

**LEGAL NOTICE  
REQUEST FOR QUALIFICATIONS**

Pursuant to the rules and regulations set forth in the Workforce Innovation & Opportunity Act and pertinent regulations for other sources, the Suffolk County Department of Labor, Licensing & Consumer Affairs (SCDOLLCA), an equal opportunity employer, hereby solicits proposals for **On-the-Job Training Providers**. On-the-Job Training consists of occupational training that will be provided to trainees by the Contractor, including all qualified staff, instruction, services, books, materials, equipment, and supplies as necessary. The Contractor shall conduct trainee evaluations, monitor trainee progress, and self-monitor compliance with applicable laws, regulations, and the provisions as outlined in the Request for Qualifications (RFQ).

The County shall reimburse the Contractor for training expenses in accordance with authorized program parameters. Reimbursement of the total wages received by a trainee for the period covered by the training contract shall be at the percentage rate as prescribed and allowable through the various funding sources.

All proposals are subject to current and future Federal and New York State legislation and the rules and regulations promulgated thereunder. Proposals will be accepted from private sector employers, labor organizations, community-based organizations and other entities that demonstrate effectiveness and are interested in providing these services.

In choosing On-the-Job Training providers, preferential consideration will be given to organizations specializing in demand occupations and those targeted by the Long Island Regional Economic Development Council, such as construction, information technology, manufacturing, green technology and healthcare services, in addition to other criteria.

An RFQ package may be obtained from the SCDOLLCA website [www.suffolkcountyny.gov/labor](http://www.suffolkcountyny.gov/labor) or by contacting SCDOLLCA at (631) 853-6763, Monday through Friday between the hours of 8:30 a.m. and 4:00 p.m.

Completed proposals must be received by March 31, 2016 in order to be considered for initial funding. However, responses will be accepted after March 31, 2016 provided that funding is available. Completed proposals should be mailed to:

**Ms. Diane LaChapelle  
Suffolk County Department of Labor, Licensing & Consumer Affairs  
P.O. Box 6100  
Hauppauge, New York 11788-0099**

Proposers are advised that all services requested in the RFQ shall be provided to eligible individuals recruited and referred by Suffolk County's One-Stop Center.

**PLEASE NOTE:**

The RFQ does not commit the SCDOLLCA to award a contract, to pay any costs incurred in the preparation of a proposal to this request, or to procure or contract for services or supplies.

The SCDOLLCA reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with all qualified sources, or to cancel in part or in its entirety this RFQ if it is in the best interest of the County, the funded program, or the Department to do so or to request further information from any applicant.

**Request for Qualifications (RFQ)  
to provide On-the-Job Training for the Suffolk County Department of Labor,  
Licensing and Consumer Affairs**

**Responses must be submitted or postmarked no later than 3:00 p.m. on March 31, 2016  
to be considered for full funding in the first round of awards. However, responses will be accepted  
after March 31, 2016 provided that funding is available.**

**Technical questions submitted are due February 26, 2016**

**Number of copies of Responses to be submitted: One original plus two copies:**

**RFQ issued by the County of Suffolk  
Suffolk County Department of Labor, Licensing and Consumer Affairs  
P.O. Box 6100  
Hauppauge, New York 11788-0099**

**For additional information, contact:  
Diane LaChapelle, Director of Business Services**

**Direct Tel.: (631) 853-6763  
Main Tel.: (631) 853-6600  
Fax: (631) 853-6585  
Email Address: [diane.lachapelle@suffolkcountyny.gov](mailto:diane.lachapelle@suffolkcountyny.gov)  
Accessing Website: [www.suffolkcountyny.gov/labor](http://www.suffolkcountyny.gov/labor)**

**All packages containing Responses must clearly state “RFQ: On-the-Job Training” on each  
outer mailing envelope or packing box.**

**The Original Response and also each required copy must be clearly marked with the RFQ No. on  
the outer binder or cover page. The Original Response must be labeled “Original” and must  
contain the original, ink-signed, County-required Compliance Forms and transmittal letter, in  
addition to your Response.**

**All extra sets must be photocopies of the ENTIRE original Response submitted, including the  
transmittal letter and all required County Compliance forms.**

**Do not return this RFQ document or the sample “Model Agreement.” Keep them for your  
reference.**

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**Section I**

**Administrative Information**

**1. Purpose of RFQ**

The County of Suffolk ("County"), acting through its duly constituted Suffolk County Department of Labor, Licensing and Consumer Affairs ("Department") invites responses ("Responses") from qualified responders ("Responders") for On-the-Job Training ("Services").

**2. Coordination**

The Department is responsible for coordinating the issuance of this RFQ. The name of the Department's primary contact for this RFQ is set forth on page one of this RFQ. The Department will be responsible for coordinating with the Suffolk County Attorney's Office and the Responder regarding the negotiation and execution of the contract. The Department will be responsible for administration of the Responder's contract.

**3. Background Information**

- a. Suffolk County, with a population of 1.5 million, is Long Island's eastern-most county, covers an area approximately 900 square miles, 20 miles at its widest part and approximately 86 miles in length.
- b. The County of Suffolk is a municipal corporation of the State of New York with an annual operating budget of approximately \$2.6 billion. The County employs approximately 12,000 employees, with main offices located in Hauppauge, Yaphank, Riverhead, and several smaller locations.

**4. Evaluation Committee and Award of Contract**

The RFQ Evaluation Committee will include representatives of the Department. The Suffolk County Department of Law acts as counsel to the Evaluation Committee, but does not vote in the selection process. The award of any contract will be made in the best interest of the County.

**5. Questions and Comments**

**a. Administrative Questions**

Administrative questions (e.g. procedural questions on how to respond to this RFQ) may be submitted by telephone or in writing (fax/email acceptable) to the contact person listed on page one of this RFQ.

**b. Technical Questions**

Technical questions (questions which are specific to the service requested in this RFQ) during the first round of this RFQ must be submitted in writing (fax/email acceptable) on or before the date set forth on page one of this RFQ, to the attention of the contact person listed on page one of this RFQ. Responses to such technical questions will be developed by the Department and issued in the form of an Addendum to this RFQ.

- c. No questions or comments should be directed to any County employee or any consultant to the County regarding this RFQ during the RFQ process, except as set forth in sub-paragraphs 5.a and 5.b above or as may be requested or permitted by the Department and/or the Suffolk County Department of Law. Failure to comply may result in disqualification.

**6. Due Date for Responses**

Responses in the first round of awards must be submitted to the attention of the contact person listed on page one of this RFQ by the time and date set forth on page one of this RFQ. Responses will be accepted after the initial due date provided that funding is available. The Department may thereafter solicit and accept responses from additional vendors as needed.

**7. Number of Copies of Response**

**One** original and **two** (2) copies are required for each of the items listed in paragraph 10 entitled Response Format.

Do not submit Responses that are permanently bound.

**8. RFQ Policies and Procedures**

- a. It is the County's intent to select the Responder(s) that provides the best solution for the County's needs.
- b. The contract will be in the general format set forth in the Section entitled "Model Agreement," but will be subject to final contract negotiations.
- c. The County reserves the right to amend this RFQ. The County reserves the right to reject any or all of the Responses, or any part thereof, submitted in response to this RFQ, and reserves the right to waive formalities if such action is deemed to be in the best interest of the County. The County reserves the right to request additional information from any Responder. The County reserves the right to award negotiated contracts to one or more Responders.
- d. This RFQ is not intended and shall not be construed to commit the County to pay any costs incurred in connection with any Response or to procure or contract for any services.
- e. The decision to award a contract shall be based on the ability of the Responder to provide quality and needed services and to comply with all applicable laws, rules, and regulations.
- f. The award of any contract will be made in the best interest of the County.
- g. Each Response will be examined to determine whether it is responsive to the requirements of this RFQ. All responsive proposals will be evaluated in accordance with the above criteria.
- h. While the County is under no obligation to contact Responders for clarifications, it reserves the right to do so. Depending on the number and quality of the Responses submitted, the County, at the sole discretion of the Evaluation Committee, may elect to interview all or some of the Responders during the selection process and to request presentations.

**9. RFQ Posted On Department Website**

Copies are available on-line at the Department's website:

[www.suffolkcountyny.gov/labor](http://www.suffolkcountyny.gov/labor)

**10. Response Format**

Responses must include the following:

**a. Transmittal Letter (one original plus number of copies listed on page one)**

A transmittal letter is a letter on the Responder's stationery. A corporate officer or an authorized agent of the Responder must sign the transmittal letter. The transmittal letter must state the contact person who will be responsible for answering all questions of the RFQ Evaluation Committee. Include the telephone number, fax number, and email address for such contact person.

**b. Responder Profile/Response to Questions set forth in the RFQ Section II, entitled "Responder Profile"**

This section will be used in the department's evaluation of the Responder's general qualifications.

**c. Responder's Proposed Technical Services/Response to items set forth in the RFQ Section III, entitled "Technical Response Requirements"**

This section will be used in the Department's evaluation of the Responder's proposed technical services.

**d. Conflict of Interest**

Responders must disclose to the County the existence of any conflicts of interests, whether existing or potential. If none exist, state so. Responses shall disclose:

- i. Any material financial relationships that the Responder or any employee of the Responder has that may create a conflict of interest in acting as a Contractor for Suffolk County.
- ii. Any family relationship that the Responder or any employee of the Responder has with any County employee that may create a conflict of interest or the appearance of a conflict of interest acting as a Contractor for Suffolk County.
- iii. Any other matter that the Responder believes may create a conflict of interest or the appearance of a conflict of interest acting as a Contractor for Suffolk County.

**11. Contract Terms and Conditions**

- a. Reference is made to the "Model Agreement" set forth in Section V. The Model Agreement is subject to revision arising out of the terms and conditions imposed by law and/or deemed appropriate by the County Attorney's Office.

- b. **The Responder should not return the Model Agreement with its Response. The Model Agreement is for your information.**
- c. The Model Agreement is included to illustrate general terms and conditions, including indemnification and insurance, which will be included in the contract when executed. If the Responder has a concern or question as regards any of the terms and conditions included in the Model Agreement, the Responder should note such concerns or questions with their Response.
- d. The Term of Agreement (including option years, if applicable) shall be as set forth on page one of the Model Agreement.
- e. The County will execute a contract with principal contractors only. Any arrangements, including fee arrangements, partnerships, or collaborations between the principal contractor and subcontractors that provide services as part of the Response, must be fully disclosed in the Response.

**12. Use of County Resources to Interfere with Collective Bargaining Activities  
Local Law No. 26-2003**

Responders are advised that the efficient, timely, and nondisruptive provision of goods and services is a paramount financial interest of the County and, as such, the County requires the potential Contractor to protect the County's financial interest by adopting non-confrontational procedures for the orderly resolution of labor disputes, including but not limited to, neutrality agreements, majority authorization card agreements, binding arbitration agreements, fair communication agreements, nonintimidation agreements, and reasonable access agreements.

**13. Non-Responsible Bidder Certification  
Local Law 25-90**

The Responder, upon submission of his/her or their Response, understands that he/she or they will be required to set forth whether or not he/she or they have been convicted of a criminal offense within the last ten (10) years. The term "conviction" shall mean a finding of guilty after a trial or a plea of guilty to an offense covered under the provision of Section 143-5 of the Suffolk County Code under "Nonresponsible Bidder." The Responder must read and be familiar with the provisions of Suffolk County Code Sections 143-4 through 143-9.

**14. Effective Period of Responses**

All proposals must state the period for which the proposal shall remain in effect (i.e., how much time the County has to accept or reject the proposal under the terms proposed). Such period shall not be less than 180 days from the proposal date.

**15. NYS Freedom of Information Law (FOIL)**

All submissions for the Counties' consideration will be held in confidence pending final execution of the contract(s). However, fully executed contracts are subject to the New York State Freedom of Information Law (FOIL), codified at Public Officers Law Article 6. Therefore, if a Responder believes that any information in its submission constitutes a trade secret or is otherwise information which, if disclosed would cause substantial injury to the competitive position of the Responder's enterprise, and the Responder wishes such information to be withheld if requested pursuant to FOIL, the Responder shall submit with its Response a separate letter addressed to the primary contact referenced in this RFP, specifically identifying the page number(s), line(s) or other appropriate designation(s) of the

Response containing such information, explaining in detail why such information is a trade secret or is other information which if disclosed would cause substantial injury to the competitive position of the Responder's enterprise, and formally requesting that such information be kept confidential. Failure by a Responder to submit such a letter with its submission will constitute a waiver by the Respondent of any interest in seeking exemption of this information under Article 6 of the Public Officers' Law relating to protection of trade secrets. The proprietary nature of the information designated confidential by the Responder may be subject to disclosure if it is requested and the County deems it subject to disclosure or if ordered by a court of competent jurisdiction. A request that an entire Response be kept confidential may not be considered reasonable since a submission cannot reasonably consist of all data exempt from FOIL.

**15. Nondiscrimination & Equal Opportunity Assurance**

As a condition to the award of financial assistance from the Department of Labor under Title I of WIOA, the Contractor assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

- (1) Section 188 of the Workforce Innovation & Opportunity Act (WIOA) which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age disability, political affiliation, or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I - financially assisted program or activity;
- (2) Title VI of the Civil Rights Act of 1964, as amended which prohibits discrimination on the basis of race, color, and national origin;
- (3) Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
- (4) The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
- (5) Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

The Contractor also assures that it will comply with 29 CFR Part 37 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIOA Title I - financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIOA Title I-financially assisted program or activity. The grant applicant understands that the United States has the right to seek judicial enforcement of this assurance.

**End of Text for Section I**



## Section II Responder Profile

### 1. General Information

- a. Full name and address.
- b. Year founded and brief history.
- c. Total number of employees.
- d. Location(s) from which all services will be performed.
- e. Describe the nature of your organization (e.g. municipal corporation, business corporation, not-for-profit corporation, proprietorship, etc.).

### 2. Responder's History

Outline your experience, if any, with other OJT Programs including the client population served and the length of time of providing such services.

### 3. Qualifications and Experience of Personnel

Provide resumes of the project director and other key staff who will be assigned to this project. Describe the qualifications and background of your staff, in so far as they relate to this project (e.g., education, experience).

