

**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 (the “Act”) which, if approved, would authorize the County of Westchester (the “County”), acting by and through its Department of Senior Programs and Services (the “Department”), to enter into grant agreements (the “Grant Agreements”) with the New York State Office for the Aging (“NYSOFA”) to accept grant funds made available to the County under Titles III-B, III-C & the Nutrition Services Incentive Program (“NSIP”), III-D and III-E of the Older Americans Act (“OAA”), in the total aggregate not-to-exceed amounts set forth below. The Grant Agreements will be for a term commencing retroactive to January 1, 2021 and continuing through December 31, 2021, except for the grant agreement for NSIP which will commence retroactive to October 1, 2020 and continue through September 30, 2021. Additionally, authority is requested for the County to enter into inter-municipal agreements (“IMAs”) with the municipalities listed in Exhibit “A”, attached to the Act (the “Municipalities”), for services to be funded with the grants received from NYSOFA under the Grant Agreements in the total aggregate not-to-exceed amounts set forth below, for terms corresponding to the term of each grant.

Grant Amounts

| Title III-B | Title III-C & NSIP | Title III-D | Title III-E |
|-------------|--------------------|-------------|-------------|
| \$1,069,441 | \$2,050,995 | \$63,246 | \$549,167 |

IMAs

| Title III-B | Title III-C & NSIP | Title III-D | Title III-E |
|-------------|--------------------|-------------|-------------|
| \$290,486 | \$1,463,874 | \$0 | \$0 |

Your Committee is advised that the services to be provided under the IMAs with the funds received from the OAA for Titles III-B and III-C & NSIP are: (i) nutrition services such as congregate and home delivered meals; and (ii) nutrition education; equipment; supplies; vehicle expenses; access services such as information and assistance and transportation services (the “Services”). Your Committee is further advised that a portion of the grant funds under Title III-B and Titles III-C & NSIP service programs will be used directly by the Department for Area Agency Administration and that no Services will be provided under IMAs with the funds received

under the OAA for Titles III-D and III-E. Instead, this funding will be allocated for contracts with non-municipal agencies to provide various services to seniors.

Your Committee is advised that the Department has complied with the Westchester County Procurement Policy and Procedures (the "Policy"), noting that the Grant Agreements with NYSOFA do not constitute a procurement, and that the IMAs are exempt from the Policy pursuant to section 3(a) iii thereof which exempts contracts with ". . . any State and any political subdivision, agency or instrumentality thereof." The IMAs are also exempt pursuant to section 3(a) xix of the Policy which exempts "any procurement for the purpose of entering into a contract with persons to provide direct services to senior citizens."

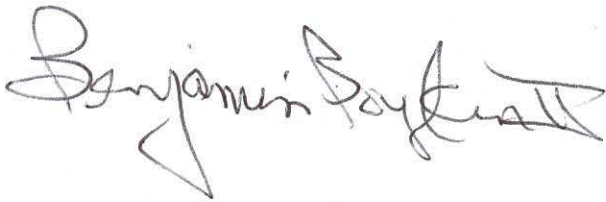
Notwithstanding that procurement for these services are exempt from the Policy, these Services are funded with Federal grant monies and as such are, pursuant to Section 13 of the Policy, subject to Federal procurement requirements. The Federal procurement regulations (2 CFR§ 200.320), require that contracts in amounts greater than \$10,000 and up to \$250,000, be procured by obtaining price or rate quotations from an adequate number of qualified sources, unless the such contracts are deemed to be "non-competitive" procurements. In furtherance of the Federal procurement rules, on November 12, 2020, the Department issued a request for proposal ("RFP") to procure part of the Services, namely, information and assistance services. Two (2) proposals were received in response to the RFP from the City of New Rochelle and the City of Yonkers. After reviewing the proposals with reference to the evaluation criteria set forth in the RFP, authorization is being requested to award IMAs to both municipalities for an initial term commencing on January 1, 2021 through December 31, 2021, with four (4) one-year renewal options, exercisable at the County's option. The Department will seek your Honorable Board's approval each year the County chooses to exercise its option. It should be noted that because the remaining Services are being provided directly by the respective Municipalities using their own resources (i.e., senior centers, buses, food service providers, equipment, etc.), these Services constitute non-competitive procurements in accordance with 2 CFR§ 200.320 (f)(1), in that due to the nature and extent of the services being provided by each municipality, the services are only available from those single sources.

The Planning Department has advised that based on its review, the proposed agreements 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 the Planning Department recommends that no further environmental review is required. Your Committee has reviewed the annexed SEQRA documentation 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 believes that adoption of the proposed Act is necessary to effectively carry out this worthwhile program. Accordingly, after due consideration, your Committee recommends adoption of the annexed Act.

Dated: 5/10, 2021
White Plains, New York



COMMITTEE ON

C:jpg/3-05-21

Seniors, Youth &
Intergenerational
Services

Budget & Appropriations

Dated: May 10, 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 A. Ialris

Alfreda Willis

Ty H. C.

BUDGET & APPROPRIATIONS

Debra Ialris

Nancy E. Pan

Margaret A. Curcio

Cheryl

Catherine F. Parker

David A. Ialris

Alfreda Willis

Ty H. C.

FISCAL IMPACT STATEMENT

SUBJECT: IIIB 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 \$ 1639058

Total Current Year Revenue \$ 1069441

Source of Funds (check one): Current Appropriations

Transfer of Existing Appropriations Additional Appropriations Other (explain)

Identify Accounts: 101-24-4957

263-85-T686

Potential Related Operating Budget Expenses: Annual Amount \$ 569617

Describe: County Match Funds

Potential Related Revenues: Annual Amount \$ 1069441

Describe: Funding received from the Federal Government under the Older American's Act.

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

Current Year: The Department would not be able to provide Information & Assistance, Transportation, Legal Services; Public Information, Homemaker and In-Home Contact & Support to Seniors in Westchester.

Next Four years:

Estimated to be same as above each year.

Prepared by: Sandra Brown

Title: Director of Program Development II

Department: Senior Programs & Svcs.

DAO
4/16/21
Reviewed By: _____

Budget Director

4/19/21

If you need more space, please attach additional sheets.

FISCAL IMPACT STATEMENT

SUBJECT: IIIC1/NSIP 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 \$ 1587029

Total Current Year Revenue \$ 1354349

Source of Funds (check one): Current Appropriations

Transfer of Existing Appropriations Additional Appropriations Other (explain)

Identify Accounts: 101-24-4957

263-85-T941

Potential Related Operating Budget Expenses: Annual Amount \$ 232680

Describe: County Match Funds

Potential Related Revenues: Annual Amount \$ 1354349

Describe: Funding received from the Federal Government under the Older American's Act.

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

Current Year: The Department would not be able to provide seniors with Congregate Meals, Nutrition Education, Senior Center Recreation and Education and supplement regional kitchen equipment, repairs and supplies as needed.


Next Four years:

Estimated to be same as above each year.

