHIP OF THE PARTIES

The Contractor is, and will function as, an independent contractor under the terms of this Agreement, and shall not be considered an agent or employee of the County for any purpose. The agents, representatives, and employees of the Contractor shall not in any manner be, or be held out to be, the agents, representatives, or employees of the County.

ARTICLE 15. INDEMNIFICATION

The Contractor shall defend, indemnify, and save harmless the County, its agents, representatives, and employees, from and against any and all claims, damages, losses, and expenses (including, but not limited to, reasonable attorney's fees) arising out of or in consequence of any negligent or intentional act or omission of the Contractor, its agents, representatives, or employees, to the extent of its or their responsibility for such claims, damages, losses, or expenses.

ARTICLE 16. INSURANCE COVERAGE

16.1 The Contractor shall procure and maintain for the entire term of this Agreement, without additional expense to the County, insurance policies of the kinds and in the amounts provided in the Schedule A attached hereto and made a part hereof. The insurance policies shall name the County as an additional insured. Such policies may only be changed upon thirty (30) days prior written approval by the County.

16.2 The Contractor shall, prior to commencing any of the services outlined herein, furnish the County with Certificates of Insurance showing that the requirements of this article have been met. The Contractor shall also provide the County with updated Certificates of Insurance prior to the expiration of any previously-issued by the Contractor. No work shall be commenced under this Agreement until the Contractor has delivered the Certificates of Insurance to the County. Upon failure of the Contractor to furnish, deliver, and maintain such insurance certificates as provided above, the County may declare this Agreement suspended, discontinued, or terminated.

16.3 As required by Section 108 of the N.Y. General Municipal Law, this Agreement shall be of no force and effect unless the Contractor shall secure compensation for the benefit of, and keep insured during the life of this Agreement, all employees engaged thereon in compliance with the provisions of the N.Y. Workers' Compensation Law. The Contractor shall require any subcontractor authorized by the County to do likewise for all of their employees engaged thereon, all in compliance with the provisions of the N.Y. Workers' Compensation Law and of Schedule A of this Agreement.

ARTICLE 17. NON-COLLUSIVE BIDDING

By execution of this Agreement, the Contractor warrants, under penalty of perjury, that to the best of their knowledge and belief, the prices communicated to the County in establishing the costs of goods and services covered in this Agreement have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition.

The Contractor warrants that it is in compliance with NYS General Municipal Law Sec. 103-d with regard to the prices of goods and services covered in this Agreement.

ARTICLE 18. NO WAIVER OF PERFORMANCE

Failure of the County to insist upon strict and prompt performance of the provisions of this Agreement, or any of them, and the acceptance of such performance thereafter shall not constitute or be construed as a waiver or relinquishment of the County's right thereafter to enforce the same strictly according to the tenor thereof in the event of a continuous or subsequent default on the part of the Contractor.

ARTICLE 19. ACCOUNTING RECORDS

19.1 The Contractor shall maintain complete and proper accounting records that shall clearly identify all costs associated with and revenue derived from the work performed under this Agreement. Such records shall be subject to periodic and final audit by the County upon request.

19.2 The Contractor shall provide the County and authorized State and/or Federal personnel access to any and all books, documents, records, charts, software or any other information relevant to performance under this Agreement, immediately upon request.

19.3 The Contractor shall retain all of the above information for six (6) years after final payment or the termination of this Agreement, and shall make such information available to the County and authorized State and/or Federal personnel during such period.

ARTICLE 20. PRIVACY OF PERSONAL HEALTH INFORMATION

In order to comply with the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Contractor, (deemed a BUSINESS ASSOCIATE as defined at 45 CFR § 160.103), its employees, administrators and agents shall not use or disclose Protected Health Information (PHI), (as defined in 45 CFR § 160.103) other than as permitted or required by this Agreement with the County (deemed a Hybrid Entity as defined at 45 CFR § 160.103) or as Required By Law (as defined in 45 CFR § 164.103). The Contractor shall maintain compliance with all U.S. Department of Health and Human Services, Office for Civil Rights, policies, procedures, rules and regulations applicable in the context of this Agreement, as more particularly set forth in Schedule B, attached hereto and made a part hereof.

ARTICLE 21. NON-APPROPRIATIONS

Notwithstanding anything contained herein to the contrary, no default shall be deemed to occur in the event no funds or insufficient funds are appropriated and budgeted by or are otherwise unavailable to the County for payment under this Agreement. The County will immediately notify the Contractor of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to the County of any kind whatsoever, except as to those portions herein agreed upon for which funds shall have been appropriated and budgeted.

ARTICLE 22. CHANGE IN LEGAL STATUS OR DISSOLUTION

During the term of this Agreement, the Contractor agrees that, in the event of its reorganization or dissolution as a business entity or change in business, the Contractor shall give the County thirty (30) days written notice in advance of such event.

ARTICLE 23. LICENSES

The Contractor shall at all times obtain and maintain all licenses required by New York State, or other relevant regulating body, to perform the services required under this Agreement.

ARTICLE 24. PARTIAL INVALIDITY

If any term, part, provision, section, subdivision, or paragraph of this Agreement shall be held to be unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to invalidate the remaining terms, parts, provisions, sections, subdivisions, or paragraphs.

ARTICLE 25. HEADINGS – CONSTRUCTION

The headings appearing in this Agreement are for the purpose of easy reference only and shall not be considered a part of the Agreement or in any way to modify, amend, or affect the provisions hereof.

ARTICLE 26. NOTICES

All notices, consents, waivers, directions, requests, or other instruments or communications provided for under this Agreement shall be deemed properly given if, and only if, delivered personally, sent by registered or certified United States mail, postage prepaid, or, with the prior consent of the receiving party, dispatched via facsimile transmission.

ARTICLE 27. GOVERNING LAW

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

ARTICLE 28. MODIFICATION

This Agreement may only be modified by a formal written amendment executed by the parties.

ARTICLE 29. EXECUTION OF DOCUMENTS

This Agreement may be executed in one or more counterparts, each of which shall constitute an original Agreement, but all of which together shall constitute one and the same instrument.

ARTICLE 30. STORMWATER MANAGEMENT PROGRAM

The Contractor specifically agrees to comply with the terms and conditions of the County's stormwater management program (SWMP) as set forth in Albany County Local Law No.7 for 2007 and further agrees to implement any corrective actions identified by the County or a representative. The Contractor understands that the County must comply with the conditions of the New York State Pollutant Discharge Elimination System (SPDES) general permit (GP-0-10-002) for stormwater discharges from the Municipal Separate Storm Sewer Systems (MS4s) and that it is unlawful for any person to directly or indirectly cause or contribute to a violation of water quality standards. The Contractor further understands that any non-compliance will not diminish, eliminate, or lessen the Contractor's own liability. The Contractor shall execute and deliver to the Count a certification statement prior to commencing any work.

ARTICLE 31. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties and no representations or promises have been made except as expressly set forth herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) hereunder set forth.

COUNTY OF ALBANY

DATED: 5/9/19

BY: [signature]
Daniel P. McCoy
Albany County Executive
or
Philip F. Calderone
Deputy County Executive

CELTIC CONSULTING, L.L.C.

DATED: 4-15-19

BY: [signature]

STATE OF NEW YORK)
COUNTY OF ALBANY) SS.:

On the ____ day of ______________, 20__, before me, the undersigned, personally appeared DANIEL P. McCOY personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

STATE OF NEW YORK)
COUNTY OF ALBANY) SS.:

On the 9th day of May, 2019, before me, the undersigned, personally appeared PHILIP F. CALDERONE personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Melanie J. Bunzey
NOTARY PUBLIC

MELANIE J. BUNZEY
Notary Public, State of New York
Qualified in Albany County
No. 01BU6048902
Commission Expires Oct. 2, 2022

STATE OF Connecticut)
COUNTY OF Litchfield) SS.: Goshen

On the 15th day of April, 2019, before me, the undersigned, personally appeared Maureen McCarthy personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in her/his capacity, and that by her/his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Barbara L Breor
NOTARY PUBLIC

BARBARA L. BREOR
NOTARY PUBLIC
MY COMMISSION EXPIRES AUG. 31, 2021

SCHEDULE A

INSURANCE COVERAGE

The kinds and amounts of insurance to be provided are as follows:

1. Workers' Compensation and Employers Liability Insurance: A policy or policies providing protection for employees in the event of job related injuries.