### 4. Indebtedness to County, Liens and Litigation

Submit the following:

- a. a statement as to indebtedness, if any, to the County and;
- b. a listing of all outstanding liens, if any, against the Responder and;
- c. a summary of litigation, if any, against the Responder and outcome or its disposition of such litigation.

### 5. Other Contracts with the County

Provide a list of all contracts with the County of Suffolk within the last five years (regardless of type of service) and the time period for those services.

**End of Text for Section II**

### Section III Technical Response Requirements

#### 1. Background Information and Overview

The Department, an equal opportunity employer and designated program operator and fiscal agent for the Suffolk County Workforce Innovation and Opportunity Act (WIOA), provides employment and training services to eligible individuals such as dislocated workers and economically disadvantaged adults, as well as other individuals referred by the Department. These services are designed to increase employment and productivity by improving the skills of eligible individuals to match the requirements of the local economy. Programs are funded primarily with Federal and State grants and through other funding sources administered by the Department and are administered in conjunction with guidance provided by the Suffolk County Workforce Development Board (SCWDB). The SCWDB is comprised of individuals from the public and private sector and individuals representing labor, education, and community based organizations.

The Department will retain sole authority for the recruitment, eligibility determination, and selection of individuals referred for hire.

#### 2. Services Covered by this RFQ

The Department invites responses from qualified employers that desire to provide On-the-Job Training (OJT) as further described in this RFQ. To the greatest degree possible, preference will be given to occupational skill training that aligns with the Long Island Regional Economic Development Council (LIREDC) identified "priority industries" and "demand occupations" as identified by the New York State Department of Labor (NYSDOL). These industries/occupations include but are not limited to: Healthcare, Manufacturing, Green industries, Tourism, Biotechnology, Information Technology and Construction.

While the Department is under no obligation to contact firms for clarifications, it reserves the right to do so. Depending on the number and quality of the responses submitted, the Department may elect to interview all or some of the Responders during the selection process. In so doing, the Department may want the opportunity to review personnel records, policy and procedure manuals, training programs, as well as the day-to-day operations of the Responder.

#### 3. Contract Conditions

Respondents shall indicate their ability to provide the following:

- i. Once included in the approved inventory of services, the Department reserves the right to utilize services resulting from this RFQ at any time. It is anticipated that initial contracts will have a start date of on or about July 1, 2016 and shall continue through June 30, 2020. The contract will be subject to funding availability and contractual performance as prescribed by the SCWDB.

Refer to the Model Agreement in Section VII of this RFQ for the responsibilities of the contractor and for the detailed terms and provisions of the contract to be entered into.

- ii. Employers will provide proof of wage rate paid and hours worked for the training period. Attendance records and qualitative and quantitative measures of the participant's progress shall be completed by the training provider and provided to the Department.

The Department may assign staff to visit the employer to counsel participants, evaluate their progress, and complete an OJT On-site Monitoring Report (DOL-K98).

Additional follow-up reports must be provided in accordance with local, state, and federal guidelines.

- iii. Proposed training plan will include trainee and employer contact information, a description of training, job title, O\*NET code, total number of hours, estimated start and end dates.

The training outline will include the trainer name, skills to be learned, and estimated training hours.

- iv. The County's intent is to pay the Contractor as follows:
  - a. Reimbursement for costs associated with training will be made at the completion of training. Reimbursement level will be determined based on wage rate, number of training hours as established by O\*NET, and percentage of reimbursement. Please refer to Schedule 2, entitled "Training Description & Specific Payment Terms" set forth at the end of the Model Agreement.
  - b. The County reserves the right to change these payment structures, as may be appropriate. Prior to award of a contract, contractors will be notified of any changes. After contract execution, Contractors will have the option of terminating their contract if they choose to not accept proposed changes to payment terms.

#### 4. Requirements

##### a. Qualifications

Qualifications shall include, at a minimum, but are not limited to:

OJT refers to training by an employer that is provided to a paid participant while engaged in productive work in a job that: provides knowledge or skills essential to the full and adequate performance of the job; provides reimbursement of a predetermined percentage of the wage rate of the participant for the extraordinary costs of providing the training and additional supervision related to the training; is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate.

The employer agrees to provide a qualified supervisor(s) to conduct the training detailed in the contract and training outline (as described on page 10) to ensure that the trainee is provided with the necessary skills and knowledge essential to the full and adequate performance of the job. The employer understands that the goal of the program is to enhance the trainee's prospects of continuing permanent, full-time employment upon successful completion of the OJT program. This agreement must be executed prior to the trainee's first day of work.

##### b. Responder Eligibility

- i. Responder must be a business (private sector, or not-for-profit) located within Suffolk or Nassau Counties. *Please note: If funding is limited priority will be given to businesses with locations within Suffolk County.*
- ii. Responder must be able to demonstrate the necessary administrative and operational capabilities needed to conduct the proposed program.
- iii. Responder must provide assurances and/or documentation that it:
  - is accessible to individuals with disabilities (when applicable)
  - has proof of adequate liability insurance (\$2,000,000)
- iv. Responder must assure compliance with applicable requirements of the Workforce Innovation and Opportunity Act and the regulations and policies promulgated therein, or other funding source regulations. These regulations are available for your review at the Suffolk County Department of Labor, Licensing and Consumer Affairs. The Responders will be bound by the terms of the contract as negotiated and executed.

**End of Text for Section III**

## Section IV Responder Qualifications and Eligibility and Training Requirements

**Respondents must submit answers and/or assurances, as applicable, to all items listed below.**

### **Business Assurances Required by the Suffolk County Department of Labor**

- The applicant must be a business (private sector, for-profit or not-for-profit) and have a valid Federal Employer Identification Number (FEIN).
- The applicant must be offering a job opportunity for full-time employment (defined as 35 hours or more per week) in Suffolk County that pays a minimum of \$11.93 hour and provides health benefits equal to those of his/her co-workers. The rate is in accordance with Suffolk County's Living Wage for 2016 and changes annually. Current Living Wage rate can be found at: <http://www.suffolkcountyny.gov/Departments/Labor/LivingWage.aspx>
- The trainees targeted under this application must be employees of the business; they cannot be independent contractors or contract employees.
- Seasonal positions or positions based on the addition of commission or tips to a sub-minimum wage base salary are not eligible for OJT.
- The business has not laid off any employees during the past six months.
- The applicant business must be able to respond "No" to all questions contained within the Responsibility Questionnaire (see Section V).
- The applicant business must make the following assurances:

### **Business Assurances Required by the New York State Department of Labor**

- The business' intention in hiring an employee is for the newly hired employee to remain employed with the business upon completion of the OJT.
- OJT will take place during the employee's work hours (i.e., during the shift/hours for which the employee was hired) and the employee will be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience and skills.
- No currently employed workers will be displaced by OJT trainee(s), including a partial displacement such as a reduction in the hours, wages, or employment benefits.
- The OJT contract does not infringe in any way upon the promotional opportunities of current employees not involved in OJT.
- Funds provided to the business to reimburse the costs associated with OJT may not be used to assist, promote or deter union organizing.
- The business will comply with all applicable employment-related federal, state and local laws and regulations.
- The training activity will not impair an existing contract for services or collective bargaining agreement, and/or that no activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and the business.

- No member of the OJT employee's immediate family will directly supervise the OJT employee, nor will the trainee supervise an immediate family member. For the purpose of this contract, immediate family is defined as spouse, children, parents, grandparents, grandchildren, brothers, sisters or persons bearing the same relationship to the OJT employee's spouse.
- OJT trainee(s) will not be employed to carry out the construction, operation or maintenance of any part of a facility that is used or to be used for sectarian instruction or as a place for religious worship, or required to participate in political activities.
- The business agrees to adhere to the SCWDB's grievance process if a complaint arises in connection with the OJT employee and the training.
- The SCWDB, NYSDOL, or USDOL may inspect and monitor any records or activities pertaining to the OJT contract at any time during normal business hours, and as often as deemed necessary. Such inspection shall be made to determine whether the business is in compliance with the terms and provisions of this contract and the OJT participant is making sufficient progress.
- The award will be reimbursement for extraordinary training and/or supervisory expenses for the placed trainee and will be based on a percentage of wages earned by the trainee;
- The business will comply with New York State labor law and federal law for the protection of workers;
- The business has not relocated all or part of its business within the previous 120 days, where the relocation action has resulted in the loss of employment of any employee at the original location.

Employers who are unsuccessful in transitioning OJT participants to permanent employment will not be eligible for future OJT opportunities. Companies will be held accountable to a level of performance that is equal to the Adult Employment Retention Rate (currently 60%) that the Suffolk County One-Stop is responsible for achieving for all customers that enter employment. Exceptions can be made by the Director of BSU for failures which were beyond the control of the applicant company.

OJT contracts will, to the greatest degree possible, be directed to employers that: are able to provide occupational skill training and full-time employment that leads to self-sufficiency for trainees; propose training in demand occupations; propose training that reflects the locally targeted high growth industry sectors (as described in Section III, 2), can provide the appropriate supervision and training for participants, and that have a proven record of retention.

The outline will be a formal written description of the structured job training that will detail a combination of instruction in work maturity skills, general employment competencies and occupationally specific skills. OJT providers will be instructed to use O\*NET and/or a company job description as a basis to begin listing skills or tasks. Each skill description will be concise and comprehensive and allow each task to be measurable and observable.

### **Training Requirements**

Employers will develop a formal and written training outline (see schedule 3 of contract). This document will be specific to each job title and clearly state the skills to be learned during the training period. It must list these skills in the sequence in which they are to be taught and identify the approximate number of hours of training time to be devoted to each, along with the learning objective and the method of measurement used to determine results. OJT providers are encouraged to use O\*NET and/or a company job description as a basis to begin listing skills and tasks. Each skill description should be comprehensive and concise.

The OJT contract training plan should take into consideration the skill requirements of the occupation, the academic and occupational skill level of the participant and his/her prior work experience. All workers will not have the same skills, therefore, individual OJT contracts may not have the same curriculum or duration for the same position.

Pay levels will vary with each position, however, the minimum wage rate for OJT consideration is \$11.93 per hour for 2016.

The maximum OJT award amount is \$5,000.00 per training slot and will be limited to 6 months duration or less, if specified by O\*NET. There is no minimum amount. Training reimbursement will only be made if the trainee completes a minimum of eighty (80) hours with the employer. There is a maximum award amount of \$50,000.00 per business, per program year (July1 – June 30).

Contracts may be monitored by the Department to ensure compliance with contract terms. Each contract recipient will receive an on-site visit at least once during the training period. Department staff will verify that the participant is receiving the agreed upon training, and not engaging in any prohibited activities.

The participants' attendance record will be reviewed to ensure they are fully engaged in training and that they are receiving the agreed upon wages.

**End of Text for Section IV**

**Section V**  
**Responsibility Questionnaire**

**Instructions** – Please answer all questions. A "Yes" answer to any part of questions 1-5 requires a written explanation to be prepared on company letterhead, signed by an officer of the company, and attached to the completed questionnaire.

1. Within the past five years, has your firm, any affiliate<sup>1</sup>, any principal, owner or officer or major stockholder (10% or more shares) or any person involved in the bidding or contracting process been the subject of any of the following:
  - a. A judgment or conviction for any business-related conduct constituting a crime under local, state or federal law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing, or bid collusion or any crime related to truthfulness and/or business conduct?  
 Yes  No
  - b. A criminal investigation or indictment for any business-related conduct constituting a crime under local, state or federal law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing, or bid collusion or any crime related to truthfulness and/or business conduct?  
 Yes  No
  - c. An unsatisfied judgment, injunction or lien obtained by a government agency including, but not limited to, judgments based on taxes owed and fines and penalties assessed by any local, state or federal government agency?  
 Yes  No
  - d. An investigation for a civil violation for any business-related conduct by any local, state or federal agency?  
 Yes  No
  - e. A grant of immunity for any business-related conduct constituting a crime under local, state or federal law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing, or bid collusion or any crime related to truthfulness and/or business conduct?  
 Yes  No
  - f. A local, state or federal suspension, debarment or termination from the contracting process?  
 Yes  No

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<sup>1</sup> "Affiliate" meaning: (a) any entity in which the vendor owns more than 50% of the voting stock; (b) any individual, entity or group of principal owners or officers who own more than 50% of the voting stock of the vendor; or (c) any entity whose voting stock is more than 50% owned by the same individual, entity or group described in clause (b). In addition, if a vendor owns less than 50% of the voting stock of another entity, but directs or has the right to direct such entity's daily operations, that entity will be an "affiliate" for purposes of this questionnaire.



- g. A local, state or federal contract suspension or termination for cause prior to the completion of the term of a contract?  
 Yes  No
- h. A local, state or federal denial of a lease or contract award for non-responsibility?  
 Yes  No
- i. An agreement to voluntary exclusion from bidding/contracting?  
 Yes  No
- j. An administrative proceeding or civil action seeking specific performance or restitution in connection with any local, state or federal contract or lease?  
 Yes  No
- k. A local, state or federal determination of a willful violation of any prevailing wage law or a violation of any other labor law or regulation?  
 Yes  No
- l. A sanction imposed as a result of judicial or administrative proceedings relative to any business or professional license?  
 Yes  No
- m. A denial, decertification, revocation or forfeiture of Women's Business Enterprise, Minority Business Enterprise or Disadvantaged Business Enterprise status?  
 Yes  No
- n. A rejection of a low bid on a local, state or federal contract for failure to meet statutory affirmative action or MWBE requirements on a previously held contract?  
 Yes  No
- o. A consent order with the New York State Department of Environmental Conservation, or a federal, state or local government enforcement determination involving a violation of federal, state or local government laws?  
 Yes  No
- p. An Occupational Safety and Health Act citation and Notification of Penalty containing a violation classified as serious or willful?  
 Yes  No
- q. A rejection of a bid on a New York contract or lease for failure to comply with the MacBride Fair Employment Principles?  
 Yes  No
- r. A citation, notice, violation order, pending administrative hearing or proceeding or determination for violations of:
- federal, state or local health laws, rules or regulations

- unemployment insurance or workers' compensation coverage or claim requirements
- ERISA (Employee Requirement Income Security Act)
- federal, state or local human rights laws
- federal or state security laws
- federal INS and Alienage laws
- Sherman Act or other federal anti-trust laws?

Yes  No

s. A finding of non-responsibility by an agency or authority due to the failure to comply with the requirements of Tax Law Section 5-a?

