

**HONORABLE BOARD OF LEGISLATORS
THE COUNTY OF WESTCHESTER**

Your Committee is in receipt of a communication from the County Executive recommending the approval of an Act which, if adopted, would authorize the County of Westchester (the "County"), would authorize the County of Westchester (the "County"), acting by and through its Department of Senior Programs and Services (the "Department"), to enter into a grant agreement with the New York State Office for the Aging ("NYSOFA"), to accept grant funds made available to the County under the Consolidated Appropriations Act, HDC5, for services to be provided in accordance with Title III-C of the Older Americans Act ("OAA"), in the not to exceed amount of \$406,157 for the term retroactive to December 27, 2020 and through September 30, 2022 ("Grant Agreement"). The Grant funds may be used for any eligible service under New York State's Major Disaster Declaration ("MDD") until the date the MDD was lifted, and for the period after that date the funds must be utilized pursuant to Title IIIC-2 of the OAA requirements and include home-delivered nutrition services to help seniors remain in their homes and community. The Act also authorizes the County enter into intermunicipal agreements ("IMAs") utilizing Grant funds, with the following municipal corporations as defined in Article 5-G of the New York State General Municipal Law and located within Westchester County, for the term retroactive to December 27, 2020 and through September 30, 2022:

Town of Cortlandt
Town of Eastchester
Town of Greenburgh
Town of Mamaroneck
Village/Town of Mount Kisco
Town of Mount Pleasant
City of Mount Vernon
Town of New Castle
City of New Rochelle
Town of Ossining
City of Peekskill
Village of Port Chester
Town of Somers
City of White Plains
City of Yonkers
Town of Yorktown

The total aggregate amount of the IMAs will not exceed the total amount of the Grant Agreement. The services provided pursuant to the IMAs correspond to the Consolidated Appropriations Act and are for any eligible service under the MDD. After the lifting of the MDD, the services to be provided pursuant to the IMAs must correspond to the OAA for Title III-C services: home-delivered meals and other nutrition-related services to help seniors remain in their homes and community.

The proposed Grant Agreement with NYSOFA and the proposed IMAs do not meet the definition of an "action" under the State Environmental Quality Review Act, 6 NYCRR part 617. Accordingly, no further environmental review is required. Your Committee has reviewed the memorandum from the Department of Planning dated May 14, 2021, which is on file with the Clerk of the Board of Legislators and concurs with this conclusion.

Your Committee has been advised that the passage of the attached Act requires an affirmative vote of a majority of the members of your Honorable Board.

Your Committee has been advised that adoption of the proposed legislation is necessary to effectively carry out this worthwhile program. Accordingly, after due consideration, your Committee recommends adoption of the annexed Act.

Dated: 11/18, 2021
White Plains, New York

Ruth Weber

COMMITTEE ON

DI 11-5-21

Seniors Youth & Intergenerational Services

Budget & Appropriations

Dated: November 18, 2021
White Plains, New York

The following members attended the meeting remotely, as per Governor Cuomo's Executive Order 202.1 and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.

Committee(s) on:

**SENIORS, YOUTH &
INTERGENERATIONAL SERVICES**



David Q. Iuliano



Budget & Appropriations



Margaret A. Conzio



Catherine F. Parker



David Q. Iuliano

Klammor R. Maher

FISCAL IMPACT STATEMENT

SUBJECT: HDC5 - Consolidated Appropriations Act

NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

(To be completed by operating department and reviewed by Budget Department)

A) GENERAL FUND AIRPORT SPECIAL REVENUE FUND (Districts)

B) EXPENSES AND REVENUES

Total Current Year Cost \$ 406157

Total Current Year Revenue \$ 406157

Source of Funds (check one): Current Appropriations

Transfer of Existing Appropriations

Additional Appropriations

Other (explain)

Identify Accounts: 263-85-G031

Potential Related Operating Budget Expenses:

Annual Amount \$ 0

Describe: _____

Potential Related Revenues: Annual Amount \$ 406157

Describe: Consolidated Appropriations Act funds received from the Federal Government under the Older American's Act to expand nutrition and nutrition-related services.

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: The Department would not be able to provide supplemental nutrition and nutrition-related services as needed.

Next Four years:

N/A

Prepared by: Sandra Brown

Title: Director of Program Development II

Department: Senior Programs & Svcs.

