

***2019 BID SPECIFICATION FOR THE PROVISION
OF
TRANSPORTATION SERVICES
TO
EARLY INTERVENTION AND PRESCHOOL
SPECIAL EDUCATION CHILDREN'S PROGRAM
IN
TIOGA COUNTY, NEW YORK***



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TIOGA COUNTY

NOTICE TO BIDDERS

BID TITLE: *TRANSPORTATION SERVICES TO EARLY INTERVENTION AND PRESCHOOL HANDICAPPED CHILDREN'S PROGRAM IN TIOGA COUNTY*

For contract period July 1, 2019 through June 30, 2022

Bid submissions shall be in a sealed envelope. Sealed envelope shall be clearly marked with:

1. Bidder's full name and address;
2. The Bid Title;
3. Deliver to: **Tioga County Law Department
Attn: Peter DeWind, Esq., County Attorney
56 Main Street, Room 204
Owego NY, 13827**

A Bidders Conference shall be held on:

**May 23, 2019, 3:00 PM
Hubbard Auditorium (Main Floor)
Ronald E. Dougherty Tioga County Office Building
56 Main Street, Owego NY 13827**

Attendance at the Bidders Conference is not mandatory but is strongly encouraged.

Bids shall be submitted and received at above address no later than:

May 30, 2019, 3:00 PM

Bids shall be opened on:

**May 30, 2019, 3:15 PM
Legislative Conference Room (Main Floor)
Ronald E. Dougherty Tioga County Office Building
56 Main Street, Owego NY 13827**

All bids shall be submitted on the form provided. No other forms shall be accepted.

Tioga County reserves the right to reject any and all bids not considered to be in the best interest of Tioga County.

If the bid is awarded, the transporter may not assign, transfer, convey, sublet or otherwise dispose of any right, title or interest in the award without the prior written approval of the Director of Public Health of Tioga County.

Bidders may withdraw their bids if no award has been made within forty-five (45) days of bid opening.

The bid price shall exclude any and all taxes, as Tioga County **BY LAW** is tax exempt.

Tioga County reserves the right to **REVISE** or **AMEND** the bid specifications prior to the bid opening date by **WRITTEN ADDENDA**.

Inquiries regarding this Bid must be mailed to: Peter DeWind, Esq., County Attorney, Tioga County Law Department, 56 Main Street, Room 204, Owego, NY 13827 or e-mail dewindp@co.tioga.ny.us no later than May 24, 2019, 3:00 PM. Responses to inquiries will be posted by May 28, 2019, 3:00 PM at: <http://tiogacountyny.com> "Bids & RFPs".

I. INTRODUCTION

The Tioga County Early Intervention and Preschool Special Education Children's Program is seeking bids per the following specifications for the provision of transportation service to handicapped children authorized by the Early Intervention Program in accordance with recommendations by the child's local Committee on Preschool Special Education (CPSE) to attend education/rehabilitation programs and approved by the child's Board of Education. The service specified will provide specialized transportation to and from their service providers in and adjacent to Tioga County.

II. SERVICE DESCRIPTION

The successful bidder(s) will provide curb to curb transportation services to handicapped and disabled children from zero through five years of age to and from educational/rehabilitation programs in Tioga County and the contiguous counties in the State of New York. The service to be provided under this contract(s) are authorized by the Early Intervention Program in accordance with recommendations by the CPSE and approved by the child's Board of Education. The successful bidder shall be responsible for providing all necessary transportation services to all children requiring it. The successful bidder shall be responsible for providing all personnel, equipment and support not otherwise provided for in this specification, necessary to operate awarded services. **The successful bidder will be required to abide by the terms of the Transportation Management Agreement for Early Intervention and Preschool Special Education Programs attached hereto as Appendix A and incorporated herein.**

It shall be understood that the transportation of these children is a specialized function. It is our purpose and intent that the children are transported to and from the service providers regularly, promptly, safely and without interruption or incident, and that the interest of the children in such transportation shall take precedence over the interest of the successful bidder and its drivers. The successful bidder is solely responsible for the safety of the children to and from the educational/rehabilitation programs and service providers.

All information provided or obtained in the performance of this Agreement shall be confidential and shall not be disclosed. Successful bidder will comply with all applicable HIPAA requirements, including execution of the Tioga County Business Associate Agreement (Appendix C).

III. GENERAL BID TERMS AND CONDITIONS

The following general terms and conditions shall prevail unless otherwise modified by County within this proposal document. Tioga County reserves the right to reject any proposal which does not conform to the following terms and conditions:

A. Complete Proposals

All proposals submitted shall be typewritten and all information contained therein must be legible. Any and all corrections and/or erasures must be initialed. The proposal cover letter shall be signed by an officer of the bidding company. Expenses incurred in developing and submitting a proposal are borne entirely by the bidder. Potential bidders must respond to all requested items. Failure to respond may result in County rejecting the entire proposal.

B. Qualifications of Bidders

Tioga County shall make such reasonable investigations as deemed proper and necessary to determine the ability of the bidder to perform the services outlined herein, and bidder shall furnish to County any and all such information and data for this purpose as may be requested. County further reserves the right to reject any Bid if the evidence submitted by, or if investigations of, such bidder fails to satisfy County that such bidder is properly qualified to carry out the obligations of the contract and to provide the services contemplated herein.

C. Financial Stability

Bidders must demonstrate financial stability and County reserves the right to conduct independent background checks to determine the financial strength of any and all organizations or individuals submitting bids.

D. Confidentiality of Proposals

All proposals and supporting documents shall be submitted in a sealed envelope to provide confidentiality of the proposal information prior to the

proposal opening. Once the contract is awarded, all proposals and supporting documents become public information and are available for inspection.

IV. RIDERSHIP LIST AND INFORMATION

Attached is a chart of the Current Population Being Served (Appendix D) listing the number of children currently participating with zip code and town location and provider site.

This information is provided for informational purposes to assist in the bid estimation process and may not be relied on by the bidder as an adequate projection of the actual number of children that will require transport under this program.

Due to the nature of the service and its dependence upon the recommendations of Early Intervention Programs and CPSE's, children may be added or deleted to those known prior to bid. The successful bidder(s) shall be obligated and required to provide such transportation service as authorized by the Early Intervention Programs or in accordance with recommendations by CPSE, and approved by the Boards of Education.

V. BID SCHEDULE

A. Bid Solicitation Schedule

May 30, 2019, 3:00 PM - Deadline for Bid Submission

Materials to be included with bid that must be submitted by this date include:

1. Pricing Sheet (Appendix E);
2. Bidder Certification (Appendix F);
3. Non-Collusion Bidding Certificate (Appendix G);
4. Certification of Debarment, Suspension and Responsibility (Appendix H);
5. Equipment Roster (Vehicles to be used for contract work) (Appendix I);
6. Driver Roster (New York State 19-A Certification) (Appendix J).

NOTE: Copies of the above forms to be used are contained elsewhere in this specification (see Index).

B. Post Bid Schedule

1. Successful bidders shall be prepared to begin service on the contract start date.

VI. CONTRACT PERIOD

The period of this contract shall run from **July 1, 2019** through **June 30, 2022**. In the event that responsibility for the operation of the Early Intervention and/or Preschool Special Education Program shall be legislatively transferred to another agency during the term of the contract, the contract shall terminate upon the effective date of the transfer of responsibility, unless the new agency assumes the contract.

VII. AWARDING OF THE CONTRACT

In accordance with General Municipal Law §103, Tioga County shall award the Bid to the lowest responsible bidder conforming to the Bid Specifications contained herein. In evaluating whether a bidder is a Responsible Bidder, Tioga County will consider the responses to requirements set forth in herein. Tioga County shall evaluate, among other factors, the bidder's ability to perform the contract, successful completion of comparable work, history of poor performance of comparable work, financial responsibility, business integrity and bidder's cooperation with inquiries and willingness to provide requested information. **Tioga County expressly reserves the right to reject any and all bids.** Tioga County reserves the right to waive any minor deviations from the bid specifications outlined herein.

VIII. BID PROCEDURE

Bidders shall submit sealed bids using the enclosed forms to:

**Peter DeWind, Esq., County Attorney
56 Main Street, Room 204
Owego, NY 13827**

NO LATER THAN MAY 30, 2019, 3:00 pm

Bids will be submitted as a unit price per child, applicable to all participants in all programs. The unit price shall be based on the total cost of transporting the child one way to or one way from authorized service providers.

Zones are:

Zone 1: Children needing transportation to service providers in Owego (Tioga County), Broome County and Cortland County. This primarily includes children found within the Newark Valley, Owego-Apalachin and Tioga Central School districts but is not limited to children in these three school districts.

Zone 2: Children needing transportation to service providers located in Waverly and Spencer (Tioga County), Chemung County and Tompkins County. This primarily includes children found within the Waverly, Candor, Spencer-Van Etten and Tioga Central School districts but is not limited to these four school districts.

Should providers be utilized that are found outside of the contiguous counties to Tioga County, the Zone will be based on the contiguous nature of said county to the mentioned counties in the zone (e.g. Delaware County, as it borders Broome County, would be Zone 1; Steuben County, as it borders Chemung County, would be Zone 2).

