

Social Services Committee

TUESDAY, AUGUST 2, 2022

INDEX OF RESOLUTIONS:		
COMMITTEE	RESOLUTION	TITLE
SS/C/B/R	G/1	<p>RESOLUTION AUTHORIZING AGREEMENTS WITH VARIOUS SCHOOL DISTRICTS FOR SUBSTANCE ABUSE PREVENTION - DEPARTMENT OF MENTAL HEALTH</p> <p>Motion Made By: Seconded By: Moved:</p> <p>Notes:</p>
SS/B/R	G/3	<p>RESOLUTION AUTHORIZING CONTINUED PARTICIPATION WITH CAPITAL DISTRICT YOUTH CENTER INC. FOR THE REGIONAL SECURE DETENTION FACILITY - DEPARTMENT OF SOCIAL SERVICES</p> <p>Motion Made By: Seconded By: Moved:</p> <p>Notes:</p>
SS/C/B/R	G/5	<p>RESOLUTION AUTHORIZING AN AGREEMENT FOR RECRUITMENT AND TRAINING OF FAMILY DAY CARE HOMES AND PROVIDERS - DEPARTMENT OF SOCIAL SERVICES</p> <p>Motion Made By: Seconded By: Moved:</p> <p>Notes:</p>

RENSSELAER COUNTY LEGISLATURE

Introduced by Legislator(s) Grant, Loveridge, Weaver

Sent To: Social Services

Committee

Date August 9, 2022

Resolution No. G/1

RESOLUTION AUTHORIZING AGREEMENTS WITH VARIOUS SCHOOL DISTRICTS FOR SUBSTANCE ABUSE PREVENTION - DEPARTMENT OF MENTAL HEALTH

WHEREAS, This Resolution is filed with the Rensselaer County Legislature by the Rensselaer County Executive; and

WHEREAS, The Rensselaer County Department of Mental Health ("Department") requests legislative authorization to approve contracts with the school districts listed below, as contained in their budgets, to provide substance abuse prevention staff and services for the 2022-2023 school year; and

WHEREAS, The revenue Rensselaer County receives represents the school districts share of the expenses to provide these services and has been approved by the New York State Office of Alcoholism and Substance Abuse Services ("OASAS"); and

WHEREAS, The total amount to be received over the life of the agreement and the name and address of the contracting party are as follows:

<u>CONTRACT DESCRIPTION</u>	<u>VENDOR</u>	<u>REVENUE CODE</u>	<u>CONTRACT AMOUNT</u>
Student Assistance Programs Algonquin Middle School and Averill Park High School (7/01/22 - 6/30/23)	Averill Park Central School District 146 Gettle Road Averill Park, NY 12018	A.4323.16301	\$ 87,564.00
Student Assistance Programs Berlin Jr/Sr High School (7/01/22 - 6/30/23)	Berlin Central Schools 17400 NY 22 Cherry Plain, NY 12040	A.4323.16301	\$ 43,782.00
Student Assistance Programs Troy High School (7/01/22 - 6/30/23)	Troy City School District 475 First Street Troy, NY 12180	A.4323.16301	\$ 43,782.00

<u>CONTRACT DESCRIPTION</u>	<u>VENDOR</u>	<u>REVENUE CODE</u>	<u>CONTRACT AMOUNT</u>
Student Assistance Programs Rensselaer City Schools (7/01/22 - 6/30/23)	Rensselaer City School District 25 Van Rensselaer Dr Rensselaer, NY 12144	A.4323.16301	\$ 65,142.00
Student Assistance Programs Columbia High School & Goff Middle School (7/01/22 - 6/30/23)	East Greenbush Central Schools 29 Englewood Ave East Greenbush, NY 12061	A.4323.16301	\$ 43,782.00
Student Assistance Programs Turnpike Elementary & Lansingburgh Middle & High School (7/01/22 - 6/30/23)	Lansingburgh Central Schools 55 New Turnpike Road Troy, NY 12182	A.4323.16301	\$179,564.00

; now, therefore, be it

RESOLVED, That any positions, programs, expenditures and/or agreements or contracts authorized or established pursuant to this resolution shall terminate and cease upon discontinuance of said funding; and, be it further

RESOLVED, That the Rensselaer County Executive, or his designee, is authorized to sign the above-referenced agreements subject to the approval as to form by the Rensselaer County Attorney.

Resolution ADOPTED by the following vote:

Ayes:

Nays:

Abstain:

August 9, 2022

Clerk of the Legislature

Sent to County Executive _____

Received from County Executive _____

Clerk of the Legislature



Executive Action

Approved _____ Date _____

Disapproved _____
Veto Message Attached and Returned to Clerk

County Executive

Dr. James Franchini, Superintendent
Averill Park Central School District
146 Gettle Road
Averill Park, NY 12018
franchinij@apcsd.org
518-674-7100

Mr. A. Joseph Dhara, Superintendent
Berlin Central Schools
17400 NY 22
Cherry Plain, NY 12040
jdhara@berlincentral.org
518-658-2515 Ext. 203

Mr. Jeffrey Simons, Superintendent
East Greenbush Central Schools
29 Englewood Ave.
E. Greenbush, NY 12061
simonsje@egcsd.org
518-207-2461

Dr. Antonio Abitabile, Superintendent
Lansingburgh Central School District
576 5th Avenue
Troy, NY 12182
aabitabile@lansingburgh.org
518-233-6811

Mr. Joseph Kardash, Superintendent
Rensselaer City School District
25 Van Rensselaer Drive
Rensselaer, NY 12144
jkardash@rcsd.k12.ny.us
518-396-3496

Mr. John Carmello, Superintendent
Troy City Schools
475 First Street
Troy, NY 12180
carmelloj@troycsd.org
518-328-5310

**Rensselaer County
and
Troy City School District**

This Agreement made by and between the **County of Rensselaer**, acting on behalf of its Department of Mental Health, located at 1600 Seventh Avenue, Troy, New York 12180, hereinafter called the "County", and **Troy City School District** located at 475 First Street, Troy, New York 12180 hereinafter referred to as the "District". County and District are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties".

WITNESSETH:

WHEREAS, the parties seek to use due diligence in decreasing substance abuse by providing substance abuse prevention programming to students, families and staff; and

WHEREAS, the District seeks the professional services of a full-time Student Assistant Specialist dedicated to providing services to the District; and

WHEREAS, the County employs persons (Student Assistant Specialist) who provide those professional services; and

WHEREAS, the District and the County wish to enter into an agreement whereby the County will provide a Student Assistant Specialist to the District.

NOW, THEREFORE, the parties do hereby agree as follows;

1. SCOPE OF SERVICES

The County shall provide the District with a full-time (35 hours/week) Student Assistant Specialist to perform the following services:

- a. Present evidence-based prevention curriculum to students;
- b. Provide opportunities for parents to participate in prevention programs and planning;
- c. Provide assessment, crisis intervention and referral, and prevention counseling;
- d. Provide consultant services to administration, teachers and parents; and
- e. Provide short-term groups focused on skill building.

It is understood that the District will provide use of a private, dedicated, confidential office space, desk and phone, password protected computer with internet access at an agreed upon location within the District, and a locked filing cabinet and related supplies to accommodate the Student Assistant Specialist.

It is further understood that the Student Assistant Specialist will have access to confidential personal health and other confidential information. To address this confidential information, the County and the District will enter into a Business Associate Agreement as attached hereto.

2. CONSIDERATION

For the services to be provided to the District under this Agreement, the District shall pay to the County the amount of **\$43,782.00** in quarterly installments to the Chief Fiscal Officer, Rensselaer County upon receipt of invoices from the County.

3. TERM OF AGREEMENT

This Agreement shall commence on **July 1, 2022** and shall terminate on **June 30, 2023**.

4. AMENDMENTS

This agreement may be modified or amended only in writing and duly executed by both Parties. Any modification or amendment shall be attached to and become part of this Agreement. All notices concerning this Agreement shall be delivered in writing to the Parties.

5. CERTIFICATES OF INSURANCE

Vendor agrees to maintain during the term of this agreement Workers' Compensation and Disability Insurance Coverage as may be required by law, together with liability insurance with liability limits reasonably satisfactory to the County, and to provide to the County proof of all such insurance coverage at the time of the execution of this agreement by Vendor. The Certificate holder section must read as follows: Rensselaer County, c/o Rensselaer County Attorney, 1600 7th Avenue, Troy, New York 12180.

6. INDEMNIFICATION

Each Party shall defend, indemnify and save harmless the other Party, its officials, employees and agents, from and against all claims, damages, losses and expenses arising out of or in consequence of any negligent or intentional act or omission of a Party, its officials, employees, volunteers or agents to the extent of its or their responsibility for such claims, damages, losses and expenses. Notwithstanding the previous sentence, the amount of such indemnification by either Party to the other shall not exceed the total amount paid as set forth in this Agreement.

7. VENUE

In the event either Party to this agreement shall initiate litigation against the other Party to protect or enforce any right or benefit in favor of such Party under the terms of this Agreement, the Parties hereby mutually agree that the Supreme Court of the State of New York shall exercise exclusive jurisdiction over such litigation, and that the venue of the same shall be County of Rensselaer, New York.

8. EXECUTORY NATURE OF CONTRACT

Vendor expressly acknowledges and agrees that this contract will be considered executory to the extent New York State or Federal funding is relied upon by the County for the payment of any goods, labor or services to be furnished by vendor under the terms and provisions of this Agreement, and that in the event such funding shall not be forthcoming, this Agreement may be terminated by the County upon reasonable prior written notice to vendor.

9. CORPORATE COMPLIANCE

Vendor represents and warrants that it, and its employees and/or contractors, are not excluded from participation and are not otherwise ineligible to participate in a "federal health care program", as defined in 42 U.S.C.1320a-7b or in any other government

payment program. Vendor further represents and warrants that it will perform screening, on a monthly basis, all of its employees and subcontractors against:

- a. The General Services Administration's Federal Excluded Party List System or any successor list;
- b. The United States Department of Health and Human Service's Office of the Inspector General's List of Excluded Individuals and Entities or any successor list; and
- c. The New York State Department of Health's Office of the Medicaid Inspector General's list of Restricted, Terminated or Excluded Individuals or Entities, or any successor list.

In the event that an excluded Party is discovered by the Vendor, said Vendor shall notify the County within five (5) days of such discovery. The County reserves its right to cancel and contract upon such notification.

The County further shall have the right to cancel this Agreement and declare the same null and void in the event that the Vendor fails to fulfill its obligations under this section.

10. TERMINATION

Either Party may terminate this Agreement, provided that the Party terminating this Agreement gives thirty (30) days written notice of termination to the other Party, which shall be served upon the other Party by first class mail.

11. FORCE MAJEURE

Neither Party to this Agreement shall be held responsible or be deemed to be in default under this Agreement for any delay in performance or failure in performance of any of their respective obligations to be performed hereunder if such delay or failure is the result of causes beyond the control and without negligence of the Party with respect to whose obligations such delay in performance or failure in performance has occurred. Such causes shall include, without limitation, acts of natural or man-made disasters, strikes, lockouts, riots, insurrections, civil disturbances or uprising, sabotage, embargoes, blockades, acts of war, acts of terror, acts or failure to act of any governmental regulations superimposed after the fact, communication line failures, power failures, fires, explosions, accidents, epidemics, and all occurrences similar to the foregoing (collectively referred to herein as "Force Majeure"). The Party affected by an event of Force Majeure, upon giving prompt notice to the other Party, shall be excused from performance hereunder on a day-to-day basis to the extent of such prevention, restriction or interference (and the other Party shall likewise be excused from performance of its obligations which relate to the performance so prevented, restricted or interfered with); provided that the Party as affected shall use its best efforts to avoid or remove such causes of nonperformance and to minimize the consequences thereof and day-to-day basis to the extent of such prevention, restriction or interference (and the other Party shall likewise be excused from performance of its obligations which relate to the performance so prevented, restricted or interfered with); provided that the Party as affected shall use its best efforts to avoid or remove such causes of nonperformance and to minimize the consequences thereof and both Parties shall continue performance hereunder with the utmost dispatch whenever such causes are removed. Lack of funds shall not be a Force Majeure.

12. NON-DISCRIMINATION

The Vendor agrees that in carrying out its activities under the terms of the Agreement that it shall abide by the applicable provisions of the Human Rights Law of the State of New York, as set forth in Sections 290-301 of the Executive Law of the State of New York.

13. FEDERAL, STATE AND LOCAL LAW AND REGULATIONS COMPLIANCE

Vendor agrees to abide by and comply with all applicable federal, state and local laws, rules, regulations and orders.

14. DISCLOSURE

Vendor certifies, to the best of its knowledge and belief, that:

A. No State or Federal appropriated funds have been paid or will be paid, by or on behalf of the Vendor, to any person for influencing or attempting to influence legislation or appropriation actions pending before local, State and Federal executive and/or legislative bodies in connection with the awarding of any contract, the making of any grant, the making of any loan, the entering into of any cooperative Agreement, and the extension, continuation, renewal, amendment, or modification of any contract, grant loan, or cooperative Agreement.

B. If any funds other than State or Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence legislation or appropriation actions pending before local, State and Federal executive and/or legislative bodies in connection with this contract, grant, loan or cooperative Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, and United States Code. Failure to file the required certification shall be subject to civil penalty by the Federal government of not less than \$10,000 and not more than \$100,000 for each such failure.

15. ENTIRE AGREEMENT

This Agreement, and any documents referred to in it, constitute the whole Agreement between the Parties and supersede any previous arrangement, understanding or Agreement between them relating to the subject matter they cover.

Each of the Parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by the duly authorized officers of the respective Parties.

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the “Agreement”) is made by and between Rensselaer County, New York (hereinafter referred to as “Covered Entity”), and Troy City School District (hereinafter referred to as “Business Associate”). Covered Entity and Business Associate shall collectively be known herein as the “Parties.”

1. GENERAL

1.1 Covered Entity has a business relationship with Business Associate that is attached to this agreement (the “Underlying Agreement”), pursuant to which Business Associate may be considered a “business associate” of Covered Entity as defined in the Health Insurance Portability and Accountability Act of 1996, including all pertinent regulations (45 CFR Parts 160 and 164), issued by the U.S. Department of Health and Human Services, including Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), as codified in Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5), and including any and all applicable Privacy, Security, Enforcement, or Notice (Breach Notification) Rules or requirements (collectively, “HIPAA”), as all are amended from time to time; and

1.2 The performance of the Underlying Agreement may involve the creation, exchange, or maintenance of Protected Health Information (“PHI”) as that term is defined under HIPAA; and

1.3 For good and lawful consideration as set forth in the Underlying Agreement, Covered Entity and Business Associate enter into this Agreement for the purpose of ensuring compliance with the requirements of HIPAA; and

1.4 This Agreement articulates the obligations of the Parties as to use and disclosure of PHI. It does not affect Business Associate’s obligations to comply applicable law with respect to any information the County may disclose to Business Associate as part of Business Associate’s performance of the Underlying Agreement; and

1.5 This Agreement supersedes and replaces any and all Business Associate Agreements the Covered Entity and Business Associate may have entered into prior to the date hereof; and

1.6 The above premises having been considered and incorporated by reference into the sections below, the Parties, intending to be legally bound, agree as follows:

2. DEFINITIONS

2.1 The terms used in this Agreement have the same meaning as the definitions of those terms in HIPAA. In the absence of a definition in HIPAA, the terms have their commonly understood meaning.

2.2 Consistent with HIPAA, and for ease of reference, the Parties expressly note the definitions of the following terms:

2.2.1 “Breach” is defined at 45 CFR § 164.402.

2.2.2 “Business Associate” is defined at 45 CFR § 160.103, and in reference to the party to this Agreement, shall mean Troy City School District.

2.2.3 “Covered Entity” is defined at 45 CFR § 160.103, and in reference to the party to this Agreement, shall mean the County.

2.2.4 “Designated Record Set” is defined at 45 CFR §164.501.

2.2.5 “Individual” is defined at 45 CFR §§ 160.103, 164.501 and 164.502(g), and includes a person who qualifies as a personal representative.

2.2.6 “Protected Health Information” or “PHI” is defined at 45 CFR § 160.103.

2.2.7 “Required By Law” is defined at 45 CFR § 164.103.

2.2.8 “Secretary” means the Secretary of the U.S. Department of Health and Human Services or designee.

2.2.9 “Security Incident” is defined at 45 CFR § 164.304.

2.2.10 “Unsecured Protected Health Information” or “Unsecured PHI” means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology, as specified by the Secretary in the guidance as noted under the HITECH Act, section 13402(h)(1) and (2) of Public Law 111-5, codified at 42 U.S.C. § 17932(h)(1) and (2), and as specified by the Secretary in 45 CFR 164.402.

3. PERMISSIBLE USE AND DISCLOSURE OF PHI

3.1 Except as otherwise limited in this Agreement, or by privilege, protection, or confidentiality under HIPAA or other applicable law, Business Associate may use or disclose (including permitting acquisition or access to) PHI to perform applicable functions, activities, or services for, or on behalf of, Covered Entity as specified in the Underlying Agreement. Moreover, the provisions of HIPAA are expressly incorporated by reference into, and made a part of, this Agreement.

3.2 Business Associate may use or disclose (including permitting acquisition or access to) PHI only as permitted or required by this Agreement or as Required By Law.

3.3 Business Associate is directly responsible for full compliance with the relevant requirements of HIPAA.

3.4 Business Associate must not use or disclose (including permitting acquisition or access to) PHI other than as permitted or required by this Agreement or HIPAA, and must use or disclose PHI only in a manner consistent with HIPAA. As part of this, Business Associate must use appropriate safeguards to prevent use or disclosure of PHI that is not permitted by this Agreement or HIPAA. Furthermore, Business Associate must take reasonable precautions to protect PHI from loss, misuse, and unauthorized access, disclosure, alteration, and destruction.

3.5 Business Associate must implement and comply with administrative, physical, and technical safeguards governing the PHI, in a manner consistent with HIPAA, that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity.

3.6 Business Associate must immediately notify Covered Entity, in a manner consistent with HIPAA, of: (i) any use or disclosure of PHI not provided for by this Agreement, including a Breach of PHI of which it knows or by exercise of reasonable diligence would have known, as required at 45 CFR §164.410; and, (ii) any Security Incident of which it becomes aware as required at 45 CFR §164.314(a)(2)(i)(C). Business Associate's notification to Covered Entity required by HIPAA and this Section 3.6 must:

3.6.1 Be made to Covered Entity without unreasonable delay and in no case later than 14 calendar days after Business Associate: a) knows, or by exercising reasonable diligence would have known, of a Breach, b) becomes aware of a Security Incident, or c) becomes aware of any use or disclosure of PHI not provided for by this Agreement;

3.6.2 Include the names and addresses of the Individual(s) whose PHI is the subject of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement. In addition, Business Associate must provide any additional information reasonably requested by Covered Entity for purposes of investigating the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

3.6.3 Be in substantially the same form as Exhibit A hereto;

3.6.4 Include a brief description of what happened, including the date of the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, if known, and the date of the discovery of the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

3.6.5 Include a description of the type(s) of Unsecured PHI that was involved in the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement (such as full name, Social Security number, date of birth, home address, account number, disability code, or other types of information that were involved);

3.6.6 Identify the nature and extent of the PHI involved, including the type(s) of identifiers and the likelihood of re identification;

3.6.7 If known, identify the unauthorized person who used or accessed the PHI or to whom the disclosure was made;

3.6.8 Articulate any steps the affected Individual(s) should take to protect him or herself from potential harm resulting from the Breach, Security Incident, or use or disclosure of PHI not permitted by this Agreement;

3.6.9 State whether the PHI was actually acquired or viewed;

3.6.10 Provide a brief description of what the Covered Entity and the Business Associate are doing to investigate the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, to mitigate losses, and to protect against any further Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

3.6.11 Note contact information and procedures for an Individual(s) to ask questions or learn additional information, which must include a toll-free telephone number of Business Associate, along with an e-mail address, Web site, or postal address; and

3.6.12 Include a draft letter for the Covered Entity to utilize, in the event Covered Entity elects, in its sole discretion, to notify the Individual(s) that his or her PHI is the subject of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement that includes the information noted in Section III. 6.4 – III. 6.11 above.

3.7 Business Associate must, and is expected to, directly and independently fulfill all notification requirements under HIPAA.

3.8 In the event of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, Business Associate must mitigate, to the extent practicable, any harmful effects of said disclosure that are known to it.

3.9 In accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2), Business Associate agrees to ensure that any agent, subcontractor, or employee to whom it provides PHI (received from, or created or received by, Business Associate on behalf of Covered Entity) agrees to the same restrictions, conditions, and requirements that apply through this Agreement to Business Associate with respect to such information.

3.10 Business Associate must ensure that any contract or other arrangement with a subcontractor meets the requirements of paragraphs 45 CFR §164.314(a)(2)(i) and (a)(2)(ii) required by 45 CFR § 164.308(b)(3) between a Business Associate and a subcontractor, in the same manner as such requirements apply to contracts or other arrangements between a Covered Entity and Business Associate.

3.11 Pursuant to 45 CFR § 164.502(a)(4)(ii), Business Associate must disclose PHI to the Covered Entity, Individual, or Individual's designee, as necessary to satisfy a Covered Entity's obligations under § 164.524(c)(2)(ii) and (3)(ii) with respect to an individual's request for an electronic copy of PHI.