Prepared by: Sandra Brown

Title: Director of Program Development II

Department: Senior Programs & Svcs.

DAO
4/19/21
Reviewed By: 
Budget Director
4/17/21

If you need more space, please attach additional sheets.

FISCAL IMPACT STATEMENT

SUBJECT: IIC2/NSIP 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 \$ 786889

Total Current Year Revenue \$ 696646

Source of Funds (check one): Current Appropriations

Transfer of Existing Appropriations Additional Appropriations Other (explain)

Identify Accounts: 101-24-4957

263-85-T942

Potential Related Operating Budget Expenses: Annual Amount \$ 90243

Describe: County Match Funds

Potential Related Revenues: Annual Amount \$ 696646

Describe: Funding received from the Federal Government under the Older American's Act.

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

Current Year: The Department would not be able to provide Home Delivered Meals, Nutrition Education Nutrition Counseling and supplement regional kitchen equipment, supplies, repairs and vehicle expenses as needed.

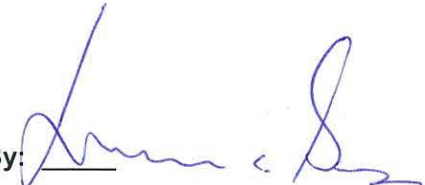
Next Four years:

Estimated to be same as above each year.

Prepared by: Sandra Brown

Title: Director of Program Development II

Department: Senior Programs & Svcs.

250
4/19/21
Reviewed By: 

Budget Director

If you need more space, please attach additional sheets.

FISCAL IMPACT STATEMENT

SUBJECT: IID 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 \$ 95000

Total Current Year Revenue \$ 63246

Source of Funds (check one): Current Appropriations

Transfer of Existing Appropriations Additional Appropriations Other (explain)

Identify Accounts: 101-24-4957

263-85-T943

Potential Related Operating Budget Expenses: Annual Amount \$ 31754

Describe: County Match Funds

Potential Related Revenues: Annual Amount \$ 63246

Describe: Funding is received from the Federal Government under the Older American's Act.


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

Current Year: The Department would not be able to provide Health & Wellness and Chronic Disease Self-Management programs to seniors in Westchester County.

Next Four years:

Estimated to be same as above each year.

Prepared by: Sandra Brown

DAO 4/16/21
Reviewed By: 

Title: Director of Program Development II

Budget Director

Department: Senior Programs & Svcs.

If you need more space, please attach additional sheets.

FISCAL IMPACT STATEMENT

SUBJECT: III E 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 \$ 770139

Total Current Year Revenue \$ 549167

Source of Funds (check one): Current Appropriations

Transfer of Existing Appropriations Additional Appropriations Other (explain)

Identify Accounts: 101-24-4957

263-85-T448

Potential Related Operating Budget Expenses: Annual Amount \$ 220972

Describe: County Match Funds

Potential Related Revenues: Annual Amount \$ 549167

Describe: Funding received from the Federal Government under the Older American's Act.

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

Current Year: The Department would not be able to provide services under the National Family Caregiver Program; including caregiver and grandparent information, assistance, counseling, support groups, training and public information, assisted transportation and personal locator services.

Next Four years:

Estimated to be same as above each year.

Prepared by: Sandra Brown

Title: Director of Program Development II

Department: Senior Programs & Svcs.

DLB
4/11/21

Reviewed By:


[Signature]

Budget Director

4/19/21

If you need more space, please attach additional sheets.

TO: Mae Carpenter, Commissioner
Department of Senior Programs and Services

FROM: David S. Kvinge, AICP, RLA, CFM 
Director of Environmental Planning

DATE: April 12, 2021

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR AGREEMENTS FOR SENIOR SERVICES UNDER OAA TITLES III-B, III-C & NSIP, III-D, III-E**

PROJECT/ACTION: Agreements with New York State Office for the Aging (NYSOFA) to accept grant funds under Titles III-B, III-C-1, III-C-2 & Nutrition Services Incentive Program (NSIP), III-D, and III-E of the Older Americans Act (OAA) for 2021, with the exception of NSIP, which will be from October 2020 to September 2021. The action includes agreements with local municipalities for implementation of the services to be funded with IIB, III-C-1, II-C-2 & NSIP grants. Funds received under III-D and III-E will be allocated to non-municipal agencies for implementation of the senior services to be funded with these grants.

With respect to the State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617, the Planning Department recommends that no further environmental review is required because the project/action:

- DOES NOT MEET THE DEFINITION OF AN "ACTION" AS DEFINED UNDER SECTION 617.2(b)**
- MAY BE CLASSIFIED AS TYPE II PURSUANT TO SECTION 617.5(c) ():**
-

COMMENTS: These are federal funding programs that are administered by the County's Department of Senior Programs and Services. The services provided under OAA Title III include: supportive services, nutrition services, disease prevention/health promotion services and family caregiver support services.

DSK/cnm

cc: Andrew Ferris, Chief of Staff
Paula Friedman, Assistant to the County Executive
Norma Drummond, Commissioner
Jeffrey Goldman, Senior Assistant County Attorney
Sharon Johnson, Program Administrator, Dept. of Senior Programs and Services
Claudia Maxwell, Associate Environmental Planner

AN ACT authorizing the County of Westchester to enter into grant agreements with the New York State Office for the Aging to accept grant funds under Titles III-B, III-C, the Nutrition Services Incentive Program (“NSIP”), III-D and III-E of the Older Americans Act and also to enter into inter-municipal agreements with local municipalities for services to be funded by Titles III-B, III-C & NSIP grants under the Older Americans Act.

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 grant agreements (the “Grant Agreements”) with the New York State Office for the Aging (“NYSOFA”) to accept grant funds made available to the County under Titles III-B, III-C & NSIP, III-D and III-E of the Older Americans Act (“OAA”), in the total aggregate not-to-exceed amounts set forth below. The Grant Agreements will be for a term commencing retroactive to January 1, 2021 and continuing through December 31, 2021, except for the grant agreement for NSIP which will commence retroactive to October 1, 2020 and continue through September 30, 2021:

Grant Amounts

| Title III-B | Title III-C & NSIP | Title III-D | Title III-E |
|-------------|--------------------|-------------|-------------|
| \$1,069,441 | \$2,050,995 | \$63,246 | \$549,167 |

§2. The County is hereby further authorized to enter into inter-municipal agreements (“IMAs”) with the municipalities listed in Exhibit “A”, attached hereto and made a part hereof, for services to be funded by grants received by the County from NYSOFA under OAA, in the total aggregate not-to-exceed amounts set forth below, for terms corresponding to the term of each grant.

IMAs

| Title III-B | Title III-C & NSIP | Title III-D | Title III-E |
|-------------|--------------------|-------------|-------------|
| \$290,486 | \$1,463,874 | \$0 | \$0 |

§3. The contract amounts for each IMA shall be determined at the discretion of the Commissioner of the Department of Senior Services and Programs.