Tioga County reserves the right to assign children who may be placed with a provider in the State of Pennsylvania to the most appropriate Zone.

APPENDIX A

TRANSPORTATION MANAGEMENT AGREEMENT FOR EARLY INTERVENTION AND PRE-SCHOOL SPECIAL EDUCATION PROGRAMS BETWEEN TIOGA COUNTY AND _____

THIS AGREEMENT, made this _____ day of _____, 2019, between the COUNTY OF TIOGA (hereinafter referred to as the "COUNTY"), a municipal corporation of the State of New York, having its principal office at 56 Main Street, Owego, New York, 13827, and _____, having its principal offices at _____ (hereinafter referred to as the "CARRIER".

WHEREAS, the COUNTY seeks transportation services for Tioga County children aged 0-5 years who are served by the Early Intervention and/or Pre-School Special Education programs; and

WHEREAS, the CARRIER provides transportation services as defined by Article 19-A of the Vehicle and Traffic Law the State of New York; and

WHEREAS, the COUNTY selected the CARRIER to enter into an agreement intended and designed to provide coordination and transportation services to Early Intervention and Pre-School Special Education Children at fair and reasonable rates; and

WHEREAS, the Tioga County Legislature by Resolution No. _____ and dated _____, authorized The County of Tioga to enter into a contract with CARRIER for these services;

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

I. TERM OF AGREEMENT

This Agreement shall become effective July 1, 2019, and shall extend through and include June 30, 2022.

In the event that responsibility for the operation of the Early Intervention and/or Preschool Special Education Program shall be legislatively transferred to an agency other than Tioga County Public Health during the term of the contract, the contract shall terminate upon the effective date of the transfer of responsibility, unless the new agency assumes the contract.

II. INCORPORATION OF BID SPECIFICATION

The CARRIER acknowledges that the Bid Specification issued by the COUNTY, the Clarifications and Responses to Questions issued by the COUNTY, and the Proposal submitted by the CARRIER is hereby incorporated into and made a part of this Agreement by reference as

if they were attached hereto. In the event any provision of this Agreement is in conflict with any provision of the documents stated herein, this Agreement shall govern.

III. SERVICE DESCRIPTION

The CARRIER agrees to provide curb to curb transportation services to handicapped and disabled children from zero through five years of age to and from educational/rehabilitation programs in Tioga County and the contiguous counties in the State of New York. Service is to be provided under this contract as authorized by the Early Intervention Program in accordance with recommendations by the CPSE and approved by the child's Board of Education. The CARRIER shall be responsible for providing all necessary service to all children requiring it. The CARRIER shall be responsible for providing all personnel, equipment and support not otherwise provided for in this specification, necessary to operate awarded services.

It should be understood that the transportation of these children is a specialized function. It is COUNTY'S purpose and intent that the children are transported to and from the service providers regularly, promptly, safely and without interruption or incident, and that the interest of the children in such transportation shall take precedence over the interest of the CARRIER and its drivers. The CARRIER is solely responsible for the safety of the children to and from the educational/rehabilitation programs and service providers.

The CARRIER shall be responsible for coordination of all transportation services with the exception of the designation of participants, which shall be by the Tioga County Public Health Department, and except as otherwise set forth herein.

Parents may choose to transport their children themselves, and in such cases, these specifications shall not apply.

The CARRIER and Tioga County Public Health Department staff, and any other County Personnel shall meet at least quarterly. Either the CARRIER or the County can hold other meetings on request.

Due to rapid changes in requirements, CARRIER may need to be available for training if requested by the COUNTY.

IV. HOURS OF OPERATION, TIME SCHEDULES AND GENERAL REQUIREMENTS

- A. Hours of operation required will be determined by program agencies and service providers.
- B. The CARRIER is to transport children in the shortest possible time. No child shall be on the bus for more than sixty minutes on any one-way trip without notification to the COUNTY.
- C. Arrival and departure will be within twenty minutes prior to start time or within

twenty minutes after dismissal time of the service provider facility attended by the child. Any change in this time shall require permission of the Tioga County Health Department, Preschool Special Education or Early Intervention Program. Failure to comply within these prescribed time windows will result in forfeiture of payment for the trip. COUNTY may allow for extenuating circumstances but CARRIER must report incident to COUNTY with valid explanation.

- D. No transferring of children between vehicles will be permitted without the permission of the COUNTY.
- E. Permission exempting any of the above requirements requires prior written documentation from the Tioga County Preschool Special Education or Early Intervention Program.
- F. Every effort will be made to notify the CARRIER of cancellations at least 2 hours in advance of pickup. In instances where 2-hour notice cannot be provided, the CARRIER will be paid for performing the one-way trip. Notification of canceled trips will come from the parent of the child being transported. The CARRIER shall provide toll-free telephone access to their offices for parents to contact the CARRIER in emergent cases, with the capability to leave a message if the office is not staffed.
- G. In the event a child fails to cancel and does not appear for pickup and transportation, the CARRIER shall provide a written notice to the Tioga County Preschool Special Education or Early Intervention Program. On the third consecutive day of failure to notify and appear, or five overall incidents within a school semester time-frame, transportation of said child shall be suspended and shall not be reinstated without prior written authorization by the Director of Public Health.
- H. No vehicle that contains a child occupant(s) shall be left unattended at any time, and the driver shall be within reach of the door if outside of the vehicle.
- I. No CARRIER may deliver a child to either the service provider or residence unless an Authorized adult is there to directly receive.
- J. In the event that an authorized adult is not home to receive the child in the afternoon, the driver shall notify CARRIER immediately. CARRIER shall call the child's home, and if there is no answer, the backup numbers provided by DEPARTMENT.
- K. If no one is available at any of the numbers, CARRIER shall immediately notify DEPARTMENT, who shall then initiate a hotline call to the New York State Child Abuse Hotline.

- L. The driver shall stay with the child until an appropriate person has assumed responsibility for the child. This can include continuation of the route schedule.
- M. No child shall be fed anything without written permission from parent, agency and/or Tioga County Public Health Department.

V. ACCIDENTS AND INTERRUPTION OF SERVICE

- A. In the event of an accident or other incident involving injury to or illness of a child, the CARRIER'S driver shall immediately take all necessary and appropriate action to preserve and maintain the health, safety and welfare of the children. Once the necessary and appropriate actions have been taken in regard to the children, the driver shall then immediately notify the COUNTY, the parents of the child or their designated emergency number, and will notify the service provider if the child will not be delivered within the scheduled time frame.
- B. As soon as practical but no later than 48 hours after an accident or incident, the CARRIER shall provide COUNTY with a written report of said accident or incident, together with copies of any applicable police or other reports. The written report shall contain a description and, if applicable, diagram of the accident or incident and the names, addresses and contact information of all parties and witnesses thereto.
- C. In the event that service must be interrupted, the CARRIER will immediately notify Tioga County Public Health Department, (607) 687-8600. Notification will include the cause of interruption, expected duration and remedial action to be taken.
- D. It will be the responsibility of the CARRIER, in the event of interrupted service or lateness beyond the acceptable window to notify by telephone all affected patrons.
- E. It shall be a primary obligation of the CARRIER to operate its affairs so that service providers and the COUNTY will be assured of continuous and reliable service.

VI. VEHICLES

- A. Vehicles must be specially equipped with appropriate size seat belts, harnesses, and/or any other form of support-restraint necessary to ensure each child's safety and for the securing of car seats. There must be a sufficient number of wheelchair accessible vehicles to meet demand at any given time.
- B. Vehicles used must have current New York State Department of Transportation inspections. Transporter must have a New York State Department of Transportation permit to operate service vehicle for the transportation of

handicapped children and must comply with all Federal, State and local regulations governing the use of motor vehicles.

- C. Carrier shall fully comply with the New York State Department of Education and New York State Department of Health Regulations pertaining to the transportation of the Children with Special Needs, including those provisions regarding vehicles.
- D. Costs of physical examinations and driver instruction on safety practices/procedures and specific needs of handicapped children are the responsibility of the CARRIER.
- E. CARRIER will furnish the COUNTY with a list of vehicles which will be used to perform this contract, all of which must be equipped with a New York State Department of Transportation inspection/permit and approved at all times that vehicles are in use. Specific information regarding these vehicles that is to be kept on file is as follows:
 - 1. Type/description
 - 2. Seating capacity
 - 3. Year/Type of fuel used
 - 4. Make
 - 5. Operators vehicle number
 - 6. Name/Address of registered owner
 - 7. NYS Motor Vehicle Registration Number
 - 8. Locations of terminals (and telephone numbers) from which vehicles will be dispatched
 - 9. Photostatic proof of operating authority for each vehicle used
 - 10. The method that will be utilized in summoning assistance in the event of an accident, disabled vehicle, or any other event requiring outside assistance.

CARRIER will provide updated specific information should the above information change during the course of the contract.

- F. It is the responsibility of the CARRIER to maintain the New York State Department of Transportation and operating authority permits for above-mentioned vehicles (and any of the motor vehicles used in the performance of this contract).
- G. CARRIER shall comply with the New York State Department of Motor Vehicles Article 19-A Guidelines.