Reviewed By: 

Budget Director

11/5/21

If you need more space, please attach additional sheets.

AN ACT to authorize the County to enter into a grant agreement with the New York State Office for the Aging to accept grant funds under the Consolidated Appropriations Act, HDC5 and Title III-C of the Older Americans Act and to enter into intermunicipal agreements with local municipalities for services to be funded pursuant to the grant.

BE IT ENACTED by the Board of Legislators of the County of Westchester as follows:

Section 1. The County of Westchester (the “County”) be and hereby is authorized to enter into a grant agreement with the New York State Office for the Aging (“NYSOFA”) to accept grant funds made available to the County pursuant the Consolidated Appropriations Act, HDC5 for services to be provided pursuant to Title III-C of the Older Americans Act (“OAA”) in the total amount not to exceed \$406,157 for the term retroactive to December 27, 2020 and through September 30, 2022 (“Grant Agreement”).

§2. The County is hereby further authorized to enter into intermunicipal agreements (“IMAs”) with the following municipal corporations as defined in Article 5-G of the New York State General Municipal Law and located within Westchester County, for the term retroactive to December 27, 2020 and through September 30, 2022:

- Town of Cortlandt
- Town of Eastchester
- Town of Greenburgh
- Town of Mamaroneck
- Village/Town of Mount Kisco
- Town of Mount Pleasant
- City of Mount Vernon
- Town of New Castle
- City of New Rochelle
- Town of Ossining
- City of Peekskill
- Village of Port Chester
- Town of Somers
- City of White Plains

City of Yonkers
Town of Yorktown

§3. The total aggregate amount of the IMAs will not exceed the total amount of the Grant Agreement. The services to be provided pursuant to the IMAs may be used for any eligible service under New York State's Major Disaster Declaration ("MDD") until the date the MDD was lifted, and for the period after that date the funds must be utilized pursuant to Title III-C of the OAA, for home-delivered meals and other nutrition-related services to help seniors remain in their homes and community.

§4. This Act shall take effect immediately.

THIS AGREEMENT ("Agreement"), made this _____ day of _____, 2021, by and between:

THE COUNTY OF WESTCHESTER, a municipal corporation of the State of New York, having an office and place of business in the Michaelian Office Building, 148 Martine Avenue, White Plains, New York, 10601 (hereinafter referred to as the "County")

and

_____, a municipal corporation organized under the laws of the State of New York, having an office and principal place of business at

(hereinafter referred to as the "Municipality", and hereinafter collectively referred to as the "Parties")

WITNESSETH:

WHEREAS, the County, acting by and through its Department of Senior Programs and Services ("Department"), has been awarded certain federal emergency stimulus grants from the New York State Office for the Aging ("NYSOFA") to expand certain existing nutrition and support services to seniors 60 years and older under Title III-C-2 of the Older Americans Act ("OAA"), to be paid with Consolidated Appropriations Act ("CA Act") funds under the CA Act – HDC5 Program; and

WHEREAS, the Municipality represents that it is an organization capable of coordinating and providing said nutrition services, including home-delivered meals, and related supportive services to seniors residing in Westchester County, to improve the well-being of those elderly persons who are at high risk of malnutrition as required by the CA Act - HDC5- Program (, the "Program"); and

WHEREAS, the Municipality desires to provide the Program services upon the terms and conditions hereinafter set forth, and the County desires the Municipality to provide such Program services upon such terms and conditions.

NOW, THEREFORE, in consideration of the terms, conditions, covenants,

and agreements contained herein, the Parties hereto agree as follows:

1. The Municipality shall provide the Program services, as more particularly described in Schedule "C" (the "Work"). All Work must be performed in accordance with the terms of the Standard Assurances in Schedule "C" and the Standard Assurances in the approved Four Year Plan (the "Plan") attached hereto and made a part hereof in the form of Schedule "F." The Municipality shall also comply with the terms and conditions set forth in Schedules "A", "D" and "E". It is expressly understood and agreed by the Parties hereto that all schedules to this Agreement applicable to the New York State Office for the Aging ("NYSOFA") and all schedules applicable to the County are subject to the approval of and modification of each, as necessary.

2. The term of the Agreement shall commence retroactive to December 27, 2020 and expire on September 30, 2022, unless terminated sooner pursuant to the provisions hereof.