2. Automobile Liability Insurance: A policy or policies with the limits of not less than $500,000 for each accident because of bodily injury, sickness or disease, including death at any time, resulting there from, sustained by any person caused by accident, and arising out of the ownership, maintenance or use of any automobiles; and with the limits of $500,000 for damage because of injury to or destruction of property, including the loss of use thereof, caused by accident and arising out of the ownership, maintenance or use of any automobiles.

3. General Liability Insurance: A policy or policies including comprehensive form, personal injury, contractual, products/completed operations, premises operations and broad form property insurance shall be furnished with limits of not less than:

Liability for:	Combined Single Limit:
Bodily Injury	$1,000,000.00
Property Damage	$1,000,000.00
Personal Injury	$1,000,000.00

Professional Liability Insurance: A policy or policies of professional liability insurance with limits not less than $1,000,000 per occurrence.

SCHEDULE B

OBLIGATIONS AND ACTIVITIES OF THE CONSULTANT AS A BUSINESS ASSOCIATE PURSUANT TO 45 CFR SECTION 164.504

The parties to the Agreement hereby agree to comply with the following provisions to ensure their compliance with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996.

Pursuant to the terms of the Agreement, and in accordance with the requirements of 45 CFR Sections 160 and 164, the CONSULTANT/CONTRACTOR herein shall be considered a "Business Associate." The following terms are hereby incorporated in this AGREEMENT and shall be binding upon the parties hereto:

A. DEFINITIONS

1. "Business Associate" – under the terms of this Agreement, the term "Business Associate" shall mean the Contractor.

2. "Covered Entity" – for purposes of this Agreement, the term "Covered Entity" shall mean the County of Albany, The Albany County Nursing Home, and any part thereof.

3. "Individual" – under the terms of this Agreement, the term "Individual" shall have the same meaning as the term "individual" in 45 CFR Section 160.103, and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.502(g).

4. "Privacy Rule" – shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

5. "Protected Health Information"- shall have the same meaning as the term "protected health information" in 45 CFR Section 160.103, limited to the information created, received, maintained or transmitted by the Business Associate from or on behalf of the Covered Entity.

6. "Required by Law" – shall have the same meaning as the term "required by law" in 45 CFR Section 164.103.

7. "Secretary" – shall mean the Secretary of the Department of Health and Human Services or his/her Designee.

8. "Subcontractor" – shall have the same meaning as the term "subcontractor" in 45 CFR Section 160.103.

B. OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE

1. Pursuant to the terms of the Agreement, the Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by the Agreement, or as required by law.

2. The Business Associate agrees to use appropriate safeguards to prevent the use or disclosure of electronic Protected Health Information other than as provided for by this Agreement in accordance with the requirements of 45 CFR Section 164.314(a)(2)(i).

3. Pursuant to the terms of the Agreement and as more particularly described in the INDEMNIFICATION provisions of the Agreement, the Business Associate hereby agrees, and shall be required to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of Protected Health Information by the Business Associate which is in violation of the requirements of the Agreement.

4. The Business Associate shall immediately report to the Covered Entity any use or disclosure of unsecured Protected Health Information not provided for by the Agreement, of which it shall become aware in accordance with the provisions of 45 CFR Section 164.410.

5. The Business Associate agrees to ensure that any agent, including a subcontractor, that creates, receives, maintains or transmits Protected Health Information on behalf of the Business Associate agrees to the same restrictions and conditions that apply through this Agreement to the Business Associate with respect to such information pursuant to 45 CFR Section 164.502(e)(1)(ii) by entering into a contract or other arrangement in accordance with the requirements of 45 CFR Section 164.314.

6. Business Associate agrees to provide access, at the request of the Covered Entity, to Protected Health Information in a Designated Record Set, to the Covered Entity or as directed by the Covered Entity, to an Individual, in order to meet the requirements under 45 CFR Section 164.524.

7. Business Associate agrees to make any necessary amendments to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees pursuant to 45 CFR Section 164.526, at the request of Covered Entity or an Individual, in a timely manner.

8. Business Associate agrees to make its internal practices, books, and records, including policies and procedures relating to the use and disclosure of Protected Health Information received from, or created or received by the Business Associate on behalf of the Covered Entity, available to the Secretary for purposes of the Secretary determining the Covered Entity's compliance with the Privacy Rule.

9. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with the requirements of 45 CFR Section 164.528.

10. Business Associate agrees to provide to the Covered Entity or an Individual, upon request, information which may be collected by the Business Associate during the term of this Agreement, for purposes of permitting the Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information, in accordance with the provisions of 45 CFR Section 164.528.

11. To the extent that the Business Associate is to carry out an obligation of the Covered Entity as a term of this Agreement, Business Associate agrees to comply with the requirements of the Privacy Rule under 45 CFR Section 164.504 that apply to the Covered Entity in the performance of such obligation.

C. PERMITTED USES AND DISCLOSURE

1. General Uses and Disclosure - Except as otherwise limited in this Agreement, the Business Associate may use or disclose Protected Health Information to perform the functions, activities, or services as defined in this Agreement, provided that such use or disclosure would not violate the Privacy Rule if said disclosure were done by the Covered Entity, or the minimum necessary policies and procedures of the Covered Entity, as well as the applicable provisions of the New York State Mental Hygiene Law.

2. Specific Uses and Disclosure – Except as otherwise limited in this Agreement, the Business Associate may disclose Protected Health Information for the proper management and administration of the services to be provided by the Business Associate in this Agreement, provided that disclosures are Required by Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law, or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.

3. Except as otherwise limited in this Agreement, the Business Associate may use Protected Health Information to provide information required to the Covered Entity as permitted by 45 CFR Section 164.504 (e)(2)(i)(B).

4. Except as otherwise limited in this Agreement, the Business Associate may use Protected Health Information to carry out the legal responsibilities of the Business Associate.

5. The Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR Section 164.502 (j)(1).

6. Nothing within this section shall be construed as to inhibit the disclosure of information as may be required by the New York State Mental Hygiene Law, Sections 33.13 or 33.16, or other provisions, as may be Required by Law.

D. OBLIGATIONS OF COVERED ENTITY WITH REGARD TO PRIVACY PRACTICE AND RESTRICTIONS

1. The Covered Entity shall notify the Business Associate of any limitations in its notice of privacy practices in accordance with 45 CFR Section 164.520, to the extent that such limitation may affect the Business Associate's use or disclosure of Protected Health Information.

2. The Covered Entity shall notify the Business Associate of any changes in, or revocation of, permission by the Individual to use or disclose Protected Health Information, to the extent that such changes may affect the Business Associate's use or disclosure of Protected Health Information.

3. The Covered Entity shall notify the Business Associate of any restriction to the use or disclosure of Protected Health Information that the Covered Entity has agreed to in accordance with 45 CFR Section 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of Protected Health Information.

E. PERMISSIBLE REQUESTS BY COVERED ENTITY

The Covered Entity shall not request the Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity.

F. COVERED ENTITY'S RESPONSIBILITIES UPON TERMINATION

1. The term of this Agreement shall be January 1, 2019, until December 31, 2019. Upon termination of this Agreement, the Covered Entity shall take such necessary precautions to ensure the confidentiality of the Protected Health Information, in accordance with the provisions of 45 CFR Section 164.