VII. DRIVERS AND AIDES

- A. The CARRIER shall require New York State DMV § 19-A physicals for all

drivers. A record of such examinations shall be maintained for inspection upon request by an authorized person of the Tioga County Public Health Department. Each driver of a motor vehicle shall have the appropriate and valid operator's or chauffeur's license to operate such motor vehicle.

- B. In addition to the driver, the CARRIER is required by the COUNTY to provide and transport one adult aide on each bus who shall be physically capable of supervising the safety and welfare of the children while they are in the care of the CARRIER.
- C. Drivers and aides shall be trained in Red Cross Multi-Media First Aid, including CPR for children and infants, and have proof thereof on file for inspection by the Tioga County Public Health Department, with cost of this training being paid by the CARRIER.
- D. Requirements for drivers:
 - 1. Shall be physically and morally capable of supervising the safety and welfare of the children while they are in the care of the CARRIER.
 - 2. Shall be properly attired in a uniform.
 - 3. Shall remain assigned to the same routes with a minimum of change.
 - 4. Shall see that each child on vehicle is properly secured.
 - 5. Shall meet the basic New York State Department of Motor Vehicles Article 19-A physical requirements.
 - 6. Shall be at least 18 years of age.
 - 7. Shall be eligible for full qualification under Section 19-A of the New York State Motor Vehicle Law for School Bus Operators.
 - 8. Shall have a basic knowledge of the needs of handicapped children and be able to interact with them appropriately.
 - 9. Shall have a picture ID from the CARRIER.
- E. CARRIER shall make sufficient investigations to ascertain and maintain on file appropriate records that demonstrate all employees or contracted employees meet the standards specified by the NYSDOH and NYSED; including criminal background checks and the New York State Child Abuse Register Database. Such documentation shall be kept, maintained and available for audit and inspection by the COUNTY and/or NYSDOH or respective designee.
- F. The COUNTY, including the Tioga County Public Health Department, retains the right to review all personnel records pertaining to employees who are utilized in the fulfillment of this contract. COUNTY shall have the right to demand removal from the project, for reasonable cause, any personnel furnished by the CARRIER.
- G. It is recognized that, for the protection of the children being transported, drivers and all other persons coming in contact with the children must be of stable

personality and of the highest moral character. The COUNTY places upon the CARRIER and the CARRIER agrees to accept full responsibility for assuring such qualifications in personnel.

- H. The CARRIER agrees that it will not allow any person to drive a vehicle who does not meet the criteria of Section VII (D) or who is at the time of operation of a vehicle mentally, physically or emotionally impaired. The responsibility for hiring and discharging personnel in respect to all of the foregoing shall rest entirely upon the CARRIER, and the CARRIER agrees that it shall not enter into agreement or arrangement with any employees, persons groups or organizations which may in any way interfere with the CARRIER's ability to comply with this requirement.
- I. The CARRIER agrees to provide to the COUNTY, and the COUNTY'S Director of Public Health, all documentation and certifications determined necessary by the COUNTY and the COUNTY'S Director of the Public Health Department to verify the qualifications of drivers provided under the contract. All drivers will be expected to fully qualify under Section 19-A of the New York State Motor Vehicles Law for school bus operators. Further qualifications may be required as determined by the Director of the Public Health Department.
- J. A complete submission of driver qualification documentation must be made to the Tioga County Early Intervention and Preschool Special Education Children's Program (c/o Director of the Public Health Department) no later than five (5) days before the start of the contract. Detailed driver minimum qualification requirements and procedures are set forth in 19-A Law.
- K. The CARRIER shall in all respects comply with Article 19-A of the New York State Vehicle and Traffic Law in providing the services set forth in this Agreement.

VIII. RECORD KEEPING REQUIREMENTS

- A. The CARRIER shall provide upon request to the County Public Health Department, (and such additional persons/agencies as the Department of Public Health may request) with monthly data for:
 - 1. Number of passengers carried, with dates, times of service, pick-up location and program;
 - 2. Number of no-shows occurred, along with names of individuals involved;
 - 3. Trip cancellations (trips canceled by telephone).
- B. The CARRIER agrees to maintain accurate and detailed records of the services performed by it and/or its employees pursuant to this agreement, reflecting the nature of the work performed, and to have such records available for six years after this agreement's term for inspection and audit by appropriate representatives

of the COUNTY, including the Department of Public Health and/or the County Treasurer, and designated agencies of the State of New York and federal government. In addition, the CARRIER shall perform the services authorized under this Agreement in a spirit of cooperation with the COUNTY, and shall be available to entertain reasonable requests for information from appropriate COUNTY personnel.

IX. PAYMENT AND PAYMENT PROCEDURES

- A. *For the full and satisfactory performance by CARRIER of all services required by this contract and following the submission of any and all of the documentation required by this agreement the COUNTY shall pay the CARRIER an amount not to exceed the following:*

Zone 1: Children needing transportation to service providers in Owego (Tioga County), Broome County and Cortland County. This primarily includes children found within the Newark Valley, Owego-Apalachin and Tioga Central School districts but is not limited to children in these three school districts.

The unit price per child one way to or one way from an authorized service provider: _____.

Zone 2: Children needing transportation to service providers located in Waverly and Spencer (Tioga County), Chemung County and Tompkins County. This primarily includes children found within the Waverly, Candor, Spencer-Van Etten and Tioga Central School districts but is not limited to these four school districts.

The unit price per child one way to or one way from authorized service provider: _____.

- B. CARRIER billing is to occur monthly and be itemized to show the names of passengers carried, the program (Early Intervention or Preschool Children), dates of service and charges per passenger trip.
- C. The Director of the COUNTY'S Public Health Department reserves the right to make advance payments, and if any advance payments are made, they will be reconciled with the next monthly billing, and the amount advanced shall be deducted from the monthly billing amount. The Director of the COUNTY'S Public Health Department reserves the right to withhold payment to the CARRIER for failure to comply with contract obligations.

X. PERFORMANCE/TERMINATION

Should the CARRIER become insolvent or file for bankruptcy, or should it refuse or neglect to perform in a proper manner as directed by the COUNTY, or otherwise fail in

the performance of any of its obligations under the contract, the COUNTY, upon seven (7) days written notice, may, without prejudice to any other right or remedy, terminate the contract. In such case, no further payment shall be made to the CARRIER. If the unpaid balance of the contract is less than the cost to the COUNTY of completing transportation for the remainder of the term, the additional cost shall be paid by the CARRIER to the COUNTY. The COUNTY reserves the right to complete the contract on such terms and conditions as it may arrange.

COUNTY also reserves the right to terminate the contract under the grounds outlined in New York State General Municipal Law 103-a, as follows:

Upon the refusal of a person, when called before a grand jury, head of state department, temporary state commission or other state agency, the organized crime task force in the department of law, head of a city department, or other city agency, which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation concerning any transaction or contract had with the state, any political subdivision thereof, a public authority or with any public department, agency or official of the state or of any political subdivision thereof or of a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract,

- (a) such person, and any firm, partnership or corporation of which he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with any municipal corporation or fire district, or any public department, agency or official thereof, for goods, work or services, for a period of five years after such refusal, and
- (b) any and all contracts made with any municipal corporation or any public department, agency or official thereof on or after the first day of July, nineteen hundred fifty-nine or with any fire district or any agency or official thereof on or after the first day of September, nineteen hundred sixty, by such person, and by any firm, partnership, or corporation of which he is a member, partner, director or officer may be cancelled or terminated by the municipal corporation or fire district without incurring any penalty or damages on account of such cancellation or termination, but any monies owing by the municipal corporation or fire district for goods delivered or work done prior to the cancellation or termination shall be paid.

XI. SUBCONTRACTORS

CARRIER may subcontract any mode of transportation in order to optimize efficiency; however, the CARRIER must notify the COUNTY'S Public Health Department when subcontractors are utilized. All subcontractors will be responsible to and work under the supervision and authority of the CARRIER and per NYSDOT regulations. All subcontractors must agree with the CARRIER, in writing, to comply with the same terms

and conditions imposed upon the CARRIER by this Agreement for provision of the services covered by this Agreement.

XII. ACCEPTABILITY OF WORK

The CARRIER's services pursuant to this agreement shall be rendered in accordance with all applicable professional standards. The COUNTY shall, in all cases, determine the amount, quality, acceptability and fitness of the work performed hereunder, and shall determine every question which may arise relative to the fulfillment of this agreement on the part of the CARRIER, and said COUNTY'S decision shall be final, conclusive and binding upon the CARRIER; except that if such decision is arbitrary or capricious, the CARRIER may have such decision reviewed by a court of competent jurisdiction within the State of New York.

XIII. COMPLIANCE WITH ALL LAWS

The CARRIER shall comply with all applicable laws of the United States, the State of New York, and the County of Tioga and with all laws and regulations of authorities having jurisdiction in this matter, including laws against discrimination.