§4. The services to be provided under the IMAs with the funds received under the OAA for Titles III-B and III-C & NSIP shall include: nutrition services such as congregate and home delivered meals; nutrition education; equipment; supplies; vehicle expenses; access services such as information and assistance, and transportation services.

§5. There will be no services provided under IMAs with the funds received under the OAA for Titles III-D and III-E. Instead, this funding will be allocated for contracts with non-municipal agencies to provide various services to seniors.

§6. The County Executive or his authorized designee is hereby empowered to execute all instruments and take all actions reasonable and necessary to effectuate the purposes hereof.

§7. This Act shall take effect immediately.

EXHIBIT "A"

LIST OF MUNICIPALITIES AND SERVICES

| GRANT: III-B | GRANTS: III-C-1, III-C-2 & NSIP |
|--|---|
| <u>SERVICES</u> | <u>SERVICES</u> |
| Assistance, Information, and Transportation | Meals and Other-Regional Kitchen Equipment, Supplies, Repairs & Vehicle Expenses |
| Town of Cortlandt | Town of Cortlandt |
| Town of Eastchester | Town of Eastchester |
| Town of Greenburgh | Town of Greenburgh |
| Town of Mamaroneck | Town of Mamaroneck |
| Village/Town of Mount Kisco | Village/Town of Mount Kisco * |
| Town of Mount Pleasant | Town of Mount Pleasant |
| City of Mount Vernon | City of Mount Vernon * |
| City of New Rochelle* | City of New Rochelle |
| Town of Ossining | Town of Ossining |
| City of Peekskill | City of Peekskill * |
| Village of Port Chester | Village of Port Chester |
| Town of Somers | Town of Somers |
| City of White Plains | City of White Plains |
| City of Yonkers* | City of Yonkers |
| Town of Yorktown | Town of Yorktown * |

Note:

- ALL municipalities listed above under Title III-B will provide Transportation Services, EXCEPT that ONLY those marked with an asterisk (*) will also provide Information and Assistance
- ALL municipalities listed above under III-C-1, III-C-2 & NSIP will provide Meals, EXCEPT that ONLY those marked with an asterisk (*) will also provide Other-Regional Kitchen Equipment, Supplies, Repairs & Vehicle Expenses

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

THE COUNTY OF WESTCHESTER, a 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 non-for-profit 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 "Contractor")

WITNESSETH:

WHEREAS, the County, acting by its Department of Senior Programs and Services ("Department"), has been awarded a grant by the New York State Office for the Aging ("NYSOFA") pursuant to Titles III-C1, III-C2 and Nutrition Services Incentive Program ("NSIP") of the Older Americans Act to provide various social and nutrition services to elderly residents of the County (the "Programs"); and

WHEREAS, the Contractor desires to conduct the Programs upon the terms and conditions hereinafter set forth, and the County desires the Contractor to provide the Programs upon such terms and conditions.

WHEREAS, the County has been authorized by the Westchester County Board of Acquisition and Contract to enter into the Agreement with the Contractor for the provision of the Programs.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and agreements contained herein, the parties agree as follows:

1. The Contractor shall provide the Programs, as more particularly described in Schedule "C" (the "Services"). All Services 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 and/or

Annual Update to the Four Year Plan (collectively the "Plan") attached hereto and made a part hereof in the form of Schedule "O." 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.

Vendor Document Repository (applicable to Not-for-Profit Contractors only)- The Contractor understands and acknowledges that the County currently maintains a Vendor Document Repository at <http://www.westchestergov.com/vendorportal> (the "Repository") into which the Contractor may upload a scanned image of one or more of the schedules and/or supporting documents that the Contractor is required to provide to the County for this Agreement (the "Required Documents").

The Contractor further understands and acknowledges that if the Contractor chooses to use the Repository to provide to the County one or more of the Required Documents (each document so provided, a "Repository Document"):

- a.) The Contractor is doing so voluntarily, as required by New York State Technology Law Sections 305 and 309;
- b.) The Contractor represents and warrants that any and all information in each Repository Document is complete and accurate in all respects;
- c.) In the event that any information in a Repository Document must be changed, the Contractor shall upload an updated version of such document for this Agreement within ten (10) business days of the need for such change arising; and
- d.) Notwithstanding any other provision of this Agreement, the Contractor must, at a minimum, update each Repository Document at least once per calendar year.

2. Payment for the Services to be provided for Title III-C1 shall be made for expenses actually incurred and paid by the Contractor at the rate set forth in Schedule "B." Payment for the Services to be provided for Title III-C2 shall be made for expenses actually incurred and paid by the Contractor at the rate set forth in Schedule "B." The total aggregate amount to be paid for

the Services rendered by the Contractor under this Agreement shall not exceed \$ _____, subject to appropriation, payable on a monthly basis, in accordance with Schedule "B" that is either, a.) attached hereto and made a part hereof; or b.) a Repository Document, and hereby incorporated by reference. Payment shall be made for actual services provided as data entered in NYSOFA Client Statewide Data System ("PeerPlace") or other NYSOFA approved electronic reporting system, after the County has received approval from NYSOFA and the County has received any and all supporting documentation the County may require and the same has been approved by the Department's Commissioner or her duly authorized designee (the "Commissioner").

The County may, in its discretion, if it shall deem such payment to be required in furtherance of the Program, pay the Contractor prior to receipt of payment or approval therefore by NYSOFA, provided that, in the event NYSOFA subsequently fails or refuses to pay the County, or if such expense is not a proper expenditure under the Program, the Contractor shall reimburse the County for such payment made to the Contractor, or, the County, in its discretion, may deduct such amount from future payments due and owing the Contractor under this Agreement.

The Contractor shall contribute an aggregate amount of \$ _____, as a match for the III-C1 and/or III-C2 Programs.

Any and all requests for payment to be made, including any requests for partial payment made in proportion to the Services completed, shall be submitted by the Contractor on properly executed payment vouchers of the County and paid only after approval by the Commissioner. All payment vouchers must be accompanied by a numbered invoice and/or the appropriate required back-up documentation approved by the Department of Senior Programs and Services. All invoices submitted during each calendar year shall utilize consecutive numbering and be non-repeating. In no event shall final payment be made to the Contractor prior to the completion of all Services, the submission of reports and the approval of same by the Commissioner.

The Contractor shall, at no additional charge, furnish all labor, services, materials, goods, equipment and any other things necessary to complete the Services, unless specific additional charges are expressly permitted under this Agreement. It is recognized and understood that even if specific additional charges are expressly permitted under this Agreement; in no event shall total

payment to the Contractor exceed the not-to-exceed amount set forth above.

Except as otherwise expressly stated in this Agreement, no payment shall be made by the County to the Contractor for out of pocket expenses or disbursements made in connection with the Services rendered or the Services to be performed hereunder.