3. For the Work performed pursuant to Paragraph 1, the Contractor shall be paid up to an amount not to exceed \$_____, subject to appropriations and payable pursuant to an approved budget amount indicated in Schedule "B", attached hereto, and made a part hereof, after the County has received claims or vouchers, and any or all supporting documentation the County may require and the same has been approved by the Commissioner of the Department of Senior Programs and Services or her duly authorized designee (the "Commissioner"). Payment shall be made on a monthly basis and only for expenses actually incurred and paid by the Contractor, which shall be subject to downward adjustment by the County based upon actual program services rendered by the Contractor during the term of the Agreement. The foregoing obligation of the County is conditioned upon compliance by the Contractor with all the terms and conditions contained in this Agreement.

The Parties recognize and acknowledge that the obligations of the County under this Agreement are subject to the County's receipt of the Notification of Grant Award letter from NYSOFA to meet the needs of the senior nutrition programs under the Older Americans Act.

If, for any reason, the Notification of Grant Award Letter is not received by the County from NYSOFA, the County may terminate this Agreement immediately or reduce the amount payable to the Municipality, in the sole and complete discretion of the County. The County shall give prompt notice of any such termination or reduction to the Municipality. If the County subsequently offers to pay a reduced amount to the Municipality, then the Municipality shall have the right to terminate this Agreement upon reasonable prior written notice.

In addition, the Parties recognize and acknowledge that the obligations of the County under this Agreement are subject to annual appropriations by its Board of Legislators pursuant to the Laws of Westchester County. Therefore, this Agreement shall be deemed executory only to the extent of the monies appropriated and available. The County shall have no liability under this Agreement beyond funds appropriated and the County shall have no liability under this Agreement beyond funds appropriated and available for payment pursuant to this Agreement. The Parties understand and intend that the obligation of the County hereunder shall constitute a current expense of the County and shall not in any way be construed to be a debt of the County in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the County, nor shall anything contained in this Agreement constitute a pledge of the general tax revenues, funds or moneys of the County. The County shall pay amounts due under this Agreement exclusively from legally available funds appropriated for this purpose. The County shall retain the right, upon the occurrence of the adoption of any County Budget by its Board of Legislators during the term of this Agreement or any amendments thereto, and for a reasonable period of time after such adoption(s), to conduct an analysis of the impacts of any such County Budget on County

finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates set forth herein. If the County subsequently offers to pay a reduced amount to the Municipality, then the Municipality shall have the right to terminate this Agreement upon reasonable prior written notice.

This Agreement is also subject to further financial analysis of the impact of any New York State Budget (the "State Budget") proposed and adopted during the term of this Agreement. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the Municipality, then the Municipality shall have the right to terminate this Agreement upon reasonable prior written notice.

The County shall not be obligated to make any payment to the Municipality hereunder unless and until the Municipality has complied with all of the terms and conditions contained in this Agreement.

4. The Municipality understands and agrees that it shall be solely responsible for any overserved units of services that it provides, and the County shall have no liability whatsoever therefore.

The County may, in its discretion, if it shall deem such payment to be required in furtherance of the Program, pay the Municipality prior to receipt of payment or approval thereof from NYSOFA, provided that, in the event NYSOFA subsequently fails or refuses to pay the County, the Municipality shall immediately reimburse the County for such payment made to the Municipality, or, the County, in its sole discretion, may deduct such amount from future payments due and owing the Municipality under this Agreement or other agreements the County may have with the

Municipality, in the sole discretion of the County. In no event shall final payment be made to the Municipality prior to completion of all services, the submission of reports and the approval of same by the County.

The County shall have the right, at its option and at its sole cost and expense, to audit such books and records of the Municipality as are reasonably pertinent to this Agreement to substantiate the basis for payment. The County may withhold payment of funds hereunder for cause found in the course of an audit or because of failure of the Municipality to cooperate with an audit. The County shall, in addition, have the right to audit such books and records subsequent to payment, if such audit is commenced within one (1) year following termination of this Agreement, and to perform random audits during the term of this Agreement. In the event an audit performed by the County reflects overpayment by the County or that monies were not fully expended or that monies were improperly expended, then the Municipality shall reimburse to the County the cost of such audit (if the audit was done by the County or on the County's behalf) and the amount of such overpayment, underpayment or improper payment, within thirty (30) days of notice from the County.