3.12 To the extent applicable, Business Associate must provide access to PHI in a Designated Record Set at reasonable times, at the request of Covered Entity or as directed by Covered Entity, to an Individual specified by Covered Entity in order to meet the requirements under 45 CFR § 164.524.

3.13 A Business Associate that is a health plan, excluding an issuer of a long-term care policy falling within paragraph (1)(viii) of the definition of health plan, must not use or disclose PHI that is genetic information for underwriting purposes, in accordance with the provisions of 45 CFR 164.502.

3.14 To the extent applicable, Business Associate must make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to, pursuant to 45 CFR § 164.526, at the request of Covered Entity or an Individual.

3.15 Business Associate must, upon request with reasonable notice, provide Covered Entity access to its premises for a review and demonstration of its internal practices and procedures for safeguarding PHI.

3.16 Business Associate must, upon request and with reasonable notice, furnish to Covered Entity security and privacy audit results, risk analyses, security and privacy policies and procedures, details of previous Breaches and Security Incidents, and documentation of controls.

3.17 Business Associate must also maintain records indicating who has accessed PHI about an Individual in an electronic designated record set and information related to such access, in accordance with 45 C.F.R. § 164.528. Business Associate must document such disclosures of PHI and information related to such disclosures as would be required for a Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. Should an Individual make a request to Covered Entity for an accounting of disclosures of his or her PHI pursuant to 45 C.F.R. § 164.528, Business Associate must promptly provide Covered Entity with information in a format and manner sufficient to respond to the Individual's request.

3.18 Business Associate must, upon request and with reasonable notice, provide Covered Entity with an accounting of uses and disclosures of PHI that was provided to it by Covered Entity.

3.19 Business Associate must make its internal practices, books, records, and any other material requested by the Secretary relating to the use, disclosure, and safeguarding of PHI received from Covered Entity available to the Secretary for the purpose of determining compliance with HIPAA. Business Associate must make the aforementioned information available to the Secretary in the manner and place as designated by the Secretary or the Secretary's duly appointed delegate. Under this Agreement, Business Associate must comply and cooperate with any request for documents or other information from the Secretary directed to Covered Entity that seeks documents or other information held or controlled by Business Associate.

3.20 Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 42 C.F.R. § 164.502(j)(1).

3.21 Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate or the Underlying Agreement, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and be used or further disclosed only as Required By Law or for the limited purpose for which it was disclosed to the person, and the person must agree to notify Business Associate of any instance of any Breach,

Security Incident, or use or disclosure of PHI not provided for by this Agreement of which it is aware in which the confidentiality of the information has been breached.

3.22 Business Associate understands that, pursuant to 45 CFR § 160.402, the Business Associate is liable, in accordance with the Federal common law of agency, for a civil money penalty for a violation of the HIPAA rules based on the act or omission of any agent of the Business Associate, including a workforce member or subcontractor, acting within the scope of the agency.

4. TERM AND TERMINATION

4.1 Term. The Term of this Agreement shall be effective as of the effective date of the Underlying Agreement, and shall terminate: (1) when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity; or, (2) if it is infeasible to return or destroy PHI, in accordance with the termination provisions in this Article IV.

4.2 Termination for Cause. Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall:

4.2.1 Provide an opportunity for Business Associate to cure the breach or end the violation and, if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, have the right to terminate this Agreement and to terminate the Underlying Agreement, and shall report the violation to the Secretary;

4.2.2 Have the right to immediately terminate this Agreement and the Underlying Agreement if Business Associate has breached a material term of this Agreement and cure is not possible, and shall report the violation to the Secretary; or

4.2.3 If neither termination nor cure is feasible, report the violation to the Secretary.

4.2.4 This Article IV, Term and Termination, Paragraph 4.2, is in addition to the provisions set forth in Termination provision of the Contract between County and Vendor, attached to the Underlying Agreement, in which "Business Associate" is "Contractor" and "Covered Entity" is "County" for purposes of this Agreement.

4.3 Effect of Termination:

4.3.1 Except as provided in Section 4.3.2, upon termination or cancellation of this Agreement, for any reason, Business Associate must return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision applies to PHI that is in the possession of a subcontractor(s), employee(s), or agent(s) of Business Associate. Business Associate must not retain any copies of the PHI.

4.3.2 In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate must provide to Covered Entity written notification of the nature of the PHI and the conditions that make

return or destruction infeasible. After written notification that return or destruction of PHI is infeasible, Business Associate must extend the protections of this Agreement to such PHI and limit further use(s) and disclosure(s) of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. Notwithstanding the foregoing, to the extent that it is not feasible to return or destroy such PHI, the terms and provisions of this Agreement survive termination of this Agreement with regard to such PHI.

4.3.3 Should Business Associate violate this Agreement, HIPAA, the Underlying Agreement, other applicable law, Covered Entity has the right to immediately terminate any contract then in force between the Parties, including the Underlying Agreement.

5. CONSIDERATION

Business Associate recognizes that the promises it has made in this Agreement shall, henceforth, be reasonably, justifiably, and detrimentally relied upon by Covered Entity in choosing to continue or commence a business relationship with Business Associate.

6. CAUSES OF ACTION IN THE EVENT OF BREACH

As used in this paragraph, the term “breach” has the meaning normally ascribed to that term under the New York State law related to contracts, as opposed to the specific definition under HIPAA related to PHI. Business Associate hereby recognizes that irreparable harm will result to Covered Entity in the event of breach by Business Associate of any of the covenants and assurances contained in this Agreement. As such, in the event of breach of any of the covenants and assurances contained in this Agreement, Covered Entity shall be entitled to enjoin and restrain Business Associate from any continued violation of this Agreement. Furthermore, in the event of breach of this Agreement by Business Associate, Covered Entity is entitled to reimbursement and indemnification from Business Associate for Covered Entity's reasonable attorneys' fees and expenses and costs that were reasonably incurred as a proximate result of Business Associate's breach. The causes of action contained in this Article VI are in addition to (and do not supersede) any action for damages and/or any other cause of action Covered Entity may have for breach of any part of this Agreement. Furthermore, these provisions are in addition to the provisions set forth in the “Indemnification” Section, of the General Conditions of Contract between County and Contractor, attached to the Underlying Agreement in which “Business Associate” is “Contractor” and “Covered Entity” is “County”, for purposes of this Agreement.

7. MODIFICATION; AMENDMENT

This Agreement may be modified or amended only through a writing signed by the Parties and, thus, no oral modification or amendment hereof shall be permitted. The Parties agree to take such action as is necessary to amend this Agreement, from time to time, as is necessary for Covered Entity to comply with the requirements of HIPAA, including its Privacy, Security, and Notice Rules.

8. INTERPRETATION OF THIS AGREEMENT IN RELATION TO OTHER AGREEMENTS BETWEEN THE PARTIES

Should there be any conflict between the language of this Agreement and any other contract entered into between the Parties (either previous or subsequent to the date of

this Agreement), the language and provisions of this Agreement, along with the Underlying Agreement, shall control and prevail unless the Parties specifically refer in a subsequent written agreement to this Agreement, by its title, date, and substance and specifically state that the provisions of the later written agreement shall control over this Agreement and Underlying Agreement. In any event, any agreement between the Parties, including this Agreement and Underlying Agreement, must be in full compliance with HIPAA, and any provision in an agreement that fails to comply with HIPAA will be deemed separable from the document, unenforceable, and of no effect.

9. COMPLIANCE WITH STATE LAW

The Business Associate acknowledges that by accepting the PHI from Covered Entity, it becomes a holder of medical records information under HIPAA and is subject to the provisions of that law. If HIPAA conflicts with another applicable law regarding the degree of protection provided for Protected Health Information, Business Associate must comply with the more restrictive protection requirement.

10. MISCELLANEOUS

10.1 Ambiguity. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with HIPAA.

10.2 Regulatory References. A reference in this Agreement to a section in HIPAA means the section in effect, or as amended.

10.3 Notice to Covered Entity. Any notice required under this Agreement to be given Covered Entity shall be made in writing to:

Rensselaer County Attorney's Office
Ned Pattison Government Center
1600 Seventh Avenue
Troy, NY 12180
(518) 270-2950
(518) 270-2954 (fax)

10.4 Notice to Business Associate. Any notice required under this Agreement to be given Business Associate shall be made in writing to:

Address: 475 First Street, Troy, New York 12180
Attention: Mr. John Carmello
Phone: 518-328-5052

10.5 New York State Law. This Agreement is governed by, and shall be construed in accordance with, applicable federal law and the laws of the State of New York, without regard to choice of law principles.

10.6 Incorporation of Future Amendments. Other requirements applicable to Business Associates under HIPAA are incorporated by reference into this Agreement.

10.7 Penalties for HIPAA Violation. In addition to that stated in this Agreement, Business Associate may be subject to civil and criminal penalties noted under HIPAA, including the same HIPAA civil and criminal penalties applicable to a Covered Entity.

IN WITNESS WHEREOF, and acknowledging acceptance and agreement of the foregoing, the Parties affix their signatures hereto.

**EXHIBIT A
FORM OF NOTIFICATION**

This notification is made pursuant to Section III.F of the Business Associate Agreement between:

- Rensselaer County, New York, (the “County”) and
- Troy City School District, (Business Associate).

Business Associate hereby notifies the County that there has been a Breach, Security Incident, or use or disclosure of PHI not provided for by the Business Associate Agreement (an “Incident”) that Business Associate has used or has had access to under the terms of the Business Associate Agreement.

Description of the Incident:

Date of the Incident: _____

Date of discovery of the Incident: _____

Does the Incident involve 500 or more individuals? Yes/No

If yes, do the people live in multiple states? Yes/No

Number of individuals affected by the Incident:

Names and addresses of individuals affected by the Incident:

(Attach additional pages as

necessary) _____

The types of unsecured PHI that were involved in the Incident (such as full name, Social Security number, date of birth, home address, account number, or disability code):

Description of what Business Associate is doing to investigate the Incident, to mitigate losses, and to protect against any further Incidents:

Contact information to ask questions or learn additional information:

Name: _____

Title: _____

Address: _____

Email Address: _____
Phone Number: _____

**Rensselaer County
and
Rensselaer City School District**

This Agreement made by and between the **County of Rensselaer**, acting on behalf of its Department of Mental Health, located at 1600 Seventh Avenue, Troy, New York 12180, hereinafter called the "County", and **Rensselaer City School District** located at 25 Van Rensselaer Drive, Rensselaer, New York 12144 hereinafter referred to as the "District". County and District are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties".

WITNESSETH:

WHEREAS, the parties seek to use due diligence in decreasing substance abuse by providing substance abuse prevention programming to students, families and staff; and

WHEREAS, the District seeks the professional services of a full-time Student Assistant Specialist dedicated to providing services to the District; and

WHEREAS, the County employs persons (Student Assistant Specialist) who provide those professional services; and

WHEREAS, the District and the County wish to enter into an agreement whereby the County will provide a Student Assistant Specialist to the District.

NOW, THEREFORE, the parties do hereby agree as follows;

1. SCOPE OF SERVICES

The County shall provide the District with a full-time (35 hours/week) Student Assistant Specialist to perform the following services:

- a. Present evidence-based prevention curriculum to students;
- b. Provide opportunities for parents to participate in prevention programs and planning;
- c. Provide assessment, crisis intervention and referral, and prevention counseling;
- d. Provide consultant services to administration, teachers and parents; and
- e. Provide short-term groups focused on skill building.

It is understood that the District will provide use of a private, dedicated, confidential office space, desk and phone, password protected computer with internet access at an agreed upon location within the District, and a locked filing cabinet and related supplies to accommodate the Student Assistant Specialist.

It is further understood that the Student Assistant Specialist will have access to confidential personal health and other confidential information. To address this confidential information, the County and the District will enter into a Business Associate Agreement as attached hereto.

2. CONSIDERATION

For the services to be provided to the District under this Agreement, the District shall pay to the County the amount of **\$65,142.00** in quarterly installments to the Chief Fiscal Officer, Rensselaer County upon receipt of invoices from the County.

3. TERM OF AGREEMENT

This Agreement shall commence on **July 1, 2022** and shall terminate on **June 30, 2023**.

4. AMENDMENTS

This agreement may be modified or amended only in writing and duly executed by both Parties. Any modification or amendment shall be attached to and become part of this Agreement. All notices concerning this Agreement shall be delivered in writing to the Parties.

5. CERTIFICATES OF INSURANCE

Vendor agrees to maintain during the term of this agreement Workers' Compensation and Disability Insurance Coverage as may be required by law, together with liability insurance with liability limits reasonably satisfactory to the County, and to provide to the County proof of all such insurance coverage at the time of the execution of this agreement by Vendor. The Certificate holder section must read as follows: Rensselaer County, c/o Rensselaer County Attorney, 1600 7th Avenue, Troy, New York 12180.

6. INDEMNIFICATION

Each Party shall defend, indemnify and save harmless the other Party, its officials, employees and agents, from and against all claims, damages, losses and expenses arising out of or in consequence of any negligent or intentional act or omission of a Party, its officials, employees, volunteers or agents to the extent of its or their responsibility for such claims, damages, losses and expenses. Notwithstanding the previous sentence, the amount of such indemnification by either Party to the other shall not exceed the total amount paid as set forth in this Agreement.

7. VENUE

In the event either Party to this agreement shall initiate litigation against the other Party to protect or enforce any right or benefit in favor of such Party under the terms of this Agreement, the Parties hereby mutually agree that the Supreme Court of the State of New York shall exercise exclusive jurisdiction over such litigation, and that the venue of the same shall be County of Rensselaer, New York.

8. EXECUTORY NATURE OF CONTRACT

Vendor expressly acknowledges and agrees that this contract will be considered executory to the extent New York State or Federal funding is relied upon by the County for the payment of any goods, labor or services to be furnished by vendor under the terms and provisions of this Agreement, and that in the event such funding shall not be forthcoming, this Agreement may be terminated by the County upon reasonable prior written notice to vendor.

9. CORPORATE COMPLIANCE

Vendor represents and warrants that it, and its employees and/or contractors, are not excluded from participation and are not otherwise ineligible to participate in a "federal health care program", as defined in 42 U.S.C.1320a-7b or in any other government

payment program. Vendor further represents and warrants that it will perform screening, on a monthly basis, all of its employees and subcontractors against:

- a. The General Services Administration's Federal Excluded Party List System or any successor list;
- b. The United States Department of Health and Human Service's Office of the Inspector General's List of Excluded Individuals and Entities or any successor list; and
- c. The New York State Department of Health's Office of the Medicaid Inspector General's list of Restricted, Terminated or Excluded Individuals or Entities, or any successor list.

In the event that an excluded Party is discovered by the Vendor, said Vendor shall notify the County within five (5) days of such discovery. The County reserves its right to cancel and contract upon such notification.

The County further shall have the right to cancel this Agreement and declare the same null and void in the event that the Vendor fails to fulfill its obligations under this section.

10. TERMINATION

Either Party may terminate this Agreement, provided that the Party terminating this Agreement gives thirty (30) days written notice of termination to the other Party, which shall be served upon the other Party by first class mail.

11. FORCE MAJEURE

Neither Party to this Agreement shall be held responsible or be deemed to be in default under this Agreement for any delay in performance or failure in performance of any of their respective obligations to be performed hereunder if such delay or failure is the result of causes beyond the control and without negligence of the Party with respect to whose obligations such delay in performance or failure in performance has occurred. Such causes shall include, without limitation, acts of natural or man-made disasters, strikes, lockouts, riots, insurrections, civil disturbances or uprising, sabotage, embargoes, blockades, acts of war, acts of terror, acts or failure to act of any governmental regulations superimposed after the fact, communication line failures, power failures, fires, explosions, accidents, epidemics, and all occurrences similar to the foregoing (collectively referred to herein as "Force Majeure"). The Party affected by an event of Force Majeure, upon giving prompt notice to the other Party, shall be excused from performance hereunder on a day-to-day basis to the extent of such prevention, restriction or interference (and the other Party shall likewise be excused from performance of its obligations which relate to the performance so prevented, restricted or interfered with); provided that the Party as affected shall use its best efforts to avoid or remove such causes of nonperformance and to minimize the consequences thereof and day-to-day basis to the extent of such prevention, restriction or interference (and the other Party shall likewise be excused from performance of its obligations which relate to the performance so prevented, restricted or interfered with); provided that the Party as affected shall use its best efforts to avoid or remove such causes of nonperformance and to minimize the consequences thereof and both Parties shall continue performance hereunder with the utmost dispatch whenever such causes are removed. Lack of funds shall not be a Force Majeure.

12. NON-DISCRIMINATION

The Vendor agrees that in carrying out its activities under the terms of the Agreement that it shall abide by the applicable provisions of the Human Rights Law of the State of New York, as set forth in Sections 290-301 of the Executive Law of the State of New York.

13. FEDERAL, STATE AND LOCAL LAW AND REGULATIONS COMPLIANCE

Vendor agrees to abide by and comply with all applicable federal, state and local laws, rules, regulations and orders.

14. DISCLOSURE

Vendor certifies, to the best of its knowledge and belief, that:

A. No State or Federal appropriated funds have been paid or will be paid, by or on behalf of the Vendor, to any person for influencing or attempting to influence legislation or appropriation actions pending before local, State and Federal executive and/or legislative bodies in connection with the awarding of any contract, the making of any grant, the making of any loan, the entering into of any cooperative Agreement, and the extension, continuation, renewal, amendment, or modification of any contract, grant loan, or cooperative Agreement.

B. If any funds other than State or Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence legislation or appropriation actions pending before local, State and Federal executive and/or legislative bodies in connection with this contract, grant, loan or cooperative Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, and United States Code. Failure to file the required certification shall be subject to civil penalty by the Federal government of not less than \$10,000 and not more than \$100,000 for each such failure.

15. ENTIRE AGREEMENT

This Agreement, and any documents referred to in it, constitute the whole Agreement between the Parties and supersede any previous arrangement, understanding or Agreement between them relating to the subject matter they cover.

Each of the Parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by the duly authorized officers of the respective Parties.

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the “Agreement”) is made by and between Rensselaer County, New York (hereinafter referred to as “Covered Entity”), and Rensselaer City School District (hereinafter referred to as “Business Associate”). Covered Entity and Business Associate shall collectively be known herein as the “Parties.”

1. GENERAL

1.1 Covered Entity has a business relationship with Business Associate that is attached to this agreement (the “Underlying Agreement”), pursuant to which Business Associate may be considered a “business associate” of Covered Entity as defined in the Health Insurance Portability and Accountability Act of 1996, including all pertinent regulations (45 CFR Parts 160 and 164), issued by the U.S. Department of Health and Human Services, including Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), as codified in Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5), and including any and all applicable Privacy, Security, Enforcement, or Notice (Breach Notification) Rules or requirements (collectively, “HIPAA”), as all are amended from time to time; and

1.2 The performance of the Underlying Agreement may involve the creation, exchange, or maintenance of Protected Health Information (“PHI”) as that term is defined under HIPAA; and

1.3 For good and lawful consideration as set forth in the Underlying Agreement, Covered Entity and Business Associate enter into this Agreement for the purpose of ensuring compliance with the requirements of HIPAA; and

1.4 This Agreement articulates the obligations of the Parties as to use and disclosure of PHI. It does not affect Business Associate’s obligations to comply applicable law with respect to any information the County may disclose to Business Associate as part of Business Associate’s performance of the Underlying Agreement; and

1.5 This Agreement supersedes and replaces any and all Business Associate Agreements the Covered Entity and Business Associate may have entered into prior to the date hereof; and

1.6 The above premises having been considered and incorporated by reference into the sections below, the Parties, intending to be legally bound, agree as follows:

2. DEFINITIONS

2.1 The terms used in this Agreement have the same meaning as the definitions of those terms in HIPAA. In the absence of a definition in HIPAA, the terms have their commonly understood meaning.

2.2 Consistent with HIPAA, and for ease of reference, the Parties expressly note the definitions of the following terms:

2.2.1 “Breach” is defined at 45 CFR § 164.402.

2.2.2 “Business Associate” is defined at 45 CFR § 160.103, and in reference to the party to this Agreement, shall mean Rensselaer City School District.

2.2.3 “Covered Entity” is defined at 45 CFR § 160.103, and in reference to the party to this Agreement, shall mean the County.

2.2.4 “Designated Record Set” is defined at 45 CFR §164.501.

2.2.5 “Individual” is defined at 45 CFR §§ 160.103, 164.501 and 164.502(g), and includes a person who qualifies as a personal representative.

2.2.6 “Protected Health Information” or “PHI” is defined at 45 CFR § 160.103.

2.2.7 “Required By Law” is defined at 45 CFR § 164.103.

2.2.8 “Secretary” means the Secretary of the U.S. Department of Health and Human Services or designee.

2.2.9 “Security Incident” is defined at 45 CFR § 164.304.

2.2.10 “Unsecured Protected Health Information” or “Unsecured PHI” means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology, as specified by the Secretary in the guidance as noted under the HITECH Act, section 13402(h)(1) and (2) of Public Law 111-5, codified at 42 U.S.C. § 17932(h)(1) and (2), and as specified by the Secretary in 45 CFR 164.402.