Yes  No

2. Has the vendor been the subject of agency complaints or reports of contract deviation received within the past two years for contract performance issues arising out of a contract with any federal, state or local agency? If yes, provide details regarding the agency complaints or reports of contract deviation received for contract performance issues.

Yes  No

3. Does the vendor use, or has it used in the past five (5) years, an Employee Identification No., Social Security No., Name, DBA, trade name or abbreviation different from that listed on your mailing list application form? If yes, provide the name(s), FEIN(s) and d/b/a(s) and the address for each such company and d/b/a on a separate piece of paper and attach to this response.

Yes  No

4. During the past three years, has the vendor failed to file returns or pay any applicable local, state or federal government taxes?

Yes  No

If yes, identify the taxing jurisdiction, type of tax, liability year(s) and tax liability amount the company failed to file/pay and the current status of the liability:

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5. During the past three years, has the vendor failed to file returns or pay New York State Unemployment Insurance?

Yes  No

If yes, indicate the years the company failed to file/pay the insurance and the current status of the liability:

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6. Have any bankruptcy proceedings been initiated by or against the vendor or its affiliates within the past seven years (whether or not closed) or is any bankruptcy proceeding pending by or against the vendor or its affiliates, regardless of the date of filing?

Yes  No

If yes, indicate if this is applicable to the submitting vendor or one of its affiliates:

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If it is an affiliate, include the affiliate's name and FEIN:

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Provide the court name, address and docket number:

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Indicate if the proceedings have been initiated, remain pending or have been closed:

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If closed, provide the date closed: \_\_\_\_\_

**Certification:**

The undersigned: recognizes that this questionnaire is submitted for the express purpose of assisting the State of New York or its agencies or political subdivisions to make a determination regarding the award of a contract or approval of a subcontract; acknowledges that the State or its agencies and political subdivisions may in its discretion, by means which it may choose, verify the truth and accuracy of all statements made herein; acknowledges that intentional submission of false or misleading information may constitute a felony under Penal Law Section 210.40 or a misdemeanor under Penal Law Section 210.35 or Section 210.45, and may also be punishable by a fine of up to \$10,000 or imprisonment of up to five years under 18 USC Section 1001 and may result in contract termination; and states that the information submitted in this questionnaire and any attached pages is true, accurate and complete.

The undersigned certifies that he/she:

- Has not altered the content of the questions in the questionnaire in any manner;
- Has read and understands all of the items contained in the questionnaire and any pages attached by the submitting vendor;
- Has supplied full and complete responses to each item therein to the best of his/her knowledge, information and belief;
- Is knowledgeable about the submitting vendor's business and operations;
- Understands that New York State will rely on the information supplied in this questionnaire when entering into a contract with the vendor; and
- Is under a duty to notify the procuring State Agency of any material changes to the vendor's responses herein prior to the State Comptroller's approval of the contract.

_____ Name of Business	_____ Signature of Officer	Principal place of business if different from address listed above (include complete address):
_____ Address	_____ Typed Copy of Signature	
_____ City, State, Zip	_____ Title	
_____	_____	
_____	_____	
_____	_____	
_____	_____	

**End of Text for Section V**

## Section VI SCDOLLCA Evaluation

The review process is comprised of Responder eligibility requirements and qualifications. The categories will be reviewed in sequential order.

The Responder eligibility requirements, found in Section 1 below, are derived from a combination of federal, state and county laws, regulations, and rules, as well as SCDOLLCA policies. A Responder must obtain a positive response to each question within this section to proceed to the vendor qualification category of the evaluation process.

1. **Responder Eligibility Requirements** - A "Yes" response to all questions is required before a proposal will be considered.
  - a. Is the Responder a business, (private for profit or not for profit) with a Federal Employment Identification Number, not a publicly funded organization?
  - b. Will the Respondent offer the trainee a job opportunity for full-time employment when the training is completed, that pays a minimum of \$11.93 per hour (Suffolk County Living Wage. See Section IV.) and provides health benefits equal to those of his/her co-workers?
  - c. Does the Respondent agree that no currently employed worker will be displaced by the newly hired OJT employee?
  - d. Has the Responder provided assurances and/or documentation that their facilities have adequate liability insurance coverage (\$2,000,000)?
  - e. Does the Responder certify that they have not relocated all or part of their business within the previous 120 days where the relocation action has resulted in the loss of employment of any employee at the original location?
  - f. Does the Responder agree that the training is not for a seasonal position or positions based on the addition of commission or tips to a sub-minimum wage based salary?
  - g. Has the Responder answered 'no' to all items on the Responsibility Questionnaire, or provided written explanation of any "yes" answer?
2. **Responder Qualification** - Qualifications will be rated on a numerical scale, in which a superior response would be rated "5" and an unacceptable response "0". A rating of 11 points or higher is required to be considered qualified.
  - a. Does the Responder have the experience, organizational structure, and personnel qualified to provide the services being procured? Were all applicable licenses and certifications submitted with the proposal? (5 points maximum)
  - b. Do the Responder's accounting and reporting systems meet acceptable accounting standards in order to comply with program management and performance requirements under federal regulations and state/local guidelines? (5 points maximum)
  - c. Are the Responder's facilities accessible to individuals with disabilities where applicable? (5 points maximum)

- 3. Training Review and Evaluation** - Only Responders determined to be qualified will be reviewed in this section. Criteria will be rated on a numerical scale, in which a superior response would be rated "5" and an unacceptable response rated "0". The SCDOLLCA will consider a Responder for On-the-Job Training if it receives a rating of 21 points or higher based on the criteria established below:
- a.** Does the proposed training provide occupational skills or industry-recognized certification necessary for continued employment? Employers/Respondents providing jobs in demand occupations (described in Section III, 2), as identified by the LIRECD and/or NYSDOL will receive higher evaluation level. (5 points maximum)
  - b.** Has the Responder established a training outline or will agree to establish an outline that is in concurrence with O\*NET guidelines? Higher point level will be considered for Employers/Respondents who have a training outline already in place and who have demonstrated the ability to carry out an effective training program. (5 points maximum)
  - c.** Does the training outline that the Responder is proposing list the specific skills or tasks that the employer agrees to provide to the participant, estimate the training hours for each skill, and acknowledge the progress, learning objective, performance level, and the methods used to measure them? (5 points maximum)
  - e.** Has the Responder provided documentation outlining how the proposed training will be provided within the allotted time frame that the respondent has proposed? (5 points maximum)
  - f.** How does the proposed job title for the trainee fit into the structure of the Responder's organization? Is there a clear career ladder for trainee advancement? (5 points maximum)
  - g.** What is the starting rate of pay for the trainee in the proposed job title? How does the salary compare with other Responders who proposed training in the same job title? (5 points maximum)

**End of Text for Section VI**

**Agreement for On-the-Job Training (“OJT”) Program**

**This Agreement (“Agreement”)** is between the County of Suffolk (“County”), a municipal corporation of the State of New York, acting through its duly constituted Department of Labor, Licensing & Consumer Affairs (“Department”), located at Building 17, North County Complex, 725 Veterans Memorial Highway, Hauppauge, New York 11788; and

**(Insert Name) (“Contractor”)**, having its principal place of business at **(Insert address)**.

This Agreement establishes the conditions to be observed by the Contractor and the Department regarding the enrollment, training and placement of eligible individuals in “On-the-Job Training” (“OJT”) programs under the Workforce Innovation & Opportunity Act (“WIOA”), Suffolk Works Employment Program (“SWEP”), and other pertinent programs operated by the Department. Sufficient funding exists in the Suffolk County Operating Budget.

**Term of Agreement:** July 1, 2016 through June 30, 2020.

**Payment Terms and Conditions:** Shall be as provided in the “OJT Job Description, Training Outline, and Specific Payment Term Form,” the form of which is attached as Addendum 1, and which shall be executed for each Trainee Position, as that term is defined herein, provided.

**Terms and Conditions:** Shall be as set forth in Articles I through V, Addendums 1 & 2, Exhibits A & B and Exhibits 1 through 5, attached hereto and made a part hereof

**In Witness Whereof**, the parties hereto have executed this Agreement as of the latest date written below.

**Insert Name of Contractor**

**County of Suffolk**

By: \_\_\_\_\_  
Name:  
Title:  
Fed. Tax ID #

By: \_\_\_\_\_  
Name: Dennis M. Cohen  
Title: Chief Deputy County Executive

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Approved as to Form:**  
**Dennis M. Brown**  
**County Attorney**

**Approved: Department of Labor, Licensing & Consumer Affairs**

By: \_\_\_\_\_  
Vanessa Pugh  
Chief Deputy Commissioner

By: \_\_\_\_\_  
Samantha McEachin  
Assistant County Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## List of Articles, Addendums, & Exhibits

### Article I

#### Description of Services

1. Services
2. Job Description, Training Outline, and Specific Payment Terms
3. Trainees
4. Interview and Notification of Hire
5. Wages
6. Benefits
7. Working Conditions
8. Child Labor
9. Grievance Procedure
10. Reimbursement
11. Termination of Trainees
12. Non-Competitive Agreements
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14. Audit, Inspections and Records
15. Laws, Rules and Regulations
16. Fraud, Abuse and Other Criminal Activity
17. Procedures Required
18. Certifications
19. Screen of Personnel
20. Dispute Resolution
21. Nepotism
22. Nondiscrimination & Equal Opportunity Assurance
23. Buy American Notice Requirement
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### Article II

#### Definitions

1. Meanings of Terms
2. Elements of Interpretation

### Article III

#### General Terms and Conditions

1. Contractor Responsibilities
  - a. Duties and Obligations
  - b. Qualifications, Licenses, and Professional Standards
  - c. Notifications
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- e. Credentialing
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  - a. Thirty Days Termination
  - b. Event of Default: Termination on Notice
  - c. Termination Notice
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4. Insurance
5. Independent Contractor
6. Severability
7. Merger; No Oral Changes
8. Set-Off Rights
9. Non-Discrimination in Services
10. Nonsectarian Declaration
11. Governing Law
12. No Waiver
13. Conflicts of Interest
14. Cooperation on Claims
15. Confidentiality
16. Assignment and Subcontracting
17. Changes to Contractor
18. No Intended Third Party Beneficiaries
19. Certification as to Relationships
20. Publications
21. Copyrights and Patents
  - a. Copyrights
  - b. Patents
22. Arrears to County
23. Lawful Hiring of Employees Law in Connection with Contracts for Construction or Future Construction
24. Notice

#### **Article IV**

#### **Suffolk County Legislative Requirements**

1. Contractor's/Vendor's Public Disclosure Statement
2. Living Wage Law
3. Use of County Resources to Interfere with Collective Bargaining Activities
4. Lawful Hiring of Employees Law
5. Gratuities
6. Prohibition Against Contracting with Corporations that Reincorporate Overseas
7. Child Sexual Abuse Reporting Policy
8. Non Responsible Bidder

9. Use of Funds in Prosecution of Civil Actions Prohibited
10. Youth Sports
11. Work Experience Participation
12. Safeguarding Personal Information of Minors
13. Contract Agency Performance Measures and Reporting Requirements
14. Suffolk County Local Laws Website Address

## Article V

### General Fiscal Terms and Conditions

1. General Payment Terms
  - a. Presentation of Suffolk County Payment Voucher
  - b. Voucher Documentation
  - c. Payment by County
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6. Financial Statements and Audit Requirements
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- l. Salaries
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**Exhibits and Addendum**

- Exhibit A** Business Assurances Required by New York State Department of Labor
- Exhibit B** Certification Regarding Lobbying, Debarment, Suspension and Other Responsibility Matters, and Drug-Free Workplace Requirements

**Addendum 1** Job Description, Training Outline, & Specific Payment Terms Form

**Addendum 2** Trainee Roster Form

- Exhibit 1** Public Disclosure
- Exhibit 2** Union Certification
- Exhibit 3** Living Wage
- Exhibit 4** Lawful Hiring
- Exhibit 5** Comptroller's Rules and Regulations for Consultant's Agreements

**Article I**  
**Description of Services**

**Whereas**, the Department is responsible for carrying out various programs pursuant to, among others, the federal Workforce Investment Act of 1998 (“WIA”), the federal Personal Responsibility Act of 1996, and other state and federal programs, including programs related to job training; and

**Whereas**, the federal Workforce Innovation and Opportunity Act (WIOA) was signed into law on July 22, 2014 and supersedes the Workforce Investment Act of 1998 and amends the Adult Education and Family Literacy Act, the Wagner-Peyser Act, and the Rehabilitation Act of 1973; and

**Whereas**, the goals of these programs are, among other things, to connect job seekers to employment and training programs such as the On-the-Job Training (“OJT”) Program, pursuant to which federal and state funds are provided to businesses to train newly hired workers who come from the ranks of the unemployed in order to assist in overall reduction of unemployment; and

**Whereas**, under the auspices of the OJT Program, the Department contracts with a business to provide occupational training and supervision (the “Services”) to eligible individuals (the “Trainees”) with the goal of the business retaining the Trainee as a member of its workforce; and

**Whereas**, in furtherance of carrying out the OJT Program, on January 28, 2016, the Department issued a Request for Qualifications (“RFQ”) seeking qualified responders to provide the Services; and

**Whereas**, the Contractor responded to the RFQ and was selected by the Department to perform the Services; and

**Whereas**, funds have been identified in the 2016 Suffolk County Adopted Budget for the Department to carry out the Services; and

**Now therefore**, in consideration of the mutual provisions and covenants hereafter set forth, the parties hereto agree as follows:

**1. Services**

- a. The Contractor shall provide the Services to the Trainees as set forth herein.
- b. The Contractor shall be responsible for providing the Services as well as, among other things, providing qualified staff, instruction, services, books, materials, equipment, and supplies as necessary. The Contractor shall conduct Trainee evaluations, monitor Trainee progress, and self-monitor compliance with applicable laws, regulations, and the provisions of this Agreement.

**2. Job Description, Training Outline, and Specific Payment Terms**

- a. The Contractor shall complete, execute, and submit to the Department an “OJT Job Description, Training Outline, and Specific Payment Terms Form”, the form of which is attached to this

Agreement as Addendum 1, for each training position (“Training Position”) which will be available for Trainee hiring. The Contractor shall ensure that the “OJT Job Description, Training Outline, and Specific Payment Terms” form shall be executed only by an individual with the authority to bind the Contractor to the terms contained therein.