The Municipality further agrees to permit designated employees or agents of the County reasonable on-site inspection of the work being performed by the Municipality under this Agreement, its books, accounts, financial audits and records and agrees to keep records necessary to disclose fully the receipt and disposition of funds received under this agreement. Unless the County shall, in writing, advise the Municipality to the contrary, the Municipality shall retain all financial records related to this Agreement for a period of ten years after the expiration or termination of this Agreement.

5. The Municipality shall comply, at its own expense, with the provisions of all applicable Federal, State and local laws, regulations, rules, executive orders, policies, orders, notices, and related guidance, as such provisions may be amended from time to time, including, but not limited to the laws, rules and regulations detailed in the Plan in Schedule "F".

In addition, the Municipality shall cause to be prominently posted, on the site where services hereunder are to be provided, a statement regarding non-discrimination, which statement shall be similar in form to the following:

"In compliance with 29 U.S.C. § 794 (Section 504 of the Rehabilitation Act of 1973, as amended) and 42 U.S.C. § 2000d et. seq. (Title VI of the 1964 Civil Rights Act) and New York State Executive Law and orders, no persons will be denied service or access to service based upon race, creed, color, national origin, religion, marital status, sexual orientation, genetic predisposition, carrier status, or handicapping condition."

6. The Municipality hereby expressly agrees that neither it nor any contractor, subcontractor, employee, or any other person acting on its behalf shall discriminate against or intimidate any employee or other individual on the basis of race, creed, religion, color gender, age, national origin, ethnicity, alienage or citizenship status, disability, marital status, sexual orientation, familial status genetic predisposition or carrier status during the term of or in connection with this Agreement, as those terms may be defined in Chapter 700 of the Laws of Westchester County. The Municipality acknowledges and understands that the County maintains a zero tolerance policy prohibiting all forms of harassment or discrimination against its employees by co-workers, supervisors, vendors, s, or others.

7. (a) There shall be no partisan political activity in connection with this Agreement, including (i) candidate endorsements (ii) registration activities which are partisan in nature (iii) scheduled meetings of services recipients with public officials or candidates unless event is open on an equal basis to all candidates and officials regardless of policy views or partisan affiliation. This does not preclude the legitimate right of elected officials and other community leaders to visit programs in their areas.

(b) The Municipality shall ensure that any services to be provided under this Agreement shall be secular in nature and scope and in no event shall there be any sectarian or religious services, counseling, proselytizing, instruction or other sectarian, religious influence undertaken in connection with the provision of such

services. The Municipality shall refrain from using funds to advance any sectarian effort.

8. Except for subcontracts specifically provided for in Schedule C, if applicable, the Municipality shall not assign, transfer, subcontract, or otherwise dispose of this Agreement or any right, duty or interest herein, without the prior express written approval of the County. Any attempted assignment, transfer, subcontract or other disposal of any right, duty or interest under this Agreement not in compliance with this section shall be void ab initio.

All subcontracts for which the Municipality has obtained such prior written approval shall provide that subcontractors are subject to all terms and conditions set forth in the contract documents. All Work performed by an approved subcontractor shall be deemed Work performed by the Municipality.

9. The Municipality must attempt to provide service to low income minority older individuals in at least the same proportion as the population of low-income minority older individuals bears to the population of older individuals of the area served by such Municipality. As a material element of this Agreement, Municipality agrees to fully comply with the provisions required by the Office for the Aging concerning equal access to services, non-discrimination and concentration of services on target populations, as more fully set forth in Schedule "C", attached hereto and made a part hereof.

10. Statistical information and supporting documentation concerning the Program conducted hereunder shall be provided to the County by the Municipality on request of the County.

Documentation of reports and expenses shall include, without limiting the right to require additional documentation: invoices for all purchases, payroll time records, payroll records for local support contribution and municipal payment vouchers for governmental agencies.