3. Prior to the making of any payments hereunder, the County may, at its option, audit such books and records of the Contractor as are reasonably pertinent to this Agreement to substantiate the basis for payment. The County will not withhold payment pursuant to this paragraph for more than thirty (30) days after payment would otherwise be due pursuant to the provisions of this Agreement, unless the County shall find cause to withhold payment in the course of such audit or the Contractor fails to cooperate with such 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 year following termination of this Agreement.

In addition to any general audit rights to which the County may be entitled hereunder, the County also reserves the right to audit the Contractor's performance under this Agreement. Such audit may include requests for documentation or other information which the Commissioner may, in her discretion, deem necessary and appropriate to verify the information provided by the Contractor as required by Paragraph "4." The County may also make site visits to the location(s) where the services to be provided under this Agreement are performed in order to review Contractor's records, observe the performance of services and/or to conduct interviews of staff and patrons, where appropriate and not otherwise prohibited by law.

The Contractor agrees to maintain appropriate records and to retain them for at least six years after final payment is made. The Contractor agrees to provide access to all books, documents and all pertinent materials related to the contract for examination to authorized representatives of the Administration on Aging/Administration for Community Living (AoA/ACL) of the United States Department of Health and Human Services ("HHS"), the New York State Comptroller or his representatives, staff of NYSOFA, and/or the County.

4. Under this Agreement, the term of the Title III-C Programs shall commence retroactive to January 1, 2021 and shall continue through December 31, 2021, and the term of the NSIP Program shall commence retroactive to October 1, 2020 and continue through September 30, 2021,

unless terminated sooner pursuant to the provisions hereof.

The Contractor shall report to the County on its progress toward completing the Services, as the Commissioner may request, and shall immediately inform the Commissioner in writing of any cause for delay in the performance of its obligations under this Agreement.

5. The parties recognize and acknowledge that the obligations of the County under this Agreement are subject to the County's receipt of funds from NYSOFA to operate the Program, and that no liability shall be incurred by the County beyond the monies made available from NYSOFA for this Agreement. The Contractor agrees that the County shall not be liable for any of the payments hereunder unless and until the County Commissioner of Finance has received said funds or said funds have been made available to said commissioner.

If, for any reason, the full amount of said funds is not paid over or made available to the County by NYSOFA, the County may terminate this Agreement immediately or reduce the amount payable to the Contractor, in the discretion of the County. The County shall give prompt notice of any such termination or reduction to the Contractor. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor 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 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 Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice.

6. The Contractor shall comply, at its own expense, with the provisions of all applicable Federal, State and local laws, rules, regulations executive orders, policies, orders, notices and related guidance, as specified in the Plan, as such provisions may be amended from time to time, (such Federal provisions being "Federal Requirements").

In addition, the Contractor 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 Section 504 of the Rehabilitation Act of 1975 and 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."

Without limiting any of the foregoing, the Contractor specifically agrees to the following:

(a) Regarding access to records and access to sites where the Services are performed:

- i.) In compliance with 45 C.F.R. 75.364(a), the Contractor agrees to provide the County, HHS and its awarding agency, the Comptroller General of the United States, any inspectors general, or any of the duly authorized representatives of any of these listed parties, access to any documents, papers, or other records which are pertinent to this Agreement in order to make audits, examinations, excerpts, and transcripts, as well as provide timely and reasonable access to the Contractor's personnel for the purpose of interview and discussion related to such documents. The Contractor agrees to allow the above-listed parties to reproduce, excerpt, and/or transcribe such documents, papers, and other records by any means whatsoever. The Contractor also agrees to allow the above-listed parties such other access to records as may be necessary for compliance with applicable Federal Requirements.
- ii.) In accordance with 45 C.F.R. 75.364(c), all of the above-described rights of access to records shall last for as long as the records are retained by

the Contractor. The Contractor shall retain all such records for at least as long as is required under 45 C.F.R. 75.361.

iii.) In compliance with 45 C.F.R. § 75.342(e), the Contractor agrees to permit HHS to make site visits as needed.

(b) Regarding recovered materials:

i.) The Contractor agrees to comply with all applicable requirements of 45 C.F.R. 75.331; Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act and as further amended (42 U.S.C. § 6962); 40 C.F.R. Part 247, the United States Environmental Protection Agency's "Comprehensive Procurement Guideline for Products Containing Recovered Materials"; and Executive Order 12873.

(c) Regarding the procurement of subcontracts financed in whole or in part with the Funds:

i.) The Contractor agrees to comply with 45 C.F.R. 75.330 in procuring any subcontract financed in whole or in part with the Funds.

(d) The Contractor agrees to comply with and/or assist the County in complying with any and all applicable requirements of HHS.

The Contractor hereby represents and warrants that it has all information it needs regarding the Federal Requirements concerning reporting, patent rights, copyrights, and rights in data, and the Contractor understands and acknowledges that all such requirements and regulations are hereby incorporated into this Agreement by reference, and shall prevail over any conflicting term(s) of this Agreement.

The Contractor understands that the County has relied upon all materials and representations it has provided to the County concerning the Services and this Agreement in, a.) considering, among other things, whether the Contractor is capable of successfully performing under the terms and conditions of this Agreement; the Contractor's integrity and ethics; whether executing this Agreement with the Contractor is in compliance with public policy; the Contractor's record of past performance; and the Contractor's financial, administrative, and technical resources and capacity, b.) consequently determining that the Contractor is a responsible contractor, and c.) awarding this Agreement to the Contractor.

It is the intent and understanding of the County and Contractor that each and every

provision required by law, contract, or other proper authority to be included in this Agreement shall, for all intents and purposes, be considered and deemed included herein. The Contractor understands and acknowledges that for each and every such provision that has, through mistake or otherwise, either not been inserted in writing or been inserted in writing in an incorrect form, the Contractor hereby consents to amending this Agreement in writing, upon receipt of notice from the County, for the purpose of inserting or correcting the provision in question.

7. The Contractor expressly agrees 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 or Section 291 of the New York State Human Rights Law. The Contractor 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, contractors, or others.

8. (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 Contractor shall refrain and prevent the use by others under its control of official authority, influence or coercion to interfere with or affect elections or nominations for political office.

(c) The Contractor shall refrain from and prohibit any others receiving funds under this Agreement from attempting to coerce or advise other persons to contribute anything of value to a party, committee, organization, agency or person for political purposes, nor engage in any other partisan activities under its auspices. The Contractor shall refrain from using funds to advance any partisan effort.

(d) The Contractor 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 Contractor shall refrain from using funds to advance any sectarian effort.

9. (a) The Contractor acknowledges (i) that this Agreement may be funded in whole or in part with funds to be provided to the County under State or Federal program grants, (ii) that the County cannot insure that all of such funds as are presently earmarked by the County for use in connection with this Agreement will ultimately be delivered to the County by the relevant grantor, and (iii) that the County's obligation to pay the Contractor for expenditures which are to be reimbursed with such funds extends only to the extent that such funds are actually received by the County.

(b) The County shall have the right to terminate or modify this Agreement based on changes in the availability of State and/or Federal Funds.