- b. The Department shall review and approve or reject the OJT Job Description, Training Outline, and Specific Payment Form for each Training Position. If approved by the Department, the Department may rely on the information contained in each OJT Job Description, Training Outline, and Specific Payment Term Form in order to refer Trainees for interviews for Training Positions with the Contractor.

### **3. Trainees**

- a. For the purpose of this Agreement, a Trainee shall be defined as an eligible individual referred by the Department to the Contractor for interview and potential placement into Training Position identified by an “OJT Job Description, Training Outline, and Specific Payment Terms Form” as submitted by the Contractor and approved by the Department.
- b. The Department will tailor the length of training time to a period not in excess of that required for the Trainee to acquire the skills needed for the Training Position as such position is identified and described in the applicable OJT Job Description, Training Outline, and Specific Payment Terms form. Individuals who have previous experience in jobs for which on-the-job training is available, will not be eligible for this training. The Occupational Information Network (“O\*NET”) will be used to determine comparability in those instances where the Trainee’s previous experience is similar to that to be gained through on-the-job training.
- c. No individual who enters training under the terms set forth herein shall be considered a “Trainee,” for whose training reimbursement will be made, unless/until the individual completes a minimum of eighty (80) hours with the Contractor. Individual(s) leaving the OJT program prior to the eighty (80) hours minimum shall not be considered part of this Agreement.
- d. By executing this Agreement, the Contractor represents that its intention is for a Trainee interviewed and hired by the Contractor to remain employed by the Contractor upon completion of the OJT.
- e. The Contractor’s current or prior employees are not eligible to participate in the training, except for training involving skill upgrades, which may be exempt from this requirement.
- f. No Contractor shall require any Trainee to pay a fee to participate in the OJT Program.

### **4. Interview and Notification of Hire**

- a. After the Department has determined a Trainee’s OJT Program eligibility, the Department shall assess Trainee skills, review open Training Positions based on the information contained in OJT Job Description, Training Outline, and Specific Payment Term Forms, and refer Trainee to the Contractor for an interview.

- b. The Contractor shall notify the Department within ten (10) business days of the interview with the Trainee of its hiring determination.
- c. If the Contractor determines to hire a Trainee(s), the Contractor shall complete and submit to the Department a "Trainee Roster Form," which shall be substantially in the same form as attached to this Agreement as Addendum 2.
- d. Trainee(s) may not commence employment with the Contractor unless and until the Department has approved, in writing, the Trainee Roster Form for such Trainee(s).

## 5. Wages

The Contractor shall pay the Trainee the wages specified in the OJT Job Description, Training Outline, and Specific Payment Term Forms applicable to the Training Position for which the Trainee was hired. Trainees must be compensated for all training time completed at the same rate, including periodic increases, as similarly situated employees. Training payments may not be based on overtime, shift differential, premium pay, and/or non-regular wages.

## 6. Benefits

The Contractor shall accord Trainees any and all rights, privileges, and benefits enjoyed by other employees in conformity with any applicable company or union policy and any applicable federal and/or state laws.

## 7. Working Conditions

Health and safety standards established under State and Federal law, otherwise applicable to working conditions of employees, shall be equally applicable to working conditions of Trainee(s). Where Trainees are engaged in activities not covered under the O.S.H.A. of 1970, they shall not be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous, or dangerous to the Trainee's health or safety.

## 8. Child Labor

No participant under 18 years of age shall be employed in any occupation which the U.S. Secretary of Labor has found to be hazardous for persons between 16 and 18 years of age.

## 9. Grievance Procedure

The Contractor shall maintain a grievance procedure relating to the terms and conditions of employment for the Department's Trainees. The Contractor agrees to provide either an internal grievance procedure or use the procedures established by the Department. If the Contractor's internal grievance procedure is used, it shall provide for, upon request by the complainant, a review of the Contractor's decision by the Department. In either case, the Contractor shall inform the Trainee of the provisions of the grievance

procedure he/she is to follow. The Contractor shall provide a written copy of the grievance procedure to the Trainee upon hiring.

## **10. Reimbursement**

- a.** The County shall reimburse the Contractor only for training expenses authorized for the Training Position as set forth in the OJT Job Description, Training Outline, and Specific Payment Term Form for such position and only upon submission of standard County voucher(s) and after completion or termination of training and audit by the Department.
- b.** Reimbursement of the total wages received by a Trainee pursuant to the terms agreed upon as per such Trainee's Addendum 1, "OJT Job Description, Training Outline, and Specific Payment Term Form" and Addendum 2, "OJT) Program Trainee Roster Form" shall be at the percentage rate as indicated on the OJT Job Description, Training Outline, and Specific Payment Term Form for that Trainee's training position.
- c.** The Contractor will be reimbursed for only the hours that a Trainee is on-the-job in training and for job related education release time. Reimbursement will not be made for Trainee orientation, holidays, sick days, or jury duty. The Contractor agrees that payment requests shall not duplicate reimbursement of costs and services received from other sources. Should any amount(s) paid to the Contractor be disallowed due to audit findings or other reasons, the Contractor shall reimburse the Department for said amount(s).

## **11. Termination of Trainees**

A Trainee may be terminated by the Contractor for cause at any time during the Term of this Agreement provided that the Trainee is given prior written notice and an opportunity for correction and/or improvement of his/her performance. The Trainee shall be afforded the same notice and opportunity for correction and/or improvement as afforded to the Contractor's other employees. The Contractor shall immediately notify the Department of a Trainee's termination. Details of the termination, including reason for termination, must be submitted in writing to the Department within two (2) weeks of the termination date. A situation in which an OJT Trainee quits voluntarily, is terminated for cause, or is released due to unforeseen changes in business conditions will not necessarily result in termination of the Contractor's eligibility for future contracts.

## **12. Noncompetitive Agreements**

No Contractor shall require any Trainee, whose training costs are subsidized in whole or in part with on-the-job training program funds, to sign any noncompetitive agreement that would limit the future employment of the Trainee with respect to any period of time and/or geographic limit.

**13. Reports/ Progress Meetings**

- a. The Contractor shall prepare reports in such form(s) and deliver them at such time(s) as directed by the Department. All reports shall be made available to the Department in electronic format. The Department may, at its sole discretion, require the Contractor to make itself available for progress meetings to discuss the provision of the Services. The Contractor will be responsible for issuing timely reports in oral presentations and in writing on the status of pending and proposed activities, as may reasonably be requested by the Department. Depending upon the nature of the services provided under this Agreement, the parties may meet from time to time; the meeting time, place and attendees shall be as mutually agreed upon by the parties. All written reports will also be made available to the County in electronic format. The Contractor shall prepare and provide to the Department such reports as the Department may require. Such reports shall be in a format determined by the Department and submitted on a schedule determined by the Department.
- b. The Department may, at its sole discretion, require the Contractor to submit documentation, in such form and type as the Department directs, relating to the Services, including, but not limited to, documents related to Trainee attendance and participation in the Services.

**14. Audit, Inspections and Records**

In addition to any other audit requirements as may be set forth within this Agreement, the Contractor agrees that for a period of seven (7) years it shall maintain and have available for audit and inspection by the Department and/or its designee any books, documents, papers and records relating to this Agreement.

**15. Laws, Rules and Regulations**

The Contractor shall comply with all applicable federal, state and local laws, rules, and regulations which deal with or relate to the employment of persons who perform work or are trained under this Agreement, including, but not limited to, the Workforce Innovation & Opportunity Act (“WIOA”), subsequent amendments, and the regulations and policies thereunder, the provisions of the various public assistance employment programs, the provisions of the Fair Labor Standards Act, the Equal Opportunity Clauses of the Civil Rights Act of 1964 and any subsequent amendments, and the health and safety standards established under State and Federal law and applicable to the working conditions of Trainees.

**16. Fraud, Abuse and Other Criminal Activity**

For programs funded under the WIOA, all information and complaints involving fraud, abuse, other criminal activity, or violations of law, shall be reported directly and immediately to the:

Office of the Inspector General  
United States Department of Labor  
Room S-5506  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210



**17. Procedures Required**

The Contractor shall establish procedures to ensure compliance with WIOA, and all other applicable laws, regulations, and with the provisions of this Contract. Such procedures shall be subject to the review and approval of the Department.

**18. Certifications**

- a. As a condition precedent to the execution of this Contract, the Contractor must execute and deliver to the Department the “Certification Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters, and the Drug-Free Workplace Requirements,” attached to this Agreement as Exhibit B. The Contractor shall notify the Department within one (1) business days of any material change in any of the information regarding the certifications contained in the “Certification Regarding Lobbying, Debarment, Suspension and other Responsibility Matters, and the Drug-Free Workplace Requirements,” including, but not limited, to any material change in the “Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction” information contained therein.
- b. Contractor shall notify the Department within five (5) business days of the occurrence of any of the following:
  - i. any action taken to restrict, suspend or revoke any license or certification of the Contractor or of any Contractor employee or agent, including, but not limited to, any disciplinary or corrective action initiated or taken against the Contractor or Contractor employee or agent, including, but not limited to, a Contractor employee providing Services hereunder, by a governmental agency; and
  - ii. the institution of any suit or other legal or governmental proceeding (whether civil or criminal, and including arbitration or administrative action) brought against Contractor or any Contractor employee or agent, including, but not limited to, a Contractor employee , providing Services hereunder, that bears any material relation to the performance of Contractor hereunder.

All notifications shall be delivered as set forth in paragraph 24 of Article III of this Agreement.

**19. Screening of Personnel**

If (i) the Contractor performs or provides day care services (whether or not it has a contract with the Suffolk County Department of Social Services) and (ii) the activities of the Trainees under this Agreement may be anticipated to bring them into contact with children receiving day care services, the Contractor shall comply with the requirements of Local Law No. 1-1985, as amended (Suffolk County Code Chapter 256) as now in effect or as amended hereafter or of any other Suffolk County Local Law that may become applicable during the term of this Agreement with regard to the screening of personnel in connection with day care services.

**20. Dispute Resolution**

Any problems, disputes, protests, or differences resulting out of this Agreement that cannot be resolved at intermediate levels will be referred for solution to the authorized representatives of the parties following applicable Federal/State procedures.

**21. Nepotism**

No individual may be placed in a WIOA, TANF, SWEP, or other program employment activity if a member of that person's immediate family is directly supervised by or directly supervises that individual. Immediate family shall include wife, husband, daughter, son, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, and stepchild.

**22. Nondiscrimination & Equal Opportunity Assurance**

As a condition to the award of financial assistance from the Department of Labor under Title I of WIOA, the Contractor assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

- (1) Section 188 of the Workforce Innovation & Opportunity Act (WIOA) which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age disability, political affiliation, or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I - financially assisted program or activity;
- (2) Title VI of the Civil Rights Act of 1964, as amended which prohibits discrimination on the basis of race, color, and national origin;
- (3) Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
- (4) The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
- (5) Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

The Contractor also assures that it will comply with 29 CFR Part 37 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIOA Title I - financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIOA Title I-financially assisted program or activity. The grant applicant understands that the United States has the right to seek judicial enforcement of this assurance.

**23. Buy American Notice Requirement**

The Contractor assures that, to the greatest extent practicable, all equipment and products purchased with funds made available under the WIOA will be American made.

**24. Salary and Bonus Limitations**

In compliance with Public Laws 110-161, none of the federal funds appropriated under the heading ‘Employment and Training’ shall be used by a subrecipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II. This limitation shall not apply to vendors providing goods and services as defined in OMB Circular A- 133. See Training and Employment Guidance Letter number 5-06 for further clarification. Where applicable, the Contractor agrees to comply with the Salary and Bonus Limitations.

**25. Priority of Service for Veterans**

Federal grants for qualified job training programs funded, in whole or in part, by the U.S. Department of Labor are subject to the provisions of the “Jobs for Veterans Act” (JVA), Public Law 107-288 (38 USC 4215). The JVA provides priority of service to veterans and spouses of certain veterans for the receipt of employment, training, and placement services. Please note that to obtain priority service, a person must meet the program’s eligibility requirements. Training and Employment Guidance Letter (TEGL) No. 5-03 (September 16, 2003) and Section 20 of the Code of Federal Regulations (CFR) Part 1010 (effective January 19, 2009) provide general guidance on the scope of the veterans priority statute and its effect on current employment and training programs. Where applicable, the Contractor agrees to comply with the Veteran’s Priority Provisions.

**End of Text for Article I**

**Article II**  
**Definitions**

**1. Meanings of Terms**

As used herein:

“**Audit of Financial Statements**” means the examination by the Comptroller and any Federal or State auditing authority of the financial statements of the Contractor resulting in the publication of an independent opinion on whether or not those financial statements are relevant, accurate, complete, and fairly presented.

“**Budget**” means the Contractor’s summary or plan of all intended revenue, whether received in the form of fees, grants, County funding, or any other source, and expenditures necessary to render the Services.

“**Budget Deficiency Plan**” means an analysis of the cost of the Services, changes in fiscal conditions, and required modifications to the Contract to continue to render the Services.

“**Comptroller**” means the Comptroller of the County of Suffolk.

“**Contract**” means all terms and conditions of this Contract forming all rights and obligations of the Contractor and the County.

“**Contractor**” means the signatory corporation, its officers, officials, employees, agents, servants, sub-contractors, and any successor or assign of any one or more of the foregoing performing the Services.

“**County**” means the County of Suffolk, its departments, and agencies.

“**County Attorney**” means the County Attorney of the County of Suffolk.

“**Department**” means the signatory department approving the Contract.

“**Engineering Services**” means the definition of the practice of engineering and the definition of practice of land surveying, as the case may be, under Section 7201 and Section 7203 of the State Education Law, respectively.