The Programmatic monthly reporting system for Service Delivery Information and Service Recipient Information must be submitted electronically in the NYSOFA's Client Statewide Data System (PeerPlace). Until further notice, the Municipality is required to mail in the PeerPlace MONTHLY ELECTRONIC PAPER REPORT and or other approved reporting measure, signed by the staff member responsible for the report. The reports should be received by the County no later than the tenth (10th) day of the following month and/or entered on the website at the same time. The Municipality understands and agrees that submission of the monthly report by the deadline set forth above constitutes a material element of this Agreement. The County reserves the right to withhold payment to the Municipality for its failure to submit the monthly report by the deadline, until such time as the monthly report is received by the County. Repeated failures by the Municipality to submit the monthly report by the stated deadline will constitute a material breach of this Agreement justifying termination for cause as provided in Paragraph "15" hereof.

The Municipality shall furnish the County with copies of all insurance certificates, food contracts, rental agreements, and transportation agreements relating to the service provided by the Municipality hereunder.

The Municipality agrees to procure and maintain insurance naming the County of Westchester as additional insured, as provided and described in Schedule "A", entitled "Standard Insurance Provisions", which is attached hereto and made a part hereof. In addition to, and not in limitation of, the insurance provisions contained in Schedule "A", the Municipality agrees:

- a. that except for the amount, if any, of damage contributed to, caused by, or resulting from the sole negligence of the County, the Municipality shall indemnify and hold harmless the County, its officers, employees, agents, and elected officials from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss arising directly or indirectly out of the performance or failure to perform hereunder by the Municipality or third Parties under the direction or control of the Municipality; and

b. to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto; and

c. In the event the Municipality does not provide the above defense and indemnification to the County, and such refusal or denial to provide the above defense and indemnification is found to be in breach of this provision, then the Municipality shall reimburse the County's reasonable attorney's fees incurred in connection with the defense of any action, and in connection with enforcing this provision of the Agreement.

11. The Municipality agrees that any Program, public information materials, or other printed or published materials on the Work of the Program which is supported with Unmet Need funds will give due recognition to NYSOFA and the Westchester County Department of Senior Programs and Services and as appropriate the Administration on Aging/Administration for Community Living (AoA/ACL) of the United States Department of Health and Human Services ("HHS").

12. All records compiled by the Municipality in completing the Work described in this Agreement, including but not limited to written reports, drawings, negatives of photographs, computer printouts, graphs, charts, plans, specifications and all other similar recorded data, shall become and remain the property of the County. The Municipality may retain copies of such records for its own use.

13. If equipment costing \$1,000.00 or more is purchased with any Federal or State funds under the Plan, and the equipment is no longer needed for activities supported by such Programs, NYSOFA/County reserve the right to select a recipient for and approve the transfer to such recipient of such equipment, which must be used for services to older adults. The Municipality understands, acknowledges, and agrees that it shall have no ownership interest in such equipment.

14. The Municipality shall provide adequate qualified and trained personnel

for supervision and fiscal management of the Program.

15. (a) The County, upon ten (10) days' notice to the Municipality, may terminate this Agreement in whole or in part when the County deems it to be in its best interest. In such event, the Municipality shall be compensated and the County shall be liable only for payment for services already rendered under this Agreement prior to the effective date of termination as specified in Schedule "B". Upon receipt of notice that the County is terminating this Agreement in its best interests, the Municipality shall stop Work immediately and incur no further costs in furtherance of this Agreement without the express approval of the Commissioner, and the Municipality shall direct any approved subcontractors to do the same.

In the event of a dispute as to the value of the services rendered by the Municipality prior to the date of termination, it is understood and agreed that the County Attorney shall determine the value of such services rendered by the Municipality. Such reasonable and good faith determination shall be accepted by the Municipality as final.

(b) In the event the County determines that there has been a material breach by the Municipality of any of the terms of the Agreement and such breach remains uncured for forty-eight (48) hours after service on the Municipality of written notice thereof, the County, in addition to any other right or remedy it might have, may terminate this Agreement and the County shall have the right, power and authority to complete the services provided for in this Agreement, or contract for their completion, and any additional expense or cost of such completion shall be charged to and paid by the Municipality. Notice shall be effective on the date of receipt. Without limiting the foregoing, upon written notice to the Municipality, repeated breaches by Municipality of any particular duty or obligation under this Agreement shall be deemed a material breach of this Agreement justifying termination for cause hereunder without requirement for further opportunity to cure. Notice shall be effective on the date of receipt.

16. The failure of the County to insist, in any one or more instances, upon a

strict performance of any of the terms, covenants, agreements and conditions of this Agreement, shall not be considered as a waiver or relinquishment for the future of such covenant, but the same shall continue and remain in full force and effect.