XIV. WAIVER

No term, provision or condition of this Agreement shall be deemed waived by the COUNTY or the CARRIER unless such waiver shall be in writing, approved and signed by the authorized representative of both the COUNTY and the CARRIER. No such waiver shall be deemed the waiver of any other term, provision or condition of this Agreement, nor be deemed the waiver of any present or subsequent breach of the same term, provision or condition.

XV. NOTICE

All notices, requests, demands and other communications required or permitted to be made hereunder shall be in writing and shall be deemed duly given if hand delivered against a signed receipt thereof, sent by certified mail, return receipt requested, first class postage prepaid, or sent by a nationally recognized overnight delivery service, in each case addressed to the party entitled to receive the same at the address specified below.

FOR Tioga County:
Tioga County Attorney
56 Main Street
Suite 204
Owego, New York 13827

FOR Carrier:

Either party may change the address to which communications are to be sent by giving notice of such change of address in conformity with the provisions of this Section providing for the giving of notice. Notice shall be deemed to be effective, if personally delivered, when delivered; if mailed, at midnight on the third business day after being sent certified mail; and if sent by a nationally recognized overnight delivery service, on the next business day following delivery to such delivery service.

XVI. ENTIRE AGREEMENT; AMENDMENTS:

This Agreement evidences the entire understanding and Agreement of the parties with respect to the subject matter hereof and supersedes and merges any prior understandings, contracts or Agreements. This Agreement may not be amended or modified except in writing subscribed to by both parties.

XVII. MISCELLANEOUS

Any delay or forbearance by either party in exercising any right hereunder shall not be deemed a waiver of that right. Each party shall be responsible for its respective legal and other expenses incurred in connection with the preparation and negotiation of this Agreement. The provisions of the Agreement are independent of and severable from each other. No provisions hereof may be invalid or unenforceable in whole or in part. This Agreement may be executed in any number of counterpart each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute an Agreement. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories thereto.

XVIII. STANDARD CLAUSES

The provisions of Standard Clauses for Tioga County Contracts, attached hereto (Appendix K), are hereby incorporated into this Agreement and made part hereof. The laws of the State of New York will govern this Agreement, without regard for New York's choice of law statute. The Agreement contains the entire understanding of the parties with respect to the matters contained herein. In the event of any conflict between the terms and conditions set forth in this Agreement, the following order of precedence shall apply: (1) Appendix K; (2) this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by TIOGA COUNTY and
_____ on the dates set forth below.

TIOGA COUNTY

BY: _____
Martha Sauerbrey, Chair
Tioga County Legislature

DATE: _____

BY: _____

DATE: _____

APPENDIX B
TIOGA COUNTY, NEW YORK
General Contract and Insurance Specifications

Project Description or Contract Number:	Transportation Services to Early Intervention and Preschool Special Education Children's Program
Date Issued:	Tuesday, May 14, 2019 3:03 PM
Vendor name ("Contractor"):	
County Department:	Public Health

Please read these specifications very carefully. These specifications are part of your contract with Tioga County. It is advisable that you forward a copy of these specifications to your insurance agent. Tioga County's waiver of any requirement(s) set forth herein shall not constitute a waiver of any other contract provision.

Part I. General Provisions

1. The Contractor shall procure and maintain during the term of this contract, at the Contractor's expense, the insurance policies listed in Part II with limits equal to or greater than the enumerated limits.
2. Every required policy, including any required endorsements and any umbrella / excess policy, shall be primary insurance. Insurance carried by Tioga County, its officers, or its employees, if any, shall be excess and not contributory insurance to that provided by the Contractor.
3. Every required coverage type shall be on an "occurrence basis" unless otherwise specified or allowed.
4. The Contractor may utilize a combination of primary and umbrella/excess liability coverage to achieve the limits required hereunder; such coverage must be at least as broad as the primary coverage.
5. Proof of insurance coverage shall be provided on an ACORD 25 form or acceptable equivalent. All insurance certificates must be approved by the County Department of Law or its designee.
6. The amount of self-insured retention or deductibles must be disclosed on the certificates of insurance. The contractor shall be solely responsible for any self-insured retention or deductible losses under each of the required policies.
7. Tioga County reserves the right to request a certified copy of any policy and any endorsement thereto.
8. All insurance shall be provided by insurance carriers licensed & admitted to do business in the State of New York and must be rated "A-, XI" or better by A.M. Best (Current Rate Guide).
9. If the Contractor fails to procure and maintain the required coverage(s) and minimum limits such failure shall constitute a material breach of contract, whereupon Tioga County may exercise any rights it has in law or equity, including but not limited to the following:
 - (a) immediate termination of the contract;
 - (b) withholding any / all payment(s) due under this contract or any other contract it has with the vendor (common law set-off); OR

- (c) procuring or renewing any required coverage(s) or any extended reporting period thereto and paying any premiums in connection therewith. All monies so paid by Tioga County shall be repaid upon demand, or at the County's option, may be offset against any monies due to the Contractor.

Part II. Required Insurance – Minimum coverage types and amounts

1.

Coverage Type	Minimum Limits	
<u>Commercial General Liability</u> <u>per standard ISO form or</u> <u>equivalent with no modification</u> <u>of coverage for contractual</u> <u>liability</u> <ul style="list-style-type: none">All endorsed policy exclusions shall be disclosed by submittal of formsTioga County shall be named Additional Insured, on a primary, non-contributory basis. The additional insured requirement shall be provided by ISO endorsement forms CG 20 10, CG 20 37 and CG 20 01 (or equivalent forms) and shall not contain any exclusion for bodily injury or property damage arising from completed operations. Submittal of the specified Additional Insured forms is required with the ACORD 25.	General Aggregate	\$2,000,000
	Products & Completed Operations Aggregate	\$2,000,000
	Personal & Advertising Injury	\$1,000,000
	Each Occurrence	\$1,000,000
	Fire Damage	\$300,000
	Medical Expense	\$10,000
	Sexual Abuse & Molestation	\$1,000,000
<u>Automobile Liability (per standard ISO Form)</u> Must cover owned, non-owned, leased and hired vehicles.	\$1,000,000	
	Combined Single Limit	
	\$150,000 No Fault (PIP)	
	!,000,000 Uninsured/Underinsured	
	Motorist	
	\$10,000 Medical Payments	
<u>Umbrella / Excess Liability (Following Form)</u> <ul style="list-style-type: none">To extend over CGL, Auto	\$5,000,000 Each Occurrence	
	\$5,000,000 Annual Aggregate	
<u>Workers' Compensation and Employer's Liability</u> If you have no employees (sole proprietor) a NYS Workers' Compensation Board issued waiver of the Workers' Compensation requirement is acceptable	Part 1 – Statutory	
	Part 2 – (Unlimited in NYS)	
	\$100,000 Each Accident	
	\$500,000 Disease Policy Limit	
	\$100,000 Disease Each Employee	
(Proof of either Workers' Compensation Insurance or a NYS Workers' Compensation Board issued waiver of the Workers' Compensation insurance requirement is mandated by state law. There are no exceptions to this law.		

2. The certificate face shall:
- indicate coverages and minimum amounts required in part II.1
 - provide that the coverage(s) shall not be cancelled, terminated or materially changed (including an insurance limits reduction) unless prior written notice has been given to the Tioga County.
3. The Additional Insured & Certificate Holder should read:
- County Of Tioga
Attn: Law Department
 56 Main Street, Owego, NY 13827

Part III Defense and Indemnification

The following provisions concerning indemnification shall not be construed to indemnify the County for damages arising from bodily injury to persons or property contributed to, caused by or resulting from the sole negligence of the County or its employees.

The Contractor agrees to indemnify and hold the County of Tioga and any officer, employee and/or agent thereof free and harmless from any and all loss(es), penalty(ies), damages, settlement(s), cost(s), charge(s), professional fee(s) or other expense(s) or liability(ies) of every kind arising from or relating to any and all claim(s), lien(s), demand(s), obligation(s), action(s), proceedings or causes of action of any kind in connection with, or arising directly or indirectly from the negligent error(s) and/or omission(s) and/or act(s) of the Contractor (including Contractor's employees, agents and/or subcontractors) in the performance of this agreement.

Without limiting the generality of the preceding paragraphs, the following shall be included in the indemnity hereunder: any and all such claims, etc., relating to personal injury, death, damage to property, or any actual or alleged violation of any applicable statute (including specifically but not limited to New York State Labor Law §§ 200; 202; 240 & 241), ordinance, administrative order, executive order, rule or regulation, or decree of any court of competent jurisdiction in connection with, or arising directly or indirectly from, errors and/or negligent acts by the Contractor, as aforesaid.

Part IV Safety

Tioga County specifically reserves the right to suspend or terminate all work under this contract whenever Contractor and/or contractor's employees or subcontractors are proceeding in a manner that threatens the life, health or safety of any of contractor's employees, subcontractor's employees, county employees or member(s) of the general public on county property. This reservation of rights by Tioga County in no way obligates Tioga County to inspect the safety practices of the Contractor.

If Tioga County exercises its rights pursuant to this part, the contractor shall be given three days to cure the defect, unless Tioga County, in its sole and absolute discretion, determines that the service cannot be suspended for three days due to Tioga County's legal obligation to continuously provide contractor's service to the public or Tioga County's immediate need for completion of the Contractor's work. In such case, Contractor shall immediately cure the defect.