2. Termination for Cause – In the event that the Covered Entity becomes aware of a material breach by the Business Associate of the terms of this Appendix, the Covered Entity shall have the right, at its sole discretion, to proceed as follows:

   (a) Provide an opportunity to the Business Associate to cure the breach, and end the violation within ten (10) business days. If the Business Associate does not cure the breach and end the violation within ten (10) business days, the Covered Entity shall have the right to immediately terminate the agreement; or,

(b) Immediately terminate the agreement if the Business Associate has breached a material term of this Appendix, and cure is not possible; or

(c) If neither termination of the agreement nor cure is feasible, the Covered Entity shall report the violation to the Secretary.

G. EFFECT OF TERMINATION

1. Upon termination of the Agreement, the Business Associate shall take all necessary precautions and extend the protections of this Agreement to all Protected Health Information, as if the Agreement were still in force and effect.

2. At the end of all audit and other relevant periods, as more particularly described in the RECORDS provisions of the Agreement, the Business Associate shall, if feasible, return or destroy all Protected Health Information received from or created or received by the Business Associate on behalf of the Covered Entity that the Business Associate still maintains in any form.

H. MISCELLANEOUS

1. Regulatory References – A reference in this Agreement to a section in the Privacy Rule or in the Mental Hygiene Law means the section as in effect or as amended.

2. Amendment – The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996.

3. Survival – The respective rights and obligations of the Business Associate with regard to this Appendix shall survive the termination of this Agreement.

4. Interpretation – Any ambiguity in this Agreement shall be resolved to permit the Covered Entity to comply with the Privacy Rule.

5. Incorporation in the Agreement – The terms of this Schedule B are hereby incorporated into the Agreement between the parties hereto.

AGREEMENT
BETWEEN
THE COUNTY OF ALBANY
AND
CELTIC CONSULTING, LLC
FOR
CASE MANAGEMENT REVIEW
SERVICES AT
THE SHAKER PLACE REHABILITATION AND NURSING CENTER

Resolution No. 463 of 2019—passed November 12, 2019

THIS AGREEMENT is made by and between the County of Albany, a municipal corporation organized under the laws of the State of New York, acting by and through its County Executive, with a principal office at the Albany County Office Building, 112 State Street, Albany, New York 12207 (hereinafter, the "County"), and Celtic Consulting LLC, a Connecticut corporation with its principal office at 507 East Main Street, Suite 308, Torrington, Connecticut (hereinafter, the "Contractor"). The County and Contractor may each individually be referred to as the "[P]arty" and together as the "[P]arties" as appropriate.

W I T N E S S E T H:

WHEREAS, the County (on behalf of the Shaker Place Rehabilitation and Nursing Center) has a need for MDS Case Management Review Services, said request having been denominated RFP #2018—103, and having been issued by the Albany County Department of General Services Purchasing Division (hereinafter called the "Purchasing Division") on September 18, 2018 and published on September 27, 2018 (hereinafter called the "RFP"); and

WHEREAS, the County has issued a single addendum to RFP #2018-103 on October 16, 2018 (hereinafter called the "Addendum"); and

WHEREAS, in response thereto, the Contractor has submitted a bid on October 25, 2018 (hereinafter called the "Proposal"); and

WHEREAS, the County has accepted the Bid of the Contractor to provide the aforesaid MDS Case Management Review Services on November 19, 2018; and

WHEREAS, the Albany County Legislature has authorized the County Executive to enter into an Agreement with the Contractor to provide the aforesaid MDS case management review services from January 1, 2019 through December 31, 2019 via Resolution No. 585 of 2018, adopted December 27, 2018; and

WHEREAS, the Albany County Legislature has authorized the County Executive to exercise the first (1st) of two (2) one year extensions via Resolution No. 463 of 2019, passed November 11, 2019; and

WHEREAS, in furtherance thereof, the parties hereto desire to formalize their understanding and agreement regarding the provision of the aforementioned supplies, and to execute a fully-integrated Agreement with respect thereto;

NOW, THEREFORE, THE PARTIES HERETO DO MUTUALLY COVENANT AND AGREE AS FOLLOWS:

ARTICLE 1. THE CONTRACT DOCUMENTS; INTERPRETATION

1.1 The Contract Documents consist of the following: this Agreement; the Addendum, which is incorporated by reference and made a part hereof; the RFP, which is incorporated herein and made a part hereof in its entirety by reference; and the Proposal, which is incorporated herein and made a part hereof in its entirety by reference (collectively called "the Agreement" hereinafter).

1.2 In the event of any discrepancy, disagreement, or ambiguity among the documents which comprise this Agreement, the documents shall be given preference in the following order to interpret and to resolve such discrepancy, disagreement, or ambiguity: 1) this Agreement; 2) the Addendum; 3) the RFP; 4) the Proposal.

ARTICLE 2. SCOPE OF SERVICES TO BE PERFORMED BY CONTRACTOR

The Contractor shall provide MDS Case Management Review Services to the Shaker Place Rehabilitation and Nursing Center, located at 780 Albany Shaker Road, according to the Scope of Services and Addendum contained within the RFP. Such services shall include:

2.1 Identifying areas of opportunity to improve patient care based upon caregiver observations, staff interviews, clinical assessments, and on-site review of medical record documentation

2.2 Recommendations for improvement that shall highlight both the clinical and financial impact of services. Such recommendations shall be supported under Medicare guidelines.

2.3 Creating a service plan for the Shaker Place Rehabilitation and Nursing Center to ensure accurate and appropriate reimbursement, provide ongoing staff education, and improve documentation compliance.

2.4 The key elements of the services to be rendered by the Contractor will include being on-site at the Shaker Place Rehabilitation and Nursing Center each month to focus on the following matters:

- An Initial audit and evaluation of existing supporting documentation including, but not limited to: AD and Discipline specific coding in order to determine necessary case management strategies and education.

- Individualized Medicare and Medicaid Case Mix medical record audits for MDS accuracy, MDS supporting documentation, and therapy.

These services shall require:

a) The Contractor shall provide a plan focused exclusively on assisting Skilled Nursing Facility to improve patient care at the Shaker Place Rehabilitation and Nursing Center. This plan shall identify areas of opportunity based upon caregiver observations, staff interviews, clinical assessments, and on-site review of medical record documentation.

b) The Contractor's recommendations shall highlight both the clinical and financial impact of services, which are supported under Medicare guidelines.

c) The Contractor's service plan for the Shaker Place Rehabilitation and Nursing Center shall ensure accurate and appropriate reimbursement, provide ongoing staff education, and improve documentation compliance.

2.5 The Contractor shall provide consultant services via a monthly on-site visit at the Shaker Place Rehabilitation and Nursing Center. The key elements of these visits shall be:

I. Initial audit and evaluation of existing supporting documentation including, but not limited to: ADL and Discipline specific coding in order to determine necessary case management strategies and education.

II. Individualized Medicare and Medicaid Case Mix medical record audits for MDS accuracy, MDS supporting documentation, therapy documentation, nursing documentation, physician certification completion, and medical necessity.