10. (a) As a material element of this Agreement, the Contractor agrees to fully comply with the provisions required by NYSOFA concerning equal access to services, non-discrimination and concentration of services on target populations as more fully set forth in the Plan.

(b) Attached hereto and forming a part of Schedule "N" is the "Participant Contribution Standards." The Contractor shall provide participants an opportunity to voluntarily contribute to the cost of the service received, as appropriate. The Contractor shall use all collected contributions to expand the service for which the contributions were given to supplement the funds received under the Older Americans Act (OAA).

(c) The Contractor shall assist participants in taking advantage of benefits under other programs and assure that the services provided are coordinated and do not unnecessarily duplicate services provided by other sources.

11. Statistical information and supporting documentation concerning the Services conducted hereunder shall be provided to the County by the Contractor on request of the County. The Contractor shall provide the County with timely information needed to satisfy reporting

requirements as specified by NYSOFA. 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, municipal payment vouchers for governmental agencies and canceled checks for private agencies, as required.

The Programmatic monthly reporting system for Service Delivery Information and Service Recipient Information must be submitted electronically in PeerPlace or other NYSOFA approved electronic reporting system. The Department will notify those contractors that are exempt from submitting their reports through PeerPlace. Until further notice, all Contractors are 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 Contractor 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 Contractor 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 Contractor 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 "20" hereof.

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

12. The Contractor agrees to procure and maintain insurance naming the County 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 Contractor 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 Contractor 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 Contractor or third parties under the direction or control of the Contractor; 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 Contractor 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 Contractor 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.

13. Pursuant to Section 308.01 of the Laws of Westchester County, it is the goal of the County to use its best efforts to encourage, promote and increase the participation of business enterprises owned and controlled by women or persons of color in contracts and projects funded by all departments of the County. Schedule "D" is a Questionnaire entitled, "Business Enterprises Owned and Controlled by Women or Persons of Color." In furtherance of Section 308.01 of the Laws of Westchester County, the Contractor shall provide the County with a completed Schedule "D" that is either, a.) attached hereto, and made a part hereof, or b.) a Repository Document, and hereby incorporated by reference.

14. Schedule "E" is a questionnaire entitled, "Required Disclosure of Relationships to County." The Contractor shall provide the County with a completed Schedule "E" that is either, a.) attached hereto, and made a part hereof, or b.) a Repository Document, and hereby incorporated by reference.

In the event that any information provided in the Schedule "E" that is part of this Agreement must be changed during the term of this Agreement, Contractor agrees to notify County in writing within ten (10) business and either, a.) provide an updated paper version, or b.) provide an updated Repository Document.

The Contractor shall also have each approved subcontractor complete a separate Schedule

“E” and shall advise the subcontractor of the duty to report any changes to the information contained therein to the Contractor within ten (10) business days of such event and such information shall be forwarded by the Contractor to the County in the manner described above.

15. Schedule “F” is a form entitled, “Criminal Background Disclosure.” In compliance with Executive Order No. 1-2008, the Contractor shall provide the County with a completed Schedule “F” that is either, a.) attached hereto and made a part hereof, or b.) a Repository Document, and hereby incorporated by reference.

16. The Contractor agrees that any Program, public information materials, or other printed or published materials on the work of the Program which is supported with Title III-C funds will give due recognition to NYSOFA, the Department and HHS.

17. The Contractor shall be solely responsible for any over expenditure of funds and the County shall not be responsible for any over expenditure.

18. The Contractor shall provide adequate qualified and trained personnel for supervision and fiscal management of the Program.

19. The Contractor and the County agree that the Contractor and its officers, employees, agents, contractors, consultants and/or subcontractors are independent contractors and not employees of the County or any department, agency or unit thereof. In accordance with their status as independent contractors, the Contractor covenants and agrees that neither the Contractor nor any of its officers, employees, agents, contractors, consultants, and/or subcontractors will hold themselves out as, or claim to be, officers or employees of the County or any department, agency or unit thereof.

20. (a) The County, upon ten (10) days’ notice to the Contractor, may terminate this Agreement in whole or in part when the County deems it to be in its best interest. In such event, the Contractor 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 at the rates specified in Schedule “B.” Upon receipt of notice that the County is terminating this Agreement in its best interests, the Contractor shall stop work immediately and incur no further costs in furtherance of this Agreement without the express approval of the Commissioner, and the

Contractor shall direct any approved subcontractors to do the same.

In the event of a dispute as to the value of the work rendered by the Contractor prior to the date of termination, it is understood and agreed that the Commissioner shall determine the value of such Services rendered by the Contractor. The Contractor shall accept such reasonable and good faith determination as final.

(b) In the event the County determines that there has been a material breach by the Contractor of any of the terms of the Agreement and such breach remains uncured for forty-eight (48) hours after service on the Contractor 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 its completion, and any additional expense or cost of such completion shall be charged to and paid by the Contractor. Without limiting the foregoing, upon written notice to the Contractor, repeated breaches by the Contractor of duties or obligations under this Agreement shall be deemed a material breach of this Agreement justifying termination for cause hereunder without requirement for further opportunity to cure.

21. Failure of the County to insist, in any one or more instances, upon strict performance of any term or condition herein contained shall not be deemed a waiver or relinquishment of such term or condition, but the same shall remain in full force and effect. Acceptance by the County of any of the Services or the payment of any fee or reimbursement due hereunder with knowledge of a breach of any term or condition hereof, shall not be deemed a waiver of any such breach and no waiver by the County of any provision hereof shall be implied.

22. If equipment costing \$1,000.00 or more is purchased with any Federal or State funds under this 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 Contractor understands, acknowledges, and agrees that it shall have no ownership interest in such equipment.

23. 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 overnight courier), to the respective addresses 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.

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, Room 600
 148 Martine Avenue
 White Plains, New York 10601

To the Contractor:

24. The Contractor 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 Contractor shall also use all reasonable means to avoid any appearance of impropriety.

25. 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.

26. The Contractor shall ensure that where the State or local public jurisdiction requires licensure or certification for the provision of social services, the Contractor and its approved subcontractors providing such services under the approved the Plan shall be so licensed or certified. Workers delivering services must be appropriately qualified, selected trained and supervised.

27. All records or recorded data of any kind compiled by the Contractor in completing the

Services described in this Agreement, including but not limited to written reports, studies, drawings, blueprints, computer printouts, graphs, charts, plans, specifications and all other similar recorded data, shall become and remain the property of the County. The Contractor may retain copies of such records for its own use and shall not disclose any such information without the express written consent of the Commissioner. The County shall have the right to reproduce and publish such records, if it so desires, at no additional cost to the County.

Notwithstanding the foregoing, all deliverables created under this Agreement by the Contractor are to be considered "works made for hire." If any of the deliverables do not qualify as "works made for hire," the Contractor hereby assigns to the County all right, title and interest (including ownership of copyright) in such deliverables and such assignment allows the County to obtain in its name copyrights, registrations and similar protections which may be available. The Contractor agrees to assist the County, if required, in perfecting these rights. The Contractor shall provide the County with at least one copy of each deliverable.