If the Contractor fails to cure the identified defect(s), Tioga County shall have the right to immediately terminate this contract. In the event that Tioga County terminates this contract, any payments for work completed by the Contractor shall be reduced by the costs incurred by Tioga County in re-bidding the work and /or by the increase in cost that results from using a different vendor.

APPENDIX C
BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement") by and between COUNTY OF TIOGA, having its business address at 56 Main Street, Owego, New York 13827 ("Covered Entity") and [CONTRACTOR], having its business address at [ADDRESS OF CONTRACTOR], ("Business Associate"), is effective as of the date of the Service Agreement (defined below) (the "Agreement Effective Date").

RECITALS

A. Covered Entity wishes to disclose certain information to Business Associate pursuant to the terms of an agreement whereby Business Associate will provide certain services to or perform functions on behalf of Covered Entity (the "Service Agreement").

B. Business Associate may have access to information, some of which may be Protected Health Information ("PHI") as defined below, in fulfilling its responsibilities under the Service Agreement.

C. Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI disclosed to Business Associate pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104.191 ("HIPAA") and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "Privacy and Security Rules"); and with the requirements of Subtitle D the Health Information Technology for Economic and Clinical Health Act, which is Title XIII of the American Recovery & Reinvestment Act of 2009 (Public Law 111-5) 42 U.S.C. Sections 17921-17954 ("HITECH") and other applicable laws.

In consideration of the mutual promises below and the exchange of information pursuant to this Agreement, the parties agree as follows:

1. Definitions.

a. Breach means the unauthorized access, acquisition, use, or disclosure of PHI which compromises the security or privacy of PHI, except where: (1) an unauthorized person to whom such information is disclosed would not reasonably have been able to retain such information; (2) any unintentional acquisition, access, or use of PHI by an employee or individual acting under the authority of a covered entity or business associate (a) was made in good faith and within the course and scope of the employment or other professional relationship of such employee, or individual, respectively, with the covered entity or business associate; and (b) such information is not further acquired, accessed, or used or disclosed by any person; or (3) any inadvertent disclosure, by a person who is otherwise authorized to access PHI at a covered entity or business associate, to another person at the same covered entity or business associate provided that any such information received as a result of such disclosure is not further acquired, accessed, used, or disclosed without authorization.

Any acquisition, access, use or disclosure of PHI in a manner not permitted by the above paragraph is presumed to be a "Breach" unless Covered Entity or Business Associate, as applicable, demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following factors: (i) the nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification; (ii) the unauthorized person who used the PHI or to whom the disclosure was made; (iii) whether the PHI was actually acquired or reviewed; and (iv)

the extent to which the risk to the PHI has been mitigated.

b. Business Associate shall have the meaning given to such term under the Privacy and Security Rules, including, but not limited to, 45 CFR §160.103.

c. Covered Entity shall have the meaning given to such term under the Privacy and Security Rules, including, but not limited to 45 CFR § 160.103.

d. Data Aggregation shall have the meaning given to such term under the Privacy and Security Rules, including, but not limited to, 45 CFR § 164.501.

e. Designated Record Set shall have the meaning given to such term under the Privacy and Security Rules, including, but not limited to, 45 CFR 164.601 and 45 CFR 164.524. Subject to the foregoing, a Designated Record set means a group of records maintained by or for a Covered Entity that is: (1) the individual's medical and billing records or (2) used in whole or in part, by or for the covered entity to make decisions about the individual, and does not include: (a) duplicate information maintained in other systems; (b) data collected and maintained for research; (c) data collected and maintained for peer review purposes; (d) psychotherapy notes; (e) information compiled in reasonable anticipation of litigation or administrative action; (f) employment records; (g) student records; and (h) source data interpreted or summarized in the individual's medical record such as pathology slides and diagnostic film.

f. Disclosure means the release, transfer, provision of access to, or divulging in any other manner, of PHI, outside Business Associate's organization, i.e., to anyone other than its employees who have a need to know or have access to the PHI.

g. Electronic Health Record is an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.

h. Electronic Protected Health Information or "EPHI" means Protected Health Information, as defined herein, that is transmitted by or maintained in electronic media. For purposes of this Agreement, unless otherwise specified, any obligations of Business Associate relating to PHI shall also apply to EPHI.

i. Health Care Operations shall have the meaning given to such term under the Privacy and Security Rules, including, but not limited to, 45 CFR § 164.501.

j. Individual shall have the same meaning as the term "Individual" in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

k. Limited Data Set means information that excludes names, postal address (other than city, state, and zip code), telephone and fax numbers, email address, social security and medical record numbers, health plan numbers, account numbers, certificate license numbers, vehicle identifiers and serial numbers including license plate numbers, device identifiers and serial numbers, Web Universal Resource Locators, Internet Protocol address numbers, biometric identifiers including finger and voice prints and full face photographic images and any comparable images.

l. Personal Health Record means an electronic record of Individually Identifiable Health

Information on an Individual that can be drawn from multiple sources and that is managed, shared, and controlled by or for the Individual.

m. Privacy Rule shall mean the HIPAA Regulation that is codified at 45 CFR Parts 160 and 164.

n. Protected Health Information or "PHI" means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an Individual, the provision of health care to an Individual, or the past, present or future payment for the provision of health care to an Individual, and (ii) that identifies the Individual or with respect to which there is a reasonable basis to believe the information can be used to identify the Individual, and shall have the meaning given to such term under the Privacy and Security Rules, including, but not limited to, 45 CFR 160.103.

o. Secured PHI means PHI rendered unusable, unreadable or indecipherable to unauthorized individuals only if one or more of the following applies:

- (i) Electronic PHI has been encrypted as specified in the HIPAA Security Rule by the use of an algorithmic process to transform data into a form in which there is a low probability of assigning meaning without use of a confidential process or key and such confidential process or key that might enable decryption has not been breached;
- (ii) Encryption processes tested by National Institute of Standards and Technology (NIST) and judged to meet this standard including:
 - (a) Valid encryption processes for data at rest consistent with NIST Special Publication 800-111, Guide to Storage Encryption Technologies for End User Devices;
 - (b) Valid encryption processes for data in motion that comply with Federal Information Processing Standards (FIPS) 140-2 including standards described in NIST Special Publications 800-2, guidelines for the Selection and Use of Transport Layer Security (TLS) Implementations; 800-77, Guide to IPsec VPNs; or 800-113, Guide to SSL VPNs, and may include others which are FIPS 140-2 validated;
- (iii) The media on which the PHI is stored or recorded has been destroyed on one of the following ways:
 - (a) Paper, film, or other hard copy media have been shredded or destroyed such that the PHI cannot be read or otherwise cannot be reconstructed;
 - (b) Electronic media have been cleared, purged, or destroyed consistent with NIST Special Publication 800-88, Guidelines for Media Sanitization, such that the PHI cannot be retrieved.

p. Security Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system.

q. Unsecured Protected Health Information means PHI that is not secured through technology or methodology that HHS has stated renders the PHI unusable, unreadable, or indecipherable to unauthorized Individuals.

r. Use means, with respect to PHI, the sharing, employment, application, utilization, transmission, examination, or analysis of such information to, from or within Business Associate's organization.

2. Obligations of Business Associate.

a. Permitted Uses. Business Associate shall use and/or disclose PHI only as permitted or required by this Agreement or as otherwise required by HIPAA, HITECH, and applicable state law. Business Associate acknowledges that sections of the Privacy Rule, the Security Rule and the HITECH Act apply directly to Business Associate in the same manner as they apply to Covered Entity and agrees to comply with such rules and regulations as applicable. Business Associate shall not use PHI in any manner that would constitute a violation of HIPAA or HITECH if so used by Covered Entity, except that Business Associate may use PHI (i) for the proper management and administration of Business Associate, (ii) to carry out the legal responsibilities of Business Associate, (iii) to report violations of law to appropriate federal and state authorities consistent with 45 CFR § 164.5020(1), or (iv) for Data Aggregation purposes for the Health Care Operations of Covered Entity.

b. Permitted Disclosures. Business Associate shall not disclose PHI in any manner that would constitute a violation of HIPAA or HI TECH if disclosed by Covered Entity, except that Business Associate may disclose PHI (i) in a manner permitted pursuant to this Agreement, (ii) for the proper management and administration of Business Associate; (iii) as required by law, or (iv) for Data Aggregation purposes for the Health Care Operations of Covered Entity.

c. Appropriate Safeguards. Business Associate shall implement appropriate safeguards as are necessary to prevent the use or disclosure of PHI otherwise than as permitted by this Agreement, HIPAA, HITECH and state law and to protect the confidentiality, integrity and availability of electronic PHI created, received, maintained or transmitted on behalf of Covered Entity.