III. Patient-specific clinical case management strategies and associated impact.

IV. Ongoing facility staff education.

V. A comprehensive written report detailing findings and recommendations.

VI. Monthly Medicare Clinically Appropriate Stay analysis.

VII. Monthly Medicare Part A reimbursement analysis.

VIII. Therapy Program analysis and consultation.

IX. UB-04 Diagnosis Coding Audit.

X. Off-site access to Clinical consultants in between site visits.

XI. Formal and informal educational in-services conducted at the facility during scheduled site visits, to include but not be limited to:
   i. Medicare Entitlement, Eligibility, and Coverage Criteria
   ii. Medicare Nursing Documentation in a Skilled Nursing Facility
   iii. Medicare Rehabilitation Documentation in a Skilled Nursing Facility

iv. ADL Coding Accuracy (MDS, Nursing, and Nursing Assistants)
v. MDS 3.0; Discipline Specific (MDS, Therapy, Social Services, Dietician, Direct Care Nurses)
vi. Medicare Resource Utilization Groups (RUG-IV)
vii. Restorative Nursing Program Development
viii. New York State Specific Case Mix Reimbursement Criteria
ix. Rehabilitation Program Development

2.6 The Contractor shall employ a diverse group, including but not limited to PT, OT, SLP, and RN clinical staff.

2.7 The Contractor shall include one (1) AANAC RAC Master Trainer.

2.8 The Contractor shall be familiar with and have a working relationship with Casamba. The cost for the facility is included in the annual compensation under Article 3 of this Agreement. The Contractor may recommend an alternate Rehabilitation electronic medical record software, however, the Shaker Place Rehabilitation and Nursing Center will make the final determination on the software used.

2.9 The Contractor must be fully willing and able to train Shaker Place Rehabilitation and Nursing Center staff and monitor their implementation of the proposed rule for FY-2019, Patient-Driven Payment Model (PDPM).

2.10 The Contractor must secure for the Shaker Place Rehabilitation and Nursing Center an individual qualified and interested in becoming a full time MDS Director that will be employed at the Shaker Place Rehabilitation and Nursing Center.

ARTICLE 3. COMPENSATION

3.1 In consideration of the terms and obligations of this Agreement, the County agrees to pay, and the Contractor agrees to accept, an annual amount not to exceed ONE HUNDRED NINETY-EIGHT THOUSAND AND 00/100 DOLLARS ($198,000.00) (US CURRENCY) as full compensation for all goods furnished under this Agreement.

3.2 The prices set forth in the Proposal shall remain fixed for the entire term of this Agreement and any renewals.

3.3 The County is not subject to federal, state, or local taxes.

ARTICLE 4. PAYMENT AND DELIVERY

Payment shall be made to the Contractor by the County upon the Contractor's submission of a properly executed Albany County Claim Form, plus all supporting documentation, to the Shaker Place Rehabilitation and Nursing Center, and acceptance by the County of the claim form.

ARTICLE 5. TERM OF THE AGREEMENT

The term of this Agreement shall commence on January 1, 2020 and continue in effect until December 31, 2020. At the end of the initial one-year contract term, the Agreement may be renewed for one (1) additional year, in one (1) consecutive one-year interval, upon mutual agreement of the Parties. Each renewal shall be dependent upon a renewal of all terms within this Agreement; partial renewals shall not be accepted by the County.

ARTICLE 6. TERMINATION OF AGREEMENT; REMEDY FOR BREACH

6.1 This Agreement may be terminated by the County or the Contractor as follows:

6.1.1 The County may terminate this Agreement if the Contractor refuses or fails to supply enough properly skilled workers or proper materials to meet any of its requirements, if the Contractor fails to make payment to County-approved subcontractors for materials or labor, or disregards laws, ordinances, or rules and regulations or orders of a public entity having jurisdiction over the work, or if the Contractor is substantially in breach of any of its provisions. Additionally, the County may, without cause, order the Contractor in writing, to suspend, delay, or interrupt the work in whole or in part for such period of time as the County may determine.

6.1.2 The Contractor may terminate this Agreement if the County is substantially in breach of it.

6.2 In the event of a breach by the Contractor, the Contractor shall pay to the County all direct and consequential damages caused by such breach, including, but not limited to, all sums expended by the County to procure a substitute Contractor to satisfactorily complete the work, together with the County's own costs incurred in procuring a substitute Contractor.

ARTICLE 7. ASSIGNMENT

7.1 Pursuant to §109 of the General Municipal Law, the Contractor is prohibited from assigning, transferring, conveying, subcontracting, or otherwise disposing of this Agreement, or of its right, title, or interest therein, to any other person or entity without the prior written consent of the County.

7.2 The Contractor shall not subcontract for any portion of the services required under this Agreement without the prior written approval of the County. Any such subcontractor shall be subject to the terms and conditions of this Agreement and any additional terms and conditions the County may deem necessary or appropriate.

ARTICLE 8. AVAILABLE DATA

All technical or other data related to this Agreement in the possession of the County or in the possession of the Contractor shall be made available to the other party to this Agreement without expense to the other party.

ARTICLE 9. COOPERATION

Contractor shall cooperate with the agents, representatives, and employees of the County and the County shall cooperate with the agents, representatives, and employees of the Contractor to ensure that the work delineated herein proceeds and concludes as expeditiously as possible.

ARTICLE 10. NON-DISCRIMINATION

In accordance with 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 agrees that neither it nor its County-approved subcontractors shall, by reason of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, or marital status refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions, or privileges of employment.

ARTICLE 11. EXTRA WORK

If the Contractor is of the opinion that any work it has been directed to perform is beyond the scope of this Agreement and constitutes extra work, the Contractor shall promptly notify the County of that opinion. The County shall be the sole judge as to whether or not such work is in fact beyond the scope of this Agreement and whether or not it constitutes extra work. In the event the County determines such work does constitute extra work, it shall provide extra compensation to the Contractor on a negotiated basis.

ARTICLE 12. COMPLIANCE WITH MACBRIDE PRINCIPLES

The Contractor hereby represents that it is in compliance with the MacBride Principles of Fair Employment as set forth in Albany County Local Law No. 3 for 1993, in that Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Principles, and shall permit independent monitoring of its compliance with such principles. In the event of a violation of this stipulation, the County reserves all rights to take remedial measures as authorized under § 4 of the said Local Law No. 3 for 1993 including, but not limited to, imposing sanctions, enforcing compliance, recovering damages, declaring the Contractor in default, and/or seeking debarment or suspension of the Contractor.

ARTICLE 13. IRANIAN ENERGY SECTOR DIVESTMENT

The Contractor hereby represents that the Contractor is in compliance with New York State General Municipal Law Section 103-g entitled "Iranian Energy Sector Divestment," in that Contractor has not:

(a) Provided goods or services of $20 Million or more in the energy sector of Iran including but not limited to the provision of oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran; or

(b) Acted as a financial institution and extended $20 Million or more in credit to another person for forty-five days or more, if that person's intent was to use the credit to provide goods or services in the energy sector in Iran.

ARTICLE 14. RELATIONSHIP OF THE PARTIES

The Contractor is, and will function as, an independent contractor under the terms of this Agreement, and shall not be considered an agent or employee of the County for any purpose. The agents, representatives, and employees of the Contractor shall not in any manner be, or be held out to be, the agents, representatives, or employees of the County.

ARTICLE 15. INDEMNIFICATION

The Contractor shall defend, indemnify, and save harmless the County, its agents, representatives, and employees, from and against any and all claims, damages, losses, and expenses (including, but not limited to, reasonable attorney's fees) arising out of or in consequence of any negligent or intentional act or omission of the Contractor, its agents, representatives, or employees, to the extent of its or their responsibility for such claims, damages, losses, or expenses.

ARTICLE 16. INSURANCE COVERAGE

16.1 The Contractor shall procure and maintain for the entire term of this Agreement, without additional expense to the County, insurance policies of the kinds and in the amounts provided in the Schedule A attached hereto and made a part hereof. The insurance policies shall name the County as an additional insured. Such policies may only be changed upon thirty (30) days prior written approval by the County.

16.2 The Contractor shall, prior to commencing any of the services outlined herein, furnish the County with Certificates of Insurance showing that the requirements of this article have been met. The Contractor shall also provide the County with updated Certificates of Insurance prior to the expiration of any previously-issued by the Contractor. No work shall be commenced under this Agreement until the Contractor has delivered the Certificates of Insurance to the County. Upon failure of the Contractor to furnish, deliver, and maintain such insurance certificates as provided above, the County may declare this Agreement suspended, discontinued, or terminated.