3. PERMISSIBLE USE AND DISCLOSURE OF PHI

3.1 Except as otherwise limited in this Agreement, or by privilege, protection, or confidentiality under HIPAA or other applicable law, Business Associate may use or disclose (including permitting acquisition or access to) PHI to perform applicable functions, activities, or services for, or on behalf of, Covered Entity as specified in the Underlying Agreement. Moreover, the provisions of HIPAA are expressly incorporated by reference into, and made a part of, this Agreement.

3.2 Business Associate may use or disclose (including permitting acquisition or access to) PHI only as permitted or required by this Agreement or as Required By Law.

3.3 Business Associate is directly responsible for full compliance with the relevant requirements of HIPAA.

3.4 Business Associate must not use or disclose (including permitting acquisition or access to) PHI other than as permitted or required by this Agreement or HIPAA, and must use or disclose PHI only in a manner consistent with HIPAA. As part of this, Business Associate must use appropriate safeguards to prevent use or disclosure of PHI that is not permitted by this Agreement or HIPAA. Furthermore, Business Associate must take reasonable precautions to protect PHI from loss, misuse, and unauthorized access, disclosure, alteration, and destruction.

3.5 Business Associate must implement and comply with administrative, physical, and technical safeguards governing the PHI, in a manner consistent with HIPAA, that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity.

3.6 Business Associate must immediately notify Covered Entity, in a manner consistent with HIPAA, of: (i) any use or disclosure of PHI not provided for by this Agreement, including a Breach of PHI of which it knows or by exercise of reasonable diligence would have known, as required at 45 CFR §164.410; and, (ii) any Security Incident of which it becomes aware as required at 45 CFR §164.314(a)(2)(i)(C). Business Associate's notification to Covered Entity required by HIPAA and this Section 3.6 must:

3.6.1 Be made to Covered Entity without unreasonable delay and in no case later than 14 calendar days after Business Associate: a) knows, or by exercising reasonable diligence would have known, of a Breach, b) becomes aware of a Security Incident, or c) becomes aware of any use or disclosure of PHI not provided for by this Agreement;

3.6.2 Include the names and addresses of the Individual(s) whose PHI is the subject of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement. In addition, Business Associate must provide any additional information reasonably requested by Covered Entity for purposes of investigating the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

3.6.3 Be in substantially the same form as Exhibit A hereto;

3.6.4 Include a brief description of what happened, including the date of the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, if known, and the date of the discovery of the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

3.6.5 Include a description of the type(s) of Unsecured PHI that was involved in the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement (such as full name, Social Security number, date of birth, home address, account number, disability code, or other types of information that were involved);

3.6.6 Identify the nature and extent of the PHI involved, including the type(s) of identifiers and the likelihood of re identification;

3.6.7 If known, identify the unauthorized person who used or accessed the PHI or to whom the disclosure was made;

3.6.8 Articulate any steps the affected Individual(s) should take to protect him or herself from potential harm resulting from the Breach, Security Incident, or use or disclosure of PHI not permitted by this Agreement;

3.6.9 State whether the PHI was actually acquired or viewed;

3.6.10 Provide a brief description of what the Covered Entity and the Business Associate are doing to investigate the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, to mitigate losses, and to protect against any further Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

3.6.11 Note contact information and procedures for an Individual(s) to ask questions or learn additional information, which must include a toll-free telephone number of Business Associate, along with an e-mail address, Web site, or postal address; and

3.6.12 Include a draft letter for the Covered Entity to utilize, in the event Covered Entity elects, in its sole discretion, to notify the Individual(s) that his or her PHI is the subject of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement that includes the information noted in Section III. 6.4 – III. 6.11 above.

3.7 Business Associate must, and is expected to, directly and independently fulfill all notification requirements under HIPAA.

3.8 In the event of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, Business Associate must mitigate, to the extent practicable, any harmful effects of said disclosure that are known to it.

3.9 In accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2), Business Associate agrees to ensure that any agent, subcontractor, or employee to whom it provides PHI (received from, or created or received by, Business Associate on behalf of Covered Entity) agrees to the same restrictions, conditions, and requirements that apply through this Agreement to Business Associate with respect to such information.

3.10 Business Associate must ensure that any contract or other arrangement with a subcontractor meets the requirements of paragraphs 45 CFR §164.314(a)(2)(i) and (a)(2)(ii) required by 45 CFR § 164.308(b)(3) between a Business Associate and a subcontractor, in the same manner as such requirements apply to contracts or other arrangements between a Covered Entity and Business Associate.

3.11 Pursuant to 45 CFR § 164.502(a)(4)(ii), Business Associate must disclose PHI to the Covered Entity, Individual, or Individual's designee, as necessary to satisfy a Covered Entity's obligations under § 164.524(c)(2)(ii) and (3)(ii) with respect to an individual's request for an electronic copy of PHI.

3.12 To the extent applicable, Business Associate must provide access to PHI in a Designated Record Set at reasonable times, at the request of Covered Entity or as directed by Covered Entity, to an Individual specified by Covered Entity in order to meet the requirements under 45 CFR § 164.524.

3.13 A Business Associate that is a health plan, excluding an issuer of a long-term care policy falling within paragraph (1)(viii) of the definition of health plan, must not use or disclose PHI that is genetic information for underwriting purposes, in accordance with the provisions of 45 CFR 164.502.

3.14 To the extent applicable, Business Associate must make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to, pursuant to 45 CFR § 164.526, at the request of Covered Entity or an Individual.

3.15 Business Associate must, upon request with reasonable notice, provide Covered Entity access to its premises for a review and demonstration of its internal practices and procedures for safeguarding PHI.

3.16 Business Associate must, upon request and with reasonable notice, furnish to Covered Entity security and privacy audit results, risk analyses, security and privacy policies and procedures, details of previous Breaches and Security Incidents, and documentation of controls.

3.17 Business Associate must also maintain records indicating who has accessed PHI about an Individual in an electronic designated record set and information related to such access, in accordance with 45 C.F.R. § 164.528. Business Associate must document such disclosures of PHI and information related to such disclosures as would be required for a Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. Should an Individual make a request to Covered Entity for an accounting of disclosures of his or her PHI pursuant to 45 C.F.R. § 164.528, Business Associate must promptly provide Covered Entity with information in a format and manner sufficient to respond to the Individual's request.

3.18 Business Associate must, upon request and with reasonable notice, provide Covered Entity with an accounting of uses and disclosures of PHI that was provided to it by Covered Entity.

3.19 Business Associate must make its internal practices, books, records, and any other material requested by the Secretary relating to the use, disclosure, and safeguarding of PHI received from Covered Entity available to the Secretary for the purpose of determining compliance with HIPAA. Business Associate must make the aforementioned information available to the Secretary in the manner and place as designated by the Secretary or the Secretary's duly appointed delegate. Under this Agreement, Business Associate must comply and cooperate with any request for documents or other information from the Secretary directed to Covered Entity that seeks documents or other information held or controlled by Business Associate.

3.20 Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 42 C.F.R. § 164.502(j)(1).

3.21 Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate or the Underlying Agreement, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and be used or further disclosed only as Required By Law or for the limited purpose for which it was disclosed to the person, and the person must agree to notify Business Associate of any instance of any Breach,

Security Incident, or use or disclosure of PHI not provided for by this Agreement of which it is aware in which the confidentiality of the information has been breached.

3.22 Business Associate understands that, pursuant to 45 CFR § 160.402, the Business Associate is liable, in accordance with the Federal common law of agency, for a civil money penalty for a violation of the HIPAA rules based on the act or omission of any agent of the Business Associate, including a workforce member or subcontractor, acting within the scope of the agency.

4. TERM AND TERMINATION

4.1 Term. The Term of this Agreement shall be effective as of the effective date of the Underlying Agreement, and shall terminate: (1) when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity; or, (2) if it is infeasible to return or destroy PHI, in accordance with the termination provisions in this Article IV.

4.2 Termination for Cause. Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall:

4.2.1 Provide an opportunity for Business Associate to cure the breach or end the violation and, if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, have the right to terminate this Agreement and to terminate the Underlying Agreement, and shall report the violation to the Secretary;

4.2.2 Have the right to immediately terminate this Agreement and the Underlying Agreement if Business Associate has breached a material term of this Agreement and cure is not possible, and shall report the violation to the Secretary; or

4.2.3 If neither termination nor cure is feasible, report the violation to the Secretary.

4.2.4 This Article IV, Term and Termination, Paragraph 4.2, is in addition to the provisions set forth in Termination provision of the Contract between County and Vendor, attached to the Underlying Agreement, in which "Business Associate" is "Contractor" and "Covered Entity" is "County" for purposes of this Agreement.

4.3 Effect of Termination:

4.3.1 Except as provided in Section 4.3.2, upon termination or cancellation of this Agreement, for any reason, Business Associate must return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision applies to PHI that is in the possession of a subcontractor(s), employee(s), or agent(s) of Business Associate. Business Associate must not retain any copies of the PHI.

4.3.2 In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate must provide to Covered Entity written notification of the nature of the PHI and the conditions that make

return or destruction infeasible. After written notification that return or destruction of PHI is infeasible, Business Associate must extend the protections of this Agreement to such PHI and limit further use(s) and disclosure(s) of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. Notwithstanding the foregoing, to the extent that it is not feasible to return or destroy such PHI, the terms and provisions of this Agreement survive termination of this Agreement with regard to such PHI.

4.3.3 Should Business Associate violate this Agreement, HIPAA, the Underlying Agreement, other applicable law, Covered Entity has the right to immediately terminate any contract then in force between the Parties, including the Underlying Agreement.

5. CONSIDERATION

Business Associate recognizes that the promises it has made in this Agreement shall, henceforth, be reasonably, justifiably, and detrimentally relied upon by Covered Entity in choosing to continue or commence a business relationship with Business Associate.

6. CAUSES OF ACTION IN THE EVENT OF BREACH

As used in this paragraph, the term “breach” has the meaning normally ascribed to that term under the New York State law related to contracts, as opposed to the specific definition under HIPAA related to PHI. Business Associate hereby recognizes that irreparable harm will result to Covered Entity in the event of breach by Business Associate of any of the covenants and assurances contained in this Agreement. As such, in the event of breach of any of the covenants and assurances contained in this Agreement, Covered Entity shall be entitled to enjoin and restrain Business Associate from any continued violation of this Agreement. Furthermore, in the event of breach of this Agreement by Business Associate, Covered Entity is entitled to reimbursement and indemnification from Business Associate for Covered Entity's reasonable attorneys' fees and expenses and costs that were reasonably incurred as a proximate result of Business Associate's breach. The causes of action contained in this Article VI are in addition to (and do not supersede) any action for damages and/or any other cause of action Covered Entity may have for breach of any part of this Agreement. Furthermore, these provisions are in addition to the provisions set forth in the “Indemnification” Section, of the General Conditions of Contract between County and Contractor, attached to the Underlying Agreement in which “Business Associate” is “Contractor” and “Covered Entity” is “County”, for purposes of this Agreement.

7. MODIFICATION; AMENDMENT

This Agreement may be modified or amended only through a writing signed by the Parties and, thus, no oral modification or amendment hereof shall be permitted. The Parties agree to take such action as is necessary to amend this Agreement, from time to time, as is necessary for Covered Entity to comply with the requirements of HIPAA, including its Privacy, Security, and Notice Rules.

8. INTERPRETATION OF THIS AGREEMENT IN RELATION TO OTHER AGREEMENTS BETWEEN THE PARTIES

Should there be any conflict between the language of this Agreement and any other contract entered into between the Parties (either previous or subsequent to the date of

this Agreement), the language and provisions of this Agreement, along with the Underlying Agreement, shall control and prevail unless the Parties specifically refer in a subsequent written agreement to this Agreement, by its title, date, and substance and specifically state that the provisions of the later written agreement shall control over this Agreement and Underlying Agreement. In any event, any agreement between the Parties, including this Agreement and Underlying Agreement, must be in full compliance with HIPAA, and any provision in an agreement that fails to comply with HIPAA will be deemed separable from the document, unenforceable, and of no effect.

9. COMPLIANCE WITH STATE LAW

The Business Associate acknowledges that by accepting the PHI from Covered Entity, it becomes a holder of medical records information under HIPAA and is subject to the provisions of that law. If HIPAA conflicts with another applicable law regarding the degree of protection provided for Protected Health Information, Business Associate must comply with the more restrictive protection requirement.

10. MISCELLANEOUS

10.1 Ambiguity. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with HIPAA.

10.2 Regulatory References. A reference in this Agreement to a section in HIPAA means the section in effect, or as amended.

10.3 Notice to Covered Entity. Any notice required under this Agreement to be given Covered Entity shall be made in writing to:

Rensselaer County Attorney's Office
Ned Pattison Government Center
1600 Seventh Avenue
Troy, NY 12180
(518) 270-2950
(518) 270-2954 (fax)

10.4 Notice to Business Associate. Any notice required under this Agreement to be given Business Associate shall be made in writing to:

Address: 25 Van Rensselaer Drive, Rensselaer, New York 12144
Attention: Mr. Joseph Kardash
Phone: 518-436-8561

10.5 New York State Law. This Agreement is governed by, and shall be construed in accordance with, applicable federal law and the laws of the State of New York, without regard to choice of law principles.

10.6 Incorporation of Future Amendments. Other requirements applicable to Business Associates under HIPAA are incorporated by reference into this Agreement.

10.7 Penalties for HIPAA Violation. In addition to that stated in this Agreement, Business Associate may be subject to civil and criminal penalties noted under HIPAA, including the same HIPAA civil and criminal penalties applicable to a Covered Entity.

IN WITNESS WHEREOF, and acknowledging acceptance and agreement of the foregoing, the Parties affix their signatures hereto.

**EXHIBIT A
FORM OF NOTIFICATION**

This notification is made pursuant to Section III.F of the Business Associate Agreement between:

- Rensselaer County, New York, (the “County”) and
- Rensselaer City School District, (Business Associate).

Business Associate hereby notifies the County that there has been a Breach, Security Incident, or use or disclosure of PHI not provided for by the Business Associate Agreement (an “Incident”) that Business Associate has used or has had access to under the terms of the Business Associate Agreement.

Description of the Incident:

Date of the Incident: _____

Date of discovery of the Incident: _____

Does the Incident involve 500 or more individuals? Yes/No

If yes, do the people live in multiple states? Yes/No

Number of individuals affected by the Incident:

Names and addresses of individuals affected by the Incident:

(Attach additional pages as

necessary) _____

The types of unsecured PHI that were involved in the Incident (such as full name, Social Security number, date of birth, home address, account number, or disability code):

Description of what Business Associate is doing to investigate the Incident, to mitigate losses, and to protect against any further Incidents:

Contact information to ask questions or learn additional information:

Name: _____

Title: _____

Address: _____

Email Address: _____
Phone Number: _____

**Rensselaer County
and
East Greenbush Central Schools**

This Agreement made by and between the **County of Rensselaer**, acting on behalf of its Department of Mental Health, located at 1600 Seventh Avenue, Troy, New York 12180, hereinafter called the "County", and **East Greenbush Central Schools** located at 29 Englewood Avenue, East Greenbush, New York 12061 hereinafter referred to as the "District". County and District are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties".

WITNESSETH:

WHEREAS, the parties seek to use due diligence in decreasing substance abuse by providing substance abuse prevention programming to students, families and staff; and

WHEREAS, the District seeks the professional services of a full-time Student Assistant Specialist dedicated to providing services to the District; and

WHEREAS, the County employs persons (Student Assistant Specialist) who provide those professional services; and

WHEREAS, the District and the County wish to enter into an agreement whereby the County will provide a Student Assistant Specialist to the District.

NOW, THEREFORE, the parties do hereby agree as follows;

1. SCOPE OF SERVICES

The County shall provide the District with a full-time (35 hours/week) Student Assistant Specialist to perform the following services:

- a. Present evidence-based prevention curriculum to students;
- b. Provide opportunities for parents to participate in prevention programs and planning;
- c. Provide assessment, crisis intervention and referral, and prevention counseling;
- d. Provide consultant services to administration, teachers and parents; and
- e. Provide short-term groups focused on skill building.

It is understood that the District will provide use of a private, dedicated, confidential office space, desk and phone, password protected computer with internet access at an agreed upon location within the District, and a locked filing cabinet and related supplies to accommodate the Student Assistant Specialist.

It is further understood that the Student Assistant Specialist will have access to confidential personal health and other confidential information. To address this confidential information, the County and the District will enter into a Business Associate Agreement as attached hereto.

2. CONSIDERATION

For the services to be provided to the District under this Agreement, the District shall pay to the County the amount of **\$43,782.00** in quarterly installments to the Chief Fiscal Officer, Rensselaer County upon receipt of invoices from the County.

3. TERM OF AGREEMENT

This Agreement shall commence on **July 1, 2022** and shall terminate on **June 30, 2023**.

4. AMENDMENTS

This agreement may be modified or amended only in writing and duly executed by both Parties. Any modification or amendment shall be attached to and become part of this Agreement. All notices concerning this Agreement shall be delivered in writing to the Parties.

5. CERTIFICATES OF INSURANCE

Vendor agrees to maintain during the term of this agreement Workers' Compensation and Disability Insurance Coverage as may be required by law, together with liability insurance with liability limits reasonably satisfactory to the County, and to provide to the County proof of all such insurance coverage at the time of the execution of this agreement by Vendor. The Certificate holder section must read as follows: Rensselaer County, c/o Rensselaer County Attorney, 1600 7th Avenue, Troy, New York 12180.

6. INDEMNIFICATION

Each Party shall defend, indemnify and save harmless the other Party, its officials, employees and agents, from and against all claims, damages, losses and expenses arising out of or in consequence of any negligent or intentional act or omission of a Party, its officials, employees, volunteers or agents to the extent of its or their responsibility for such claims, damages, losses and expenses. Notwithstanding the previous sentence, the amount of such indemnification by either Party to the other shall not exceed the total amount paid as set forth in this Agreement.

7. VENUE

In the event either Party to this agreement shall initiate litigation against the other Party to protect or enforce any right or benefit in favor of such Party under the terms of this Agreement, the Parties hereby mutually agree that the Supreme Court of the State of New York shall exercise exclusive jurisdiction over such litigation, and that the venue of the same shall be County of Rensselaer, New York.

8. EXECUTORY NATURE OF CONTRACT

Vendor expressly acknowledges and agrees that this contract will be considered executory to the extent New York State or Federal funding is relied upon by the County for the payment of any goods, labor or services to be furnished by vendor under the terms and provisions of this Agreement, and that in the event such funding shall not be forthcoming, this Agreement may be terminated by the County upon reasonable prior written notice to vendor.

9. CORPORATE COMPLIANCE

Vendor represents and warrants that it, and its employees and/or contractors, are not excluded from participation and are not otherwise ineligible to participate in a "federal health care program", as defined in 42 U.S.C.1320a-7b or in any other government

payment program. Vendor further represents and warrants that it will perform screening, on a monthly basis, all of its employees and subcontractors against:

- a. The General Services Administration's Federal Excluded Party List System or any successor list;
- b. The United States Department of Health and Human Service's Office of the Inspector General's List of Excluded Individuals and Entities or any successor list; and
- c. The New York State Department of Health's Office of the Medicaid Inspector General's list of Restricted, Terminated or Excluded Individuals or Entities, or any successor list.

In the event that an excluded Party is discovered by the Vendor, said Vendor shall notify the County within five (5) days of such discovery. The County reserves its right to cancel and contract upon such notification.

The County further shall have the right to cancel this Agreement and declare the same null and void in the event that the Vendor fails to fulfill its obligations under this section.

10. TERMINATION

Either Party may terminate this Agreement, provided that the Party terminating this Agreement gives thirty (30) days written notice of termination to the other Party, which shall be served upon the other Party by first class mail.

11. FORCE MAJEURE

Neither Party to this Agreement shall be held responsible or be deemed to be in default under this Agreement for any delay in performance or failure in performance of any of their respective obligations to be performed hereunder if such delay or failure is the result of causes beyond the control and without negligence of the Party with respect to whose obligations such delay in performance or failure in performance has occurred. Such causes shall include, without limitation, acts of natural or man-made disasters, strikes, lockouts, riots, insurrections, civil disturbances or uprising, sabotage, embargoes, blockades, acts of war, acts of terror, acts or failure to act of any governmental regulations superimposed after the fact, communication line failures, power failures, fires, explosions, accidents, epidemics, and all occurrences similar to the foregoing (collectively referred to herein as "Force Majeure"). The Party affected by an event of Force Majeure, upon giving prompt notice to the other Party, shall be excused from performance hereunder on a day-to-day basis to the extent of such prevention, restriction or interference (and the other Party shall likewise be excused from performance of its obligations which relate to the performance so prevented, restricted or interfered with); provided that the Party as affected shall use its best efforts to avoid or remove such causes of nonperformance and to minimize the consequences thereof and day-to-day basis to the extent of such prevention, restriction or interference (and the other Party shall likewise be excused from performance of its obligations which relate to the performance so prevented, restricted or interfered with); provided that the Party as affected shall use its best efforts to avoid or remove such causes of nonperformance and to minimize the consequences thereof and both Parties shall continue performance hereunder with the utmost dispatch whenever such causes are removed. Lack of funds shall not be a Force Majeure.