d. Reporting of Improper Use or Disclosure. Business Associate shall report to Covered Entity in writing any Security Incident, unauthorized access of PHI, Use or Disclosure of PHI otherwise than as provided for by this Agreement, Breach involving Unsecured PHI, or any known pattern of activity or practice that constitutes a material breach of this Agreement, within two (2) business days of becoming aware of such improper Use or Disclosure, unauthorized access, Security Incident or Breach. In the event of a Breach, if the identity and/or contact information of all such Individuals is not known, Business Associate must nevertheless notify Covered Entity of the Breach within the two (2) business day time frame and provide additional information concerning the identification of affected Individuals as soon as it is available. Business Associate shall: (i) take prompt action to mitigate the harmful effects of any Security Incident, Breach, improper Use or Disclosure or unauthorized access of PHI in violation of this Agreement and state or federal law; (ii) take additional action to mitigate as requested by Covered Entity; and (iii) upon request, assist Covered Entity in the performance of a risk assessment to determine if a Breach has occurred.

e. Business Associate's Agents/Subcontractors. Business Associate may disclose PHI to and permit the use of PHI by its employees, contractors, agents, or other representatives only if and to the extent directly related to, and necessary for, the performance of services for or on behalf of Covered Entity. Business Associate shall ensure that any agents, including subcontractors, to whom it provides

PHI agree to the same restrictions and conditions that apply to Business Associate with respect to such PHI.

f. Access to PHI. Business Associate shall make PHI maintained by Business Associate or its agents or subcontractors in Designated Records Sets or in an Electronic Health Record available to Covered Entity for inspection and copying to enable Covered Entity to fulfill its obligations under HIPAA, HITECH or other applicable laws.

g. Amendment of PHI. Business Associate or its agents or subcontractors shall make PHI available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under HIPAA, HITECH or other applicable laws.

h. Accounting Rights. Business Associate and its agents or subcontractors shall make available to Covered Entity the information required to provide an accounting of disclosures to enable Covered Entity to fulfill its obligations under HIPAA, HITECH or other applicable laws. Business Associate agrees to implement a process that allows for an accounting to be collected and maintained by Business Associate and its agents or subcontractors for at least six (6) years prior to the request, or at least three (3) years prior to the request if the records are maintained in an Electronic Health Record.

i. Governmental Access to Records. Business Associate shall make its internal practices, books and records relating to the use and disclosure of Covered Entity's PHI, and relating to security incidents involving Covered Entity's Electronic PHI, available to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining Business Associate's compliance with HIPAA and HITECH.

j. Minimum Necessary. Business Associate and its agents or subcontractors shall only request, use and disclose, to the extent practicable, a Limited Data Set, or the minimum amount of PHI necessary to accomplish the intended purpose of the request, use or disclosure.

k. Retention of PHI. Notwithstanding Section 3(d) of this Agreement, Business Associate and its subcontractors or agents shall retain the information required under Section 2(h) of this Agreement for a period of six (6) years after termination of this Agreement.

l. Audits, Inspection and Enforcement. Within ten (10) days of a written request by Covered Entity, Business Associate and its agents or subcontractors shall allow Covered Entity to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or Disclosure of PHI and the implementation of appropriate security safeguards pursuant to this Agreement for the purpose of determining whether Business Associate has complied with this Agreement.

3. Term and Termination.

a. Term. This Agreement shall become effective on the Agreement Effective Date and shall continue until terminated by Covered Entity or until the Service Agreement expires or is terminated. In addition, certain provisions and requirements of this Agreement shall survive its expiration or other termination in accordance with Sections 2, 4, 5, 6, 7 and 8 of this Agreement.

b. Material Breach. A breach by Business Associate of any material provision of this Agreement, as determined by Covered Entity, shall constitute a material breach of the Agreement and shall provide grounds for termination of the Agreement by Covered Entity.

c. Reasonable Steps to Cure Breach. If Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of Business Associate's obligations under HIPAA, HITECH, the provisions of this Agreement or the Service Agreement and does not terminate the Agreement, then Business Associate shall take reasonable steps to cure such breach or end such violation, as applicable. If Business Associate's efforts to cure such breach or end such violation are unsuccessful, Covered Entity shall terminate the Agreement and the Service Agreement, if feasible. If Business Associate knows of a pattern of activity or practice of Covered Entity that constitutes a material breach or violation of Covered Entity's obligations under this Agreement, Business Associate must take reasonable steps to cure the breach or end the violation. If such steps are unsuccessful, the Business Associate must terminate this Agreement if feasible. Business Associate shall provide written notice to Covered Entity of any pattern of activity or practice of Covered Entity that Business Associate believes constitutes a material breach or violation of Covered Entity's obligations under this Agreement within five (5) days of discovery and shall meet with Covered Entity to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.

d. Effect of Termination. Upon termination of the Agreement for any reason, Business Associate shall return or destroy all PHI that Business Associate or its agents or subcontractors still maintain in any form, and shall retain no copies of such PHI. If return or destruction is not feasible, Business Associate shall continue to extend the protections of Sections 2(a), 2(b), 2(c) and 2(e) of this Agreement to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible.

4. Limitation on Liability. Covered Entity will not be liable to Business Associate or any other person for any consequential, incidental, punitive or other damages arising from or relating to the PHI (including but not limited to errors or omissions in the PHI) or for Covered Entity's performance or failure to perform under this Agreement.

5. Indemnification. Each Party agrees to indemnify, defend and hold harmless the other party and its respective employees, directors, officers, subcontractors, and agents from and against all claims, actions, damages, losses, liabilities, fines, penalties, costs or expenses (including without limitation reasonable attorney's fees) arising from or in connection with any Breach of this Agreement, or any negligent or wrongful acts or omissions in connection with this Agreement, by the indemnifying party or its employees, directors, subcontractors, or agents. This indemnification obligation shall survive the expiration or termination of this Agreement.

6. Injunction. Covered Entity and Business Associate agree that any violations of the provisions of this Agreement may cause irreparable harm to Covered Entity. Accordingly, in addition to any other remedies available to Covered Entity at law or in equity, or under this Agreement, in the event of any violation by Business Associate of any of the provisions of this Agreement, or any explicit threat thereof, Covered Entity shall be entitled to an injunction or other decree of specific performance with respect to such violation or explicit threat thereof, without any bond or other security being required and without the necessity of demonstrating actual damages. The parties' respective rights and obligations under this section shall survive the expiration or termination of this Agreement.

7. Disclaimer. Covered Entity makes no warranty or representation that compliance by Business Associate with this Agreement, HIPAA, HITECH or state law will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

8. Amendment.

a. Written Amendment Required. This Agreement may not be modified or amended except by a writing duly signed by an authorized representative of each party.

b. Amendment to Comply with Law. The parties agree to take such action as is necessary to implement the standards and requirements of HIPAA, HITECH, and other applicable laws relating to the security or confidentiality of PHI.

9. No Third-Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liability whatsoever.

10. No Waiver. No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision of this Agreement or of any succeeding breach of the same provision. No delay in action with regard to any breach of any provision of this Agreement shall be construed to be a waiver of such breach.

11. Independent Contractor Relationship. This Agreement is not intended to create, and will not be construed to create, any relationship between the parties other than that of independent contractors. Neither of the parties nor any of their respective representatives will be construed to be the agent, employee, or representative of the other.

12. Notice. Any notices required to be given pursuant to the terms and conditions hereof shall be in writing and shall be sent by certified or registered mail, return receipt requested, to the respective parties at their addresses stated below. Notices shall be deemed to be effective on the date when they are mailed.

TO: **COVERED ENTITY:**
COUNTY OF TIOGA
56 Main Street
Owego, New York 13827

TO: **BUSINESS ASSOCIATE:**
[CONTRACTOR]
[CONTRACTOR ADDRESS]

13. Severability. If any section or portion of this Agreement shall be determined to be invalid, such determination shall not affect the enforceability or validity of the remainder of this Agreement.

14. Interpretation. The terms and conditions of this Agreement shall supersede any conflicting terms and conditions in the underlying Service Agreement (as amended from time to time) between the parties and shall supersede the terms and conditions of any existing Business Associate Agreement between the parties. This Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, HITECH, and applicable laws. The parties agree that any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with HIPAA, HITECH, and applicable laws.

IN WITNESS WHEREOF, the parties hereto have duly executed this Business Associate Agreement as of the Service Agreement Effective Date.