16.3 As required by Section 108 of the N.Y. General Municipal Law, this Agreement shall be of no force and effect unless the Contractor shall secure compensation for the benefit of, and keep insured during the life of this Agreement, all employees engaged thereon in compliance with the provisions of the N.Y. Workers' Compensation Law. The Contractor shall require any subcontractor authorized by the County to do likewise for all of their employees engaged thereon, all in compliance with the provisions of the N.Y. Workers' Compensation Law and of Schedule A of this Agreement.

ARTICLE 17. NON-COLLUSIVE BIDDING

By execution of this Agreement, the Contractor warrants, under penalty of perjury, that to the best of their knowledge and belief, the prices communicated to the County in establishing the costs of goods and services covered in this Agreement have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition. The Contractor warrants that it is in compliance with NYS General Municipal Law Sec. 103-d with regard to the prices of goods and services covered in this Agreement.

ARTICLE 18. NO WAIVER OF PERFORMANCE

Failure of the County to insist upon strict and prompt performance of the provisions of this Agreement, or any of them, and the acceptance of such performance thereafter shall not constitute or be construed as a waiver or relinquishment of the County's right thereafter to enforce the same strictly according to the tenor thereof in the event of a continuous or subsequent default on the part of the Contractor.

ARTICLE 19. ACCOUNTING RECORDS

19.1 The Contractor shall maintain complete and proper accounting records that shall clearly identify all costs associated with and revenue derived from the work performed under this Agreement. Such records shall be subject to periodic and final audit by the County upon request.

19.2 The Contractor shall provide the County and authorized State and/or Federal personnel access to any and all books, documents, records, charts, software or any other information relevant to performance under this Agreement, immediately upon request.

19.3 The Contractor shall retain all of the above information for six (6) years after final payment or the termination of this Agreement, and shall make such information available to the County and authorized State and/or Federal personnel during such period.

ARTICLE 20. PRIVACY OF PERSONAL HEALTH INFORMATION

In order to comply with the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Contractor, (deemed a BUSINESS ASSOCIATE as defined at 45 CFR § 160.103), its employees, administrators and agents shall not use or disclose Protected Health Information (PHI), (as defined in 45 CFR § 160.103) other than as permitted or required by this Agreement with the County (deemed a Hybrid Entity as defined at 45 CFR § 160.103) or as Required By Law (as defined in 45 CFR § 164.103). The Contractor shall maintain compliance with all U.S. Department of Health and Human Services, Office for Civil Rights, policies, procedures, rules and regulations applicable in the context of this Agreement, as more particularly set forth in Schedule B, attached hereto and made a part hereof.

ARTICLE 21. NON-APPROPRIATIONS

Notwithstanding anything contained herein to the contrary, no default shall be deemed to occur in the event no funds or insufficient funds are appropriated and budgeted by or are otherwise unavailable to the County for payment under this Agreement. The County will immediately notify the Contractor of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to the County of any kind whatsoever, except as to those portions herein agreed upon for which funds shall have been appropriated and budgeted.

ARTICLE 22. CHANGE IN LEGAL STATUS OR DISSOLUTION

During the term of this Agreement, the Contractor agrees that, in the event of its reorganization or dissolution as a business entity or change in business, the Contractor shall give the County thirty (30) days written notice in advance of such event.

ARTICLE 23. LICENSES

The Contractor shall at all times obtain and maintain all licenses required by New York State, or other relevant regulating body, to perform the services required under this Agreement.

ARTICLE 24. PARTIAL INVALIDITY

If any term, part, provision, section, subdivision, or paragraph of this Agreement shall be held to be unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to invalidate the remaining terms, parts, provisions, sections, subdivisions, or paragraphs.

ARTICLE 25. HEADINGS – CONSTRUCTION

The headings appearing in this Agreement are for the purpose of easy reference only and shall not be considered a part of the Agreement or in any way to modify, amend, or affect the provisions hereof.

ARTICLE 26. NOTICES

All notices, consents, waivers, directions, requests, or other instruments or communications provided for under this Agreement shall be deemed properly given if, and only if, delivered personally, sent by registered or certified United States mail, postage prepaid, or, with the prior consent of the receiving party, dispatched via facsimile transmission.

ARTICLE 27. GOVERNING LAW

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

ARTICLE 28. MODIFICATION

This Agreement may only be modified by a formal written amendment executed by the parties.

ARTICLE 29. EXECUTION OF DOCUMENTS

This Agreement may be executed in one or more counterparts, each of which shall constitute an original Agreement, but all of which together shall constitute one and the same instrument.

ARTICLE 30. STORMWATER MANAGEMENT PROGRAM

The Contractor specifically agrees to comply with the terms and conditions of the County's stormwater management program (SWMP) as set forth in Albany County Local Law No.7 for 2007 and further agrees to implement any corrective actions identified by the County or a representative. The Contractor understands that the County must comply with the conditions of the New York State Pollutant Discharge Elimination System (SPDES) general permit (GP-0-10-002) for stormwater discharges from the Municipal Separate Storm Sewer Systems (MS4s) and that it is unlawful for any person to directly or indirectly cause or contribute to a violation of water quality standards. The Contractor further understands that any non-compliance will not diminish, eliminate, or lessen the Contractor's own liability. The Contractor shall execute and deliver to the Count a certification statement prior to commencing any work.

ARTICLE 31. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties and no representations or promises have been made except as expressly set forth herein.

[The Rest of The Page Left Intentionally Blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) hereunder set forth.

COUNTY OF ALBANY

DATED: 1/10/20

BY: ______________________
Daniel P. McCoy
Albany County Executive
or
Daniel C. Lynch, Esq.
Deputy County Executive

CELTIC CONSULTING, LLC

DATED: 1/3/2020

BY: ______________________

STATE OF NEW YORK)
COUNTY OF ALBANY) SS.:

On the ____ day of ________________, 20__, before me, the undersigned, personally appeared DANIEL P. McCOY personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

____
NOTARY PUBLIC

STATE OF NEW YORK)
COUNTY OF ALBANY) SS.:

On the 10 day of January, 2020, before me, the undersigned, personally appeared DANIEL C. LYNCH personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

MICHAEL A. LALLI
NOTARY PUBLIC - STATE OF NEW YORK
No. 01LA6322012
Qualified in Albany County
My Commisson Expires March 30. 2023

____
NOTARY PUBLIC

STATE OF Connecticut
COUNTY OF Litchfield) SS.: Goshen

On the 3rd day of January, 2020 before me, the undersigned, personally appeared Maureen McCarthy personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in her/his capacity, and that by her/his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Barbara L Breor
NOTARY PUBLIC

BARBARA L. BREOR
NOTARY PUBLIC
MY COMMISSION EXPIRES AUG. 31, 2021

SCHEDULE A

INSURANCE COVERAGE

The kinds and amounts of insurance to be provided are as follows:

1. Workers' Compensation and Employers Liability Insurance: A policy or policies providing protection for employees in the event of job related injuries.

2. Automobile Liability Insurance: A policy or policies with the limits of not less than $500,000 for each accident because of bodily injury, sickness or disease, including death at any time, resulting there from, sustained by any person caused by accident, and arising out of the ownership, maintenance or use of any automobiles; and with the limits of $500,000 for damage because of injury to or destruction of property, including the loss of use thereof, caused by accident and arising out of the ownership, maintenance or use of any automobiles.

3. General Liability Insurance: A policy or policies including comprehensive form, personal injury, contractual, products/completed operations, premises operations and broad form property insurance shall be furnished with limits of not less than:

Liability for:	Combined Single Limit:
Bodily Injury	$1,000,000.00
Property Damage	$1,000,000.00
Personal Injury	$1,000,000.00

SCHEDULE B

OBLIGATIONS AND ACTIVITIES OF THE CONSULTANT AS A BUSINESS ASSOCIATE PURSUANT TO 45 CFR SECTION 164.504

The parties to the Agreement hereby agree to comply with the following provisions to ensure their compliance with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996.