12. NON-DISCRIMINATION

The Vendor agrees that in carrying out its activities under the terms of the Agreement that it shall abide by the applicable provisions of the Human Rights Law of the State of New York, as set forth in Sections 290-301 of the Executive Law of the State of New York.

13. FEDERAL, STATE AND LOCAL LAW AND REGULATIONS COMPLIANCE

Vendor agrees to abide by and comply with all applicable federal, state and local laws, rules, regulations and orders.

14. DISCLOSURE

Vendor certifies, to the best of its knowledge and belief, that:

A. No State or Federal appropriated funds have been paid or will be paid, by or on behalf of the Vendor, to any person for influencing or attempting to influence legislation or appropriation actions pending before local, State and Federal executive and/or legislative bodies in connection with the awarding of any contract, the making of any grant, the making of any loan, the entering into of any cooperative Agreement, and the extension, continuation, renewal, amendment, or modification of any contract, grant loan, or cooperative Agreement.

B. If any funds other than State or Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence legislation or appropriation actions pending before local, State and Federal executive and/or legislative bodies in connection with this contract, grant, loan or cooperative Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, and United States Code. Failure to file the required certification shall be subject to civil penalty by the Federal government of not less than \$10,000 and not more than \$100,000 for each such failure.

15. ENTIRE AGREEMENT

This Agreement, and any documents referred to in it, constitute the whole Agreement between the Parties and supersede any previous arrangement, understanding or Agreement between them relating to the subject matter they cover.

Each of the Parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by the duly authorized officers of the respective Parties.

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the “Agreement”) is made by and between Rensselaer County, New York (hereinafter referred to as “Covered Entity”), and East Greenbush Central Schools (hereinafter referred to as “Business Associate”). Covered Entity and Business Associate shall collectively be known herein as the “Parties.”

1. GENERAL

1.1 Covered Entity has a business relationship with Business Associate that is attached to this agreement (the “Underlying Agreement”), pursuant to which Business Associate may be considered a “business associate” of Covered Entity as defined in the Health Insurance Portability and Accountability Act of 1996, including all pertinent regulations (45 CFR Parts 160 and 164), issued by the U.S. Department of Health and Human Services, including Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), as codified in Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5), and including any and all applicable Privacy, Security, Enforcement, or Notice (Breach Notification) Rules or requirements (collectively, “HIPAA”), as all are amended from time to time; and

1.2 The performance of the Underlying Agreement may involve the creation, exchange, or maintenance of Protected Health Information (“PHI”) as that term is defined under HIPAA; and

1.3 For good and lawful consideration as set forth in the Underlying Agreement, Covered Entity and Business Associate enter into this Agreement for the purpose of ensuring compliance with the requirements of HIPAA; and

1.4 This Agreement articulates the obligations of the Parties as to use and disclosure of PHI. It does not affect Business Associate’s obligations to comply applicable law with respect to any information the County may disclose to Business Associate as part of Business Associate’s performance of the Underlying Agreement; and

1.5 This Agreement supersedes and replaces any and all Business Associate Agreements the Covered Entity and Business Associate may have entered into prior to the date hereof; and

1.6 The above premises having been considered and incorporated by reference into the sections below, the Parties, intending to be legally bound, agree as follows:

2. DEFINITIONS

2.1 The terms used in this Agreement have the same meaning as the definitions of those terms in HIPAA. In the absence of a definition in HIPAA, the terms have their commonly understood meaning.

2.2 Consistent with HIPAA, and for ease of reference, the Parties expressly note the definitions of the following terms:

2.2.1 “Breach” is defined at 45 CFR § 164.402.

2.2.2 “Business Associate” is defined at 45 CFR § 160.103, and in reference to the party to this Agreement, shall mean East Greenbush Central Schools.

2.2.3 “Covered Entity” is defined at 45 CFR § 160.103, and in reference to the party to this Agreement, shall mean the County.

2.2.4 “Designated Record Set” is defined at 45 CFR §164.501.

2.2.5 “Individual” is defined at 45 CFR §§ 160.103, 164.501 and 164.502(g), and includes a person who qualifies as a personal representative.

2.2.6 “Protected Health Information” or “PHI” is defined at 45 CFR § 160.103.

2.2.7 “Required By Law” is defined at 45 CFR § 164.103.

2.2.8 “Secretary” means the Secretary of the U.S. Department of Health and Human Services or designee.

2.2.9 “Security Incident” is defined at 45 CFR § 164.304.

2.2.10 “Unsecured Protected Health Information” or “Unsecured PHI” means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology, as specified by the Secretary in the guidance as noted under the HITECH Act, section 13402(h)(1) and (2) of Public Law 111-5, codified at 42 U.S.C. § 17932(h)(1) and (2), and as specified by the Secretary in 45 CFR 164.402.

3. PERMISSIBLE USE AND DISCLOSURE OF PHI

3.1 Except as otherwise limited in this Agreement, or by privilege, protection, or confidentiality under HIPAA or other applicable law, Business Associate may use or disclose (including permitting acquisition or access to) PHI to perform applicable functions, activities, or services for, or on behalf of, Covered Entity as specified in the Underlying Agreement. Moreover, the provisions of HIPAA are expressly incorporated by reference into, and made a part of, this Agreement.

3.2 Business Associate may use or disclose (including permitting acquisition or access to) PHI only as permitted or required by this Agreement or as Required By Law.

3.3 Business Associate is directly responsible for full compliance with the relevant requirements of HIPAA.

3.4 Business Associate must not use or disclose (including permitting acquisition or access to) PHI other than as permitted or required by this Agreement or HIPAA, and must use or disclose PHI only in a manner consistent with HIPAA. As part of this, Business Associate must use appropriate safeguards to prevent use or disclosure of PHI that is not permitted by this Agreement or HIPAA. Furthermore, Business Associate must take reasonable precautions to protect PHI from loss, misuse, and unauthorized access, disclosure, alteration, and destruction.

3.5 Business Associate must implement and comply with administrative, physical, and technical safeguards governing the PHI, in a manner consistent with HIPAA, that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity.

3.6 Business Associate must immediately notify Covered Entity, in a manner consistent with HIPAA, of: (i) any use or disclosure of PHI not provided for by this Agreement, including a Breach of PHI of which it knows or by exercise of reasonable diligence would have known, as required at 45 CFR §164.410; and, (ii) any Security Incident of which it becomes aware as required at 45 CFR §164.314(a)(2)(i)(C). Business Associate's notification to Covered Entity required by HIPAA and this Section 3.6 must:

3.6.1 Be made to Covered Entity without unreasonable delay and in no case later than 14 calendar days after Business Associate: a) knows, or by exercising reasonable diligence would have known, of a Breach, b) becomes aware of a Security Incident, or c) becomes aware of any use or disclosure of PHI not provided for by this Agreement;

3.6.2 Include the names and addresses of the Individual(s) whose PHI is the subject of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement. In addition, Business Associate must provide any additional information reasonably requested by Covered Entity for purposes of investigating the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

3.6.3 Be in substantially the same form as Exhibit A hereto;

3.6.4 Include a brief description of what happened, including the date of the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, if known, and the date of the discovery of the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

3.6.5 Include a description of the type(s) of Unsecured PHI that was involved in the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement (such as full name, Social Security number, date of birth, home address, account number, disability code, or other types of information that were involved);

3.6.6 Identify the nature and extent of the PHI involved, including the type(s) of identifiers and the likelihood of re identification;

3.6.7 If known, identify the unauthorized person who used or accessed the PHI or to whom the disclosure was made;

3.6.8 Articulate any steps the affected Individual(s) should take to protect him or herself from potential harm resulting from the Breach, Security Incident, or use or disclosure of PHI not permitted by this Agreement;

3.6.9 State whether the PHI was actually acquired or viewed;

3.6.10 Provide a brief description of what the Covered Entity and the Business Associate are doing to investigate the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, to mitigate losses, and to protect against any further Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

3.6.11 Note contact information and procedures for an Individual(s) to ask questions or learn additional information, which must include a toll-free telephone number of Business Associate, along with an e-mail address, Web site, or postal address; and

3.6.12 Include a draft letter for the Covered Entity to utilize, in the event Covered Entity elects, in its sole discretion, to notify the Individual(s) that his or her PHI is the subject of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement that includes the information noted in Section III. 6.4 – III. 6.11 above.

3.7 Business Associate must, and is expected to, directly and independently fulfill all notification requirements under HIPAA.

3.8 In the event of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, Business Associate must mitigate, to the extent practicable, any harmful effects of said disclosure that are known to it.

3.9 In accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2), Business Associate agrees to ensure that any agent, subcontractor, or employee to whom it provides PHI (received from, or created or received by, Business Associate on behalf of Covered Entity) agrees to the same restrictions, conditions, and requirements that apply through this Agreement to Business Associate with respect to such information.

3.10 Business Associate must ensure that any contract or other arrangement with a subcontractor meets the requirements of paragraphs 45 CFR §164.314(a)(2)(i) and (a)(2)(ii) required by 45 CFR § 164.308(b)(3) between a Business Associate and a subcontractor, in the same manner as such requirements apply to contracts or other arrangements between a Covered Entity and Business Associate.

3.11 Pursuant to 45 CFR § 164.502(a)(4)(ii), Business Associate must disclose PHI to the Covered Entity, Individual, or Individual's designee, as necessary to satisfy a Covered Entity's obligations under § 164.524(c)(2)(ii) and (3)(ii) with respect to an individual's request for an electronic copy of PHI.

3.12 To the extent applicable, Business Associate must provide access to PHI in a Designated Record Set at reasonable times, at the request of Covered Entity or as directed by Covered Entity, to an Individual specified by Covered Entity in order to meet the requirements under 45 CFR § 164.524.

3.13 A Business Associate that is a health plan, excluding an issuer of a long-term care policy falling within paragraph (1)(viii) of the definition of health plan, must not use or disclose PHI that is genetic information for underwriting purposes, in accordance with the provisions of 45 CFR 164.502.

3.14 To the extent applicable, Business Associate must make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to, pursuant to 45 CFR § 164.526, at the request of Covered Entity or an Individual.

3.15 Business Associate must, upon request with reasonable notice, provide Covered Entity access to its premises for a review and demonstration of its internal practices and procedures for safeguarding PHI.

3.16 Business Associate must, upon request and with reasonable notice, furnish to Covered Entity security and privacy audit results, risk analyses, security and privacy policies and procedures, details of previous Breaches and Security Incidents, and documentation of controls.

3.17 Business Associate must also maintain records indicating who has accessed PHI about an Individual in an electronic designated record set and information related to such access, in accordance with 45 C.F.R. § 164.528. Business Associate must document such disclosures of PHI and information related to such disclosures as would be required for a Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528. Should an Individual make a request to Covered Entity for an accounting of disclosures of his or her PHI pursuant to 45 C.F.R. § 164.528, Business Associate must promptly provide Covered Entity with information in a format and manner sufficient to respond to the Individual's request.

3.18 Business Associate must, upon request and with reasonable notice, provide Covered Entity with an accounting of uses and disclosures of PHI that was provided to it by Covered Entity.

3.19 Business Associate must make its internal practices, books, records, and any other material requested by the Secretary relating to the use, disclosure, and safeguarding of PHI received from Covered Entity available to the Secretary for the purpose of determining compliance with HIPAA. Business Associate must make the aforementioned information available to the Secretary in the manner and place as designated by the Secretary or the Secretary's duly appointed delegate. Under this Agreement, Business Associate must comply and cooperate with any request for documents or other information from the Secretary directed to Covered Entity that seeks documents or other information held or controlled by Business Associate.

3.20 Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 42 C.F.R. § 164.502(j)(1).

3.21 Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate or the Underlying Agreement, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and be used or further disclosed only as Required By Law or for the limited purpose for which it was disclosed to the person, and the person must agree to notify Business Associate of any instance of any Breach,

Security Incident, or use or disclosure of PHI not provided for by this Agreement of which it is aware in which the confidentiality of the information has been breached.

3.22 Business Associate understands that, pursuant to 45 CFR § 160.402, the Business Associate is liable, in accordance with the Federal common law of agency, for a civil money penalty for a violation of the HIPAA rules based on the act or omission of any agent of the Business Associate, including a workforce member or subcontractor, acting within the scope of the agency.

4. TERM AND TERMINATION

4.1 Term. The Term of this Agreement shall be effective as of the effective date of the Underlying Agreement, and shall terminate: (1) when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity; or, (2) if it is infeasible to return or destroy PHI, in accordance with the termination provisions in this Article IV.

4.2 Termination for Cause. Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall:

4.2.1 Provide an opportunity for Business Associate to cure the breach or end the violation and, if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, have the right to terminate this Agreement and to terminate the Underlying Agreement, and shall report the violation to the Secretary;

4.2.2 Have the right to immediately terminate this Agreement and the Underlying Agreement if Business Associate has breached a material term of this Agreement and cure is not possible, and shall report the violation to the Secretary; or

4.2.3 If neither termination nor cure is feasible, report the violation to the Secretary.

4.2.4 This Article IV, Term and Termination, Paragraph 4.2, is in addition to the provisions set forth in Termination provision of the Contract between County and Vendor, attached to the Underlying Agreement, in which "Business Associate" is "Contractor" and "Covered Entity" is "County" for purposes of this Agreement.

4.3 Effect of Termination:

4.3.1 Except as provided in Section 4.3.2, upon termination or cancellation of this Agreement, for any reason, Business Associate must return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision applies to PHI that is in the possession of a subcontractor(s), employee(s), or agent(s) of Business Associate. Business Associate must not retain any copies of the PHI.

4.3.2 In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate must provide to Covered Entity written notification of the nature of the PHI and the conditions that make

return or destruction infeasible. After written notification that return or destruction of PHI is infeasible, Business Associate must extend the protections of this Agreement to such PHI and limit further use(s) and disclosure(s) of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. Notwithstanding the foregoing, to the extent that it is not feasible to return or destroy such PHI, the terms and provisions of this Agreement survive termination of this Agreement with regard to such PHI.

4.3.3 Should Business Associate violate this Agreement, HIPAA, the Underlying Agreement, other applicable law, Covered Entity has the right to immediately terminate any contract then in force between the Parties, including the Underlying Agreement.

5. CONSIDERATION

Business Associate recognizes that the promises it has made in this Agreement shall, henceforth, be reasonably, justifiably, and detrimentally relied upon by Covered Entity in choosing to continue or commence a business relationship with Business Associate.

6. CAUSES OF ACTION IN THE EVENT OF BREACH

As used in this paragraph, the term “breach” has the meaning normally ascribed to that term under the New York State law related to contracts, as opposed to the specific definition under HIPAA related to PHI. Business Associate hereby recognizes that irreparable harm will result to Covered Entity in the event of breach by Business Associate of any of the covenants and assurances contained in this Agreement. As such, in the event of breach of any of the covenants and assurances contained in this Agreement, Covered Entity shall be entitled to enjoin and restrain Business Associate from any continued violation of this Agreement. Furthermore, in the event of breach of this Agreement by Business Associate, Covered Entity is entitled to reimbursement and indemnification from Business Associate for Covered Entity's reasonable attorneys' fees and expenses and costs that were reasonably incurred as a proximate result of Business Associate's breach. The causes of action contained in this Article VI are in addition to (and do not supersede) any action for damages and/or any other cause of action Covered Entity may have for breach of any part of this Agreement. Furthermore, these provisions are in addition to the provisions set forth in the “Indemnification” Section, of the General Conditions of Contract between County and Contractor, attached to the Underlying Agreement in which “Business Associate” is “Contractor” and “Covered Entity” is “County”, for purposes of this Agreement.

7. MODIFICATION; AMENDMENT

This Agreement may be modified or amended only through a writing signed by the Parties and, thus, no oral modification or amendment hereof shall be permitted. The Parties agree to take such action as is necessary to amend this Agreement, from time to time, as is necessary for Covered Entity to comply with the requirements of HIPAA, including its Privacy, Security, and Notice Rules.

8. INTERPRETATION OF THIS AGREEMENT IN RELATION TO OTHER AGREEMENTS BETWEEN THE PARTIES

Should there be any conflict between the language of this Agreement and any other contract entered into between the Parties (either previous or subsequent to the date of

this Agreement), the language and provisions of this Agreement, along with the Underlying Agreement, shall control and prevail unless the Parties specifically refer in a subsequent written agreement to this Agreement, by its title, date, and substance and specifically state that the provisions of the later written agreement shall control over this Agreement and Underlying Agreement. In any event, any agreement between the Parties, including this Agreement and Underlying Agreement, must be in full compliance with HIPAA, and any provision in an agreement that fails to comply with HIPAA will be deemed separable from the document, unenforceable, and of no effect.

9. COMPLIANCE WITH STATE LAW

The Business Associate acknowledges that by accepting the PHI from Covered Entity, it becomes a holder of medical records information under HIPAA and is subject to the provisions of that law. If HIPAA conflicts with another applicable law regarding the degree of protection provided for Protected Health Information, Business Associate must comply with the more restrictive protection requirement.

10. MISCELLANEOUS

10.1 Ambiguity. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with HIPAA.

10.2 Regulatory References. A reference in this Agreement to a section in HIPAA means the section in effect, or as amended.

10.3 Notice to Covered Entity. Any notice required under this Agreement to be given Covered Entity shall be made in writing to:

Rensselaer County Attorney's Office
Ned Pattison Government Center
1600 Seventh Avenue
Troy, NY 12180
(518) 270-2950
(518) 270-2954 (fax)

10.4 Notice to Business Associate. Any notice required under this Agreement to be given Business Associate shall be made in writing to:

Address: 29 Englewood Avenue, East Greenbush, New York 12061
Attention: Mr. Jeffrey Simons
Phone: 518-207-2500

10.5 New York State Law. This Agreement is governed by, and shall be construed in accordance with, applicable federal law and the laws of the State of New York, without regard to choice of law principles.

10.6 Incorporation of Future Amendments. Other requirements applicable to Business Associates under HIPAA are incorporated by reference into this Agreement.

10.7 Penalties for HIPAA Violation. In addition to that stated in this Agreement, Business Associate may be subject to civil and criminal penalties noted under HIPAA, including the same HIPAA civil and criminal penalties applicable to a Covered Entity.

IN WITNESS WHEREOF, and acknowledging acceptance and agreement of the foregoing, the Parties affix their signatures hereto.

**EXHIBIT A
FORM OF NOTIFICATION**

This notification is made pursuant to Section III.F of the Business Associate Agreement between:

- Rensselaer County, New York, (the “County”) and
- East Greenbush Central Schools, (Business Associate).

Business Associate hereby notifies the County that there has been a Breach, Security Incident, or use or disclosure of PHI not provided for by the Business Associate Agreement (an “Incident”) that Business Associate has used or has had access to under the terms of the Business Associate Agreement.

Description of the Incident:

Date of the Incident: _____

Date of discovery of the Incident: _____

Does the Incident involve 500 or more individuals? Yes/No

If yes, do the people live in multiple states? Yes/No

Number of individuals affected by the Incident:

Names and addresses of individuals affected by the Incident:

(Attach additional pages as

necessary) _____

The types of unsecured PHI that were involved in the Incident (such as full name, Social Security number, date of birth, home address, account number, or disability code):

Description of what Business Associate is doing to investigate the Incident, to mitigate losses, and to protect against any further Incidents:

Contact information to ask questions or learn additional information:

Name: _____

Title: _____

Address: _____

Email Address: _____
Phone Number: _____

**Rensselaer County
and
Lansingburgh Central Schools**

This Agreement made by and between the **County of Rensselaer**, acting on behalf of its Department of Mental Health, located at 1600 Seventh Avenue, Troy, New York 12180, hereinafter called the "County", and **Lansingburgh Central Schools** located at 55 New Turnpike Road, Troy, New York 12182 hereinafter referred to as the "District". County and District are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties".

WITNESSETH:

WHEREAS, the parties seek to use due diligence in decreasing substance abuse by providing substance abuse prevention programming to students, families and staff; and

WHEREAS, the District seeks the professional services of three full-time Student Assistant Specialists dedicated to providing services to the District; and

WHEREAS, the County employs persons (Student Assistant Specialist) who provide those professional services; and

WHEREAS, the District and the County wish to enter into an agreement whereby the County will provide two Student Assistant Specialists to the District.

NOW, THEREFORE, the parties do hereby agree as follows;

1. SCOPE OF SERVICES

The County shall provide the District with three full-time (35 hours/week) Student Assistant Specialists to perform the following services:

- a. Present evidence-based prevention curriculum to students;
- b. Provide opportunities for parents to participate in prevention programs and planning;
- c. Provide assessment, crisis intervention and referral, and prevention counseling;
- d. Provide consultant services to administration, teachers and parents; and
- e. Provide short-term groups focused on skill building.

It is understood that the District will provide use of a private, dedicated, confidential office space, desk and phone, password protected computer with internet access at an agreed upon location within the District, and a locked filing cabinet and related supplies to accommodate the Student Assistant Specialists.

It is further understood that the Student Assistant Specialists will have access to confidential personal health and other confidential information. To address this confidential information, the County and the District will enter into a Business Associate Agreement as attached hereto.