17. All notices of any nature referred to in this Agreement shall be in writing and either sent by registered or certified mail postage pre-paid, or sent by hand or overnight courier, or sent by facsimile (with acknowledgment received and a copy of the notice sent by registered or certified mail postage pre-paid), to the addresses as set forth below or to such other addresses as the respective Parties hereto may designate in writing. Notice shall be effective on the date of receipt. Notices shall be sent to the following:

To the County: Commissioner
Department of Senior Programs and Services
9 South First Avenue, 10th Floor
Mount Vernon, New York 10550-3414

with a copy to: County Attorney
Michaelian Office Building
148 Martine Avenue, Room 600
White Plains, New York 10601

To the Municipality: _____

18. The Municipality expressly agrees that it has no interest and will not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of the services and duties hereunder. The Municipality further agrees that, in the performance of this Agreement, no person having any such interest shall be employed by it. The Municipality shall use all reasonable means to avoid any conflict of interest with the County and shall immediately notify the County in the event of a conflict of interest. The Municipality shall also use all reasonable means to avoid any appearance of impropriety.

The Municipality represents and warrants that it has not employed or retained any person, other than a bona fide full time salaried employee Working solely for the Municipality, to solicit or secure this agreement, and that it has not paid or agreed to pay any person (other than payments of fixed salary to a bona fide full time salaried employee Working solely for the Municipality), any fee, commission, percentage, gift or other consideration, contingent upon or resulting from the award or making of this agreement. For the breach or violation of this provision, without limiting any other rights or remedies to which the County may be entitled or any civil or criminal penalty to which any violator may be liable, the County shall have the right, in its discretion, to terminate this agreement without liability, and to deduct from the contract price, or otherwise to recover, the full amount of such fee, commission, percentage, gift or consideration.

19. The Municipality agrees, as a material element of this agreement, that no information about an elderly person, or obtained from such elderly person, shall be disclosed by the Municipality to a third party in a form that identifies such elderly person, unless the disclosure is specifically required by court order, program monitoring by authorized Federal, State or local monitoring agencies, or by actual or immediate danger to the health, safety or welfare of such elderly person.

20. The Municipality represents and warrants that it, its principals, and affiliates (as defined in 2 C.F.R. Part 180) are not currently debarred or suspended and the Municipality agrees to complete the "Certification Regarding Debarment and Suspension," which is attached hereto and made a part hereof of Schedule "D." The Municipality agrees that it shall immediately notify the County if it, its principals, and/or affiliates is/are debarred or suspended, or its, its principals', and/or affiliates' debarment or suspension appears likely. The Municipality further agrees to comply, and to require

its subcontractors to comply, with the debarment and suspension regulations in 2 C.F.R. Part 376, as well as the applicable requirements of 2 C.F.R. Part 180.

The Municipality represents and warrants that it is not currently excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non-financial assistance and benefits, by virtue of being on the United

States General Service Administration's the Excluded Parties List System (EPLS), available at <http://www.sam.gov> as part of the System for Awards Management (SAM). The Municipality agrees that it shall immediately notify the County if it is so-excluded, or its exclusion appears likely.

The Municipality represents and warrants that it is not currently on any debarment, suspension, or exclusion list of New York State or any political subdivision thereof, and has not been found non-responsible by New York State or any political subdivision thereof. The Municipality agrees that it shall immediately notify the County if it is added to any debarment, suspension, or exclusion list of New York State or any political subdivision thereof, or its addition to such lists appears likely. The Municipality agrees that it shall immediately notify the County if it is found non-responsible by New York State or any political subdivision thereof, or such a finding of non-responsibility appears likely.

The Municipality understands and acknowledges that the County is relying upon the Municipality's above-described representations and warranties.

Without limiting any of the foregoing, the Municipality certifies that, to the best of its knowledge and belief, it is and will be in compliance with 2 C.F.R. Part 376, regarding nonprocurement debarment and suspension concerning public (Federal, State or local) transactions. If necessary, the Municipality will submit an explanation of why it cannot provide this certification.

All payments made by the County to the Municipality will be made by electronic funds transfer pursuant to the County's Vendor Direct program. The Municipality acknowledges that it is already enrolled in the County's Vendor Direct Program and agrees that if there are changes to the information contained in the authorization forms it will notify the Westchester County Finance Department directly.