“**Event of Default**” means

- a. the Contractor’s failure to perform any duty required of it under paragraphs 1(b)-(e) of **Article III** of the Contract; or
- b. the Contractor’s failure to maintain the amount and types of insurance with an authorized insurer as required by the Contract; or
- c. the Contractor’s failure to maintain insurance required by the Contract with an insurer that has designated the New York Superintendent of

Insurance as its lawful agent for service of process; or

- d. the Contractor’s failure to comply with any Federal, State or local law, rule, or regulation, and County policies or directives; or
- e. the Contractor’s bankruptcy or insolvency; or
- f. the Contractor’s failure to cooperate in an Audit of Financial Statements; or
- g. the Contractor’s falsification of records or reports, misuse of funds, or malfeasance or nonfeasance in financial record keeping arising out of, or in connection with, any contract with the County; or
- h. the Contractor’s failure to submit, or failure to timely submit, documentation to obtain Federal or State funds; or
- i. the inability of the County or the Contractor to obtain Federal or State funds due to any act or omission of the Contractor; or
- j. any condition that the County determines, in its sole discretion, is dangerous.

“**Federal**” means the United States government, its departments, and agencies.

“**Fringe Benefits**” means non-wage benefits which accompany, or are in addition to, a person’s salary, such as paid insurance, sick leave, profit-sharing plans, paid holidays, and vacations.

“**Fund Source**” means any direct or indirect sum payable to the Contractor by the County pursuant to any lawful obligation.

“**Legislature**” means the Legislature of the County of Suffolk.

“**Management Letter**” means a letter certified as true by the Contractor’s certified public accountant or chief financial officer of findings and recommendations for improvements in internal fiscal control that were identified during an Audit of Financial Statements, but which were not required to be included in an audit report.

“**Municipal Corporation**” means a town, village, or school district.

“**Services**” means all that which the Contractor must do, and any part thereof arising out of, or in connection with, the Contract as described in **Article I** “Description of Services.”

“**State**” means the State of New York.

“**Statement of Other Contracts**” means a complete list of all other contracts under which money has been or will be paid to the Contractor from the County, Federal, or State governments, or a Municipal Corporation, and (i) which are currently in effect or (ii) which have expired within the past twelve (12) months and have not

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been renewed.

“**Suffolk County Payment Voucher**” means the document authorized and required by the Comptroller for release of payment.

“**Term**” means the time period set forth on page one of the Contract and, if exercised by the County, the option period.

**2. Elements of Interpretation**

Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa. Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations, and other legal entities, including public bodies, as well as natural persons, and shall include successors and assigns.

Capitalized terms used, but not otherwise defined, herein, shall have the meanings assigned to them in the Contract.

**End of Text for Article II**

**Article III**  
**General Terms and Conditions**

**1. Contractor Responsibilities**

**a. Duties and Obligations**

i.) It shall be the duty of the Contractor to discharge, or cause to be discharged, all of its responsibilities, and to administer funds received in the interest of the County in accordance with the provisions of the Contract.

ii.) The Contractor shall promptly take all action as may be necessary to render the Services.

iii.) The Contractor shall not take any action that is inconsistent with the provisions of the Contract.

iv.) Services provided under this Contract shall be open to all residents of the County.

**b. Qualifications, Licenses, and Professional Standards**

The Contractor represents and warrants that it has, and shall continuously possess, during the Term, the required licensing, education, knowledge, experience, and character necessary to qualify it to render the Services.

The Contractor shall continuously have during the Term all required authorizations, certificates, certifications, registrations, licenses, permits, and other approvals required by Federal, State, County, or local authorities necessary to qualify it to render the Services.

**c. Notifications**

i.) The Contractor shall immediately notify the County, in writing, of any disciplinary proceedings, commenced or pending, with any authority relating to a license held by any person necessary to qualify him, her, or the Contractor to perform the Services.

ii.) In the event that a person is no longer licensed to perform the Services, the Contractor must immediately notify the County, but in no event shall such notification be later than five (5) days after a license holder has lost the license required to qualify the license holder or the Contractor to perform the Services.

iii.) In the event that the Contractor is not able to perform the Services due to a loss of license, the Contractor shall not be reimbursed for the Services rendered after the effective date of termination of such license. Without limiting the generality of the foregoing, if any part of the

Contract remains to be performed, and the termination of the license does not affect the Contractor's ability to render the Services, every other term and provision of the Contract shall be valid and enforceable to the fullest extent permitted by law.

**d. Documentation of Professional Standards**

The Contractor shall maintain on file, in one location in Suffolk County, all records that demonstrate that it has complied with sub-paragraphs (b) and (c) above. The address of the location of the aforesaid records and documents shall be provided to the County no later than the date of execution of the Contract. Such documentation shall be kept, maintained, and available for inspection by the County upon twenty-four (24) hours notice.

**e. Credentialing**

i.) In the event that the Department, or any division thereof, maintains a credentialing process to qualify the Contractor to render the Services, the Contractor shall complete the required credentialing process. In the event that any State credential, registration, certification or license, Drug Enforcement Agency registration, or Medicare or Medicaid certification is restricted, suspended, or temporarily or permanently revoked, it is the duty of the Contractor to contact the Department, or division thereof, as the case may be, in writing, no later than three (3) days after such restriction, suspension, or revocation.

ii.) The Contractor shall forward to the Department, or division thereof, as the case may be, on or before July 1 of each year during the Term, a complete list of the names and addresses of all persons providing the Services, as well as their respective areas of certification, credentialing, registration, and licensing.

**f. Engineering Certificate**

In the event that the Contract requires any Engineering Services, the Contractor shall submit to the County, no later than the due date for submission for approval of any engineering work product, the Certificate of Authorization ("Certificate"), issued pursuant to § 7210 of the New York Education Law, of every person performing any Engineering Services. The failure to file, submit, or maintain the Certificate shall be grounds for rejection of any engineering work product submitted for approval.

**2. Termination**

**a. Thirty Days Termination**

The County shall have the right to terminate the Contract

without cause, for any reason, at any time, upon such terms and conditions it deems appropriate, provided, however, that no such termination shall be effective unless the Contractor is given at least thirty (30) days notice.

**b. Event of Default; Termination on Notice**

i.) The County may immediately terminate the Contract, for cause, upon such terms and conditions it deems appropriate, in the Event of Default.

ii.) If the Contractor defaults under any other provision of the Contract, the County may terminate the Contract, on not less than five (5) days notice, upon such terms and conditions it deems appropriate.

**c. Termination Notice**

Any notice providing for termination shall be delivered as provided for in paragraph 27 of this Article III.

**d. Duties upon Termination**

i.) The Contractor shall discontinue the Services as directed in the termination notice.

ii.) Subject to any defenses available to it, the County shall pay the Contractor for the Services rendered through the date of termination.

iii.) The County is released from any and all liability under the Contract, effective as of the date of the termination notice.

iv.) Upon termination, the Contractor shall reimburse the County the balance of any funds advanced to the Contractor by the County no later than thirty (30) days after termination of the Contract. The provisions of this subparagraph shall survive the expiration or termination of the Contract.

v.) Nothing contained in this paragraph shall be construed as a limitation on the County's rights set forth in paragraphs 1(c) (iii) and 8 of this Article III.

**3. Indemnification and Defense**

a. The Contractor shall protect, indemnify, and hold harmless the County, its agents, servants, officials, and employees from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, suits or actions, costs, and expenses caused by the negligence or any acts or omissions of the Contractor, including reimbursement of the cost of reasonable attorneys' fees incurred by the County, its agents, servants, officials, and

employees in any action or proceeding arising out of, or in connection with, the Contract.

b. The Contractor hereby represents and warrants that it will not infringe upon any copyright in performing the Services. The Contractor agrees that it shall protect, indemnify, and hold harmless the County, its agents, servants, officials, and employees from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, suits or actions, costs, and expenses arising out of any claim asserted for infringement of copyright, including reimbursement of the cost of reasonable attorneys' fees incurred by the County, its agents, servants, officials, and employees in any action or proceeding arising out of or in connection with any claim asserted for infringement of copyright.

c. The Contractor shall defend the County, its agents, servants, officials, and employees in any proceeding or action, including appeals, arising out of, or in connection with, the Contract, and any copyright infringement proceeding or action. Alternatively, at the County's option, the County may defend any such proceeding or action and require the Contractor to pay reasonable attorneys' fees or salary costs of County employees of the Department of Law for the defense of any such suit.

**4. Insurance**

a. The Contractor shall continuously maintain, during the Term of the Contract, insurance in amounts and types as follows:

i.) Commercial General Liability insurance, including contractual liability coverage, in an amount not less than Two Million Dollars (\$2,000,000.00) per occurrence for bodily injury and Two Million Dollars (\$2,000,000.00) per occurrence for property damage. The County shall be named an additional insured.

ii.) Automobile Liability insurance (if any non-owned or owned vehicles are used by the Contractor in the performance of the Contract) in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) per person, per accident, for bodily injury and not less than One Hundred Thousand Dollars (\$100,000.00) for property damage per occurrence. The County shall be named an additional insured.

iii.) Workers' Compensation and Employer's Liability insurance in compliance with all applicable New York State laws and regulations and Disability Benefits insurance, if required by law. The Contractor shall furnish to the County, prior to its execution of the Contract,

the documentation required by the State of New York Workers' Compensation Board of coverage or exemption from coverage pursuant to §§57 and 220 of the Workers' Compensation Law. In accordance with General Municipal Law §108, the Contract shall be void and of no effect unless the Contractor shall provide and maintain coverage during the Term for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

iv.) Professional Liability insurance in an amount not less than Two Million Dollars (\$2,000,000.00) on either a per-occurrence or claims-made coverage basis.

b. The County may mandate an increase in the liability limits set forth in the immediately preceding paragraphs (4)(a)(i), (ii), and (iv).

c. All policies providing such coverage shall be issued by insurance companies authorized to do business in New York with an A.M. Best rating of A- or better.

d. The Contractor shall furnish to the County, prior to the execution of the Contract, declaration pages for each policy of insurance, other than a policy for commercial general liability insurance, and upon demand, a true and certified original copy of each such policy evidencing compliance with the aforesaid insurance requirements.

e. In the case of commercial general liability insurance and business use automobile insurance, the Contractor shall furnish to the County, prior to the execution of the Contract, a declaration page or insuring agreement and endorsement page evidencing the County's status as an additional insured on said policy, and upon demand, a true and certified original copy of such policy evidencing compliance with the aforesaid insurance requirements.

f. All evidence of insurance shall provide for the County to be notified in writing thirty (30) days prior to any cancellation, nonrenewal, or material change in the policy to which such evidence relates. It shall be the duty of the Contractor to notify the County immediately of any cancellation, nonrenewal, or material change in any insurance policy.

g. In the event the Contractor shall fail to provide evidence of insurance, the County may provide the insurance required in such manner as the County deems appropriate and deduct the cost thereof from a Fund Source.

h. If the Contractor is a Municipal Corporation and has a self-insurance program under which it acts as a self-insurer for any of such required coverage, the Contractor shall provide proof, acceptable to the County, of self-funded coverage.

**5. Independent Contractor**

The Contractor is not, and shall never be, considered an employee of the County for any purpose. Notwithstanding anything contained in this Contract, the Contract shall not be construed as creating a principal-agent relationship between the County and the Contractor or the Contractor and the County, as the case may be.

**6. Severability**

It is expressly agreed that if any term or provision of this Contract, or the application thereof to any person or circumstance, shall be held invalid or unenforceable to any extent, the remainder of the Contract, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and every other term and provision of the Contract shall be valid and shall be enforced to the fullest extent permitted by law.

**7. Merger; No Oral Changes**

It is expressly agreed that the Contract represents the entire agreement of the parties and that all previous understandings are herein merged in the Contract. No modification of the Contract shall be valid unless in written form and executed by both parties.

**8. Set-Off Rights**

The County shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the County's option to withhold from a Fund Source an amount no greater than any sum due and owing to the County for any reason. The County shall exercise its set-off rights subject to approval by the County Attorney. In cases of set-off pursuant to a Comptroller's audit, the County shall only exercise such right after the finalization thereof, and only after consultation with the County Attorney.

**9. Non-Discrimination in Services**

a. The Contractor shall not, on the grounds of race, creed, color, national origin, sex, age, disability, sexual orientation, military status, or marital status

- i.) deny any individual the Services provided pursuant to the Contract; or
- ii.) provide the Services to an individual that is different, or provided in a different manner, from those provided to others pursuant to the Contract; or
- iii.) subject an individual to segregation or separate treatment in any matter related to the individual's receipt of the Services provided pursuant to the Contract; or
- iv.) restrict an individual in any way from



any advantage or privilege enjoyed by others receiving the Services provided pursuant to the Contract; or treat an individual differently from others in determining whether or not the individual satisfies any eligibility or other requirements or conditions which individuals must meet in order to receive the Services provided pursuant to the Contract.

b. The Contractor shall not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, creed, color, national origin, sex, age, disability, sexual orientation, military status, or marital status, or have the effect of substantially impairing the Contract with respect to individuals of a particular race, creed, color, national origin, sex, age, disability, sexual orientation, military status, or marital status, in determining:

- i.) the Services to be provided; or
- ii.) the class of individuals to whom, or the situations in which, the Services will be provided; or
- iii.) the class of individuals to be afforded an opportunity to receive the Services.

**10. Nonsectarian Declaration**

The Services performed under the Contract are secular in nature. No funds received pursuant to the Contract shall be used for sectarian purposes or to further the advancement of any religion. The Services will be available to all eligible individuals regardless of religious belief or affiliation.

**11. Governing Law**

The Contract shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to conflict of laws. Venue shall be designated in the Supreme Court, Suffolk County, the United States District Court for the Eastern District of New York, or, if appropriate, a court of inferior jurisdiction in Suffolk County.

**12. No Waiver**

It shall not be construed that any failure or forbearance of the County to enforce any provision of the Contract in any particular instance or instances is a waiver of that provision. Such provision shall otherwise remain in full force and effect, notwithstanding any such failure or forbearance.

**13. Conflicts of Interest**

The Contractor shall not, during the Term, pursue a course of conduct which would cause a reasonable person to believe that he or she is likely to be engaged in acts that create a substantial conflict between its obligations under the Contract and its private interests. The Contractor is charged with the duty to disclose to the County the existence of any such adverse interests, whether existing or potential. This duty shall continue as long as the Term. The determination as to whether or when a conflict may potentially exist shall ultimately be made by the County Attorney after full disclosure is obtained.

**14. Cooperation on Claims**

The Contractor and the County shall render diligently to each other, without compensation, any and all cooperation that may be required to defend the other party, its employees and designated representatives, against any claim, demand or action that may be brought against the other party, its employees or designated representatives arising out of, or in connection with, the Contract.