2. CONSIDERATION

For the services to be provided to the District under this Agreement, the District shall pay to the County the amount of **\$179,564.00** in quarterly installments to the Chief Fiscal Officer, Rensselaer County upon receipt of invoices from the County.

3. TERM OF AGREEMENT

This Agreement shall commence on **July 1, 2022** and shall terminate on **June 30, 2023**.

4. AMENDMENTS

This agreement may be modified or amended only in writing and duly executed by both Parties. Any modification or amendment shall be attached to and become part of this Agreement. All notices concerning this Agreement shall be delivered in writing to the Parties.

5. CERTIFICATES OF INSURANCE

Vendor agrees to maintain during the term of this agreement Workers' Compensation and Disability Insurance Coverage as may be required by law, together with liability insurance with liability limits reasonably satisfactory to the County, and to provide to the County proof of all such insurance coverage at the time of the execution of this agreement by Vendor. The Certificate holder section must read as follows: Rensselaer County, c/o Rensselaer County Attorney, 1600 7th Avenue, Troy, New York 12180.

6. INDEMNIFICATION

Each Party shall defend, indemnify and save harmless the other Party, its officials, employees and agents, from and against all claims, damages, losses and expenses arising out of or in consequence of any negligent or intentional act or omission of a Party, its officials, employees, volunteers or agents to the extent of its or their responsibility for such claims, damages, losses and expenses. Notwithstanding the previous sentence, the amount of such indemnification by either Party to the other shall not exceed the total amount paid as set forth in this Agreement.

7. VENUE

In the event either Party to this agreement shall initiate litigation against the other Party to protect or enforce any right or benefit in favor of such Party under the terms of this Agreement, the Parties hereby mutually agree that the Supreme Court of the State of New York shall exercise exclusive jurisdiction over such litigation, and that the venue of the same shall be County of Rensselaer, New York.

8. EXECUTORY NATURE OF CONTRACT

Vendor expressly acknowledges and agrees that this contract will be considered executory to the extent New York State or Federal funding is relied upon by the County for the payment of any goods, labor or services to be furnished by vendor under the terms and provisions of this Agreement, and that in the event such funding shall not be forthcoming, this Agreement may be terminated by the County upon reasonable prior written notice to vendor.

9. CORPORATE COMPLIANCE

Vendor represents and warrants that it, and its employees and/or contractors, are not excluded from participation and are not otherwise ineligible to participate in a "federal health care program", as defined in 42 U.S.C.1320a-7b or in any other government

payment program. Vendor further represents and warrants that it will perform screening, on a monthly basis, all of its employees and subcontractors against:

- a. The General Services Administration's Federal Excluded Party List System or any successor list;
- b. The United States Department of Health and Human Service's Office of the Inspector General's List of Excluded Individuals and Entities or any successor list; and
- c. The New York State Department of Health's Office of the Medicaid Inspector General's list of Restricted, Terminated or Excluded Individuals or Entities, or any successor list.

In the event that an excluded Party is discovered by the Vendor, said Vendor shall notify the County within five (5) days of such discovery. The County reserves its right to cancel and contract upon such notification.

The County further shall have the right to cancel this Agreement and declare the same null and void in the event that the Vendor fails to fulfill its obligations under this section.

10. TERMINATION

Either Party may terminate this Agreement, provided that the Party terminating this Agreement gives thirty (30) days written notice of termination to the other Party, which shall be served upon the other Party by first class mail.

11. FORCE MAJEURE

Neither Party to this Agreement shall be held responsible or be deemed to be in default under this Agreement for any delay in performance or failure in performance of any of their respective obligations to be performed hereunder if such delay or failure is the result of causes beyond the control and without negligence of the Party with respect to whose obligations such delay in performance or failure in performance has occurred. Such causes shall include, without limitation, acts of natural or man-made disasters, strikes, lockouts, riots, insurrections, civil disturbances or uprising, sabotage, embargoes, blockades, acts of war, acts of terror, acts or failure to act of any governmental regulations superimposed after the fact, communication line failures, power failures, fires, explosions, accidents, epidemics, and all occurrences similar to the foregoing (collectively referred to herein as "Force Majeure"). The Party affected by an event of Force Majeure, upon giving prompt notice to the other Party, shall be excused from performance hereunder on a day-to-day basis to the extent of such prevention, restriction or interference (and the other Party shall likewise be excused from performance of its obligations which relate to the performance so prevented, restricted or interfered with); provided that the Party as affected shall use its best efforts to avoid or remove such causes of nonperformance and to minimize the consequences thereof and day-to-day basis to the extent of such prevention, restriction or interference (and the other Party shall likewise be excused from performance of its obligations which relate to the performance so prevented, restricted or interfered with); provided that the Party as affected shall use its best efforts to avoid or remove such causes of nonperformance and to minimize the consequences thereof and both Parties shall continue performance hereunder with the utmost dispatch whenever such causes are removed. Lack of funds shall not be a Force Majeure.

12. NON-DISCRIMINATION

The Vendor agrees that in carrying out its activities under the terms of the Agreement that it shall abide by the applicable provisions of the Human Rights Law of the State of New York, as set forth in Sections 290-301 of the Executive Law of the State of New York.

13. FEDERAL, STATE AND LOCAL LAW AND REGULATIONS COMPLIANCE

Vendor agrees to abide by and comply with all applicable federal, state and local laws, rules, regulations and orders.

14. DISCLOSURE

Vendor certifies, to the best of its knowledge and belief, that:

A. No State or Federal appropriated funds have been paid or will be paid, by or on behalf of the Vendor, to any person for influencing or attempting to influence legislation or appropriation actions pending before local, State and Federal executive and/or legislative bodies in connection with the awarding of any contract, the making of any grant, the making of any loan, the entering into of any cooperative Agreement, and the extension, continuation, renewal, amendment, or modification of any contract, grant loan, or cooperative Agreement.

B. If any funds other than State or Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence legislation or appropriation actions pending before local, State and Federal executive and/or legislative bodies in connection with this contract, grant, loan or cooperative Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, and United States Code. Failure to file the required certification shall be subject to civil penalty by the Federal government of not less than \$10,000 and not more than \$100,000 for each such failure.

15. ENTIRE AGREEMENT

This Agreement, and any documents referred to in it, constitute the whole Agreement between the Parties and supersede any previous arrangement, understanding or Agreement between them relating to the subject matter they cover.

Each of the Parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by the duly authorized officers of the respective Parties.

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the “Agreement”) is made by and between Rensselaer County, New York (hereinafter referred to as “Covered Entity”), and Lansingburgh Central Schools (hereinafter referred to as “Business Associate”). Covered Entity and Business Associate shall collectively be known herein as the “Parties.”

1. GENERAL

1.1 Covered Entity has a business relationship with Business Associate that is attached to this agreement (the “Underlying Agreement”), pursuant to which Business Associate may be considered a “business associate” of Covered Entity as defined in the Health Insurance Portability and Accountability Act of 1996, including all pertinent regulations (45 CFR Parts 160 and 164), issued by the U.S. Department of Health and Human Services, including Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), as codified in Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5), and including any and all applicable Privacy, Security, Enforcement, or Notice (Breach Notification) Rules or requirements (collectively, “HIPAA”), as all are amended from time to time; and

1.2 The performance of the Underlying Agreement may involve the creation, exchange, or maintenance of Protected Health Information (“PHI”) as that term is defined under HIPAA; and

1.3 For good and lawful consideration as set forth in the Underlying Agreement, Covered Entity and Business Associate enter into this Agreement for the purpose of ensuring compliance with the requirements of HIPAA; and

1.4 This Agreement articulates the obligations of the Parties as to use and disclosure of PHI. It does not affect Business Associate’s obligations to comply applicable law with respect to any information the County may disclose to Business Associate as part of Business Associate’s performance of the Underlying Agreement; and

1.5 This Agreement supersedes and replaces any and all Business Associate Agreements the Covered Entity and Business Associate may have entered into prior to the date hereof; and

1.6 The above premises having been considered and incorporated by reference into the sections below, the Parties, intending to be legally bound, agree as follows:

2. DEFINITIONS

2.1 The terms used in this Agreement have the same meaning as the definitions of those terms in HIPAA. In the absence of a definition in HIPAA, the terms have their commonly understood meaning.

2.2 Consistent with HIPAA, and for ease of reference, the Parties expressly note the definitions of the following terms:

2.2.1 “Breach” is defined at 45 CFR § 164.402.

2.2.2 “Business Associate” is defined at 45 CFR § 160.103, and in reference to the party to this Agreement, shall mean Lansingburgh Central Schools.

2.2.3 “Covered Entity” is defined at 45 CFR § 160.103, and in reference to the party to this Agreement, shall mean the County.

2.2.4 “Designated Record Set” is defined at 45 CFR §164.501.

2.2.5 “Individual” is defined at 45 CFR §§ 160.103, 164.501 and 164.502(g), and includes a person who qualifies as a personal representative.

2.2.6 “Protected Health Information” or “PHI” is defined at 45 CFR § 160.103.

2.2.7 “Required By Law” is defined at 45 CFR § 164.103.

2.2.8 “Secretary” means the Secretary of the U.S. Department of Health and Human Services or designee.

2.2.9 “Security Incident” is defined at 45 CFR § 164.304.

2.2.10 “Unsecured Protected Health Information” or “Unsecured PHI” means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology, as specified by the Secretary in the guidance as noted under the HITECH Act, section 13402(h)(1) and (2) of Public Law 111-5, codified at 42 U.S.C. § 17932(h)(1) and (2), and as specified by the Secretary in 45 CFR 164.402.

3. PERMISSIBLE USE AND DISCLOSURE OF PHI

3.1 Except as otherwise limited in this Agreement, or by privilege, protection, or confidentiality under HIPAA or other applicable law, Business Associate may use or disclose (including permitting acquisition or access to) PHI to perform applicable functions, activities, or services for, or on behalf of, Covered Entity as specified in the Underlying Agreement. Moreover, the provisions of HIPAA are expressly incorporated by reference into, and made a part of, this Agreement.

3.2 Business Associate may use or disclose (including permitting acquisition or access to) PHI only as permitted or required by this Agreement or as Required By Law.

3.3 Business Associate is directly responsible for full compliance with the relevant requirements of HIPAA.

3.4 Business Associate must not use or disclose (including permitting acquisition or access to) PHI other than as permitted or required by this Agreement or HIPAA, and must use or disclose PHI only in a manner consistent with HIPAA. As part of this, Business Associate must use appropriate safeguards to prevent use or disclosure of PHI that is not permitted by this Agreement or HIPAA. Furthermore, Business Associate must take reasonable precautions to protect PHI from loss, misuse, and unauthorized access, disclosure, alteration, and destruction.

3.5 Business Associate must implement and comply with administrative, physical, and technical safeguards governing the PHI, in a manner consistent with HIPAA, that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity.

3.6 Business Associate must immediately notify Covered Entity, in a manner consistent with HIPAA, of: (i) any use or disclosure of PHI not provided for by this Agreement, including a Breach of PHI of which it knows or by exercise of reasonable diligence would have known, as required at 45 CFR §164.410; and, (ii) any Security Incident of which it becomes aware as required at 45 CFR §164.314(a)(2)(i)(C). Business Associate's notification to Covered Entity required by HIPAA and this Section 3.6 must:

3.6.1 Be made to Covered Entity without unreasonable delay and in no case later than 14 calendar days after Business Associate: a) knows, or by exercising reasonable diligence would have known, of a Breach, b) becomes aware of a Security Incident, or c) becomes aware of any use or disclosure of PHI not provided for by this Agreement;

3.6.2 Include the names and addresses of the Individual(s) whose PHI is the subject of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement. In addition, Business Associate must provide any additional information reasonably requested by Covered Entity for purposes of investigating the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

3.6.3 Be in substantially the same form as Exhibit A hereto;

3.6.4 Include a brief description of what happened, including the date of the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, if known, and the date of the discovery of the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

3.6.5 Include a description of the type(s) of Unsecured PHI that was involved in the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement (such as full name, Social Security number, date of birth, home address, account number, disability code, or other types of information that were involved);

3.6.6 Identify the nature and extent of the PHI involved, including the type(s) of identifiers and the likelihood of re identification;

3.6.7 If known, identify the unauthorized person who used or accessed the PHI or to whom the disclosure was made;

3.6.8 Articulate any steps the affected Individual(s) should take to protect him or herself from potential harm resulting from the Breach, Security Incident, or use or disclosure of PHI not permitted by this Agreement;

3.6.9 State whether the PHI was actually acquired or viewed;

3.6.10 Provide a brief description of what the Covered Entity and the Business Associate are doing to investigate the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, to mitigate losses, and to protect against any further Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

3.6.11 Note contact information and procedures for an Individual(s) to ask questions or learn additional information, which must include a toll-free telephone number of Business Associate, along with an e-mail address, Web site, or postal address; and

3.6.12 Include a draft letter for the Covered Entity to utilize, in the event Covered Entity elects, in its sole discretion, to notify the Individual(s) that his or her PHI is the subject of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement that includes the information noted in Section III. 6.4 – III. 6.11 above.

3.7 Business Associate must, and is expected to, directly and independently fulfill all notification requirements under HIPAA.

3.8 In the event of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, Business Associate must mitigate, to the extent practicable, any harmful effects of said disclosure that are known to it.

3.9 In accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2), Business Associate agrees to ensure that any agent, subcontractor, or employee to whom it provides PHI (received from, or created or received by, Business Associate on behalf of Covered Entity) agrees to the same restrictions, conditions, and requirements that apply through this Agreement to Business Associate with respect to such information.

3.10 Business Associate must ensure that any contract or other arrangement with a subcontractor meets the requirements of paragraphs 45 CFR §164.314(a)(2)(i) and (a)(2)(ii) required by 45 CFR § 164.308(b)(3) between a Business Associate and a subcontractor, in the same manner as such requirements apply to contracts or other arrangements between a Covered Entity and Business Associate.

3.11 Pursuant to 45 CFR § 164.502(a)(4)(ii), Business Associate must disclose PHI to the Covered Entity, Individual, or Individual's designee, as necessary to satisfy a Covered Entity's obligations under § 164.524(c)(2)(ii) and (3)(ii) with respect to an individual's request for an electronic copy of PHI.

3.12 To the extent applicable, Business Associate must provide access to PHI in a Designated Record Set at reasonable times, at the request of Covered Entity or as directed by Covered Entity, to an Individual specified by Covered Entity in order to meet the requirements under 45 CFR § 164.524.

3.13 A Business Associate that is a health plan, excluding an issuer of a long-term care policy falling within paragraph (1)(viii) of the definition of health plan, must not use or disclose PHI that is genetic information for underwriting purposes, in accordance with the provisions of 45 CFR 164.502.

3.14 To the extent applicable, Business Associate must make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to, pursuant to 45 CFR § 164.526, at the request of Covered Entity or an Individual.

3.15 Business Associate must, upon request with reasonable notice, provide Covered Entity access to its premises for a review and demonstration of its internal practices and procedures for safeguarding PHI.

3.16 Business Associate must, upon request and with reasonable notice, furnish to Covered Entity security and privacy audit results, risk analyses, security and privacy policies and procedures, details of previous Breaches and Security Incidents, and documentation of controls.

3.17 Business Associate must also maintain records indicating who has accessed PHI about an Individual in an electronic designated record set and information related to such access, in accordance with 45 C.F.R. § 164.528. Business Associate must document such disclosures of PHI and information related to such disclosures as would be required for a Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528. Should an Individual make a request to Covered Entity for an accounting of disclosures of his or her PHI pursuant to 45 C.F.R. § 164.528, Business Associate must promptly provide Covered Entity with information in a format and manner sufficient to respond to the Individual's request.

3.18 Business Associate must, upon request and with reasonable notice, provide Covered Entity with an accounting of uses and disclosures of PHI that was provided to it by Covered Entity.

3.19 Business Associate must make its internal practices, books, records, and any other material requested by the Secretary relating to the use, disclosure, and safeguarding of PHI received from Covered Entity available to the Secretary for the purpose of determining compliance with HIPAA. Business Associate must make the aforementioned information available to the Secretary in the manner and place as designated by the Secretary or the Secretary's duly appointed delegate. Under this Agreement, Business Associate must comply and cooperate with any request for documents or other information from the Secretary directed to Covered Entity that seeks documents or other information held or controlled by Business Associate.

3.20 Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 42 C.F.R. § 164.502(j)(1).

3.21 Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate or the Underlying Agreement, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and be used or further disclosed only as Required By Law or for the limited purpose for which it was disclosed to the person, and the person must agree to notify Business Associate of any instance of any Breach,

Security Incident, or use or disclosure of PHI not provided for by this Agreement of which it is aware in which the confidentiality of the information has been breached.

3.22 Business Associate understands that, pursuant to 45 CFR § 160.402, the Business Associate is liable, in accordance with the Federal common law of agency, for a civil money penalty for a violation of the HIPAA rules based on the act or omission of any agent of the Business Associate, including a workforce member or subcontractor, acting within the scope of the agency.

4. TERM AND TERMINATION

4.1 Term. The Term of this Agreement shall be effective as of the effective date of the Underlying Agreement, and shall terminate: (1) when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity; or, (2) if it is infeasible to return or destroy PHI, in accordance with the termination provisions in this Article IV.

4.2 Termination for Cause. Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall:

4.2.1 Provide an opportunity for Business Associate to cure the breach or end the violation and, if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, have the right to terminate this Agreement and to terminate the Underlying Agreement, and shall report the violation to the Secretary;

4.2.2 Have the right to immediately terminate this Agreement and the Underlying Agreement if Business Associate has breached a material term of this Agreement and cure is not possible, and shall report the violation to the Secretary; or

4.2.3 If neither termination nor cure is feasible, report the violation to the Secretary.

4.2.4 This Article IV, Term and Termination, Paragraph 4.2, is in addition to the provisions set forth in Termination provision of the Contract between County and Vendor, attached to the Underlying Agreement, in which "Business Associate" is "Contractor" and "Covered Entity" is "County" for purposes of this Agreement.

4.3 Effect of Termination:

4.3.1 Except as provided in Section 4.3.2, upon termination or cancellation of this Agreement, for any reason, Business Associate must return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision applies to PHI that is in the possession of a subcontractor(s), employee(s), or agent(s) of Business Associate. Business Associate must not retain any copies of the PHI.

4.3.2 In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate must provide to Covered Entity written notification of the nature of the PHI and the conditions that make

return or destruction infeasible. After written notification that return or destruction of PHI is infeasible, Business Associate must extend the protections of this Agreement to such PHI and limit further use(s) and disclosure(s) of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. Notwithstanding the foregoing, to the extent that it is not feasible to return or destroy such PHI, the terms and provisions of this Agreement survive termination of this Agreement with regard to such PHI.

4.3.3 Should Business Associate violate this Agreement, HIPAA, the Underlying Agreement, other applicable law, Covered Entity has the right to immediately terminate any contract then in force between the Parties, including the Underlying Agreement.

5. CONSIDERATION

Business Associate recognizes that the promises it has made in this Agreement shall, henceforth, be reasonably, justifiably, and detrimentally relied upon by Covered Entity in choosing to continue or commence a business relationship with Business Associate.

6. CAUSES OF ACTION IN THE EVENT OF BREACH

As used in this paragraph, the term “breach” has the meaning normally ascribed to that term under the New York State law related to contracts, as opposed to the specific definition under HIPAA related to PHI. Business Associate hereby recognizes that irreparable harm will result to Covered Entity in the event of breach by Business Associate of any of the covenants and assurances contained in this Agreement. As such, in the event of breach of any of the covenants and assurances contained in this Agreement, Covered Entity shall be entitled to enjoin and restrain Business Associate from any continued violation of this Agreement. Furthermore, in the event of breach of this Agreement by Business Associate, Covered Entity is entitled to reimbursement and indemnification from Business Associate for Covered Entity's reasonable attorneys' fees and expenses and costs that were reasonably incurred as a proximate result of Business Associate's breach. The causes of action contained in this Article VI are in addition to (and do not supersede) any action for damages and/or any other cause of action Covered Entity may have for breach of any part of this Agreement. Furthermore, these provisions are in addition to the provisions set forth in the “Indemnification” Section, of the General Conditions of Contract between County and Contractor, attached to the Underlying Agreement in which “Business Associate” is “Contractor” and “Covered Entity” is “County”, for purposes of this Agreement.

7. MODIFICATION; AMENDMENT

This Agreement may be modified or amended only through a writing signed by the Parties and, thus, no oral modification or amendment hereof shall be permitted. The Parties agree to take such action as is necessary to amend this Agreement, from time to time, as is necessary for Covered Entity to comply with the requirements of HIPAA, including its Privacy, Security, and Notice Rules.

8. INTERPRETATION OF THIS AGREEMENT IN RELATION TO OTHER AGREEMENTS BETWEEN THE PARTIES

Should there be any conflict between the language of this Agreement and any other contract entered into between the Parties (either previous or subsequent to the date of

this Agreement), the language and provisions of this Agreement, along with the Underlying Agreement, shall control and prevail unless the Parties specifically refer in a subsequent written agreement to this Agreement, by its title, date, and substance and specifically state that the provisions of the later written agreement shall control over this Agreement and Underlying Agreement. In any event, any agreement between the Parties, including this Agreement and Underlying Agreement, must be in full compliance with HIPAA, and any provision in an agreement that fails to comply with HIPAA will be deemed separable from the document, unenforceable, and of no effect.