21. As a material element of this Agreement, the Municipality agrees to fully comply with the Contributions Policy in NYSOFA's Program Instruction 18-PI-17 that is attached hereto as Schedule "E" and forms a part of this Agreement. The

Municipality shall provide participants an opportunity to voluntarily contribute to the cost of the service received, as appropriate. The Municipality shall use all collected contributions to expand the service for which the contributions were given to supplement the funds received under the Program. The Municipality shall advise the participant that he or she may make a money contribution toward each meal received by participant pursuant to this Agreement. The amount of such contribution shall be suggested and posted by the Nutrition Site Council for the Municipality. The Municipality shall not however, deny a meal to a participant who does not make such contribution.

22. This Agreement shall be governed by the laws of New York State. In addition, the Parties hereby agree that for any cause of action arising out of this Agreement shall be brought in the County of Westchester.

23. If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid or void or unenforceable, the remainder of the terms and provisions of this Agreement shall in no way be affected, impaired, or invalidated, and to the extent permitted by applicable law, any such term, or provision shall be restricted in applicability or reformed to the minimum extent required for such to be enforceable. This provision shall be interpreted and enforced to give effect to the original written intent of the Parties prior to the determination of such invalidity or unenforceability.

24. This Agreement and its attachments constitute the entire Agreement between the Parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing, signed by a duly authorized representative of each of the Parties.

In the event of any conflict between the terms of this Agreement and the terms of any schedule or attachment hereto, it is understood that the terms of this Agreement shall be controlling with respect to any interpretation of the meaning and intent of the

Parties.

25. This Agreement shall not be enforceable until signed by all Parties and approved by the Office of the County Attorney.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement.

THE COUNTY OF WESTCHESTER

By _____
Mae Carpenter, Commissioner
Department of Senior Programs
and Services

[INSERT NAME OF MUNICIPALITY]

By _____
(Signature)

(Name)

(Title)

Approved by the Westchester County Board of Legislators pursuant to Act _____
-2021, adopted on the _____ day of _____, 2021.

Approved as to form and manner of execution:

Sr. Assistant County Attorney
The County of Westchester

MUNICIPALITY ACKNOWLEDGMENT
(Municipal Corporation)

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

On this _____ day of _____, 20_____, before me personally came _____ to me known, and known to me to be the _____ of _____, the corporation described in and which executed the within instrument, who being by me duly sworn did depose and say that he/she, the said _____ resides at _____ and that he/she is

_____ of said corporation and knows the corporate seal of the said corporation; that the seal affixed to the within instrument is such corporate seal and that it was so affixed by order of the Board of Directors of said corporation, and that he/she signed his name thereto by like order.

Notary Public

CERTIFICATE OF AUTHORITY
(Municipality)

I, _____, certify that I am the
(Officer other than officer signing contract)

_____ of the _____
(Title) (Name of Municipality)

(the "Municipality") a corporation duly organized in good standing under the _____

(Law under which organized, e.g., the New York Village Law, Town Law, General Municipal Law)

named in the foregoing agreement that _____
(Person executing agreement)

who signed said agreement on behalf of the Municipality was, at the time of execution
_____ of the Municipality,
(Title of such person),

that said agreement was duly signed for on behalf of said Municipality by authority of its
_____ thereunto duly authorized,
(Town Board, Village Board, City Council)

and that such authority is in full force and effect at the date hereof.

(Signature)

STATE OF NEW YORK)
)
COUNTY OF WESTCHESTER)

ss.:

On this ___ day of _____, 2021, before me personally came
_____ whose signature appears above, to me known, and know to be
the

_____ of _____,
(Title)

the municipal corporation described in and which executed the above certificate, who
being by me duly sworn did depose and say that he, the said _____
resides at _____, and that
he/she is the _____ of said municipal corporation.
(Title)

Notary Public County

SCHEDULE "A"

STANDARD INSURANCE PROVISIONS

(Municipality)

1. Prior to commencing Work, and throughout the term of the Agreement, the Municipality shall obtain at its own cost and expense the required insurance as delineated below from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better. Municipality shall provide evidence of such insurance to the County of Westchester ("County"), either by providing a copy of policies and/or certificates as may be required and approved by the Director of Risk Management of the County ("Director"). The policies or certificates thereof shall provide that ten (10) days prior to cancellation or material change in the policy, notices of same shall be given to the Director either by overnight mail or personal delivery for all of the following stated insurance policies. All notices shall name the Municipality and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the Director, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Director, the Municipality shall upon notice to that effect from the County, promptly obtain a new policy, and submit the policy or the certificate as requested by the Director to the Office of Risk Management of the County for approval by the Director. Upon failure of the Municipality to furnish, deliver and maintain such insurance, the Agreement, at the election of the County, may be declared suspended, discontinued or terminated.