**15. Confidentiality**

Any document of the County, or any document created by the Contractor and used in rendering the Services, shall remain the property of the County and shall be kept confidential in accordance with applicable laws, rules, and regulations.

**16. Assignment and Subcontracting**

a. The Contractor shall not delegate its duties under the Contract, or assign, transfer, convey, subcontract, sublet, or otherwise dispose of the Contract, or any of its right, title or interest therein, or its power to execute the Contract, or assign all or any portion of the moneys that may be due or become due hereunder, (collectively referred to in this paragraph 16 as "Assignment"), to any other person, entity or thing without the prior written consent of the County, and any attempt to do any of the foregoing without such consent shall be void ab initio.

b. Such Assignment shall be subject to all of the provisions of the Contract and to any other condition the County requires. No approval of any Assignment shall be construed as enlarging any obligation of the County under the terms and provisions of the Contract. No Assignment of the Contract or assumption by any person of any duty of the Contractor under the Contract shall provide for, or otherwise be construed as, releasing the Contractor from any term or provision of the Contract.

**17. Changes to Contractor**

a. The Contractor may, from time to time, only with the County's written consent, enter into a Permitted Transfer. For purposes of the Contract, a Permitted

Transfer means:

- i.) if the Contractor is a partnership, the withdrawal or change, whether voluntary, involuntary or by operation of law, of the partners, or transfer of partnership interests (other than the purchase of partnership interests by existing partners, by the partnership itself or the immediate family members by reason of gift, sale or devise), or the dissolution of the partnership without immediate reconstitution thereof, and
  - ii.) if the Contractor is a closely held corporation (i.e. whose stock is not publicly held and not traded through an exchange or over the counter):
    - 1. the dissolution, merger, consolidation or other reorganization of the Contractor; and
    - 2. the sale or other transfer of twenty percent (20%) or more of the shares of the Contractor (other than to existing shareholders, the corporation itself or the immediate family members of shareholders by reason of gift, sale or devise).
  - b. If the Contractor is a not-for-profit corporation, a change of twenty percent (20%) or more of its shares or members shall be deemed a Permitted Transfer.
  - c. The Contractor shall notify the County in writing, which notice (the "Transfer Notice") shall include:
    - i.) the proposed effective date of the Permitted Transfer, which shall not be less than thirty (30) days nor more than one hundred eighty (180) days after the date of delivery of the Transfer Notice;
    - ii.) a summary of the material terms of the proposed Permitted Transfer;
    - iii.) the name and address of the proposed transferee;
    - iv.) such information reasonably required by the County, which will enable the County to determine the financial responsibility, character, and reputation of the proposed transferee, nature of the proposed assignee/transferee's business and experience;
  - v.) all executed forms required pursuant to Article IV of the Contract, that are required to be submitted by the Contractor; and
  - vi.) such other information as the County may reasonably require.
  - d. The County agrees that any request for its consent to a Permitted Transfer shall be granted, provided that the transfer does not violate any provision of the Contract, and the transferee has not been convicted of a criminal offense as described under Article II of Chapter 189 of the Suffolk County Code. The County shall grant or deny its consent to any request of a Permitted Transfer within twenty (20) days after delivery to the County of the Transfer Notice, in accordance with the provisions of Paragraph 27 of Article III of the Contract. If the County shall not give written notice to the Contractor denying its consent to such Permitted Transfer (and setting forth the basis for such denial in reasonable detail) within such twenty (20)-day period, then the County shall be deemed to have granted its consent to such Permitted Transfer.
  - e. Notwithstanding the County's consent,
    - i.) the terms and conditions of the Contract shall in no way be deemed to have been waived or modified; and
    - ii.) such consent shall not be deemed consent to any further transfers.
- 18. No Intended Third Party Beneficiaries**
- The Contract is entered into solely for the benefit of the County and the Contractor. No third party shall be deemed a beneficiary of the Contract and no third party shall have the right to make any claim or assert any right under the Contract.
- 19. Certification as to Relationships**
- The Contractor certifies under penalties of perjury that, other than through the funds provided in the Contract and other valid agreements with the County, there is no known spouse, life partner, business, commercial, economic, or financial relationship with the County or its elected officials. The Contractor also certifies that there is no relationship within the third degree of consanguinity, between the Contractor, any of its partners, members, directors, or shareholders owning five (5%) percent or more of the Contractor, and the County. The foregoing certification shall not apply to a contractor that is a municipal corporation or a government entity.
- 20. Publications**
- Any book, article, report, or other publication related to the

Services provided pursuant to this Contract shall contain the following statement in clear and legible print:

“This publication is fully or partially funded by the County of Suffolk.”

**21. Copyrights and Patents**

**a. Copyrights**

Any and all materials generated by or on behalf of the Contractor while performing the Services (including, without limitation, designs, images, video, reports, analyses, manuals, films, tests, tutorials, and any other work product of any kind) and all intellectual property rights relating thereto (“Work Product”) are and shall be the sole property of the County. The Contractor hereby assigns to the County its entire right, title and interest, if any, to all Work Product, and agrees to do all acts and execute all documents, and to use its best efforts to ensure that its employees, consultants, subcontractors, vendors and agents do all acts and execute any documents, necessary to vest ownership in the County of any and all Work Product.

The Contractor may not secure copyright protection. The County reserves to itself, and the Contractor hereby gives to the County, and to any other person designated by the County, consent to produce, reproduce, publish, translate, display or otherwise use the Work Product. This paragraph shall survive any completion, expiration or termination of this Contract.

The County shall be deemed to be the author of all the Work Product. The Contractor acknowledges that all Work Product shall constitute “work made for hire” under the U.S. copyright laws. To the extent that any Work Product does not constitute a “work made for hire,” the Contractor hereby assigns to the County all right, title and interest, including the right, title and interest to reproduce, edit, adapt, modify or otherwise use the Work Product, that the Contractor may have or may hereafter acquire in the Work Product, including all intellectual property rights therein, in any manner or medium throughout the world in perpetuity without compensation. This includes, but is not limited to, the right to reproduce and distribute the Work Product in electronic or optical media, or in CD-ROM, on-line or similar format.

**b. Patents**

If the Contractor develops, invents, designs or creates any idea, concept, code, processes or other work or materials during the Term, or as a result of any Services performed under the Contract (“patent eligible subject matter”), it shall be the sole property of the County. The Contractor hereby assigns to the County its entire right, title and interest, if any, to all patent eligible subject matter, and agrees to do all acts and execute all documents, and to use its best efforts to ensure that its employees, consultants, subcontractors, vendors and agents do all acts and execute any documents, necessary to vest ownership in the County

of any and all patent eligible subject matter. The Contractor may not apply for or secure for itself patent protection. The County reserves to itself, and the Contractor hereby gives to the County, and to any other person designated by the County, consent to produce or otherwise use any item so discovered and/or the right to secure a patent for the discovery or invention. This paragraph shall survive any completion, expiration or termination of this Contract.

**22. Arrears to County**

Contractor warrants that, except as may otherwise be authorized by agreement, it is not in arrears to the County upon any debt, contract, or any other lawful obligation, and is not in default to the County as surety.

**23. Lawful Hiring of Employees Law in Connection with Contracts for Construction or Future Construction**

In the event that the Contract is subject to the Lawful Hiring of Employees Law of the County of Suffolk, Suffolk County Code Article II of Chapter 353, as more fully set forth in the Article entitled "Suffolk County Legislative Requirements," the Contractor shall maintain the documentation mandated to be kept by this law on the construction site at all times. Employee sign-in sheets and register/log books shall be kept on the construction site at all times and all covered employees, as defined in the law, shall be required to sign such sign-in sheets/register/log books to indicate their presence on the construction site during such working hours.

**24. Certification Regarding Lobbying**

Together with this Contract and as a condition precedent to its execution by the County, the Contractor shall have executed and delivered to the County the Certification Regarding Lobbying (if payment under this Contract may exceed \$100,000) as required by Federal regulations, and shall promptly advise the County of any material change in any of the information reported on such Certification, and shall otherwise comply with, and shall assist the County in complying with, said regulations as now in effect or as amended during the term of this Contract.

**25. Record Retention**

The Contractor shall retain all accounts, books, records, and other documents relevant to the Contract for seven (7) years after final payment is made by the County. Federal, State, and/or County auditors and any persons duly authorized by the County shall have full access and the right to examine any of said materials during said period. Such access is granted notwithstanding any exemption from disclosure that may be claimed for those records which are subject to nondisclosure agreements, trade secrets and commercial information or financial information that is privileged or confidential Without limiting the generality of the foregoing, records directly

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related to contract expenditures shall be kept for a period of ten (10) years because the statute of limitations for the New York False Claims Act (New York False Claims Act § 192) is ten (10) years.

**26. Contract Agency Performance Measures and Reporting Requirements – Local Law No. 41-2013**

**a.** If payment under this Contract may exceed \$50,000, it is subject to the requirements of Suffolk County Local Law No. 41-2013, a Local Law to Implement Performance Measurement to Increase Accountability and Enhance Service Delivery by Contract Agencies (Article VIII of Chapter 189 of the Suffolk County Code) as set forth in Article IV entitled "Suffolk County Legislative Requirements."

**b.** The Contractor shall cooperate with the Department in all aspects necessary to help carry out the requirements of the Law. Based on criteria established by the Contractor in conjunction with the Department, the Contractor shall submit monthly reports regarding the Contractor's performance relative to the established criteria, on dates and times as specified by the Department.

**c.** The Contractor shall submit an annual report to the Department regarding the Contractor's performance no later than July 31 of each year of the Term. All performance data and reports will be subject to audit by the Comptroller.

**27. Notice**

Unless otherwise expressly provided, all notices shall be in writing and shall be deemed sufficiently given if sent by regular first class mail and certified mail, or personally delivered during business hours as follows: 1.) to the Contractor at the address on page 1 of the Contract and 2.) to the County at the Department, or as to either of the foregoing, to such other address as the addressee shall have indicated by prior written notice to the addressor. All notices received by the Contractor relating to a legal claim shall be immediately sent to the Department and also to the County Attorney at H. Lee Dennison Building, 100 Veterans Memorial Highway, P.O. Box 6100, (Sixth Floor), Hauppauge, New York, 11788-0099.

**End of Text for Article III**

**Article IV**  
**Suffolk County Legislative Requirements**

**NOTE: THE CONTRACTOR’S COMPLETED LEGISLATIVE REQUIRED FORMS REFERENCED HEREIN ARE AVAILABLE ON FILE AT THE COUNTY ATTORNEY’S OFFICE AND THE DEPARTMENT NAMED ON THE SIGNATURE PAGE OF THIS CONTRACT.**

**1. Contractor’s/Vendor’s Public Disclosure Statement**

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of section A5-8 of Article V of the Suffolk County Code.

Unless certified by an officer of the Contractor as being exempt from the requirements of section A5-8 of Article V of the Suffolk County Code, the Contractor represents and warrants that it has filed with the Comptroller the verified public disclosure statement required by Suffolk County Administrative Code Article V, section A5-8 and shall file an update of such statement with the Comptroller on or before the 31st day of January in each year of the Contract’s duration. The Contractor acknowledges that such filing is a material, contractual and statutory duty and that the failure to file such statement shall constitute a material breach of the Contract, for which the County shall be entitled, upon a determination that such breach has occurred, to damages, in addition to all other legal remedies, of fifteen percent (15%) of the amount of the Contract.

**Required Form:**

Suffolk County Form SCEX 22; entitled  
“Contractor’s/Vendor’s Public Disclosure Statement”

**2. Living Wage Law**

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Chapter 575, of the Suffolk County Code.

This Contract is subject to the Living Wage Law of the County of Suffolk. The law requires that, unless specific exemptions apply, all employers (as defined) under service contracts and recipients of County financial assistance, (as defined) shall provide payment of a minimum wage to employees as set forth in the Living Wage Law. Such rate shall be adjusted annually pursuant to the terms of the Suffolk County Living Wage Law of the County of Suffolk. Under the provisions of the Living Wage Law, the County shall have the authority, under appropriate circumstances, to terminate the Contract and to seek other remedies as set forth therein, for violations of this Law.

**Required Forms:**

Suffolk County Living Wage Form LW-1; entitled “Suffolk County Department of Labor – Living Wage Unit Notice of

Application for County Compensation (Contract).”

Suffolk County Living Wage Form LW-38; entitled  
“Suffolk County Department of Labor – Living Wage Unit Living Wage Certification/Declaration – Subject To Audit.”

**3. Use of County Resources to Interfere with Collective Bargaining Activities**

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Article I of Chapter 803 of the Suffolk County Code.

County Contractors (as defined by section 803-2) shall comply with all requirements of Chapter 803 of the Suffolk County Code, including the following prohibitions:

- a. The Contractor shall not use County funds to assist, promote, or deter union organizing.
- b. No County funds shall be used to reimburse the Contractor for any costs incurred to assist, promote, or deter union organizing.
- c. No employer shall use County property to hold a meeting with employees or supervisors if the purpose of such meeting is to assist, promote, or deter union organizing.

If the Services are performed on County property, the Contractor must adopt a reasonable access agreement, a neutrality agreement, fair communication agreement, non-intimidation agreement, and a majority authorization card agreement.

If the Services are for the provision of human services and are not to be performed on County property, the Contractor must adopt, at the least, a neutrality agreement.

Under the provisions of Chapter 803, the County shall have the authority, under appropriate circumstances, to terminate the Contract and to seek other remedies as set forth therein, for violations of this Law.

**Required Form:**

Suffolk County Labor Law Form DOL-LO1; entitled  
“Suffolk County Department of Labor – Labor Mediation Unit Union Organizing Certification/Declaration - Subject to Audit.”

**4. Lawful Hiring of Employees Law**

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Article II of Chapter 353 of the Suffolk County Code.

This Contract is subject to the Lawful Hiring of Employees Law of the County of Suffolk. It provides that all covered employers, (as defined), and the owners thereof, as the case may be, that are recipients of compensation from the

County through any grant, loan, subsidy, funding, appropriation, payment, tax incentive, contract, subcontract, license agreement, lease or other financial compensation agreement issued by the County or an awarding agency, where such compensation is one hundred percent (100%) funded by the County, shall submit a completed sworn affidavit (under penalty of perjury), the form of which is attached, certifying that they have complied, in good faith, with the requirements of Title 8 of the United States Code Section 1324a with respect to the hiring of covered employees (as defined) and with respect to the alien and nationality status of the owners thereof. The affidavit shall be executed by an authorized representative of the covered employer or owner, as the case may be; shall be part of any executed contract, subcontract, license agreement, lease or other financial compensation agreement with the County; and shall be made available to the public upon request.