9. COMPLIANCE WITH STATE LAW

The Business Associate acknowledges that by accepting the PHI from Covered Entity, it becomes a holder of medical records information under HIPAA and is subject to the provisions of that law. If HIPAA conflicts with another applicable law regarding the degree of protection provided for Protected Health Information, Business Associate must comply with the more restrictive protection requirement.

10. MISCELLANEOUS

10.1 Ambiguity. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with HIPAA.

10.2 Regulatory References. A reference in this Agreement to a section in HIPAA means the section in effect, or as amended.

10.3 Notice to Covered Entity. Any notice required under this Agreement to be given Covered Entity shall be made in writing to:

Rensselaer County Attorney's Office
Ned Pattison Government Center
1600 Seventh Avenue
Troy, NY 12180
(518) 270-2950
(518) 270-2954 (fax)

10.4 Notice to Business Associate. Any notice required under this Agreement to be given Business Associate shall be made in writing to:

Address: 55 New Turnpike Road, Troy, New York 12182
Attention: Dr. Antonio Abitabile
Phone: 518-233-6850

10.5 New York State Law. This Agreement is governed by, and shall be construed in accordance with, applicable federal law and the laws of the State of New York, without regard to choice of law principles.

10.6 Incorporation of Future Amendments. Other requirements applicable to Business Associates under HIPAA are incorporated by reference into this Agreement.

10.7 Penalties for HIPAA Violation. In addition to that stated in this Agreement, Business Associate may be subject to civil and criminal penalties noted under HIPAA, including the same HIPAA civil and criminal penalties applicable to a Covered Entity.

IN WITNESS WHEREOF, and acknowledging acceptance and agreement of the foregoing, the Parties affix their signatures hereto.

**EXHIBIT A
FORM OF NOTIFICATION**

This notification is made pursuant to Section III.F of the Business Associate Agreement between:

- Rensselaer County, New York, (the “County”) and
- Lansingburgh Central Schools, (Business Associate).

Business Associate hereby notifies the County that there has been a Breach, Security Incident, or use or disclosure of PHI not provided for by the Business Associate Agreement (an “Incident”) that Business Associate has used or has had access to under the terms of the Business Associate Agreement.

Description of the Incident:

Date of the Incident: _____

Date of discovery of the Incident: _____

Does the Incident involve 500 or more individuals? Yes/No

If yes, do the people live in multiple states? Yes/No

Number of individuals affected by the Incident:

Names and addresses of individuals affected by the Incident:

(Attach additional pages as

necessary) _____

The types of unsecured PHI that were involved in the Incident (such as full name, Social Security number, date of birth, home address, account number, or disability code):

Description of what Business Associate is doing to investigate the Incident, to mitigate losses, and to protect against any further Incidents:

Contact information to ask questions or learn additional information:

Name: _____

Title: _____

Address: _____

Email Address: _____
Phone Number: _____

**Rensselaer County
and
Berlin Central Schools**

This Agreement made by and between the **County of Rensselaer**, acting on behalf of its Department of Mental Health, located at 1600 Seventh Avenue, Troy, New York 12180, hereinafter called the "County", and **Berlin Central Schools** located at 17400 NY 22, Cherry Plain, New York 12040 hereinafter referred to as the "District". County and District are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties".

WITNESSETH:

WHEREAS, the parties seek to use due diligence in decreasing substance abuse by providing substance abuse prevention programming to students, families and staff; and

WHEREAS, the District seeks the professional services of a full-time Student Assistant Specialist dedicated to providing services to the District; and

WHEREAS, the County employs persons (Student Assistant Specialist) who provide those professional services; and

WHEREAS, the District and the County wish to enter into an agreement whereby the County will provide a Student Assistant Specialist to the District.

NOW, THEREFORE, the parties do hereby agree as follows;

1. SCOPE OF SERVICES

The County shall provide the District with a full-time (35 hours/week) Student Assistant Specialist to perform the following services:

- a. Present evidence-based prevention curriculum to students;
- b. Provide opportunities for parents to participate in prevention programs and planning;
- c. Provide assessment, crisis intervention and referral, and prevention counseling;
- d. Provide consultant services to administration, teachers and parents; and
- e. Provide short-term groups focused on skill building.

It is understood that the District will provide use of a private, dedicated, confidential office space, desk and phone, password protected computer with internet access at an agreed upon location within the District, and a locked filing cabinet and related supplies to accommodate the Student Assistant Specialist.

It is further understood that the Student Assistant Specialist will have access to confidential personal health and other confidential information. To address this confidential information, the County and the District will enter into a Business Associate Agreement as attached hereto.

2. CONSIDERATION

For the services to be provided to the District under this Agreement, the District shall pay to the County the amount of **\$43,782.00** in quarterly installments to the Chief Fiscal Officer, Rensselaer County upon receipt of invoices from the County.

3. TERM OF AGREEMENT

This Agreement shall commence on **July 1, 2022** and shall terminate on **June 30, 2023**.

4. AMENDMENTS

This agreement may be modified or amended only in writing and duly executed by both Parties. Any modification or amendment shall be attached to and become part of this Agreement. All notices concerning this Agreement shall be delivered in writing to the Parties.

5. CERTIFICATES OF INSURANCE

Vendor agrees to maintain during the term of this agreement Workers' Compensation and Disability Insurance Coverage as may be required by law, together with liability insurance with liability limits reasonably satisfactory to the County, and to provide to the County proof of all such insurance coverage at the time of the execution of this agreement by Vendor. The Certificate holder section must read as follows: Rensselaer County, c/o Rensselaer County Attorney, 1600 7th Avenue, Troy, New York 12180.

6. INDEMNIFICATION

Each Party shall defend, indemnify and save harmless the other Party, its officials, employees and agents, from and against all claims, damages, losses and expenses arising out of or in consequence of any negligent or intentional act or omission of a Party, its officials, employees, volunteers or agents to the extent of its or their responsibility for such claims, damages, losses and expenses. Notwithstanding the previous sentence, the amount of such indemnification by either Party to the other shall not exceed the total amount paid as set forth in this Agreement.

7. VENUE

In the event either Party to this agreement shall initiate litigation against the other Party to protect or enforce any right or benefit in favor of such Party under the terms of this Agreement, the Parties hereby mutually agree that the Supreme Court of the State of New York shall exercise exclusive jurisdiction over such litigation, and that the venue of the same shall be County of Rensselaer, New York.

8. EXECUTORY NATURE OF CONTRACT

Vendor expressly acknowledges and agrees that this contract will be considered executory to the extent New York State or Federal funding is relied upon by the County for the payment of any goods, labor or services to be furnished by vendor under the terms and provisions of this Agreement, and that in the event such funding shall not be forthcoming, this Agreement may be terminated by the County upon reasonable prior written notice to vendor.

9. CORPORATE COMPLIANCE

Vendor represents and warrants that it, and its employees and/or contractors, are not excluded from participation and are not otherwise ineligible to participate in a "federal health care program", as defined in 42 U.S.C.1320a-7b or in any other government

payment program. Vendor further represents and warrants that it will perform screening, on a monthly basis, all of its employees and subcontractors against:

- a. The General Services Administration's Federal Excluded Party List System or any successor list;
- b. The United States Department of Health and Human Service's Office of the Inspector General's List of Excluded Individuals and Entities or any successor list; and
- c. The New York State Department of Health's Office of the Medicaid Inspector General's list of Restricted, Terminated or Excluded Individuals or Entities, or any successor list.

In the event that an excluded Party is discovered by the Vendor, said Vendor shall notify the County within five (5) days of such discovery. The County reserves its right to cancel and contract upon such notification.

The County further shall have the right to cancel this Agreement and declare the same null and void in the event that the Vendor fails to fulfill its obligations under this section.

10. TERMINATION

Either Party may terminate this Agreement, provided that the Party terminating this Agreement gives thirty (30) days written notice of termination to the other Party, which shall be served upon the other Party by first class mail.

11. FORCE MAJEURE

Neither Party to this Agreement shall be held responsible or be deemed to be in default under this Agreement for any delay in performance or failure in performance of any of their respective obligations to be performed hereunder if such delay or failure is the result of causes beyond the control and without negligence of the Party with respect to whose obligations such delay in performance or failure in performance has occurred. Such causes shall include, without limitation, acts of natural or man-made disasters, strikes, lockouts, riots, insurrections, civil disturbances or uprising, sabotage, embargoes, blockades, acts of war, acts of terror, acts or failure to act of any governmental regulations superimposed after the fact, communication line failures, power failures, fires, explosions, accidents, epidemics, and all occurrences similar to the foregoing (collectively referred to herein as "Force Majeure"). The Party affected by an event of Force Majeure, upon giving prompt notice to the other Party, shall be excused from performance hereunder on a day-to-day basis to the extent of such prevention, restriction or interference (and the other Party shall likewise be excused from performance of its obligations which relate to the performance so prevented, restricted or interfered with); provided that the Party as affected shall use its best efforts to avoid or remove such causes of nonperformance and to minimize the consequences thereof and day-to-day basis to the extent of such prevention, restriction or interference (and the other Party shall likewise be excused from performance of its obligations which relate to the performance so prevented, restricted or interfered with); provided that the Party as affected shall use its best efforts to avoid or remove such causes of nonperformance and to minimize the consequences thereof and both Parties shall continue performance hereunder with the utmost dispatch whenever such causes are removed. Lack of funds shall not be a Force Majeure.

12. NON-DISCRIMINATION

The Vendor agrees that in carrying out its activities under the terms of the Agreement that it shall abide by the applicable provisions of the Human Rights Law of the State of New York, as set forth in Sections 290-301 of the Executive Law of the State of New York.

13. FEDERAL, STATE AND LOCAL LAW AND REGULATIONS COMPLIANCE

Vendor agrees to abide by and comply with all applicable federal, state and local laws, rules, regulations and orders.

14. DISCLOSURE

Vendor certifies, to the best of its knowledge and belief, that:

A. No State or Federal appropriated funds have been paid or will be paid, by or on behalf of the Vendor, to any person for influencing or attempting to influence legislation or appropriation actions pending before local, State and Federal executive and/or legislative bodies in connection with the awarding of any contract, the making of any grant, the making of any loan, the entering into of any cooperative Agreement, and the extension, continuation, renewal, amendment, or modification of any contract, grant loan, or cooperative Agreement.

B. If any funds other than State or Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence legislation or appropriation actions pending before local, State and Federal executive and/or legislative bodies in connection with this contract, grant, loan or cooperative Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, and United States Code. Failure to file the required certification shall be subject to civil penalty by the Federal government of not less than \$10,000 and not more than \$100,000 for each such failure.

15. ENTIRE AGREEMENT

This Agreement, and any documents referred to in it, constitute the whole Agreement between the Parties and supersede any previous arrangement, understanding or Agreement between them relating to the subject matter they cover.

Each of the Parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by the duly authorized officers of the respective Parties.

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the “Agreement”) is made by and between Rensselaer County, New York (hereinafter referred to as “Covered Entity”), and Berlin Central Schools (hereinafter referred to as “Business Associate”). Covered Entity and Business Associate shall collectively be known herein as the “Parties.”

1. GENERAL

1.1 Covered Entity has a business relationship with Business Associate that is attached to this agreement (the “Underlying Agreement”), pursuant to which Business Associate may be considered a “business associate” of Covered Entity as defined in the Health Insurance Portability and Accountability Act of 1996, including all pertinent regulations (45 CFR Parts 160 and 164), issued by the U.S. Department of Health and Human Services, including Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), as codified in Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5), and including any and all applicable Privacy, Security, Enforcement, or Notice (Breach Notification) Rules or requirements (collectively, “HIPAA”), as all are amended from time to time; and

1.2 The performance of the Underlying Agreement may involve the creation, exchange, or maintenance of Protected Health Information (“PHI”) as that term is defined under HIPAA; and

1.3 For good and lawful consideration as set forth in the Underlying Agreement, Covered Entity and Business Associate enter into this Agreement for the purpose of ensuring compliance with the requirements of HIPAA; and

1.4 This Agreement articulates the obligations of the Parties as to use and disclosure of PHI. It does not affect Business Associate’s obligations to comply applicable law with respect to any information the County may disclose to Business Associate as part of Business Associate’s performance of the Underlying Agreement; and

1.5 This Agreement supersedes and replaces any and all Business Associate Agreements the Covered Entity and Business Associate may have entered into prior to the date hereof; and

1.6 The above premises having been considered and incorporated by reference into the sections below, the Parties, intending to be legally bound, agree as follows:

2. DEFINITIONS

2.1 The terms used in this Agreement have the same meaning as the definitions of those terms in HIPAA. In the absence of a definition in HIPAA, the terms have their commonly understood meaning.

2.2 Consistent with HIPAA, and for ease of reference, the Parties expressly note the definitions of the following terms:

2.2.1 “Breach” is defined at 45 CFR § 164.402.

2.2.2 “Business Associate” is defined at 45 CFR § 160.103, and in reference to the party to this Agreement, shall mean Berlin Central Schools.

2.2.3 “Covered Entity” is defined at 45 CFR § 160.103, and in reference to the party to this Agreement, shall mean the County.

2.2.4 “Designated Record Set” is defined at 45 CFR §164.501.

2.2.5 “Individual” is defined at 45 CFR §§ 160.103, 164.501 and 164.502(g), and includes a person who qualifies as a personal representative.

2.2.6 “Protected Health Information” or “PHI” is defined at 45 CFR § 160.103.

2.2.7 “Required By Law” is defined at 45 CFR § 164.103.

2.2.8 “Secretary” means the Secretary of the U.S. Department of Health and Human Services or designee.

2.2.9 “Security Incident” is defined at 45 CFR § 164.304.

2.2.10 “Unsecured Protected Health Information” or “Unsecured PHI” means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology, as specified by the Secretary in the guidance as noted under the HITECH Act, section 13402(h)(1) and (2) of Public Law 111-5, codified at 42 U.S.C. § 17932(h)(1) and (2), and as specified by the Secretary in 45 CFR 164.402.

3. PERMISSIBLE USE AND DISCLOSURE OF PHI

3.1 Except as otherwise limited in this Agreement, or by privilege, protection, or confidentiality under HIPAA or other applicable law, Business Associate may use or disclose (including permitting acquisition or access to) PHI to perform applicable functions, activities, or services for, or on behalf of, Covered Entity as specified in the Underlying Agreement. Moreover, the provisions of HIPAA are expressly incorporated by reference into, and made a part of, this Agreement.

3.2 Business Associate may use or disclose (including permitting acquisition or access to) PHI only as permitted or required by this Agreement or as Required By Law.

3.3 Business Associate is directly responsible for full compliance with the relevant requirements of HIPAA.

3.4 Business Associate must not use or disclose (including permitting acquisition or access to) PHI other than as permitted or required by this Agreement or HIPAA, and must use or disclose PHI only in a manner consistent with HIPAA. As part of this, Business Associate must use appropriate safeguards to prevent use or disclosure of PHI that is not permitted by this Agreement or HIPAA. Furthermore, Business Associate must take reasonable precautions to protect PHI from loss, misuse, and unauthorized access, disclosure, alteration, and destruction.

3.5 Business Associate must implement and comply with administrative, physical, and technical safeguards governing the PHI, in a manner consistent with HIPAA, that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity.

3.6 Business Associate must immediately notify Covered Entity, in a manner consistent with HIPAA, of: (i) any use or disclosure of PHI not provided for by this Agreement, including a Breach of PHI of which it knows or by exercise of reasonable diligence would have known, as required at 45 CFR §164.410; and, (ii) any Security Incident of which it becomes aware as required at 45 CFR §164.314(a)(2)(i)(C). Business Associate's notification to Covered Entity required by HIPAA and this Section 3.6 must:

3.6.1 Be made to Covered Entity without unreasonable delay and in no case later than 14 calendar days after Business Associate: a) knows, or by exercising reasonable diligence would have known, of a Breach, b) becomes aware of a Security Incident, or c) becomes aware of any use or disclosure of PHI not provided for by this Agreement;

3.6.2 Include the names and addresses of the Individual(s) whose PHI is the subject of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement. In addition, Business Associate must provide any additional information reasonably requested by Covered Entity for purposes of investigating the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

3.6.3 Be in substantially the same form as Exhibit A hereto;

3.6.4 Include a brief description of what happened, including the date of the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, if known, and the date of the discovery of the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

3.6.5 Include a description of the type(s) of Unsecured PHI that was involved in the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement (such as full name, Social Security number, date of birth, home address, account number, disability code, or other types of information that were involved);

3.6.6 Identify the nature and extent of the PHI involved, including the type(s) of identifiers and the likelihood of re identification;

3.6.7 If known, identify the unauthorized person who used or accessed the PHI or to whom the disclosure was made;

3.6.8 Articulate any steps the affected Individual(s) should take to protect him or herself from potential harm resulting from the Breach, Security Incident, or use or disclosure of PHI not permitted by this Agreement;

3.6.9 State whether the PHI was actually acquired or viewed;

3.6.10 Provide a brief description of what the Covered Entity and the Business Associate are doing to investigate the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, to mitigate losses, and to protect against any further Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

3.6.11 Note contact information and procedures for an Individual(s) to ask questions or learn additional information, which must include a toll-free telephone number of Business Associate, along with an e-mail address, Web site, or postal address; and

3.6.12 Include a draft letter for the Covered Entity to utilize, in the event Covered Entity elects, in its sole discretion, to notify the Individual(s) that his or her PHI is the subject of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement that includes the information noted in Section III. 6.4 – III. 6.11 above.

3.7 Business Associate must, and is expected to, directly and independently fulfill all notification requirements under HIPAA.

3.8 In the event of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, Business Associate must mitigate, to the extent practicable, any harmful effects of said disclosure that are known to it.

3.9 In accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2), Business Associate agrees to ensure that any agent, subcontractor, or employee to whom it provides PHI (received from, or created or received by, Business Associate on behalf of Covered Entity) agrees to the same restrictions, conditions, and requirements that apply through this Agreement to Business Associate with respect to such information.

3.10 Business Associate must ensure that any contract or other arrangement with a subcontractor meets the requirements of paragraphs 45 CFR §164.314(a)(2)(i) and (a)(2)(ii) required by 45 CFR § 164.308(b)(3) between a Business Associate and a subcontractor, in the same manner as such requirements apply to contracts or other arrangements between a Covered Entity and Business Associate.

3.11 Pursuant to 45 CFR § 164.502(a)(4)(ii), Business Associate must disclose PHI to the Covered Entity, Individual, or Individual's designee, as necessary to satisfy a Covered Entity's obligations under § 164.524(c)(2)(ii) and (3)(ii) with respect to an individual's request for an electronic copy of PHI.

3.12 To the extent applicable, Business Associate must provide access to PHI in a Designated Record Set at reasonable times, at the request of Covered Entity or as directed by Covered Entity, to an Individual specified by Covered Entity in order to meet the requirements under 45 CFR § 164.524.

3.13 A Business Associate that is a health plan, excluding an issuer of a long-term care policy falling within paragraph (1)(viii) of the definition of health plan, must not use or disclose PHI that is genetic information for underwriting purposes, in accordance with the provisions of 45 CFR 164.502.

3.14 To the extent applicable, Business Associate must make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to, pursuant to 45 CFR § 164.526, at the request of Covered Entity or an Individual.

3.15 Business Associate must, upon request with reasonable notice, provide Covered Entity access to its premises for a review and demonstration of its internal practices and procedures for safeguarding PHI.

3.16 Business Associate must, upon request and with reasonable notice, furnish to Covered Entity security and privacy audit results, risk analyses, security and privacy policies and procedures, details of previous Breaches and Security Incidents, and documentation of controls.

3.17 Business Associate must also maintain records indicating who has accessed PHI about an Individual in an electronic designated record set and information related to such access, in accordance with 45 C.F.R. § 164.528. Business Associate must document such disclosures of PHI and information related to such disclosures as would be required for a Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. Should an Individual make a request to Covered Entity for an accounting of disclosures of his or her PHI pursuant to 45 C.F.R. § 164.528, Business Associate must promptly provide Covered Entity with information in a format and manner sufficient to respond to the Individual's request.

3.18 Business Associate must, upon request and with reasonable notice, provide Covered Entity with an accounting of uses and disclosures of PHI that was provided to it by Covered Entity.

3.19 Business Associate must make its internal practices, books, records, and any other material requested by the Secretary relating to the use, disclosure, and safeguarding of PHI received from Covered Entity available to the Secretary for the purpose of determining compliance with HIPAA. Business Associate must make the aforementioned information available to the Secretary in the manner and place as designated by the Secretary or the Secretary's duly appointed delegate. Under this Agreement, Business Associate must comply and cooperate with any request for documents or other information from the Secretary directed to Covered Entity that seeks documents or other information held or controlled by Business Associate.

3.20 Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 42 C.F.R. § 164.502(j)(1).

3.21 Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate or the Underlying Agreement, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and be used or further disclosed only as Required By Law or for the limited purpose for which it was disclosed to the person, and the person must agree to notify Business Associate of any instance of any Breach,

Security Incident, or use or disclosure of PHI not provided for by this Agreement of which it is aware in which the confidentiality of the information has been breached.