COUNTY OF TIOGA

Covered Entity

Business Associate

By:

By
(sign):

Name:

Name
(print):

Title:

Title:

Date:

Date:

APPENDIX D

CURRENT POPULATION BEING SERVED AS OF APRIL 2019

<u>Childs Street</u>	<u>City</u>	<u>Service Location</u>
Catatunk Creek Rd.	Candor	FEN - 1201 Union Center Highway, Endicott
Upper Briggs Hollow	Nichols	FEN - 1201 Union Center Highway, Endicott
Stephens Rd.	Apalachin	FEN - 1201 Union Center Highway, Endicott
Old Owego Rd.	Owego	FEN - 1201 Union Center Highway, Endicott
East Campville Rd.	Endicott	FEN - 1201 Union Center Highway, Endicott
Lisle Rd.	Owego	FEN - 1201 Union Center Highway, Endicott
Valley View Dr.	Endicott	FEN - 1201 Union Center Highway, Endicott
Carmichael Rd.	Owego	FEN - 1201 Union Center Highway, Endicott
Carmichael Rd.	Owego	FEN - 1201 Union Center Highway, Endicott
Pennsylvania Ave,	Apalachin	FEN - 1201 Union Center Highway, Endicott
S. Main St.	Newark Valley	FRC - 1277 Taylor Rd., Owego
West Hill School Rd.	Richford	FRC - 1277 Taylor Rd., Owego
Spruce St.	Owego	FRC - 1277 Taylor Rd., Owego
West Creek Rd.	Berkshire	FRC - 1277 Taylor Rd., Owego
East Temple St.	Owego	FRC - 1277 Taylor Rd., Owego
East Front St.	Owego	FRC - 1277 Taylor Rd., Owego
Airways Rd.	Owego	FRC - 1277 Taylor Rd., Owego
George St.	Owego	FRC - 1277 Taylor Rd., Owego
Airways Rd.	Owego	FRC - 1277 Taylor Rd., Owego
Spencer Rd.	Candor	FRC - Langford Creek Rd., VanEtten
Providence St.	Waverly	FRC - Langford Creek Rd., VanEtten
Providence St.	Waverly	FRC - Langford Creek Rd., VanEtten
Dr. Knapp Rd.	Newark Valley	FRC - Langford Creek Rd., VanEtten
Tioga St.	Waverly	FRC - Langford Creek Rd., VanEtten
Oak Hill Rd.	Barton	FRC - Langford Creek Rd., VanEtten
West Candor Rd.	Candor	FRC - Langford Creek Rd., VanEtten
Candor Rd.	Spencer	FRC - Langford Creek Rd., VanEtten
Lincoln St.	Waverly	FRC - Langford Creek Rd., VanEtten
State Rte. 38	Berkshire	FRC - Langford Creek Rd., VanEtten
Center St.	Waverly	FRC - Langford Creek Rd., VanEtten
Gridleyville Crossing Rd.	Willseyville	FRC - Langford Creek Rd., VanEtten
Fulton St.	Waverly	FRC - Langford Creek Rd., VanEtten
Glann Rd.	Apalachin	HCA - 18 Broad St., Johnson City
Ivory Foster Rd.	Owego	HCA - 18 Broad St., Johnson City
State Rte. 38	Newark Valley	HCA - 18 Broad St., Johnson City
Bornt Hill Rd.	Endicott	HCA - 18 Broad St., Johnson City
Halstead Ave.	Owego	SUNY - Vestal Pkwy East, Binghamton

APPENDIX E
PRICING SHEET

The bidder hereby certifies that he has read and fully understands the specifications herein. The bidder further understands that these specifications constitute the sole basis upon which they based their bid and that these specifications control, notwithstanding any other written or oral notice or statement

The bidder as identified herein, is bidding on:

(Bidders may bid on one or both zones as identified below):

Zone 1: (Children needing transportation to service providers in Owego (Tioga County), Broome County and Cortland County. This primarily includes children found within the Newark Valley, Owego-Apalachin and Tioga Central School districts but is not limited to children in these three school districts.)

The unit price per child one way to or one way from authorized service provider:
\$ _____

Zone 2: (Children needing transportation to service providers located in Waverly & Spencer (Tioga County), Chemung County and Tompkins County. This primarily includes children found within the Waverly, Candor, Spencer-Van Etten and Tioga Central School districts but is not limited to these four school districts.)

The unit price per child one way to or one way from authorized service provider:
\$ _____

The above-quoted price(s) shall be valid for a period of not less than 45 days from the date of bid opening.

Signed _____ Date _____

Typed Name _____ Title _____

Company _____

Bids must be signed by a corporate officer with authority to enter the bidder in a legal contract.
Tioga County reserves the right to reject any and all bids either in whole or in part.

APPENDIX F

BIDDER CERTIFICATION

1. That all vehicles have Department of Transportation inspection, specifically for transporting handicapped preschoolers
2. That all operators / drivers have 19-A certification under school requirement
3. That adequate vehicles are equipped to handle any special conditions that are required
4. That all aides (if required) have a 19-A check for criminal history regardless of driving classification and be trained in infant and children's CPR and First Aid
5. That all records will be kept as required by 19-A and that they shall be available for review on the bidder's site on demand
6. If I am the successful bidder, the above shall be complete by _____, 2019

SIGNED BY

DATE

FOR

APPENDIX G

NON-COLLUSION BIDDING CERTIFICATE

A. By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief:

1. The prices in this bid have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
3. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

NAME OF BIDDER

SIGNATURE & TITLE OF SIGNER

BIDDER

STATE OF NEW YORK:

SS.

COUNTY OF TIOGA

_____, being duly sworn, does, under penalty of perjury, attest that (s)he is the bidder in the above-named proceeding and that the foregoing certification is true to (his) (her) own knowledge, except as to matters therein stated to be alleged on information and belief, and as to those matters (s)he believes it to be true.

Sworn to before me this
_____ day of _____, 20____.

NOTARY PUBLIC

NOTE: A bid shall not be considered for award nor shall any award be made where A(1), (2) and (3) above have not been complied with; provided, however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefore. Where A(1), (2) and (3) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the Director of Public Health determines that such disclosure was not made for the purpose of restricting competition.

APPENDIX H

**CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, AND RESPONSIBILITY**

The undersigned certifies, to the best of his/her knowledge and belief, that the Contractor and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any Federal department or agency;
2. Have not within a three (3) year period preceding this transaction/application/proposal/contract/agreement been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph 2 of this certification; and
4. Have not within a three (3) year period preceding this transaction/application/proposal/contract/agreement had one or more public transactions (Federal, State, Local) terminate for cause or default.

Date: _____

[Print Name of Contractor]

By: _____

[Signature]

[Print Name]

APPENDIX I

EQUIPMENT ROSTER

EXTERIOR # (IF ANY)	VIN #	MAKE/ MODEL	YEAR	SEATS	YES/NO WHEEL- CHAIR RAMPS	YES/NO DOT INSPECTION

Add additional sheets (if necessary)

APPENDIX J

DRIVER ROSTER

NAME	OPERATOR CLASS & LICENSE #	19-A STATUS

APPENDIX K

STANDARD CLAUSES FOR TIOGA COUNTY CONTRACTS

PLEASE RETAIN THIS DOCUMENT FOR FUTURE REFERENCE.

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STANDARD CLAUSES FOR TIOGA COUNTY CONTRACTS

The parties to the attached contract, license, lease, amendment, renewal or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the County of Tioga ("the County"), whether a contractor, vendor, licenser, licensee, lessor, lessee or any other party):

1. RELATIONSHIP OF PARTIES. Contractor shall have the status of an independent contractor, and in accordance with such status, agrees that it will conduct itself in a manner consistent with such status, and that it will neither hold itself out as, nor claim that any of its officers or employees are officers or employees of the County by reason of this Agreement. Contractor further agrees that it will not make against the County any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County, including but not limited to workers' compensation coverage, unemployment insurance benefits, social security coverage or retirement membership or credit.

2. EXECUTORY CLAUSE. (A) **All Contracts.** In accordance with § 362 of the County Law, the County shall have no liability under this contract to Contractor or to anyone else beyond funds appropriated and available for this contract. (B) **Certain Installment Purchase Contracts.** Further, in the case of an installment purchase contract, pursuant to General Municipal Law § 109-b, any such installment purchase contract is not a general obligation of the County. Neither the full faith and credit nor the taxing power of the County of Tioga are pledged to the payment of any amount due or to become due under such installment purchase contract. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to appropriate or make monies available for the purpose of the contract. Further, no liability on account thereof shall be incurred by the state of New York municipal bond bank agency beyond the amount of such monies. It is understood that neither this contract nor any representation by any employee or officer of such agency creates any legal or moral obligation to appropriate or make state monies available for the purpose of the contract.

3. EXTENSIONS, RENEWALS, MODIFICATIONS. Extensions or renewals to the Agreement or any modification including new products, terms, or price changes to the Agreement shall be submitted by the Contractor to the County for approval by the County Legislature of the County in order to be effective. No provision of a contract which states that the term of the contract shall be deemed renewed for a specified

additional period shall be effective against the County, absent a subsequent resolution of the County legislature, specifically authorizing such renewal.

4. NON-ASSIGNMENT CLAUSE. In accordance with § 109 of the General Municipal Law, this contract may not be assigned by Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and attempts to do so without such consent are null and void.

5. INSURANCE AND INDEMNIFICATION, HOLD HARMLESS. (A) **Insurance.** (i) (a) Contractor covenants and agrees to maintain in full force and effect during the term of this Agreement, and any subsequent term, comprehensive insurance in form, term and content satisfactory to the annexed standards of the County, which are incorporated herein (*Appendix B: General Contract and Insurance Specifications*) and, to prove as evidence of such compliance, insurance certificate(s) which shall be annexed to and made part of this Agreement and shall name the County of Tioga Attention: Law Department, as Additional Insured and certificate holder (not simply "certificate holder") (except Worker's Compensation/Disability Benefits) in connection with the work being performed. (b) Said certificate(s) shall be annexed hereto prior to or at the time of execution of this Agreement by the County. (c) Contractor acknowledges that failure to obtain or maintain such insurance on behalf of the County constitutes a material breach of contract and subjects it to liability for damages, indemnification and all other legal remedies available to the municipality. The County shall, if it deems it necessary, have the right to ask for additional certification at different points throughout the life of the contract.