The Contractor agrees to defend, indemnify and hold harmless the County for all damages, liabilities, losses and expenses arising out of any claim that a deliverable infringes upon an intellectual property right of a third party. If such a claim is made, or appears likely to be made, the Contractor agrees to enable the County's continued use of the deliverable, or to modify or replace it. If the County determines that none of these alternatives is reasonably available, the deliverable may be returned.

28. The Contractor shall not delegate any duties or assign any of its rights under this Agreement without the prior express written consent of the County. The Contractor shall not subcontract any part of the Services without the written consent of the County, subject to any necessary legal approvals. Any purported delegation of duties, assignment of rights or subcontracting of Services under this Agreement without the prior express written consent of the County is void. All subcontracts that have received such prior written consent shall provide that subcontractors are subject to all terms and conditions set forth in this Agreement. It is recognized and understood by the Contractor that for the purposes of this Agreement, all Services performed by a County-approved subcontractor shall be deemed Services performed by the Contractor and the Contractor shall insure that such subcontracted work is subject to the material terms and conditions of this Agreement.

If the Contractor enters into subcontracts for the performance of Services pursuant to this Agreement, all subcontract agreements for the Services shall expressly reference the subcontractor's duty to comply with the material terms and conditions of this Agreement and shall attach a copy of the Agreement and the Contractor shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract agreement shall impair the rights of the County under this Agreement or the Area Agency Plan as approved by NYSOFA. It shall be the responsibility of the Contractor to monitor and assess the activities performed under such subcontracts, and to ensure that these activities are provided in accordance with all applicable requirements contained in this Agreement and federal and state law.

The Contractor agrees that, to the extent it or its subcontractors, if any, maintains personal information relating to applicants or recipients of services pursuant to the contract, such information will be kept confidential and shared with the County; or with other entities upon the consent of applicant, recipient or an authorized representative of the applicant or recipient; or as required by federal or state laws.

29. Nothing herein is intended or shall be construed to confer upon or give to any third party or its successors and assigns any rights, remedies or basis for reliance upon, under or by reason of this Agreement, except in the event that specific third party rights are expressly granted herein.

30. The Contractor recognizes that this Agreement does not grant the Contractor the exclusive right to perform the Services for the County and that the County may enter into similar agreements with other Contractors on an "as needed" basis.

31. The Contractor hereby represents that, if operating under an assumed name, it has filed the necessary certificate pursuant to New York State General Business Law Section 130.

32. **Schedules "G," "H" and "I" are intentionally omitted**

33. All payments made by the County to the Contractor will be made by electronic funds transfer ("EFT") pursuant to the County's Vendor Direct Program. The Contractor acknowledges that it is already enrolled in the Vendor Direct Program and hereby agrees to immediately notify

the County's Finance Department in writing if the EFT Authorization Form on file must be changed, and provide an updated paper version of the document.

34. (a) The Contractor 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 Contractor agrees to complete the "Certification Regarding Debarment and Suspension," which is attached hereto and forming a part of Schedule "J." The Contractor 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 Contractor 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 Contractor 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 Contractor agrees that it shall immediately notify the County if it is so-excluded, or its exclusion appears likely.

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

Without limiting any of the foregoing, the Contractor 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 Contractor will submit an explanation of why it cannot provide this certification.

(b) Schedule "K" is intentionally omitted

(c) Schedule "L" is intentionally omitted.

(d) The County believes it is a laudable goal to provide business opportunities to veterans who were disabled while serving our country, and wants to encourage the participation in County contracts of certified business enterprises owned and controlled by service-disabled veterans. As part of the County's program to encourage the participation of such business enterprises in County contracts, and in furtherance of Article 17-B of the New York State Executive Law, the Contractor agrees to complete the questionnaire entitled Questionnaire Regarding Business Enterprises Owned and Controlled by Service-Disabled Veterans attached hereto as Schedule "M", as part of this Agreement.

35. This Agreement may be executed simultaneously in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. This Agreement shall be construed and enforced in accordance with the laws of the State of New York. In addition, the parties hereby agree that any cause of action arising out of this Agreement shall be brought in the County of Westchester.

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.

36. This Agreement shall not be enforceable until it is signed by both parties and approved by the Office of the County Attorney.

IN WITNESS WHEREOF, the County of Westchester and the Contractor have caused this Agreement to be executed.

THE COUNTY OF WESTCHESTER

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

CONTRACTOR:

[INSERT COMPANY NAME]

By _____
(Signature)

(Name)

(Title)

The foregoing Agreement was authorized by the Board of Acquisition and Contract of the County of Westchester at a meeting duly held on the _____ day of _____, 2021.

Approved as to form and manner of execution:

Assistant County Attorney
The County of Westchester

ACKNOWLEDGMENT

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

On the _____ day of _____ in the year 2021 before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she 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; and, acknowledged if operating under any trade name, that the certificate required by the New York State General Business Law Section 130 has been filed as required therein.

DRAFT

Signature and Office of individual
taking acknowledgement

INSERT SCHEDULES "A," "B" AND "C"

DRAFT

SCHEDULE "D"

QUESTIONNAIRE REGARDING BUSINESS ENTERPRISES OWNED AND CONTROLLED BY WOMEN OR PERSONS OF COLOR

As part of the County's program to encourage the meaningful and significant participation of business enterprises owned and controlled by persons of color or women in County contracts, and in furtherance of Section 308.01 of the Laws of Westchester County, completion of this form is required.

A "business enterprise owned and controlled by women or persons of color" means a business enterprise, including a sole proprietorship, limited liability partnership, partnership, limited liability corporation, or corporation, that either:

- 1.) meets the following requirements:
 - a. is at least 51% owned by one or more persons of color or women;
 - b. is an enterprise in which such ownership by persons of color or women is real, substantial and continuing;
 - c. is an enterprise in which such ownership interest by persons of color or women has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; and
 - d. is an enterprise authorized to do business in this state which is independently owned and operated.
- 2.) is a business enterprise certified as a minority business enterprise ("MBE") or women business enterprise ("WBE") pursuant to Article 15-a of the New York State Executive Law and the implementing regulations, 9 New York Code of Rules and Regulations subtitle N Part 540 et seq., **OR**
- 3.) is a business enterprise certified as a small disadvantaged business concern pursuant to the Small Business Act, 15 U.S.C. 631 et seq., and the relevant provisions of the Code of Federal Regulations as amended.

Please note that the term "persons of color," as used in this form, means a United States citizen or permanent resident alien who is and can demonstrate membership of one of the following groups:

- (a) Black persons having origins in any of the Black African racial groups;
- (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race;
- (c) Native American or Alaskan native persons having origins in any of the original peoples of North America; or
- (d) Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

1. Are you a business enterprise owned and controlled by women or persons of color in accordance with the standards listed above?