3.22 Business Associate understands that, pursuant to 45 CFR § 160.402, the Business Associate is liable, in accordance with the Federal common law of agency, for a civil money penalty for a violation of the HIPAA rules based on the act or omission of any agent of the Business Associate, including a workforce member or subcontractor, acting within the scope of the agency.

4. TERM AND TERMINATION

4.1 Term. The Term of this Agreement shall be effective as of the effective date of the Underlying Agreement, and shall terminate: (1) when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity; or, (2) if it is infeasible to return or destroy PHI, in accordance with the termination provisions in this Article IV.

4.2 Termination for Cause. Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall:

4.2.1 Provide an opportunity for Business Associate to cure the breach or end the violation and, if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, have the right to terminate this Agreement and to terminate the Underlying Agreement, and shall report the violation to the Secretary;

4.2.2 Have the right to immediately terminate this Agreement and the Underlying Agreement if Business Associate has breached a material term of this Agreement and cure is not possible, and shall report the violation to the Secretary; or

4.2.3 If neither termination nor cure is feasible, report the violation to the Secretary.

4.2.4 This Article IV, Term and Termination, Paragraph 4.2, is in addition to the provisions set forth in Termination provision of the Contract between County and Vendor, attached to the Underlying Agreement, in which "Business Associate" is "Contractor" and "Covered Entity" is "County" for purposes of this Agreement.

4.3 Effect of Termination:

4.3.1 Except as provided in Section 4.3.2, upon termination or cancellation of this Agreement, for any reason, Business Associate must return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision applies to PHI that is in the possession of a subcontractor(s), employee(s), or agent(s) of Business Associate. Business Associate must not retain any copies of the PHI.

4.3.2 In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate must provide to Covered Entity written notification of the nature of the PHI and the conditions that make

return or destruction infeasible. After written notification that return or destruction of PHI is infeasible, Business Associate must extend the protections of this Agreement to such PHI and limit further use(s) and disclosure(s) of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. Notwithstanding the foregoing, to the extent that it is not feasible to return or destroy such PHI, the terms and provisions of this Agreement survive termination of this Agreement with regard to such PHI.

4.3.3 Should Business Associate violate this Agreement, HIPAA, the Underlying Agreement, other applicable law, Covered Entity has the right to immediately terminate any contract then in force between the Parties, including the Underlying Agreement.

5. CONSIDERATION

Business Associate recognizes that the promises it has made in this Agreement shall, henceforth, be reasonably, justifiably, and detrimentally relied upon by Covered Entity in choosing to continue or commence a business relationship with Business Associate.

6. CAUSES OF ACTION IN THE EVENT OF BREACH

As used in this paragraph, the term “breach” has the meaning normally ascribed to that term under the New York State law related to contracts, as opposed to the specific definition under HIPAA related to PHI. Business Associate hereby recognizes that irreparable harm will result to Covered Entity in the event of breach by Business Associate of any of the covenants and assurances contained in this Agreement. As such, in the event of breach of any of the covenants and assurances contained in this Agreement, Covered Entity shall be entitled to enjoin and restrain Business Associate from any continued violation of this Agreement. Furthermore, in the event of breach of this Agreement by Business Associate, Covered Entity is entitled to reimbursement and indemnification from Business Associate for Covered Entity's reasonable attorneys' fees and expenses and costs that were reasonably incurred as a proximate result of Business Associate's breach. The causes of action contained in this Article VI are in addition to (and do not supersede) any action for damages and/or any other cause of action Covered Entity may have for breach of any part of this Agreement. Furthermore, these provisions are in addition to the provisions set forth in the “Indemnification” Section, of the General Conditions of Contract between County and Contractor, attached to the Underlying Agreement in which “Business Associate” is “Contractor” and “Covered Entity” is “County”, for purposes of this Agreement.

7. MODIFICATION; AMENDMENT

This Agreement may be modified or amended only through a writing signed by the Parties and, thus, no oral modification or amendment hereof shall be permitted. The Parties agree to take such action as is necessary to amend this Agreement, from time to time, as is necessary for Covered Entity to comply with the requirements of HIPAA, including its Privacy, Security, and Notice Rules.

8. INTERPRETATION OF THIS AGREEMENT IN RELATION TO OTHER AGREEMENTS BETWEEN THE PARTIES

Should there be any conflict between the language of this Agreement and any other contract entered into between the Parties (either previous or subsequent to the date of

this Agreement), the language and provisions of this Agreement, along with the Underlying Agreement, shall control and prevail unless the Parties specifically refer in a subsequent written agreement to this Agreement, by its title, date, and substance and specifically state that the provisions of the later written agreement shall control over this Agreement and Underlying Agreement. In any event, any agreement between the Parties, including this Agreement and Underlying Agreement, must be in full compliance with HIPAA, and any provision in an agreement that fails to comply with HIPAA will be deemed separable from the document, unenforceable, and of no effect.

9. COMPLIANCE WITH STATE LAW

The Business Associate acknowledges that by accepting the PHI from Covered Entity, it becomes a holder of medical records information under HIPAA and is subject to the provisions of that law. If HIPAA conflicts with another applicable law regarding the degree of protection provided for Protected Health Information, Business Associate must comply with the more restrictive protection requirement.

10. MISCELLANEOUS

10.1 Ambiguity. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with HIPAA.

10.2 Regulatory References. A reference in this Agreement to a section in HIPAA means the section in effect, or as amended.

10.3 Notice to Covered Entity. Any notice required under this Agreement to be given Covered Entity shall be made in writing to:

Rensselaer County Attorney's Office
Ned Pattison Government Center
1600 Seventh Avenue
Troy, NY 12180
(518) 270-2950
(518) 270-2954 (fax)

10.4 Notice to Business Associate. Any notice required under this Agreement to be given Business Associate shall be made in writing to:

Address: 17400 NY 22, Cherry Plain, New York 12040
Attention: Mr. A. Joseph Dhara
Phone: 518-658-1500

10.5 New York State Law. This Agreement is governed by, and shall be construed in accordance with, applicable federal law and the laws of the State of New York, without regard to choice of law principles.

10.6 Incorporation of Future Amendments. Other requirements applicable to Business Associates under HIPAA are incorporated by reference into this Agreement.

10.7 Penalties for HIPAA Violation. In addition to that stated in this Agreement, Business Associate may be subject to civil and criminal penalties noted under HIPAA, including the same HIPAA civil and criminal penalties applicable to a Covered Entity.

IN WITNESS WHEREOF, and acknowledging acceptance and agreement of the foregoing, the Parties affix their signatures hereto.

**EXHIBIT A
FORM OF NOTIFICATION**

This notification is made pursuant to Section III.F of the Business Associate Agreement between:

- Rensselaer County, New York, (the “County”) and
- Berlin Central Schools, (Business Associate).

Business Associate hereby notifies the County that there has been a Breach, Security Incident, or use or disclosure of PHI not provided for by the Business Associate Agreement (an “Incident”) that Business Associate has used or has had access to under the terms of the Business Associate Agreement.

Description of the Incident:

Date of the Incident: _____

Date of discovery of the Incident: _____

Does the Incident involve 500 or more individuals? Yes/No

If yes, do the people live in multiple states? Yes/No

Number of individuals affected by the Incident:

Names and addresses of individuals affected by the Incident:
(Attach additional pages as necessary) _____

The types of unsecured PHI that were involved in the Incident (such as full name, Social Security number, date of birth, home address, account number, or disability code):

Description of what Business Associate is doing to investigate the Incident, to mitigate losses, and to protect against any further Incidents:

Contact information to ask questions or learn additional information:

Name: _____

Title: _____

Address: _____

Email Address: _____
Phone Number: _____

**Rensselaer County
and
Averill Park Central School District**

This Agreement made by and between the **County of Rensselaer**, acting on behalf of its Department of Mental Health, located at 1600 Seventh Avenue, Troy, New York 12180, hereinafter called the "County", and **Averill Park Central School District** located at 146 Gettle Road, Averill Park, New York 12018 hereinafter referred to as the "District". County and District are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties".

WITNESSETH:

WHEREAS, the parties seek to use due diligence in decreasing substance abuse by providing substance abuse prevention programming to students, families and staff; and

WHEREAS, the District seeks the professional services of two full-time Student Assistant Specialists dedicated to providing services to the District; and

WHEREAS, the County employs persons (Student Assistant Specialist) who provide those professional services; and

WHEREAS, the District and the County wish to enter into an agreement whereby the County will provide two Student Assistant Specialists to the District.

NOW, THEREFORE, the parties do hereby agree as follows;

1. SCOPE OF SERVICES

The County shall provide the District with two full-time (35 hours/week) Student Assistant Specialist to perform the following services:

- a. Present evidence-based prevention curriculum to students;
- b. Provide opportunities for parents to participate in prevention programs and planning;
- c. Provide assessment, crisis intervention and referral, and prevention counseling;
- d. Provide consultant services to administration, teachers and parents; and
- e. Provide short-term groups focused on skill building.

It is understood that the District will provide use of a private, dedicated, confidential office space, desk and phone, password protected computer with internet access at an agreed upon location within the District, and a locked filing cabinet and related supplies to accommodate the Student Assistant Specialists.

It is further understood that the Student Assistant Specialists will have access to confidential personal health and other confidential information. To address this confidential information, the County and the District will enter into a Business Associate Agreement as attached hereto.

2. CONSIDERATION

For the services to be provided to the District under this Agreement, the District shall pay to the County the amount of **\$87,564.00** in quarterly installments to the Chief Fiscal Officer, Rensselaer County upon receipt of invoices from the County.

3. TERM OF AGREEMENT

This Agreement shall commence on **July 1, 2022** and shall terminate on **June 30, 2023**.

4. AMENDMENTS

This agreement may be modified or amended only in writing and duly executed by both Parties. Any modification or amendment shall be attached to and become part of this Agreement. All notices concerning this Agreement shall be delivered in writing to the Parties.

5. CERTIFICATES OF INSURANCE

Vendor agrees to maintain during the term of this agreement Workers' Compensation and Disability Insurance Coverage as may be required by law, together with liability insurance with liability limits reasonably satisfactory to the County, and to provide to the County proof of all such insurance coverage at the time of the execution of this agreement by Vendor. The Certificate holder section must read as follows: Rensselaer County, c/o Rensselaer County Attorney, 1600 7th Avenue, Troy, New York 12180.

6. INDEMNIFICATION

Each Party shall defend, indemnify and save harmless the other Party, its officials, employees and agents, from and against all claims, damages, losses and expenses arising out of or in consequence of any negligent or intentional act or omission of a Party, its officials, employees, volunteers or agents to the extent of its or their responsibility for such claims, damages, losses and expenses. Notwithstanding the previous sentence, the amount of such indemnification by either Party to the other shall not exceed the total amount paid as set forth in this Agreement.

7. VENUE

In the event either Party to this agreement shall initiate litigation against the other Party to protect or enforce any right or benefit in favor of such Party under the terms of this Agreement, the Parties hereby mutually agree that the Supreme Court of the State of New York shall exercise exclusive jurisdiction over such litigation, and that the venue of the same shall be County of Rensselaer, New York.

8. EXECUTORY NATURE OF CONTRACT

Vendor expressly acknowledges and agrees that this contract will be considered executory to the extent New York State or Federal funding is relied upon by the County for the payment of any goods, labor or services to be furnished by vendor under the terms and provisions of this Agreement, and that in the event such funding shall not be forthcoming, this Agreement may be terminated by the County upon reasonable prior written notice to vendor.

9. CORPORATE COMPLIANCE

Vendor represents and warrants that it, and its employees and/or contractors, are not excluded from participation and are not otherwise ineligible to participate in a "federal health care program", as defined in 42 U.S.C.1320a-7b or in any other government

payment program. Vendor further represents and warrants that it will perform screening, on a monthly basis, all of its employees and subcontractors against:

- a. The General Services Administration's Federal Excluded Party List System or any successor list;
- b. The United States Department of Health and Human Service's Office of the Inspector General's List of Excluded Individuals and Entities or any successor list; and
- c. The New York State Department of Health's Office of the Medicaid Inspector General's list of Restricted, Terminated or Excluded Individuals or Entities, or any successor list.

In the event that an excluded Party is discovered by the Vendor, said Vendor shall notify the County within five (5) days of such discovery. The County reserves its right to cancel and contract upon such notification.

The County further shall have the right to cancel this Agreement and declare the same null and void in the event that the Vendor fails to fulfill its obligations under this section.

10. TERMINATION

Either Party may terminate this Agreement, provided that the Party terminating this Agreement gives thirty (30) days written notice of termination to the other Party, which shall be served upon the other Party by first class mail.

11. FORCE MAJEURE

Neither Party to this Agreement shall be held responsible or be deemed to be in default under this Agreement for any delay in performance or failure in performance of any of their respective obligations to be performed hereunder if such delay or failure is the result of causes beyond the control and without negligence of the Party with respect to whose obligations such delay in performance or failure in performance has occurred. Such causes shall include, without limitation, acts of natural or man-made disasters, strikes, lockouts, riots, insurrections, civil disturbances or uprising, sabotage, embargoes, blockades, acts of war, acts of terror, acts or failure to act of any governmental regulations superimposed after the fact, communication line failures, power failures, fires, explosions, accidents, epidemics, and all occurrences similar to the foregoing (collectively referred to herein as "Force Majeure"). The Party affected by an event of Force Majeure, upon giving prompt notice to the other Party, shall be excused from performance hereunder on a day-to-day basis to the extent of such prevention, restriction or interference (and the other Party shall likewise be excused from performance of its obligations which relate to the performance so prevented, restricted or interfered with); provided that the Party as affected shall use its best efforts to avoid or remove such causes of nonperformance and to minimize the consequences thereof and day-to-day basis to the extent of such prevention, restriction or interference (and the other Party shall likewise be excused from performance of its obligations which relate to the performance so prevented, restricted or interfered with); provided that the Party as affected shall use its best efforts to avoid or remove such causes of nonperformance and to minimize the consequences thereof and both Parties shall continue performance hereunder with the utmost dispatch whenever such causes are removed. Lack of funds shall not be a Force Majeure.

12. NON-DISCRIMINATION

The Vendor agrees that in carrying out its activities under the terms of the Agreement that it shall abide by the applicable provisions of the Human Rights Law of the State of New York, as set forth in Sections 290-301 of the Executive Law of the State of New York.

13. FEDERAL, STATE AND LOCAL LAW AND REGULATIONS COMPLIANCE

Vendor agrees to abide by and comply with all applicable federal, state and local laws, rules, regulations and orders.

14. DISCLOSURE

Vendor certifies, to the best of its knowledge and belief, that:

A. No State or Federal appropriated funds have been paid or will be paid, by or on behalf of the Vendor, to any person for influencing or attempting to influence legislation or appropriation actions pending before local, State and Federal executive and/or legislative bodies in connection with the awarding of any contract, the making of any grant, the making of any loan, the entering into of any cooperative Agreement, and the extension, continuation, renewal, amendment, or modification of any contract, grant loan, or cooperative Agreement.

B. If any funds other than State or Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence legislation or appropriation actions pending before local, State and Federal executive and/or legislative bodies in connection with this contract, grant, loan or cooperative Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, and United States Code. Failure to file the required certification shall be subject to civil penalty by the Federal government of not less than \$10,000 and not more than \$100,000 for each such failure.

15. ENTIRE AGREEMENT

This Agreement, and any documents referred to in it, constitute the whole Agreement between the Parties and supersede any previous arrangement, understanding or Agreement between them relating to the subject matter they cover.

Each of the Parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by the duly authorized officers of the respective Parties.

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the “Agreement”) is made by and between Rensselaer County, New York (hereinafter referred to as “Covered Entity”), and Averill Park Central School District (hereinafter referred to as “Business Associate”). Covered Entity and Business Associate shall collectively be known herein as the “Parties.”

1. GENERAL

1.1 Covered Entity has a business relationship with Business Associate that is attached to this agreement (the “Underlying Agreement”), pursuant to which Business Associate may be considered a “business associate” of Covered Entity as defined in the Health Insurance Portability and Accountability Act of 1996, including all pertinent regulations (45 CFR Parts 160 and 164), issued by the U.S. Department of Health and Human Services, including Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), as codified in Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5), and including any and all applicable Privacy, Security, Enforcement, or Notice (Breach Notification) Rules or requirements (collectively, “HIPAA”), as all are amended from time to time; and

1.2 The performance of the Underlying Agreement may involve the creation, exchange, or maintenance of Protected Health Information (“PHI”) as that term is defined under HIPAA; and

1.3 For good and lawful consideration as set forth in the Underlying Agreement, Covered Entity and Business Associate enter into this Agreement for the purpose of ensuring compliance with the requirements of HIPAA; and

1.4 This Agreement articulates the obligations of the Parties as to use and disclosure of PHI. It does not affect Business Associate’s obligations to comply applicable law with respect to any information the County may disclose to Business Associate as part of Business Associate’s performance of the Underlying Agreement; and

1.5 This Agreement supersedes and replaces any and all Business Associate Agreements the Covered Entity and Business Associate may have entered into prior to the date hereof; and

1.6 The above premises having been considered and incorporated by reference into the sections below, the Parties, intending to be legally bound, agree as follows:

2. DEFINITIONS

2.1 The terms used in this Agreement have the same meaning as the definitions of those terms in HIPAA. In the absence of a definition in HIPAA, the terms have their commonly understood meaning.

2.2 Consistent with HIPAA, and for ease of reference, the Parties expressly note the definitions of the following terms:

2.2.1 “Breach” is defined at 45 CFR § 164.402.

2.2.2 “Business Associate” is defined at 45 CFR § 160.103, and in reference to the party to this Agreement, shall mean Averill Park Central School District.

2.2.3 “Covered Entity” is defined at 45 CFR § 160.103, and in reference to the party to this Agreement, shall mean the County.

2.2.4 “Designated Record Set” is defined at 45 CFR §164.501.

2.2.5 “Individual” is defined at 45 CFR §§ 160.103, 164.501 and 164.502(g), and includes a person who qualifies as a personal representative.

2.2.6 “Protected Health Information” or “PHI” is defined at 45 CFR § 160.103.

2.2.7 “Required By Law” is defined at 45 CFR § 164.103.

2.2.8 “Secretary” means the Secretary of the U.S. Department of Health and Human Services or designee.

2.2.9 “Security Incident” is defined at 45 CFR § 164.304.

2.2.10 “Unsecured Protected Health Information” or “Unsecured PHI” means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology, as specified by the Secretary in the guidance as noted under the HITECH Act, section 13402(h)(1) and (2) of Public Law 111-5, codified at 42 U.S.C. § 17932(h)(1) and (2), and as specified by the Secretary in 45 CFR 164.402.

3. PERMISSIBLE USE AND DISCLOSURE OF PHI

3.1 Except as otherwise limited in this Agreement, or by privilege, protection, or confidentiality under HIPAA or other applicable law, Business Associate may use or disclose (including permitting acquisition or access to) PHI to perform applicable functions, activities, or services for, or on behalf of, Covered Entity as specified in the Underlying Agreement. Moreover, the provisions of HIPAA are expressly incorporated by reference into, and made a part of, this Agreement.

3.2 Business Associate may use or disclose (including permitting acquisition or access to) PHI only as permitted or required by this Agreement or as Required By Law.

3.3 Business Associate is directly responsible for full compliance with the relevant requirements of HIPAA.

3.4 Business Associate must not use or disclose (including permitting acquisition or access to) PHI other than as permitted or required by this Agreement or HIPAA, and must use or disclose PHI only in a manner consistent with HIPAA. As part of this, Business Associate must use appropriate safeguards to prevent use or disclosure of PHI that is not permitted by this Agreement or HIPAA. Furthermore, Business Associate must take reasonable precautions to protect PHI from loss, misuse, and unauthorized access, disclosure, alteration, and destruction.

3.5 Business Associate must implement and comply with administrative, physical, and technical safeguards governing the PHI, in a manner consistent with HIPAA, that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity.

3.6 Business Associate must immediately notify Covered Entity, in a manner consistent with HIPAA, of: (i) any use or disclosure of PHI not provided for by this Agreement, including a Breach of PHI of which it knows or by exercise of reasonable diligence would have known, as required at 45 CFR §164.410; and, (ii) any Security Incident of which it becomes aware as required at 45 CFR §164.314(a)(2)(i)(C). Business Associate's notification to Covered Entity required by HIPAA and this Section 3.6 must:

3.6.1 Be made to Covered Entity without unreasonable delay and in no case later than 14 calendar days after Business Associate: a) knows, or by exercising reasonable diligence would have known, of a Breach, b) becomes aware of a Security Incident, or c) becomes aware of any use or disclosure of PHI not provided for by this Agreement;

3.6.2 Include the names and addresses of the Individual(s) whose PHI is the subject of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement. In addition, Business Associate must provide any additional information reasonably requested by Covered Entity for purposes of investigating the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

3.6.3 Be in substantially the same form as Exhibit A hereto;

3.6.4 Include a brief description of what happened, including the date of the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, if known, and the date of the discovery of the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

3.6.5 Include a description of the type(s) of Unsecured PHI that was involved in the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement (such as full name, Social Security number, date of birth, home address, account number, disability code, or other types of information that were involved);

3.6.6 Identify the nature and extent of the PHI involved, including the type(s) of identifiers and the likelihood of re identification;

3.6.7 If known, identify the unauthorized person who used or accessed the PHI or to whom the disclosure was made;

3.6.8 Articulate any steps the affected Individual(s) should take to protect him or herself from potential harm resulting from the Breach, Security Incident, or use or disclosure of PHI not permitted by this Agreement;

3.6.9 State whether the PHI was actually acquired or viewed;

3.6.10 Provide a brief description of what the Covered Entity and the Business Associate are doing to investigate the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, to mitigate losses, and to protect against any further Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

3.6.11 Note contact information and procedures for an Individual(s) to ask questions or learn additional information, which must include a toll-free telephone number of Business Associate, along with an e-mail address, Web site, or postal address; and

3.6.12 Include a draft letter for the Covered Entity to utilize, in the event Covered Entity elects, in its sole discretion, to notify the Individual(s) that his or her PHI is the subject of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement that includes the information noted in Section III. 6.4 – III. 6.11 above.