All contractors and subcontractors (as defined) of covered employers, and the owners thereof, as the case may be, that are assigned to perform work in connection with a County contract, subcontract, license agreement, lease or other financial compensation agreement issued by the County or awarding agency, where such compensation is one hundred percent (100%) funded by the County, shall submit to the covered employer a completed sworn affidavit (under penalty of perjury), the form of which is attached, certifying that they have complied, in good faith, with the requirements of Title 8 of the United States Code Section 1324a with respect to the hiring of covered employees and with respect to the alien and nationality status of the owners thereof, as the case may be. The affidavit shall be executed by an authorized representative of the contractor, subcontractor, or owner, as the case may be; shall be part of any executed contract, subcontract, license agreement, lease or other financial compensation agreement between the covered employer and the County; and shall be made available to the public upon request.

An updated affidavit shall be submitted by each such employer, owner, contractor and subcontractor no later than January 1 of each year for the duration of any contract and upon the renewal or amendment of the Contract, and whenever a new contractor or subcontractor is hired under the terms of the Contract.

The Contractor acknowledges that such filings are a material, contractual and statutory duty and that the failure to file any such statement shall constitute a material breach of the Contract.

Under the provisions of the Lawful Hiring of Employees Law, the County shall have the authority to terminate the Contract for violations of this Law and to seek other remedies available under the law.

The documentation mandated to be kept by this law shall at all times be kept on site. Employee sign-in sheets and register/log books shall be kept on site at all times during

working hours and all covered employees, as defined in the law, shall be required to sign such sign-in sheets/register/log books to indicate their presence on the site during such working hours.

#### **Required Forms:**

Suffolk County Lawful Hiring of Employees Law Form LHE-1; entitled "Suffolk County Department of Labor – Notice Of Application To Certify Compliance With Federal Law (8 U.S.C. Section 1324a) With Respect To Lawful Hiring of Employees."

Suffolk County Lawful Hiring of Employees Law Form LHE-2; entitled "Affidavit Of Compliance With The Requirements Of 8 U.S.C. Section 1324a With Respect To Lawful Hiring Of Employees"

#### **5. Gratuities**

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Chapter 664 of the Suffolk County Code.

The Contractor represents and warrants that it has not offered or given any gratuity to any official, employee or agent of the County or the State or of any political party, with the purpose or intent of securing an agreement or securing favorable treatment with respect to the awarding or amending of an agreement or the making of any determinations with respect to the performance of an agreement.

#### **6. Prohibition Against Contracting with Corporations that Reincorporate Overseas**

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of sections A4-13 and A4-14 of Article IV of the Suffolk County Code.

The Contractor represents that it is in compliance with sections A4-13 and A4-14 of Article IV of the Suffolk County Code. Such law provides that no contract for consulting services or goods and services shall be awarded by the County to a business previously incorporated within the U.S.A. that has reincorporated outside the U.S.A.

#### **7. Child Sexual Abuse Reporting Policy**

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Article II of Chapter 880 of the Suffolk County Code.

The Contractor shall comply with Article II of Chapter 880, of the Suffolk County Code, entitled "Child Sexual Abuse Reporting Policy," as now in effect or amended hereafter or of any other Suffolk County Local Law that may become applicable during the term of the Contract with regard to child sexual abuse reporting policy.

**8. Non Responsible Bidder**

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Article II of Chapter 189 of the Suffolk County Code.

Upon signing the Contract, the Contractor certifies that it has not been convicted of a criminal offense within the last ten (10) years. The term "conviction" shall mean a finding of guilty after a trial or a plea of guilty to an offense covered under section 189-5 of the Suffolk County Code under "Nonresponsible Bidder."

**9. Use of Funds in Prosecution of Civil Actions Prohibited**

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Article III of Chapter 893 of the Suffolk County Code.

The Contractor shall not use any of the moneys, in part or in whole, and either directly or indirectly, received under the Contract in connection with the prosecution of any civil action against the County in any jurisdiction or any judicial or administrative forum.

**10. Youth Sports**

It shall be the duty of the Contractor to read, become familiar with, and comply with Article III of Chapter 730 of the Suffolk County Code.

All contract agencies that conduct youth sports programs are required to develop and maintain a written plan or policy addressing incidents of possible or actual concussion or other head injuries among sports program participants. Such plan or policy must be submitted prior to the award of a County contract, grant or funding. Receipt of such plan or policy by the County does not represent approval or endorsement of any such plan or policy, nor shall the County be subject to any liability in connection with any such plan or policy.

**11. Work Experience Participation**

If the Contractor is a not-for-profit or governmental agency or institution, each of the Contractor's locations in the County at which the Services are provided shall be a work site for public-assistance clients of Suffolk County pursuant to Chapter 281 of the Suffolk County Code at all times during the Term of the Contract. If no Memorandum of Understanding ("MOU") with the Suffolk County Department of Labor for work experience is in effect at the beginning of the Term of the Contract, the Contractor, if it is a not-for-profit or governmental agency or institution, shall enter into such MOU as soon as possible after the execution of the Contract and failure to enter into or to perform in accordance with such MOU shall be deemed to be a failure to perform in accordance with the Contract, for

which the County may withhold payment, terminate the Contract or exercise such other remedies as may be appropriate in the circumstances.

**12. Safeguarding Personal Information of Minors**

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Suffolk County Local Law No. 20-2013, a Local Law to Safeguard the Personal Information of Minors in Suffolk County.

All contract agencies that provide services to minors are required to protect the privacy of the minors and are strictly prohibited from selling or otherwise providing to any third party, in any manner whatsoever, the personal or identifying information of any minor participating in their programs.

**13. Contract Agency Performance Measures and Reporting Requirements**

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Suffolk County Local Law No. 41-2013, a Local Law to Implement Performance Measurement to Increase Accountability and Enhance Service Delivery by Contract Agencies (Article VIII of Chapter 189 of the Suffolk County Code).

All contract agencies having a contract in excess of \$50,000 shall cooperate with the contract's administering department to identify the key performance measures related to the objectives of the service the contract agency provides and shall develop an annual performance reporting plan. The contract agency shall cooperate with the administering department and the County Executive's Performance Management Team to establish working groups to identify appropriate performance indicators for monthly evaluation of the contract agency's performance measures.

**14. Suffolk County Local Laws Website Address**

Suffolk County Local Laws, Rules and Regulations can be accessed on the homepage of the Suffolk County Legislature.

**End of Text for Article IV**

**Article V**  
**General Fiscal Terms and Conditions**

**1. General Payment Terms**

**a. Presentation of Suffolk County Payment Voucher**

In order for payment to be made by the County to the Contractor for the Services, the Contractor shall prepare and present a Suffolk County Payment Voucher, which shall be documented by sufficient, competent and evidential matter. Each Suffolk County Payment Voucher submitted for payment is subject to Audit at any time during the Term or any extension thereof. This provision shall survive expiration or termination of this Contract for a period of not less than seven (7) years, and access to records shall be as set forth in paragraph 25 of Article III, and paragraph 4(b) of Article V.

**b. Voucher Documentation**

The Suffolk County Payment Voucher shall list all information regarding the Services and other items for which expenditures have been or will be made in accordance with the Contract. Either upon execution of the Contract (for the Services already rendered and expenditures already made), or not more than thirty (30) days after the expenditures were made, and in no event after the 31<sup>st</sup> day of January following the end of each year of the Contract, the Contractor shall furnish the County with detailed documentation in support of the payment for the Services or expenditures under the Contract e.g. dates of the Service, worksite locations, activities, hours worked, pay rates and all program Budget categories. The Suffolk County Payment Voucher shall include time records, certified by the Contractor as true and accurate, of all personnel for whom expenditures are claimed during the period. Time and attendance records of a project director, if any, shall be certified by the Chairperson, President or other designated member of the Board of Directors of the Contractor. All Suffolk County Payment Vouchers must bear a signature as that term is defined pursuant to New York State General Construction Law §46 by duly authorized persons, and certification of such authorization with certified specimen signatures thereon must be filed with the County by a Contractor official empowered to sign the Contract. Disbursements made by the Contractor in accordance with the Contract and submitted for reimbursement must be documented and must comply with accounting procedures as set forth by the Suffolk County Department of Audit and Control. Documentation, including any other

form(s) required by County or the Suffolk County Department of Audit and Control, shall be furnished to the County pursuant to, and as limited by, the Regulations for Accounting Procedures for Contract Agencies of the Suffolk County Department of Audit and Control. In addition to any other remedies that the County may have, failure to supply the required documentation will disqualify the Contractor from any further County contracts.

**c. Payment by County**

Payment by the County shall be made within thirty (30) days after approval of the Suffolk County Payment Voucher by the Comptroller.

**d. Budget Modification**

i.) The parties shall use the Contract Budget Modification Request form (“Budget Modification”) for revisions to the Budget and Services not involving an increase to the total cost of the Contract. If the Contractor is seeking such a modification, the Contractor shall contact the Department to receive the form and enter the required information. When the County and the Contractor agree as to such revisions, the Contractor shall sign the Budget Modification form and return it to the County for execution along with any other documentation the Department may require.

ii.) Such request must be made in advance of incurring any expenditure for which the revision is needed.

iii.) Upon complete execution of the Budget Modification form, the County shall return a copy to the Contractor. The revision shall not be effective until the Budget Modification is completely executed.

iv.) The Budget Modification form may be submitted only twice per calendar year and may only be submitted prior to November 15<sup>th</sup> of that year.

**e. Budget and/or Services Revisions**

i.) The parties shall use the Contract Budget/Services Revision Approval Form (Budget /Services Revisions) for revisions to the Budget and Services involving any change to the total cost of the Contract due to a resolution of



the Legislature, changes to the County's adopted annual budget, or for any other reason necessitating revisions to the Budget or Services.

- ii.) When the County and the Contractor agree as to such revisions, the Department will enter the information into the Budget/Services Revisions form and send it to the Contractor for signature. The Contractor shall return it to the County for execution along with any other documentation the Department may require.
- iii.) Upon complete execution of the form by the parties, the County shall return a copy to the Contractor. The revision shall not be effective until the Budget /Services Revisions is completely executed.

**f. Taxes**

The charges payable to the Contractor under the Contract are exclusive of federal, state, and local taxes, the County being a municipality exempt from payment of such taxes.

**g. Final Voucher**

The acceptance by the Contractor of payment of all billings made on the final approved Suffolk County Payment Voucher shall operate as and shall be a release of the County from all claims by the Contractor through the date of the Voucher.

**2. Subject to Appropriation of Funds**

- a. The Contract is subject to the amount of funds appropriated each fiscal year and any subsequent modifications thereof by the County Legislature and no liability shall be incurred by the County beyond the amount of funds appropriated each fiscal year by the County Legislature for the Services.
- b. If the County fails to receive Federal or State funds originally intended to pay for the Services, or to reimburse the County, in whole or in part, for payments made for the Services, the County shall have the sole and exclusive right to:
  - i.) determine how to pay for the Services;
  - ii.) determine future payments to the Contractor; and
  - iii.) determine what amounts, if any, are

reimbursable to the County by the Contractor and the terms and conditions under which such reimbursement shall be paid.

- c. The County may, during the Term, impose a Budget Deficiency Plan. In the event that a Budget Deficiency Plan is imposed, the County shall promptly notify the Contractor in writing of the terms and conditions thereof, which shall be deemed incorporated in and made a part of the Contract, and the Contractor shall implement those terms and conditions in no less than fourteen (14) days.

**3. Personnel Salaries, Pension and Employee Benefit Plans, Rules and Procedures**

- a. Upon request, the Contractor shall submit to the County a current copy, certified by the Contractor as true and accurate, of its
  - i.) salary scale for all positions listed in the Budget;
  - ii.) personnel rules and procedures;
  - iii.) pension plan and any other employee benefit plans or arrangements.
- b. The Contractor shall not be entitled to reimbursement for costs under any pension or benefit plan the Comptroller deems commercially unreasonable.
- c. Notwithstanding anything in this paragraph 3 of this **Article V**, the County shall not be limited in requesting such additional financial information it deems reasonable.

**4. Accounting Procedures**

- a. The Contractor shall maintain accounts, books, records, documents, other evidence, and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of the Contract, in accordance with generally accepted accounting principles and with rules, regulations and financial directives, as may be promulgated by the Suffolk County Department of Audit and Control and the Department. The Contractor shall permit inspection and audit of such accounts, books, records, documents and other evidence by the Department and the Suffolk County Comptroller, or their representatives, as often as, in their judgment, such inspection is deemed necessary. Such right of inspection and audit as set forth in subparagraph b. below shall exist during the

Term and for a period of seven (7) years after expiration or termination of the Contract.

- b. The Contractor shall retain all accounts, books, records, and other documents relevant to the Contract for seven (7) years after final payment is made by the County. Federal, State, and/or County auditors and any persons duly authorized by the County shall have full access and the right to examine any of said materials during said period. Such access is granted notwithstanding any exemption from disclosure that may be claimed for those records which are subject to nondisclosure agreements, trade secrets and commercial information or financial information that is privileged or confidential.
- c. The Contractor shall utilize the accrual basis of accounting and will submit all financial reports and claims based on this method of accounting during the Term.

**5. Audit of Financial Statements**

- a. All payments made under the Contract are subject to audit by the Comptroller pursuant to Article V of the Suffolk County Charter. The Contractor further agrees that the Comptroller and the Department shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transactions or other records relating to services under the Contract. If such an audit discloses overpayments by the County to the Contractor, within thirty (30) days after the issuance of an official audit report by the Comptroller or his duly designated representatives, the Contractor shall repay the amount of such overpayment by check to the order of the Suffolk County Treasurer or shall submit a proposed plan of repayment to the Comptroller. If there is no response, or if satisfactory repayments are not made, the County may recoup overpayments from any amounts due or becoming due to the Contractor from the County under the Contract or otherwise.
- b. The provisions of this paragraph shall survive the expiration or termination of the Contract for a period of seven (7) years, and access to records shall be as set forth in paragraph 25 of Article III, and paragraph 4(b) of Article V.