_____ No
_____ Yes

Please note: If you answered "yes" based upon certification by New York State and/or the Federal government, official documentation of the certification must be attached.

2. If you answered "Yes" above, please check off below whether your business enterprise is owned and controlled by women, persons of color, or both.

_____ Women
_____ Persons of Color (*please check off below all that apply*)
_____ Black persons having origins in any of the Black African racial groups
_____ Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race
_____ Native American or Alaskan native persons having origins in any of the original peoples of North America
_____ Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian sub-continent or the Pacific Islands

Name of Business Enterprise: _____

Address: _____

Name and Title of person completing questionnaire: _____

Signature: _____

Notary Public

Date

SCHEDULE "E"
REQUIRED DISCLOSURE OF RELATIONSHIPS TO COUNTY

A potential County contractor must complete this form as part of the proposed County contract.

- 1.) Are any of the employees that the Contractor will use to carry out this contract also a County officer or employee, or the spouse, child, or dependent of a County officer or employee?

Yes _____ No _____

If yes, please provide details (attach extra pages, if necessary): _____

- 2.) Are any of the owners of the Contractor or their spouses a County officer or employee?

Yes _____ No _____

If yes, please provide details (attach extra pages, if necessary): _____

- 3.) Do any County officers or employees have an interest¹ in the Contractor or in any approved subcontractor that will be used for this contract?

Yes _____ No _____

If yes, please provide details (attach extra pages, if necessary): _____

By signing below, I hereby certify that I am authorized to complete this form for the Contractor.

Name: _____

Title: _____

Date: _____

¹ "Interest" means a direct or indirect pecuniary or material benefit accruing to a County officer or employee, his/her spouse, child or dependent, whether as the result of a contract with the County or otherwise. For the purpose of this form, a County officer or employee shall be deemed to have an "interest" in the contract of:

- 1.) His/her spouse, children and dependents, except a contract of employment with the County;
- 2.) A firm, partnership or association of which such officer or employee is a member or employee;
- 3.) A corporation of which such officer or employee is an officer, director or employee; and
- 4.) A corporation of which more than five (5) percent of the outstanding capital stock is owned by any of the aforesaid parties.

SCHEDULE "F"

CRIMINAL BACKGROUND DISCLOSURE INSTRUCTIONS

Pursuant to Executive Order 1-2008, the County is required to maintain a record of criminal background disclosure from all persons providing work or services in connection with any County contract, including leases of County-owned real property and licenses:

- a.) If any of the persons providing work or services to the County in relation to a County contract are not subject to constant monitoring by County staff while performing tasks and/or while such persons are present on County property pursuant to the County contract; and
- b.) If any of the persons providing work or services to the County in relation to a County contract may, in the course of providing those services, have access to sensitive data (for example SSNs and other personal/secure data); facilities (secure facilities and/or communication equipment); and/or vulnerable populations (for example, children, seniors, and the infirm).

In those situations, the persons who must provide a criminal background disclosure ("Persons Subject to Disclosure") include the following:

- a.) Consultants, Contractors, Licensees, Lessees of County-owned real property, their principals, agents, employees, volunteers or any other person acting on behalf of said Contractor, Consultant, Licensee, or Lessee who is at least sixteen (16) years old, including but not limited to Subconsultants, subcontractors, Sublessess, or Sublicensees who are providing services to the County, and
- b.) Any family member or other person who is at least sixteen (16) years old, residing in the household of a County employee who lives in housing provided by the County located on County property.

Under Executive Order 1-2008, it is the duty of every County Consultant, Contractor, Licensee, or Lessee to inquire of each and every Person Subject to Disclosure and disclose whether they have been convicted of a crime or whether they are subject to pending criminal charges, and to submit this form with that information.² Accordingly, you are required to complete the attached Criminal Background Disclosure Form and Certification.

Please note that under no circumstances shall the existence of a language barrier serve as a basis for the waiver of or an exception from the disclosure requirements of Executive Order 1-2008. If translation services are required by the Consultant, Contractor, Licensee, or Lessee to fulfill this obligation, it shall be at the sole cost and expense of the Consultant, Contractor, Licensee, or Lessee.

Please also note that the conviction of a crime(s) and/or being subject to a pending criminal

² For these disclosures, a "crime" or "pending criminal charge" includes all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State.

charge(s) will not automatically result in a denial of a person's right to work on a County contract, right to be on County property, or license, but may, if the County determines that the prior conviction(s) or pending criminal charge(s) create an unacceptable risk. However, if a person fails to list or falsifies any part of his/her conviction history or any pending criminal charge(s) for any reason, he/she may be prohibited from working or being on County property without any risk assessment. If it is later determined that a Person Subject to Disclosure failed to disclose a criminal conviction or pending criminal charge for any reason, his/her right to work on a County contract, be on County property, or license may be terminated at any time.

Please further note that, pursuant to Executive Order 1-2008, and subject to the applicable provisions of New York Correction Law §§ 752 and 753, the County has the right to bar a Person Subject to Disclosure from providing work or services to the County or from being on County property if any such person has:

- a.) A conviction of a crime(s);
- b.) A pending criminal proceeding for a crime(s); or
- c.) Refused to answer questions concerning his/her criminal background

Please finally note that any failure by a County Consultant, Contractor, Licensee, or Lessee to comply with the disclosure requirements of Executive Order 1-2008 may be considered by the County to be a material breach and shall be grounds for immediate termination by the County of the related County contract.

Exemptions

Executive Order 1-2008 exempts from the aforementioned disclosure requirements Persons Subject to Disclosure:

- a.) for whom the County has already conducted a background check and issued a security clearance that is in full force and effect; and
- b.) for whom another state or federal agency having appropriate jurisdiction has conducted a security and/or background clearance or has implemented other protocols or criteria for this purpose that apply to the subject matter of a County contract that is in full force and effect.

If you are claiming an exemption for one or more Persons Subject to Disclosure, you must notify the Procuring Officer³. The Procuring Officer will then determine whether the Person(s) Subject to Disclosure are actually exempt, and provide written notification of his/her determination. If the Procuring Officer determines that a Person Subject to Disclosure is not exempt, the Procuring Officer will notify you of that determination, and you will have to include disclosures for that person on your Criminal Background Disclosure Form and Certification.

³ Procuring Officer" shall mean the head of the department or the individual or individuals authorized by the head(s) of the department(s) undertaking the procurement and with respect to those matters delegated to the Bureau of Purchase and Supply pursuant to Section 161.11(a) of the Laws of Westchester County, the Purchasing Agent.

Subconsultants, Subcontractors, Sublessees, or Sublicensees

Under Executive Order 1-2008, it is your duty to ensure that any and all approved subconsultants, subcontractors, sublessees, or sublicensees complete and submit the attached Criminal Background Disclosure Form and Certification for all of their respective Persons Subject to Disclosure. This must be done before such a subconsultant, subcontractor, sublessees, or sublicensees can be approved to perform work on a contract.