Failure of the Municipality to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Municipality from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Municipality concerning indemnification.

All property losses shall be made payable to the "County of Westchester" and adjusted with the appropriate County personnel.

In the event that claims, for which the County may be liable, in excess of the insured amounts provided herein are filed by reason of Municipality's negligent acts or omissions under the Agreement or by virtue of the provisions of the labor law or other statute or any other reason, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Municipality until such time as the Municipality shall furnish such additional security covering such claims in form satisfactory to the Director.

In the event of any loss, if the Municipality maintains broader coverage and/or higher limits than the minimums identified herein, the County shall be entitled to the broader coverage and/or higher limits maintained by the Municipality. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

2 The Municipality shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the Agreement):

- a) Workers' Compensation and Employer's Liability. Certificate form C-105.2 or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law. State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Westchester County, New York."
- b) Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits Policy, or both, the employer must complete NYS form CE-200, available to download at: <http://www.wcb.ny.gov>.

If the employer is self-insured for Workers' Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either SI-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance).

- c) Commercial General Liability Insurance with a combined single limit of \$1,000,000 (c.s.1) per occurrence and a \$2,000,000 aggregate limit naming the "County of Westchester" as an additional insured on a primary and non-contributory basis. This insurance shall include the following coverages:

- i. Premises - Operations.
- ii. Broad Form Contractual.
- iii. Independent Municipality and Sub-Contractor.
- iv. Products and Completed Operations.

- d) Commercial Umbrella/Excess Insurance: \$2,000,000 each Occurrence and Aggregate naming the "County of Westchester" as additional insured, written on a "follow the form" basis.

NOTE: Additional insured status shall be provided by standard or other endorsement that extends coverage to the County of Westchester for both on-going and completed operations.

All Contracts involving the use of explosives, demolition and/or underground Work shall provide proof that XCU is covered.

- e) Automobile Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and a minimum limit of \$100,000 per occurrence for property damage or a combined single limit of \$1,000,000 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages and name the "County of Westchester" as additional insured:

- (i) Owned automobiles.
- (ii) Hired automobiles.
- (iii) Non-owned automobiles.

3. All policies of the Municipality shall be endorsed to contain the following clauses:

(a) Insurers shall have no right to recovery or subrogation against the County (including its employees and other agents and agencies), it being the intention of the Parties that the insurance policies so effected shall protect both Parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause "other insurance provisions" in a policy in which the County is named as an insured, shall not apply to the County.

(c) The insurance companies issuing the policy or policies shall have no recourse against the County (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the Municipality.

INSERT SCHEDULES "B" & "C"

SCHEDULE "D"

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

1) In order to assure compliance with 2 C.F.R. Part 180, 2 C.F.R. Part 376, and other applicable law, the Municipality certifies that it, its principals, and affiliates

(a) Are not presently disbarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any Federal department or agency;

(b) Have not within a 3-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, including any violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) above; and

(d) Have not within a 3-year period preceding this Agreement had one or more public transactions (Federal, State or local) terminated for cause or default.

2) Where the Municipality is unable to certify to any of the statements in this paragraph, the Municipality shall attach an explanation to this certification.

Contracting Entity's Name

Authorized Signature

Name: _____

Title: _____

Date: _____

SCHEDULE "E"

NEW YORK STATE OFFICE FOR THE AGING

PROGRAM INSTRUCTION 18-PI-17

**NYSOFA CONTRIBUTIONS
AND OTHER PROGRAM INCOME POLICY**

SCHEDULE "F"

NEW YORK STATE OFFICE FOR THE AGING

STANDARD ASSURANCES

**ATTACHMENT A,
The 2021-22 Annual Update to the 2020-24 Four-Year Plan
APRIL 1, 2021 – MARCH 31, 2022**