**6. Financial Statements and Audit Requirements**

- a. Notwithstanding any other reporting or certification requirements of Federal, State, or local authorities, the Contractor shall obtain the services of an independent licensed public accountant or certified public accountant (the "Auditor") to audit its financial statements for

each Contractor's "fiscal year" in which the Contractor has received, or will receive, three hundred thousand (\$300,000.00) dollars or more from the County, whether under the Contract or other agreements with the County, and shall submit a report to the County on the overall financial condition and operations of the Contractor, including a balance sheet and statement of income and expenses, attested by the Auditor as fairly and accurately reflecting the accounting records of the Contractor in accordance with generally accepted accounting principles. The Contractor may solicit requests for proposals from a number of qualified accounting firms and review carefully the costs of, and qualifications for, this type of work before selecting the Auditor.

- b. The Auditor should be required to meet the following minimum requirements:
  - i.) a current license issued by the New York State Education Department;
  - ii.) sufficient auditing experience in the not-for-profit, governmental or profit-making areas, as applicable; and
  - iii.) a satisfactory peer review issued within not more than three (3) years prior to the date when the Auditor was selected to conduct the audit.
- c. The audit must be conducted in accordance with generally accepted governmental auditing standards. Financial statements must clearly differentiate between County-funded programs and other programs that the Contractor may be operating. The use of subsidiary schedules should be encouraged for this purpose. The Auditor must also prepare a Management Letter based on the audit.
- d. In the event the Contractor is a not-for-profit organization or unit of local government and expends five hundred thousand (\$500,000.00) dollars or more of Federal moneys, whether as a recipient expending awards received directly from Federal awarding agencies, or as a subrecipient expending Federal awards received from a pass-through entity, such as New York State or Suffolk County, during any fiscal year within which it receives funding under the Contract, the audit must be conducted, and the audit report ("Single Audit Report") must be, in accordance with OMB Circular No. A-133 (revised June 27, 2003). Single Audit Reports must also be submitted to the designated

clearinghouse, cognizant agency and/or pass-through entity, to the extent required by the OMB Circular referred to above.

- e. The Contractor must submit to the County a statement in writing, certified by its chief financial officer, which states the amount of Federal funding expended by the Contractor during such fiscal year. The Contractor must mail or deliver the certified statement to the Department and to the Executive Director of Auditing Services, Suffolk County Department of Audit and Control, H. Lee Dennison Building, 100 Veterans Memorial Highway, P. O. Box 6100, Hauppauge, New York 11788-0099, as soon as possible after the end of the Contractor's fiscal year. The statement must include all Federal funding received directly from the Federal government and all Federal funds passed through from the County and other pass-through entities.
- f. Copies of all financial statements, Management Letters, Single Audit Reports and other audit reports must be transmitted to the County and to the Executive Director of Auditing Services at the address set forth above. The reports must be submitted within thirty (30) days after completion of the audit, but in no event later than nine (9) months after the end of the Contractor's fiscal year, to which the audit relates.
- g. These requirements do not preclude the County, the Comptroller, or their authorized representatives, or Federal or State auditors from auditing all records of the Contractor. Therefore, the records of the Contractor must be made available to authorized representatives of Federal, State and County government for that purpose.
- h. The provisions of this paragraph shall survive the expiration or termination of the Contract.

**7. Furniture, Fixtures, Equipment, Materials, Supplies**

- a. **Purchases, Rentals or Leases Requiring Prior Approval**  
  
Prior to placing any order to purchase, rent or lease any furniture, fixtures, or equipment valued in excess of one thousand dollars (\$1,000.00) per unit for which the Contractor will seek reimbursement from the County, the Contractor shall submit to the County a written request for approval to make such a proposed purchase, rental or lease, with a list showing the quantity and description of each item, its intended location and use, estimated unit price or cost, and estimated total cost of the proposed order. Written approval of the County shall be required before the Contractor may proceed with such proposed purchase, rental or lease of furniture,

fixtures or equipment. All items purchased must be new or like new unless specifically described otherwise in the Budget.

**b. Purchase Practices/Proprietary Interest of County**

- i.) The Contractor shall follow the general practices that are designed to obtain furniture, fixtures, equipment, materials, or supplies at the most reasonable price or cost possible.
- ii.) The County reserves the right to purchase or obtain furniture, fixtures, equipment, materials, or supplies for the Contractor in accordance with the programmatic needs of the Contract. If the County exercises this right, the amount budgeted for the items so purchased or obtained by the County for the Contractor shall not be available to the Contractor for any purpose whatsoever. Title to any such items purchased or otherwise obtained by the County for the programs encompassed by the Contract and entrusted to the Contractor, shall remain in the County.
- iii.) The County shall retain a proprietary interest in all furniture, removable fixtures, equipment, materials, and supplies purchased or obtained by the Contractor and paid for or reimbursed to the Contractor pursuant to the terms of the Contract or any prior agreement between the parties.
- iv.) The Contractor shall attach labels indicating the County's proprietary interest or title in all such property.

**c. County's Right to Take Title and Possession**

Upon the termination or expiration of the Contract or any renewal thereof, the discontinuance of the business of the Contractor, the failure of the Contractor to comply with the terms of the Contract, the bankruptcy of the Contractor, an assignment for the benefit of its creditors, or the failure of the Contractor to satisfy any judgment against it within thirty (30) days of filing of the judgment, the County shall have the right to take title to and possession of all furniture, removable fixtures, equipment, materials, and supplies and the same shall thereupon become the property of the County without any claim for reimbursement on the part of the Contractor.

**d. Inventory Records, Controls and Reports**

The Contractor shall maintain proper and accurate inventory records and controls for all such furniture, removable fixtures and equipment acquired pursuant to the Contract and all prior agreements between the parties, if any. Three (3) months before the expiration date of the Contract, the Contractor shall make a physical count of all items of furniture, removable fixtures and equipment in its custody, checking each item against the aforesaid inventory records. A report setting forth the results of such physical count shall be prepared by the Contractor on a form or forms designated by the County, certified and signed by an authorized official of the Contractor, and one (1) copy thereof shall be delivered to the County within five (5) days after the date set for the aforesaid physical count. Within five (5) days after the termination or expiration date of the Contract, the Contractor shall submit to the County six (6) copies of the same report updated to such date of the Contract, certified and signed by an authorized official of the Contractor, based on a physical count of all items of furniture, removable fixtures and equipment on the aforesaid expiration date, and revised, if necessary, to include any inventory changes during the last three (3) months of the Term.

**e. Protection of Property in Contractor's Custody**

The Contractor shall maintain vigilance and take all reasonable precautions to protect the furniture, fixtures, equipment, material or supplies in its custody against damage or loss by fire, burglary, theft, disappearance, vandalism, or misuse. In the event of burglary, theft, vandalism, or disappearance of any item of furniture, fixtures, equipment, material or supplies, the Contractor shall immediately notify the police and make a record thereof, including a record of the results of any investigation which may be made thereon. In the event of loss of or damage to any item of furniture, fixtures, equipment, materials, or supplies from any cause, the Contractor shall immediately send the County a detailed written report thereon.

**f. Disposition of Property in Contractor's Custody**

Upon termination of the County's funding of any of the Services covered by the Contract, or at any other time that the County may direct, the Contractor shall make access available and render all necessary assistance for physical removal by the County or its designee of any or all furniture,

removable fixtures, equipment, materials or supplies in the Contractor's custody in which the County has a proprietary interest, in the same condition as such property was received by the Contractor, reasonable wear and tear excepted. Any disposition, settlements or adjustments connected with such property shall be in accordance with the rules and regulations of the County and the State of New York.

**8. Lease or Rental Agreements**

If lease payments or rental costs are included in the Budget as an item of expense reimbursable by the County, the Contractor shall promptly submit to the County, upon request, any lease or rental agreement. If during the Term, the Contractor shall enter into a lease or rental agreement, or shall renew a lease or rental agreement, the Contractor shall, prior to the execution thereof, submit such lease or rental agreement, to the County for approval.

**9. Statement of Other Contracts**

Prior to the execution of the Contract, the Contractor shall submit a Statement of Other Contracts to the County. If the Contract is amended during the Term, or if the County exercises its option right, the Contractor shall submit a then current Statement of Other Contracts.

**10. Miscellaneous Fiscal Terms and Conditions**

**a. Limit of County's Obligations**

The maximum amount to be paid by the County is set forth on the first page of the Contract.

**b. Duplicate Payment from Other Sources**

Payment by the County for the Services shall not duplicate payment received by the Contractor from any other source.

**c. Funding Identification**

The Contractor shall promptly submit to the County upon request, a schedule for all programs funded by the County, itemizing for each such program the sums received, their source and the total program budget.

**d. Outside Funding for Non-County Funded Activities**

Notwithstanding the foregoing provisions of the Contract, it is the intent of the County that the terms and conditions of the Contract shall not limit the Contractor from applying for and accepting outside grant awards or from providing additional educational activities/services which may result in the Contractor incurring additional

costs, as long as the following conditions are met:

- i.) The County is not the Fund Source for the additional services;
- ii.) Sufficient funding is available for or can be generated by the Contractor to cover the cost incurred by the Contractor to provide these additional services; and
- iii.) If sufficient funding is not available or cannot be generated, the County shall not be held liable for any of the additional costs incurred by the Contractor in furnishing such additional services.
- iv.) Prior to scheduling any such additional services on County-owned property, the Contractor shall obtain written County approval. The Contractor shall, to the County's satisfaction, submit any documentation requested by the Department reflecting the change, and identify the additional services to be provided and the source of funding that shall be utilized to cover the expenditures incurred by the Contractor in undertaking the additional services.

**e. Potential Revenue**

The Contractor shall actively seek and take reasonable steps to secure all potential funding from grants and contracts with other agencies for programs funded by the County.

**f. Payments Contingent upon State/Federal Funding**

Payments under the Contract may be subject to and contingent upon continued funding by State and/or Federal agencies. In the event payments are subject to such funding no payment shall be made until the Contractor submits documentation in the manner and form as shall be required by State and/or Federal agency. If late submission of claims precludes the County from claiming State or Federal reimbursement, such late claims by the Contractor shall not be paid by the County subject to subparagraph **g.** below, if, for any reason, the full amount of such funding is not made available to the County, the Contract may be terminated in whole or in part, or the amount payable to the Contractor may be reduced at the discretion of the County, provided that any such termination or reduction shall not apply to allowable costs incurred by the Contractor prior to such termination or reduction, and provided that money has been appropriated for payment of such costs.

**g. Denial of Aid**

If a State or Federal government agency is funding the Contract and fails to approve aid in reimbursement to the County for payments made hereunder by the County to the Contractor for expenditures made during the Term because of any act, omission or negligence on the part of the Contractor, then the County may deduct and withhold from any payment due to the Contractor an amount equal to the reimbursement denied by the state or federal government agency, and the County's obligation to the Contractor shall be reduced by any such amounts. In such an event, if there should be a balance due to the County after it has made a final payment to the Contractor under the Contract, on demand by the County, the Contractor shall reimburse the County for the amount of the balance due the County, payable to the Suffolk County Treasurer. The provisions of this subparagraph shall survive the expiration or termination of the Contract.

**h. Budget**

The Contractor expressly represents and agrees that the Budget lists all revenue, expenditures, personnel, personnel costs and/or all other relevant costs necessary to provide the Services.

**i. Payment of Claims**

Upon receipt of a Suffolk County Payment Voucher, the County, at its discretion, may pay the Contractor during the Term, in advance, an amount not to exceed one sixth (1/6) of the maximum amount to be paid by the County set forth on the first page of the Contract.

**j. Payments Limited to Actual Net Expenditures**

The Contractor agrees that if, for any reason whatsoever, the Contractor shall spend during the Term for the purposes set forth in the Contract an amount less than, or receive amounts more than, provided in the Budget, the total cost of the Contract shall be reduced to the net amount of actual Contractor expenditures made for such purposes. The total amount to be paid by the County shall not exceed the lesser of (i) actual net expenditures or (ii) the total cost of the Contract on the cover page and in the Budget. Upon termination or expiration of the Contract, if the Contractor's total amount of allowable expenses is less than the total amount of the payments made during the Term, the Contractor shall prepare a check payable to the Suffolk County Treasurer for the difference between the two amounts and submit such payment to the County, along with the final Suffolk County

Payment Voucher.

**k. Travel, Conference, and Meeting Attendance:  
SOP A-07 Amendment 1**

Reimbursement to the Contractor for travel costs shall not exceed amounts allowed to County employees. All conferences that are partially or fully funded by the County that the Contractor's staff wishes to attend must be pre-approved, in writing, by the County and must be in compliance with Suffolk County Standard Operating Procedure A-07 which may be viewed online at the County's website, SuffolkCountyny.gov; go to "Government," then "Comptroller," then "Consultant's Agreements."

**l. Salaries**

The Contractor shall not be eligible to receive any salary reimbursement until proof of deposit or payment of all withholding and payroll taxes to the Federal/State governments has been provided to the County.

**m. Salary Increases**

No salary, wage, or other compensation for the Services shall be increased over the amount stated in the Budget without the prior written approval of the County.

**n. Contractor Vacancies**

The County shall have the right of prior approval of the Contractor's filling of any vacant position as of the date of execution of the Contract or as

may thereafter become vacant, and, in the exercise of that right. The County may promulgate reasonable regulations involving filling of vacancies which shall be deemed to be incorporated by reference in, and be made part of, the Contract, provided, however, that subject to the availability of funding, approval for the hiring of replacement clerical shall be a Contractor determination.

**o. No Limitation On Rights**

Notwithstanding anything in this **Article V** to the contrary, the County shall have available to it all rights and remedies under the Contract and at law and equity.

**p. Comptroller's Rules and Regulations**

The Contractor shall comply with the "Comptroller's Rules and Regulations for Consultant's Agreements" as promulgated by the Department of Audit and Control of Suffolk County and any amendments thereto during the Term of the Contract. The "Comptroller's Rules and Regulations for Consultant's Agreements" and "SOP A-07 Amendment 1" may be viewed online at the County's website, SuffolkCountyny.gov; go to "Government," then "Comptroller," then "Consultant's Agreements."

**End of Text for Article V**