Pursuant to the terms of the Agreement, and in accordance with the requirements of 45 CFR Sections 160 and 164, the CONSULTANT/CONTRACTOR herein shall be considered a "Business Associate." The following terms are hereby incorporated in this AGREEMENT and shall be binding upon the parties hereto:

A. DEFINITIONS

1. "Business Associate" – under the terms of this Agreement, the term "Business Associate" shall mean the Contractor.

2. "Covered Entity" – for purposes of this Agreement, the term "Covered Entity" shall mean the County of Albany, The Shaker Place Rehabilitation and Nursing Center, and any part thereof.

3. "Individual" – under the terms of this Agreement, the term "Individual" shall have the same meaning as the term "individual" in 45 CFR Section 160.103, and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.502(g).

4. "Privacy Rule" – shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

5. "Protected Health Information"- shall have the same meaning as the term "protected health information" in 45 CFR Section 160.103, limited to the information created, received, maintained or transmitted by the Business Associate from or on behalf of the Covered Entity.

6. "Required by Law" – shall have the same meaning as the term "required by law" in 45 CFR Section 164.103.

7. "Secretary" – shall mean the Secretary of the Department of Health and Human Services or his/her Designee.

8. "Subcontractor" – shall have the same meaning as the term "subcontractor" in 45 CFR Section 160.103.

B. OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE

1. Pursuant to the terms of the Agreement, the Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by the Agreement, or as required by law.

2. The Business Associate agrees to use appropriate safeguards to prevent the use or disclosure of electronic Protected Health Information other than as provided for by this Agreement in accordance with the requirements of 45 CFR Section 164.314(a)(2)(i).

3. Pursuant to the terms of the Agreement and as more particularly described in the INDEMNIFICATION provisions of the Agreement, the Business Associate hereby agrees, and shall be required to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of Protected Health Information by the Business Associate which is in violation of the requirements of the Agreement.

4. The Business Associate shall immediately report to the Covered Entity any use or disclosure of unsecured Protected Health Information not provided for by the Agreement, of which it shall become aware in accordance with the provisions of 45 CFR Section 164.410.

5. The Business Associate agrees to ensure that any agent, including a subcontractor, that creates, receives, maintains or transmits Protected Health Information on behalf of the Business Associate agrees to the same restrictions and conditions that apply through this Agreement to the Business Associate with respect to such information pursuant to 45 CFR Section 164.502(e)(1)(ii) by entering into a contract or other arrangement in accordance with the requirements of 45 CFR Section 164.314.

6. Business Associate agrees to provide access, at the request of the Covered Entity, to Protected Health Information in a Designated Record Set, to the Covered Entity or as directed by the Covered Entity, to an Individual, in order to meet the requirements under 45 CFR Section 164.524.

7. Business Associate agrees to make any necessary amendments to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees pursuant to 45 CFR Section 164.526, at the request of Covered Entity or an Individual, in a timely manner.

8. Business Associate agrees to make its internal practices, books, and records, including policies and procedures relating to the use and disclosure of Protected Health Information received from, or created or received by the Business Associate on behalf of the Covered Entity, available to the Secretary for purposes of the Secretary determining the Covered Entity's compliance with the Privacy Rule.

9. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with the requirements of 45 CFR Section 164.528.

10. Business Associate agrees to provide to the Covered Entity or an Individual, upon request, information which may be collected by the Business Associate during the term of this Agreement, for purposes of permitting the Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information, in accordance with the provisions of 45 CFR Section 164.528.

11. To the extent that the Business Associate is to carry out an obligation of the Covered Entity as a term of this Agreement, Business Associate agrees to comply with the requirements of the Privacy Rule under 45 CFR Section 164.504 that apply to the Covered Entity in the performance of such obligation.

C. PERMITTED USES AND DISCLOSURE

1. General Uses and Disclosure - Except as otherwise limited in this Agreement, the Business Associate may use or disclose Protected Health Information to perform the functions, activities, or services as defined in this Agreement, provided that such use or disclosure would not violate the Privacy Rule if said disclosure were done by the Covered Entity, or the minimum necessary policies and procedures of the Covered Entity, as well as the applicable provisions of the New York State Mental Hygiene Law.

2. Specific Uses and Disclosure – Except as otherwise limited in this Agreement, the Business Associate may disclose Protected Health Information for the proper management and administration of the services to be provided by the Business Associate in this Agreement, provided that disclosures are Required by Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law, or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.

3. Except as otherwise limited in this Agreement, the Business Associate may use Protected Health Information to provide information required to the Covered Entity as permitted by 45 CFR Section 164.504 (e)(2)(i)(B).

4. Except as otherwise limited in this Agreement, the Business Associate may use Protected Health Information to carry out the legal responsibilities of the Business Associate.

5. The Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR Section 164.502 (j)(1).

6. Nothing within this section shall be construed as to inhibit the disclosure of information as may be required by the New York State Mental Hygiene Law, Sections 33.13 or 33.16, or other provisions, as may be Required by Law.

D. OBLIGATIONS OF COVERED ENTITY WITH REGARD TO PRIVACY PRACTICE AND RESTRICTIONS

1. The Covered Entity shall notify the Business Associate of any limitations in its notice of privacy practices in accordance with 45 CFR Section 164.520, to the extent that such limitation may affect the Business Associate's use or disclosure of Protected Health Information.

2. The Covered Entity shall notify the Business Associate of any changes in, or revocation of, permission by the Individual to use or disclose Protected Health Information, to the extent that such changes may affect the Business Associate's use or disclosure of Protected Health Information.

3. The Covered Entity shall notify the Business Associate of any restriction to the use or disclosure of Protected Health Information that the Covered Entity has agreed to in accordance with 45 CFR Section 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of Protected Health Information.

E. PERMISSIBLE REQUESTS BY COVERED ENTITY

The Covered Entity shall not request the Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity.

F. COVERED ENTITY'S RESPONSIBILITIES UPON TERMINATION

1. The term of this Agreement shall be January 1, 2020, until December 31, 2020. Upon termination of this Agreement, the Covered Entity shall take such necessary precautions to ensure the confidentiality of the Protected Health Information, in accordance with the provisions of 45 CFR Section 164.

2. Termination for Cause – In the event that the Covered Entity becomes aware of a material breach by the Business Associate of the terms of this Appendix, the Covered Entity shall have the right, at its sole discretion, to proceed as follows:

   (a) Provide an opportunity to the Business Associate to cure the breach, and end the violation within ten (10) business days. If the Business Associate does not cure the breach and end the violation within ten (10) business days, the Covered Entity shall have the right to immediately terminate the agreement; or,

(b) Immediately terminate the agreement if the Business Associate has breached a material term of this Appendix, and cure is not possible; or

(c) If neither termination of the agreement nor cure is feasible, the Covered Entity shall report the violation to the Secretary.

G. EFFECT OF TERMINATION

1. Upon termination of the Agreement, the Business Associate shall take all necessary precautions and extend the protections of this Agreement to all Protected Health Information, as if the Agreement were still in force and effect.

2. At the end of all audit and other relevant periods, as more particularly described in the RECORDS provisions of the Agreement, the Business Associate shall, if feasible, return or destroy all Protected Health Information received from or created or received by the Business Associate on behalf of the Covered Entity that the Business Associate still maintains in any form.

H. MISCELLANEOUS

1. Regulatory References – A reference in this Agreement to a section in the Privacy Rule or in the Mental Hygiene Law means the section as in effect or as amended.

2. Amendment – The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996.

3. Survival – The respective rights and obligations of the Business Associate with regard to this Appendix shall survive the termination of this Agreement.

4. Interpretation – Any ambiguity in this Agreement shall be resolved to permit the Covered Entity to comply with the Privacy Rule.