(B) **Indemnification, Hold Harmless.** Notwithstanding the limits of any policy of insurance provided or maintained by Contractor, Contractor shall defend, indemnify and hold harmless the County of Tioga and its officers, employees and agents from all claims, actions, suits, liabilities, damages, awards, costs and expenses (including, without limitation, attorneys' fees) of every nature and description arising out of or related to the services provided by Contractor under

this Agreement and arising out of or caused by any act, omission, breach or negligence of Contractor or its officers, employees, volunteers, or agents. Contractor's duties and obligations pursuant to this paragraph shall survive the termination or expiration of this Agreement.

citizen who is qualified and available to perform the work; or (b)

6. WORKERS' COMPENSATION BENEFITS. This contract shall be void and of no force and effect unless Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law (WCL). Contractor understands and agrees that pursuant to WCL § 57 (workers' compensation requirements), Contractor must provide one of the following forms to the government entity issuing the permit or entering into a contract: (A) Form CE-200, Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage; (B) Form C-105.2, Certificate of Workers' Compensation Insurance; or (C) Form SI-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Worker's Compensation Group Self-Insurance. Pursuant to WCL § 220(8) (disability benefits requirements), Contractor must provide one of the following forms to the entity issuing the permit or entering into a contract: (A) CE-200, Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage (see above); (B) DB-120.1, Certificate of Disability Benefits Insurance; or (C) DB-155, Certificate of Disability Benefits Self-Insurance. (In the case of NYS Agencies acceptable proof consists of a letter from the NYS Department of Civil Service indicating the applicant is a New York State government agency covered for workers' compensation). Contractor acknowledges and agrees that, pursuant to the New York State Workers' Compensation Board, ACORD forms are not acceptable proof of such coverage.

7. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Art. 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with § 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State

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

by the County agency, its representatives, or the County Treasurer.

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

9. 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 for the purposes of set-off any moneys due to Contractor under this contract up to any amounts due and owing to the County with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the County for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The County shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit

10. RECORDS. Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Legislature, County Treasurer and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under § 87 of the Public Officers Law (the "Statute") provided that: (i) Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (A) Pursuant to Tax Law § 5, Contractor understands and agrees that, notwithstanding any other provision of law, the County shall, at the time the County contracts to purchase or purchases goods or services or leases real or personal property from any person, require that each such person provide to the County such person's federal social security account number or federal employer identification number, or both such numbers when such person has both such numbers, or, where such person does not have such number or numbers, the reason or reasons why such person does not have such number or numbers. Such numbers or reasons shall be obtained by the County as part of the administration of the taxes administered by the New York State Tax Commissioner for establishing the identification of persons affected by such taxes. (B) Contractor further understands and agrees that, notwithstanding any other provision of law, the County shall, upon request of the commissioner, furnish to the commissioner the following information with respect to each person covered by this section: (1) business name or the name under which the applicant for a license or licensee will be licensed or is licensed; (2) business address or whatever type of address the County requires the applicant for a license or the licensee to furnish to it; and (3) federal social security account number or federal employer identification number, or both such numbers where such person has both such numbers, or the reason or reasons, furnished by such person, why such person does not have such number or numbers. Notwithstanding

Art. 6 of the Public Officers Law or any other provision of law, the report to be furnished by the County to the commissioner pursuant to this section shall not be open to the public for inspection. (C) For the purposes of this section, "Person" shall mean an individual, partnership, limited liability company, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any combination of the foregoing. However, such term shall not include any public corporation, corporation formed other than for profit or unincorporated not-for-profit entity, except such term shall include an education corporation of the type dealt with in § 221 of the Education Law, an education corporation subject to Art. 101 of the Education Law and a cooperative corporation.

12. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. Contractor certifies and warrants that any and all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of § 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subd. (including the County) or public benefit corporation. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Except as might be specifically authorized by State Finance Law § 165, any bid, proposal or other response to a solicitation for bid or proposal which proposes or calls for the use of any tropical hardwood or wood product in performance of the contract shall be deemed non-responsive.

13. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. In the event Contractor conducts business in New York state, and owns or licenses computerized data which includes private information, Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa) as applicable.

14. NON-COLLUSIVE BIDDING CERTIFICATION FOR CERTAIN CONTRACTS. In accordance with General Municipal Law § 103-d(1), if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury: (a) By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under

penalty of perjury, that to the best of knowledge and belief: (1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; (2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

15. IRAN DIVESTMENT ACT REQUIREMENTS FOR CERTAIN CONTRACTS.

In accordance with General Municipal Law § 103-g, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury: By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of Subd. 3 of § 165-a of the State Finance Law.

16. HIPAA REQUIREMENTS FOR CERTAIN CONTRACTS.

In the event that Protected Health Information is used or disclosed in connection with or in the course of the performance of the Agreement, a "Business Associate Agreement" ("*Business Associate Agreement*"), shall be attached to and incorporated by reference in the contract, in a form and content approved by the County and shall apply in the event that Protected Health Information is used or disclosed in connection with or in the course of the performance of the Agreement by the party signing this Agreement as Business Associate, and pursuant to which Business Associate may be considered a "business associate" of the County as such term is defined in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") including all pertinent regulations issued by the U.S. Department of Health and Human Services, as amended.

17. PROMPT AUDITING OF VOUCHERS AND LATE PAYMENT PROVISIONS.

Consistent with accepted business practices and with sound principles of fiscal management, the County shall audit vouchers and make payments expeditiously and subject to proper and reasonable financial oversight activities designed to ensure that the County receives the quality of goods and services to which it is entitled and to ensure that public funds are spent in a prudent and responsible manner. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by General Municipal Law § 3-a and General Municipal Law Art. 5-a, to the extent required by law.

18. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

19. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise. Pursuant to Civil Practice Law and Rules 504(1), the place of trial of all actions related to this contract by or against the County or any of its officers, boards or departments shall be in such county.

20. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily directed), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

21. GIVING OF NOTICES. Any notice, request, or other communication required to be given pursuant to the provisions of this agreement shall be in writing and shall be deemed to have been given when delivered in person or five days after being deposited in the United States mail, certified or registered, postage prepaid, return receipt requested, and addressed to the address listed on the face sheet of this contract. The address of either party to this agreement may be changed by notice in writing to the other party served in accordance with this provision.

22. COUNTY ATTORNEY'S APPROVAL. Contractor understands and agrees that the Tioga County Attorney's office may approve and make or require modifications, other than price and dates, prior to execution by the County to ensure compliance with applicable federal, state and local laws and with all provisions of the county's contract policy manual and insurance standards.

23. DESCRIPTIVE HEADINGS FOR CONVENIENCE ONLY. Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Contract.

24. ACCURACY OF CONTRACTOR REPRESENTATIONS.

Contractor understands, acknowledges and agrees that this Contract will be relied upon by, and filed with, registered or recorded in or otherwise become a part of the records of, the County of Tioga. Contractor affirms, under penalty of perjury, to the best of his/her/its knowledge, information and belief, that the representations, agreements and promises made by Contractor in this Contract, and all attachments thereto, including any and all exhibits or appendices, is true, complete and accurate.

25. SEXUAL HARASSMENT POLICY VENDOR ACKNOWLEDGEMENT

1. Vendor represents and warrants that:

- a) It has received and understands Tioga County's Sexual Harassment Prevention Policy ("Policy"), which is also available on the Tioga County website at <https://www.tiogacountyny.com>
- b) It has provided each employee who provides a service to Tioga County with a copy of the Policy;
- c) All Vendor employees have received training on the Policy, including how to file a complaint of sexual harassment against Tioga County under the Policy;
- d) A Vendor employee who has not received a copy of the Policy and/or received training on the Policy shall not be assigned to work at a Tioga County facility or with Tioga County employees; and
- e) Vendor shall not retaliate against a Vendor employee who exercises a right protected under the Policy or law. Upon request, Vendor shall provide Tioga County with a Vendor employee's written acknowledgement of the Policy and training received.

2. To the fullest extent provided by law, and without prejudice to any rights Tioga County may have against Vendor, Vendor shall fully cooperate with Tioga County's investigation into any claim(s) of sexual harassment by a Vendor employee against Tioga County and shall further indemnify and hold Tioga County harmless from any (a) breach of this provision, to include the representations and warranties made in paragraph 1 above; and b) the cost and expense of any investigation undertaken by Tioga County which pertains to or arises from the filing of a Vendor employee's claim against Tioga County under this policy.

26. CLAUSES FOR NYSDOT FUNDED CONTRACTS

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. Compliance with Regulations: The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. Non-discrimination: The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the

Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

4. Information and Reports: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Recipient Federal Highway Administration and Federal Transportation Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or Federal Highway Administration and Federal Transportation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration and Federal Transportation Administration may determine to be appropriate, including, but not limited to:

- a. withholding payments to the contractor under the contract until the contractor complies; and/or
- b. cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration and Federal Transportation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.