New Persons Subject to Disclosure

Under Executive Order 1-2008, you have a **CONTINUING OBLIGATION** to maintain the accuracy of the Criminal Background Disclosure Form and Certification (and any accompanying documentation) for the duration of this contract, including any amendments or extensions thereto. Accordingly, it is your duty to complete and submit an updated Criminal Background Disclosure Form and Certification whenever there is a new Person Subject to Disclosure for this contract. **NO NEW PERSON SUBJECT TO DISCLOSURE SHALL PERFORM WORK OR SERVICES OR ENTER ONTO COUNTY PREMISES UNTIL THE UPDATED CRIMINAL BACKGROUND DISCLOSURE FORM AND CERTIFICATION IS FILED WITH THE PROCURING OFFICER.** You shall also provide the County with any other updates that may be necessary to comply with the disclosures required by Executive Order 1-2008.

*PLEASE CONTINUE TO THE
Criminal Background Disclosure Form and Certification
BEGINNING ON THE NEXT PAGE*

Contract #: _____

Name of Consultant, Contractor, Lessee, or Licensee: _____

CRIMINAL BACKGROUND DISCLOSURE
FORM AND CERTIFICATION

If this form is being completed by a subconsultant, subcontractor, sublessee, or sublicensee, please consider all references in this form to "consultant, contractor, lessee, or licensee" to mean "subconsultant, subcontractor, sublessee, or sublicensee" and check here: _____

I, _____, certify that I am a principal or a
(Name of Person Signing Below)

representative of the Consultant, Contractor, Lessee, or Licensee and I am authorized to complete and execute this Criminal Background Disclosure Form and Certification. I certify that I have asked each Person Subject to Disclosure the following questions:

- **Have you or your company ever been convicted of a crime (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State) including, but not limited to, conviction for commission of fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property?**
- **Are you or your company subject to any pending criminal charges (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State)?**

I certify that the names and titles of Persons Subject to Disclosure who refused to answer **either** of the questions above are:

1. _____
2. _____
3. _____
4. _____
5. _____

(If more space is needed, please attach separate pages labeled "REFUSED to Answer - Continued.")

I certify that the names and titles of Persons Subject to Disclosure who answered "Yes" to either of the questions above are:

1. _____
2. _____
3. _____
4. _____
5. _____

(If more space is needed, please attach separate pages labeled "YES Answers - Continued.")

Each Person Subject to Disclosure listed above who has either **been convicted of a crime(s)** and/or **is subject to a pending criminal charge(s)** must answer additional questions. Those questions are below.

A Person Subject to Disclosure who has **been convicted of a crime(s)** must respond to the following (please attach separate pages with responses for each person, with their name and title):

- 1.) Describe the reason for being on County property if applicable, identify the specific duties and responsibilities on this project which you intend to perform for the County, including but not limited to, access to sensitive data and facilities and access to vulnerable populations.
- 2.) Please list all criminal convictions along with a brief description of the crime(s) (including all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State).
- 3.) Please provide the date and place of each conviction.
- 4.) Please provide your age at the time of each crime for which you were convicted.
- 5.) Please provide the legal disposition of each case.
- 6.) Please provide any information either produced by yourself or someone on your behalf in regards to your rehabilitation and good conduct.

A Person Subject to Disclosure who is **subject to a pending criminal charge(s)** must respond to the following (please attach separate pages with responses for each person, with their name and title):

- 1.) Describe the reason for being on County property and if applicable, identify the specific duties and responsibilities on this project which you intend to perform for the County, including but not limited to, access to sensitive data and facilities and access to

- vulnerable populations.
- 2.) Please identify all pending criminal charges (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State).
 - 3.) Please briefly describe the nature of the pending charges and the date upon which it is alleged that a crime was committed.

I hereby certify that all of the information provided herein (and in any and all attachments) is true and accurate and that all disclosures required by Executive Order 1-2008 and this Criminal Background Disclosure Form and Certification have been completed. By my signature below, I hereby affirm that all of the facts, statements and answers contained herein (and in any and all attachments) are true and correct. I understand that providing false or incomplete information or withholding by omission or intention pertinent information will be cause for refusing further consideration of my being utilized under this contract.

It is understood and agreed that no Person Subject to Disclosure shall perform work or services or enter onto County property until this required Criminal Background Disclosure Form and Certification is filed with the Procuring Officer.

It is understood and agreed that to the extent that new Persons Subject to Disclosure are proposed to perform work or provide services under this contract after filing of this Criminal Background Disclosure Form and Certification with the Procuring Officer, such new Persons Subject to Disclosure shall not perform work or provide services or enter into County property until an updated Criminal Background Disclosure Form and Certification has been filed with the Procuring Officer.

It is further understood and agreed that the consultant, contractor, lessee, or licensee has a continuing obligation to maintain the accuracy of the Criminal Background Disclosure Form and Certification for the duration of this contract, including any amendments or extensions thereto, and shall provide any updates to the information to the County as necessary to comply with the requirements of Executive Order 1-2008.

Name: _____

Title: _____

Date: _____

Notary Public

Date

SCHEDULES "G," "H" AND "I"
Intentionally Omitted

DRAFT

SCHEDULE "J"

Certification Regarding Debarment and Suspension

1) As required by Federal Executive Order 12549, and prescribed by federal regulations, including 48 CFR subpart 9.4, the Contractor certifies that it, and its principals:

(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 proposal been convicted of or had a civil judgement 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 application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

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

Date: _____

Signature

Name

Title

SCHEDULES "K" AND "L"
Intentionally Omitted

DRAFT

SCHEDULE "M"

**QUESTIONNAIRE REGARDING BUSINESS ENTERPRISES
OWNED AND CONTROLLED BY
SERVICE-DISABLED VETERANS**

The County believes it is a laudable goal to provide business opportunities to veterans who were disabled while serving our country, and wants to encourage the participation in County contracts of certified business enterprises owned and controlled by service-disabled veterans. As part of the County's program to encourage the participation of such business enterprises in County contracts, and in furtherance of Article 17-B of the New York State Executive Law, we request that you answer the questions listed below.

The term "Certified Service-Disabled Veteran-Owned Business" shall mean a business that is a certified service-disabled veteran-owned business enterprise under the New York State Service-Disabled Veteran-Owned Business Act (Article 17-B of the Executive Law).

1. Are you a business enterprise that is owned and controlled by a service-disabled veteran in accordance with the standards listed above?

_____ No
_____ Yes

2. Are you certified with the State of New York as a Certified Service-Disabled Veteran-Owned Business?

_____ No
_____ Yes

3. If you are certified with the State of New York as a Certified Service-Disabled Veteran-Owned Business, please attach a copy of the certification.

Name of Firm/Business Enterprise: _____

Address: _____

Name/Title of Person completing Questionnaire: _____

Signature: _____

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

Notary Public
Date: _____

SCHEDULE "N"

NEW YORK STATE OFFICE FOR THE AGING

Contributions and Other Program Income Policy

DRAFT

SCHEDULE "O"

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

DRAFT