5. Incorporation in the Agreement – The terms of this Schedule B are hereby incorporated into the Agreement between the parties hereto.

RESOLUTION NO. 585

AUTHORIZING AN AGREEMENT WITH CELTIC CONSULTING, LLC REGARDING CASE MANAGEMENT REVIEW SERVICES AT THE ALBANY COUNTY NURSING HOME

Introduced: 12/17/18
By Audit and Finance Committee:

WHEREAS, The Director of Residential Health Care Facilities has requested authorization to enter into an agreement with Celtic Consulting, LLC, regarding case management review services at the Albany County Nursing Home, in an amount not to exceed $198,000 for a term commencing January 1, 2019 and ending December 31, 2019, with two consecutive one-year options to renew, and

WHEREAS, Celtic Consulting, LLC will provide training, tools, resources and general support regarding MDS process management, reference date planning, coding, capture, Medicare and Medicaid management, clinical reimbursement program development, activity of daily living scoring and to assure clinical documentation is consistent with the delivery of care so proper reimbursement is received through proper case mix, and

WHEREAS, The Director has indicated that Celtic Consulting, LLC, was chosen after an RFP process and as the only company that met its requirements, will also be required to secure an MDS Director who will be employed by the Albany County Nursing Home, now, therefore be it

RESOLVED, By the Albany County Legislature that the County Executive is authorized to enter into an agreement with Celtic Consulting, LLC, Torrington, CT 06790, regarding case management review services at the Albany County nursing home, in an amount not to exceed $198,000 for a term commencing January 1, 2019 and ending December 31, 2019, with two consecutive one-year options to renew, and, be it further

RESOLVED, That the County Attorney is authorized to approve said agreement as to form and content, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

Adopted by unanimous vote – 12/17/18

State of New York
County of Albany

This is to certify that I, the undersigned, Clerk of the Albany County Legislature, have compared the foregoing copy of the resolution and/or local law with the original resolution and/or local law now on file in the office, and which was passed by the Legislature of said County on the 17th day of December, 2018, a majority of all members elected to the Legislature voting in favor thereof, and that the same is a correct and true transcript of such original resolution and/or local law and the whole thereof.

IN WITNESS THEREOF, I have hereunto set my hand and the official seal of the County Legislature this 18th day of December, 2018.

Clerk, Albany County Legislature

RESOLUTION NO. 463

AUTHORIZING AN AGREEMENT WITH CELTIC CONSULTING, LLC REGARDING CASE MANAGEMENT REVIEW SERVICES AT SHAKER PLACE REHABILITATION AND NURSING CENTER

Introduced: 11/12/19
By Elder Care Committee:

WHEREAS, The Executive Director of the Albany County Department of Residential Health Care Facilities has requested authorization to enter into an agreement with Celtic Consulting, LLC. regarding case management review services at Shaker Place Rehabilitation and Nursing Center in the amount of $198,000 for the term commencing January 1, 2020 and ending December 31, 2020, and

WHEREAS, The Executive Director indicated that Celtic Consulting, LLC. will continue to monitor and supervise Minimum Data Set documentation to assure proper reimbursement from the Medicare and Medicaid programs in addition to monitoring staff on the patient driven payment model, now, therefore be it

RESOLVED, By the Albany County Legislature that the County Executive is authorized to enter into an agreement with Celtic Consulting, LLC., Torrington, CT 06790 regarding case management review services at Shaker Place Rehabilitation and Nursing Center in an amount not to exceed $198,000 for the term commencing January 1, 2020 and ending December 31, 2020, and, be it further

RESOLVED, That the County Attorney is authorized to approve said agreement as to form and content, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

Adopted by unanimous vote – 11/12/19

State of New York
County of Albany

This is to certify that I, the undersigned, Clerk of the Albany County Legislature, have compared the foregoing copy of the resolution and/or local law with the original resolution and/or local law now on file in the office, and which was passed by the Legislature of said County on the 12th day of November 2019, a majority of all members elected to the Legislature voting in favor thereof, and that the same is a correct and true transcript of such original resolution and/or local law and the whole thereof.

IN WITNESS THEREOF, I have hereunto set my hand and the official seal of the County Legislature this 14th day of November, 2019.

Clerk, Albany County Legislature

RESOLUTION NO. 284

AUTHORIZING AN AGREEMENT WITH CELTIC CONSULTING, LLC REGARDING MINIMUM DATA SET CONSULTING SERVICES AT THE SHAKER PLACE REHABILITATION AND NURSING CENTER

Introduced: 9/14/20
By Elder Care Committee:

WHEREAS, The Executive Director of the Albany County Department of Residential Health Care Facilities has requested authorization to enter into an agreement with Celtic Consulting, LLC regarding Minimum Data Set (MDS) consulting services at the Shaker Place Rehabilitation and Nursing Center in the amount of $198,000 for the term commencing January 1, 2021 and ending December 31, 2021, and

WHEREAS, The Executive Director indicated that Celtic Consulting, LLC will continue to monitor and supervise MDS documentation to ensure proper reimbursement from the Medicare and Medicaid programs in addition to monitoring staff on the patient driven payment model, now, therefore be it

RESOLVED, By the Albany County Legislature that the County Executive is authorized to enter into an agreement with Celtic Consulting, LLC, Torrington, CT 06790 regarding MDS consulting services at the Shaker Place Rehabilitation and Nursing Center in an amount not to exceed $198,000 for the term commencing January 1, 2021 and ending December 31, 2021, and, be it further

RESOLVED, That the County Attorney is authorized to approve said agreement as to form and content, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

DANIEL P. MCCOY
COUNTY EXECUTIVE

COUNTY OF ALBANY
DEPARTMENT FOR AGING
162 WASHINGTON AVENUE
ALBANY, NEW YORK 12210
ADMINISTRATION: (518) 447-7198
GENERAL INFORMATION: (518) 447-7177
FAX: (518) 447-7188
WWW.ALBANYCOUNTY.COM

DEBORAH C. RIITANO
COMMISSIONER

July 28, 2020

Honorable Andrew Joyce, Chairman
Albany County Legislature
112 State Street, Room 710
Albany, NY 12207

Dear Chairman Joyce:

The Department for Aging is requesting the Legislature's approval for the following;

To accept the III-D Medication Management Program grant from New York State Office for Aging. This grant funds Evidence Based Health Promotion, Disease Prevention, and Recreational programs. These programs provide education along with activities that support healthy lifestyles, promote healthy behaviors and improve functional status for older adults that reside in Albany County in hopes of preventing and reducing chronic disease and falls. Evidence Based Programs awarded this contract year are; Matter of Balance, Falls Talk and Substance Use Disorder Counseling.

Grant Award Amount – $48,615.40
Grant Term – 1/1/2021 to 12/31/2021
Funding Source – Federal - 90% County - 10%
Budget Amendment – No
Revenue Account – A6772 . 04776

Respectfully Submitted,

Deborah C. Riitano
Commissioner

cc: Hon. Dennis Feeney, Majority Leader
Hon. Frank Mauriello, Minority Leader
Rebekah Kennedy, Majority Counsel
Arnis Zilgme, Minority Counsel

File #: TMP-1792, **Version:** 1

REQUEST FOR LEGISLATIVE ACTION

Description (e.g., Contract Authorization for Information Services):
Authorization to accept grant funding from NYSOFA for III-D Medication Management Program

Date:	7/23/2020
Submitted By:	Patrick Dillon
Department:	Aging
Title:	Contract Administration
Phone:	518 447 7733
Department Rep.	
Attending Meeting:	Deborah C. Riitano, Commissioner

Purpose of Request:

☐ Adopting of Local Law
☐ Amendment of Prior Legislation
☐ Approval/Adoption of Plan/Procedure
☐ Bond Approval
☐ Budget Amendment
☒ Contract Authorization
☐ Countywide Services
☐ Environmental Impact/SEQR
☐ Home Rule Request
☐ Property Conveyance
☐ Other: (state if not listed) Click or tap here to enter text.

CONCERNING BUDGET AMENDMENTS

Increase/decrease category (choose all that apply):
☐ Contractual
☐ Equipment
☐ Fringe
☐ Personnel
☐ Personnel Non-Individual

☐ Revenue

Increase Account/Line No.: Click or tap here to enter text.
Source of Funds: Click or tap here to enter text.
Title Change: Click or tap here to enter text.

CONCERNING CONTRACT AUTHORIZATIONS

Type of Contract:
☐ Change Order/Contract Amendment
☐ Purchase (Equipment/Supplies)
☐ Lease (Equipment/Supplies)
☐ Requirements
☐ Professional Services
☐ Education/Training
☒ Grant
Acceptance
Submission Date Deadline Click or tap to enter a date.
☐ Settlement of a Claim
☐ Release of Liability
☐ Other: (state if not listed) Click or tap here to enter text.

Contract Terms/Conditions:

Party (Name/address):
New York State Office for Aging
Two Empire State Plaza
Albany, New York 12223-1251

Additional Parties (Names/addresses):
Click or tap here to enter text.

Amount/Raise Schedule/Fee: $48,615.40
Scope of Services: To accept grant funding for the provision of health promotion and disease prevention programs for older adults 60 years and older residing in Albany County.

Bond Res. No.: Click or tap here to enter text.
Date of Adoption: Click or tap here to enter text.

CONCERNING ALL REQUESTS

Mandated Program/Service: Yes ☐ No ☒
If Mandated Cite Authority: Click or tap here to enter text.

Is there a Fiscal Impact: Yes ☒ No ☐

Anticipated in Current Budget: Yes ☒ No ☐

County Budget Accounts:
Revenue Account and Line: AA6772 04776
Revenue Amount: $48,615.40

Appropriation Account and Line: AA6772 44046
Appropriation Amount: $53,476.94

Source of Funding - (Percentages)
Federal: 90%
State: Click or tap here to enter text.
County: 10%
Local: Click or tap here to enter text.

Term
Term: (Start and end date) 1/1/2021 - 12/31/2021
Length of Contract: 12 Months

Impact on Pending Litigation Yes ☐ No ☒
If yes, explain: Click or tap here to enter text.

Previous requests for Identical or Similar Action:
Resolution/Law Number: 305
Date of Adoption: 8/12/2019

Justification: (state briefly why legislative action is requested)
To accept the III-D Medication Management Program grant from New York State Office for Aging. This grant funds Evidence Based Health Promotion, Disease Prevention, and Recreational programs. These programs provide education along with activities that support healthy lifestyles, promote healthy behaviors and improve functional status for older adults that reside in Albany County in hopes of preventing and reducing chronic disease and falls. Evidence Based Programs awarded this contract year are; Matter of Balance, Falls Talk and Substance Use Disorder Counseling.

New York State Office for the Aging

NOTIFICATION OF GRANT AWARD UNDER TITLE III-D OF THE OLDER AMERICANS ACT

Name and Address of Area Agency:	Name and Address of Sponsoring Agency/Payee:
Albany County Department for Aging 162 Washington Avenue, 6th Floor Albany, NY 12210-2304	Albany County

Program Year - Beginning: 1/1/2020 Ending: 12/31/2020

Fiscal Year from which funds are awarded: 2020 | Federal CFDA No. - 93.043 | This award is New

Section I - Cost Categories	Amount
Personnel	$0.00
Fringe Benefits	0.00
Equipment	0.00
Travel	0.00
Maint. & Operations	0.00
Other Expenses	0.00
Subcontracts	54,825.00
Approved Costs	$54,825.00
Less:	
Anticipated Income	200.00
Net Cost	$54,625.00

Section II - Grantee Budget - Federal and Matching Funds:	
1. Federal Share (see remark 1)	$49,162.00
2. Combined Matching Share	
A. In-Kind	$0.00
B. Cash	$5,463.00
C. Volunteer Match	$0.00
3. Net Cost	$54,625.00

Section III - Federal Funds Ceiling:	
A. Carryover	$29,216.40
B. Base Allocation	19,399.00
C. Reallocation	0.00
D. Supplement	0.00
E. Returned	0.00
Federal Funds Ceiling (see remark 1)	$48,615.40

Remarks: In addition to the conditions contained in the Four Year Plan, Annual Implementation Plan and Application for Funding, the conditions checked below apply to this award:

(XX) 1. Federal reimbursement is limited to the lower of the "Federal Share" in Section II or the "Federal Funds Ceiling" in Section III of this award notice.

(XX) 2. Receipt of federal funds (either through advance or reimbursement) does not constitute earning of these funds. The federal share of the project cost is earned only when allowable costs have been incurred and paid; and the non-federal share of the costs has been contributed.

(XX) 3. The federal share will not exceed 90% of the Disease Prevention and Health Promotion Services.

(XX) 4. Federal funds carried over from the prior year are estimated. Actual carryover depends on prior year closeout and will be confirmed upon closeout.

(XX) 5. In accordance with the grant provisions, all Title III-D Disease Prevention and Health Promotion funds may only be used for programs and activities which have been demonstrated through rigorous evaluation to be evidence-based and effective.

( ) 6. This award authorizes the payment of advances only. The award is conditional upon the approval of the Annual Implementation Plan and application referenced above, and the initial advance must be repaid if such plan and application do not receive final approval after appropriate modifications, if any.

Name and Title of Authorizing Official:	Signature:	Date:
Karen Jackuback Deputy Director	Karen Jackuback	July 8, 2020

RESOLUTION NO. 305

AUTHORIZING AN AGREEMENT WITH THE NEW YORK STATE OFFICE FOR THE AGING REGARDING THE MEDICATION MANAGEMENT PROGRAM

Introduced: 8/12/19
By Elder Care Committee:

WHEREAS, The Commissioner of the Albany County Department for Aging has requested authorization to enter into an agreement with the New York State Office for the Aging to accept Title III-D Medication Management Program funding in the amount of $45,168 for the term commencing January 1, 2020 and ending December 31, 2020, and

WHEREAS, The Commissioner indicated that the funding, which requires a 10% County match, will be used to support evidence-based health promotion and disease prevention programs for older adults living in Albany County, now, therefore be it

RESOLVED, By the Albany County Legislature that the County Executive is authorized to enter into an agreement with the New York State Office for the Aging to accept Title III-D Medication Management Program funding in the amount of $45,168 for the term commencing January 1, 2020 and ending December 31, 2020, and, be it further

RESOLVED, That the County Attorney is authorized to approve said agreement as to form and content, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

Adopted by unanimous vote – 8/12/19

RESOLUTION NO. 285

AUTHORIZING AN AGREEMENT WITH THE NEW YORK STATE OFFICE FOR THE AGING REGARDING THE MEDICATION MANAGEMENT PROGRAM

Introduced: 9/14/20
By Elder Care Committee:

WHEREAS, The Commissioner of the Albany County Department for Aging has requested authorization to enter into an agreement with the New York State Office for the Aging to accept Title III-D Medication Management Program funding in the amount of $48,615 for the term commencing January 1, 2021 and ending December 31, 2021, and

WHEREAS, The Commissioner indicated that the funding, which requires a 10% County match, will be used to support evidence-based health promotion, disease prevention, and recreational programs for older adults living in Albany County, now, therefore be it

RESOLVED, By the Albany County Legislature that the County Executive is authorized to enter into an agreement with the New York State Office for the Aging to accept Title III-D Medication Management Program funding in the amount of $48,615 for the term commencing January 1, 2021 and ending December 31, 2021, and, be it further

RESOLVED, That the County Attorney is authorized to approve said agreement as to form and content, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.