3.7 Business Associate must, and is expected to, directly and independently fulfill all notification requirements under HIPAA.

3.8 In the event of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, Business Associate must mitigate, to the extent practicable, any harmful effects of said disclosure that are known to it.

3.9 In accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2), Business Associate agrees to ensure that any agent, subcontractor, or employee to whom it provides PHI (received from, or created or received by, Business Associate on behalf of Covered Entity) agrees to the same restrictions, conditions, and requirements that apply through this Agreement to Business Associate with respect to such information.

3.10 Business Associate must ensure that any contract or other arrangement with a subcontractor meets the requirements of paragraphs 45 CFR §164.314(a)(2)(i) and (a)(2)(ii) required by 45 CFR § 164.308(b)(3) between a Business Associate and a subcontractor, in the same manner as such requirements apply to contracts or other arrangements between a Covered Entity and Business Associate.

3.11 Pursuant to 45 CFR § 164.502(a)(4)(ii), Business Associate must disclose PHI to the Covered Entity, Individual, or Individual's designee, as necessary to satisfy a Covered Entity's obligations under § 164.524(c)(2)(ii) and (3)(ii) with respect to an individual's request for an electronic copy of PHI.

3.12 To the extent applicable, Business Associate must provide access to PHI in a Designated Record Set at reasonable times, at the request of Covered Entity or as directed by Covered Entity, to an Individual specified by Covered Entity in order to meet the requirements under 45 CFR § 164.524.

3.13 A Business Associate that is a health plan, excluding an issuer of a long-term care policy falling within paragraph (1)(viii) of the definition of health plan, must not use or disclose PHI that is genetic information for underwriting purposes, in accordance with the provisions of 45 CFR 164.502.

3.14 To the extent applicable, Business Associate must make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to, pursuant to 45 CFR § 164.526, at the request of Covered Entity or an Individual.

3.15 Business Associate must, upon request with reasonable notice, provide Covered Entity access to its premises for a review and demonstration of its internal practices and procedures for safeguarding PHI.

3.16 Business Associate must, upon request and with reasonable notice, furnish to Covered Entity security and privacy audit results, risk analyses, security and privacy policies and procedures, details of previous Breaches and Security Incidents, and documentation of controls.

3.17 Business Associate must also maintain records indicating who has accessed PHI about an Individual in an electronic designated record set and information related to such access, in accordance with 45 C.F.R. § 164.528. Business Associate must document such disclosures of PHI and information related to such disclosures as would be required for a Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528. Should an Individual make a request to Covered Entity for an accounting of disclosures of his or her PHI pursuant to 45 C.F.R. § 164.528, Business Associate must promptly provide Covered Entity with information in a format and manner sufficient to respond to the Individual's request.

3.18 Business Associate must, upon request and with reasonable notice, provide Covered Entity with an accounting of uses and disclosures of PHI that was provided to it by Covered Entity.

3.19 Business Associate must make its internal practices, books, records, and any other material requested by the Secretary relating to the use, disclosure, and safeguarding of PHI received from Covered Entity available to the Secretary for the purpose of determining compliance with HIPAA. Business Associate must make the aforementioned information available to the Secretary in the manner and place as designated by the Secretary or the Secretary's duly appointed delegate. Under this Agreement, Business Associate must comply and cooperate with any request for documents or other information from the Secretary directed to Covered Entity that seeks documents or other information held or controlled by Business Associate.

3.20 Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 42 C.F.R. § 164.502(j)(1).

3.21 Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate or the Underlying Agreement, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and be used or further disclosed only as Required By Law or for the limited purpose for which it was disclosed to the person, and the person must agree to notify Business Associate of any instance of any Breach,

Security Incident, or use or disclosure of PHI not provided for by this Agreement of which it is aware in which the confidentiality of the information has been breached.

3.22 Business Associate understands that, pursuant to 45 CFR § 160.402, the Business Associate is liable, in accordance with the Federal common law of agency, for a civil money penalty for a violation of the HIPAA rules based on the act or omission of any agent of the Business Associate, including a workforce member or subcontractor, acting within the scope of the agency.

4. TERM AND TERMINATION

4.1 Term. The Term of this Agreement shall be effective as of the effective date of the Underlying Agreement, and shall terminate: (1) when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity; or, (2) if it is infeasible to return or destroy PHI, in accordance with the termination provisions in this Article IV.

4.2 Termination for Cause. Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall:

4.2.1 Provide an opportunity for Business Associate to cure the breach or end the violation and, if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, have the right to terminate this Agreement and to terminate the Underlying Agreement, and shall report the violation to the Secretary;

4.2.2 Have the right to immediately terminate this Agreement and the Underlying Agreement if Business Associate has breached a material term of this Agreement and cure is not possible, and shall report the violation to the Secretary; or

4.2.3 If neither termination nor cure is feasible, report the violation to the Secretary.

4.2.4 This Article IV, Term and Termination, Paragraph 4.2, is in addition to the provisions set forth in Termination provision of the Contract between County and Vendor, attached to the Underlying Agreement, in which "Business Associate" is "Contractor" and "Covered Entity" is "County" for purposes of this Agreement.

4.3 Effect of Termination:

4.3.1 Except as provided in Section 4.3.2, upon termination or cancellation of this Agreement, for any reason, Business Associate must return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision applies to PHI that is in the possession of a subcontractor(s), employee(s), or agent(s) of Business Associate. Business Associate must not retain any copies of the PHI.

4.3.2 In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate must provide to Covered Entity written notification of the nature of the PHI and the conditions that make

return or destruction infeasible. After written notification that return or destruction of PHI is infeasible, Business Associate must extend the protections of this Agreement to such PHI and limit further use(s) and disclosure(s) of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. Notwithstanding the foregoing, to the extent that it is not feasible to return or destroy such PHI, the terms and provisions of this Agreement survive termination of this Agreement with regard to such PHI.

4.3.3 Should Business Associate violate this Agreement, HIPAA, the Underlying Agreement, other applicable law, Covered Entity has the right to immediately terminate any contract then in force between the Parties, including the Underlying Agreement.

5. CONSIDERATION

Business Associate recognizes that the promises it has made in this Agreement shall, henceforth, be reasonably, justifiably, and detrimentally relied upon by Covered Entity in choosing to continue or commence a business relationship with Business Associate.

6. CAUSES OF ACTION IN THE EVENT OF BREACH

As used in this paragraph, the term “breach” has the meaning normally ascribed to that term under the New York State law related to contracts, as opposed to the specific definition under HIPAA related to PHI. Business Associate hereby recognizes that irreparable harm will result to Covered Entity in the event of breach by Business Associate of any of the covenants and assurances contained in this Agreement. As such, in the event of breach of any of the covenants and assurances contained in this Agreement, Covered Entity shall be entitled to enjoin and restrain Business Associate from any continued violation of this Agreement. Furthermore, in the event of breach of this Agreement by Business Associate, Covered Entity is entitled to reimbursement and indemnification from Business Associate for Covered Entity's reasonable attorneys' fees and expenses and costs that were reasonably incurred as a proximate result of Business Associate's breach. The causes of action contained in this Article VI are in addition to (and do not supersede) any action for damages and/or any other cause of action Covered Entity may have for breach of any part of this Agreement. Furthermore, these provisions are in addition to the provisions set forth in the “Indemnification” Section, of the General Conditions of Contract between County and Contractor, attached to the Underlying Agreement in which “Business Associate” is “Contractor” and “Covered Entity” is “County”, for purposes of this Agreement.

7. MODIFICATION; AMENDMENT

This Agreement may be modified or amended only through a writing signed by the Parties and, thus, no oral modification or amendment hereof shall be permitted. The Parties agree to take such action as is necessary to amend this Agreement, from time to time, as is necessary for Covered Entity to comply with the requirements of HIPAA, including its Privacy, Security, and Notice Rules.

8. INTERPRETATION OF THIS AGREEMENT IN RELATION TO OTHER AGREEMENTS BETWEEN THE PARTIES

Should there be any conflict between the language of this Agreement and any other contract entered into between the Parties (either previous or subsequent to the date of

this Agreement), the language and provisions of this Agreement, along with the Underlying Agreement, shall control and prevail unless the Parties specifically refer in a subsequent written agreement to this Agreement, by its title, date, and substance and specifically state that the provisions of the later written agreement shall control over this Agreement and Underlying Agreement. In any event, any agreement between the Parties, including this Agreement and Underlying Agreement, must be in full compliance with HIPAA, and any provision in an agreement that fails to comply with HIPAA will be deemed separable from the document, unenforceable, and of no effect.

9. COMPLIANCE WITH STATE LAW

The Business Associate acknowledges that by accepting the PHI from Covered Entity, it becomes a holder of medical records information under HIPAA and is subject to the provisions of that law. If HIPAA conflicts with another applicable law regarding the degree of protection provided for Protected Health Information, Business Associate must comply with the more restrictive protection requirement.

10. MISCELLANEOUS

10.1 Ambiguity. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with HIPAA.

10.2 Regulatory References. A reference in this Agreement to a section in HIPAA means the section in effect, or as amended.

10.3 Notice to Covered Entity. Any notice required under this Agreement to be given Covered Entity shall be made in writing to:

Rensselaer County Attorney's Office
Ned Pattison Government Center
1600 Seventh Avenue
Troy, NY 12180
(518) 270-2950
(518) 270-2954 (fax)

10.4 Notice to Business Associate. Any notice required under this Agreement to be given Business Associate shall be made in writing to:

Address: 146 Gettle Road, Averill Park, New York 12018
Attention: Dr. James Franchini
Phone: 518-674-7055

10.5 New York State Law. This Agreement is governed by, and shall be construed in accordance with, applicable federal law and the laws of the State of New York, without regard to choice of law principles.

10.6 Incorporation of Future Amendments. Other requirements applicable to Business Associates under HIPAA are incorporated by reference into this Agreement.

10.7 Penalties for HIPAA Violation. In addition to that stated in this Agreement, Business Associate may be subject to civil and criminal penalties noted under HIPAA, including the same HIPAA civil and criminal penalties applicable to a Covered Entity.

IN WITNESS WHEREOF, and acknowledging acceptance and agreement of the foregoing, the Parties affix their signatures hereto.

**EXHIBIT A
FORM OF NOTIFICATION**

This notification is made pursuant to Section III.F of the Business Associate Agreement between:

- Rensselaer County, New York, (the “County”) and
- Averill Park Central School District, (Business Associate).

Business Associate hereby notifies the County that there has been a Breach, Security Incident, or use or disclosure of PHI not provided for by the Business Associate Agreement (an “Incident”) that Business Associate has used or has had access to under the terms of the Business Associate Agreement.

Description of the Incident:

Date of the Incident: _____

Date of discovery of the Incident: _____

Does the Incident involve 500 or more individuals? Yes/No

If yes, do the people live in multiple states? Yes/No

Number of individuals affected by the Incident:

Names and addresses of individuals affected by the Incident:

(Attach additional pages as

necessary) _____

The types of unsecured PHI that were involved in the Incident (such as full name, Social Security number, date of birth, home address, account number, or disability code):

Description of what Business Associate is doing to investigate the Incident, to mitigate losses, and to protect against any further Incidents:

Contact information to ask questions or learn additional information:

Name: _____

Title: _____

Address: _____

Email Address: _____
Phone Number: _____

LEGISLATIVE FISCAL IMPACT STATEMENT

Type of Legislation: Local Law: _____ G Resolution: XXX P Resolution: _____

Title of Legislation: Contracting with various school districts in Rensselaer County for Substance Abuse Prevention Services

Requested by: _____

Sponsor(s): _____

FISCAL IMPACT

1) Projected cost of proposed legislation, if any: \$463,616.00 current year
\$463,616.00 ongoing expenses per year

2) Method of financing – note all that apply (federal funding, state funding, bonding, tax levy, etc.): _____

a) For federal funding: amount \$ _____ and length of time federal funding is available _____. Is it available for ongoing expenses? Yes _____ or No _____

b) For state funding: amount \$ _____ and length of time state funding is available _____. Is it available for ongoing expenses? Yes _____ or No _____

c) If bonded, state amount of total indebtedness this legislation will create and projected interest cost over the course of borrowing:
Principal \$ _____
Total projected interest costs \$ _____

d) Tax levy impact for current year \$ _____ and ongoing \$ _____

e) Other (please explain) \$ 463,616.00 this is the school districts share of the funding cost, to match OASAS prevention funding

3) Is this expense or program mandated? Yes XXXX No _____

4) Length of expense or project (one time only, ongoing, etc.): Ongoing

5) Justification for the appropriation/expenditure requested. Include any revenue this will produce or any expense that will be avoided: Funding by the school districts to match NYS – OASAS (Office of Addictions Services and Supports, is required to fund Prevention Specialist
Within the school districts. Some of the districts fund the prevention specialist in their high schools and in their middle schools. The Prevention Specialist provides education to the students in the school districts under contract for the services. The curriculum followed Is approved through the NYS – OASAS.

Department Head

RENSSELAER COUNTY LEGISLATURE

Introduced by Legislator(s) Grant, Loveridge, Weaver

Sent To: Social Services

Committee

Date August 9, 2022

Resolution No. G/3

RESOLUTION AUTHORIZING CONTINUED PARTICIPATION WITH CAPITAL DISTRICT YOUTH CENTER INC. FOR THE REGIONAL SECURE DETENTION FACILITY - DEPARTMENT OF SOCIAL SERVICES

WHEREAS, This Resolution is filed with the Rensselaer County Legislature by the Rensselaer County Executive; and

WHEREAS, Pursuant to Article 3 of the Family Court Act of the State of New York, it is the County's duty and responsibility to provide secure detention services for juvenile delinquents under court orders; and

WHEREAS, The County developed a cost-effective means to provide secure detention to juveniles on a regional basis by joining with the neighboring counties of Albany, Saratoga and Schenectady; and

WHEREAS, A municipal cooperation agreement created a regional facility operated by the Capital District Youth Center, Inc. ("CDYCI"), a not-for-profit corporation controlled by the four counties to provide a secure detention facility; and

WHEREAS, The daily rate is set by the New York State Office of Children and Family Services, subject to quarterly adjustment based on usage and operational costs; and

WHEREAS, By Resolution No. G/27/17, the Rensselaer County Legislature authorized entry into an agreement with the Capital District Youth Center, Inc. for the period beginning January 1, 2017 through December 31, 2017, with an option for one-year renewal; and

WHEREAS, Pursuant to Resolution G/420/18, the Rensselaer County Legislature authorized the amendment of the January 1, 2018 to December 31, 2018 agreement with a one-year automatic renewal term with Rensselaer County having the right to cancel such renewal term; and

WHEREAS, Effective October 1, 2019, New York's Raise the Age (RTA) Legislation changed the age that a child can be prosecuted as an adult to 18 years old in criminal cases in New York State; and

WHEREAS, Rensselaer County is required to provide secure detention facilities for such adolescents/offenders, in accordance with New York State Raise the Age law requirements; and

WHEREAS, The Rensselaer County Department of Social Services, along with the other affected County divisions, including the Rensselaer County Office of Probation, believe it is in the best interest for Rensselaer County to secure adolescent offenders and juvenile delinquents and offenders, that it is responsible for, in the regional facility operated by the Capital District Youth Center Inc.; and

WHEREAS, Pursuant to Resolution G/30/20, the Rensselaer County Legislature authorized the amendment of the January 1, 2020 to December 31, 2020 agreement between Rensselaer County and the Capital District Youth Center, Inc., with a one-year automatic renewal term with Rensselaer County having the right to cancel such renewal term; now, therefore, be it

RESOLVED, That the Rensselaer County Legislature does hereby authorize the County's continued participation in 2022 and beyond under the Agreement for Use and Operation of a Regional Juvenile Detention Facility, the Capital District Youth Center, Inc.

Resolution ADOPTED by the following vote:

Ayes:

Nays:

Abstain:

August 9, 2022

Clerk of the Legislature

Sent to County Executive _____

Received from County Executive _____

Clerk of the Legislature



Executive Action

Approved _____ Date _____

Disapproved _____
Veto Message Attached and Returned to Clerk

County Executive

**AGREEMENT FOR THE USE AND OPERATION
OF A REGIONAL JUVENILE DETENTION FACILITY**
(the “Capital District Juvenile Secure Detention Facility”)

THIS AGREEMENT made as of the 1st day of January, 2020 by and among the CAPITAL DISTRICT YOUTH CENTER, INC., a Not-for-Profit corporation organized and existing under the laws of the State of New York having a principal office located at One Park Place, Albany, New York 12205 (“CDYCI”), the COUNTY OF ALBANY (“ALBANY COUNTY”), having an office at the Albany County Office Building, 112 State Street, Albany, New York 12207, the COUNTY OF RENSSELAER (“RENSSELAER COUNTY”), having an office at the County Office Building, 1600 Seventh Avenue, Troy, New York 12180, the COUNTY OF SARATOGA (“SARATOGA COUNTY”), having an office at the Saratoga County Municipal Center, 40 McMaster Street, Ballston Spa, New York 12020, and the COUNTY OF SCHENECTADY (“SCHENECTADY COUNTY”), having an office at the County Office Building, 620 State Street, Schenectady, New York 12307. ALBANY COUNTY, RENSSELAER COUNTY, SARATOGA COUNTY and SCHENECTADY COUNTY collectively referred to herein as the “COUNTIES”. CDYCI and Counties are collectively referred to herein as the “Parties”.

WITNESSETH:

WHEREAS, the Counties had recognized a need in the Capital District for access to a secure detention facility for Juvenile Delinquents as defined in the NYS Family Court Act (“JD”) and Juvenile Offenders as defined in the NYS Criminal Procedure Law (“JO”) ; and

WHEREAS, with assistance of the Capital District Regional Planning Commission, the Counties had determined that acquisition, construction and equipping of such a facility in the Capital District would be efficient only if financed, constructed and operated on a joint and regional basis; and

WHEREAS, by Resolution No. 292 adopted by the County Legislature of Albany County on September 9, 1996, Albany County approved the creation of CDYCI, a non-profit-corporation to acquire, construct, equip, finance, operate and manage a regional juvenile secure detention facility on behalf of the Counties; and

WHEREAS, pursuant to Article 5-G of the New York General Municipal Law, which authorizes municipal corporations to perform their functions, duties and powers on a cooperative basis with other municipal corporations pursuant to municipal cooperation agreements, the Counties entered into such an agreement dated February 1, 1997 with a term commencing February 13, 1997 through and including January 31, 2002 (the “Cooperative Agreement”); and

WHEREAS, pursuant to and in accordance with the Cooperative Agreement, the Counties agreed to cooperate with the formation and operations of CDYCI and for the sharing of the expenses related thereto; and

WHEREAS, pursuant to and in accordance with the Cooperative Agreement and CDYCI's certificate of incorporation, CDYCI must have nine members with two members being appointed by Albany County, one member being appointed by Rensselaer, Saratoga and Schenectady counties, and the balance of the members being appointed by the Capital District Regional Planning Commission; and

WHEREAS, CDYCI, by resolution adopted on February 6, 1997 issued bonds (the "Bonds") in the aggregate principal amount of \$5,070,000 for the purpose of financing a project (the "Project") consisting of constructing and equipping a regional juvenile secure detention facility known as the Capital District Juvenile Secure Detention Facility (the "Detention Facility") upon land owned by Albany County and located at 838 Albany-Shaker Road, Albany, New York (the "Land"); and

WHEREAS, on February 1, 1997, Albany County, as landlord, and CDYCI, as tenant, entered a ground lease whereby CDYCI leased the Land from Albany County to enable CDYCI to undertake the Project described above (the "Ground Lease"); and

WHEREAS, to provide a source of repayment for the Bonds, the Detention Facility was leased by CDYCI, as landlord, to (A) Albany County pursuant to a lease agreement dated as of February 1, 1997 (the "Albany Lease"), (B) Rensselaer County pursuant to a lease agreement dated as of February 1, 1997 (the "Rensselaer Lease"), (C) Saratoga County pursuant to a lease agreement dated as of February 1, 1997 (the "Saratoga Lease") and (D) Schenectady County pursuant to a lease agreement dated as of February 1, 1997 (the "Schenectady Lease") (the Albany Lease, the Rensselaer Lease, the Saratoga Lease and the Schenectady Lease, as have been amended from time to time, are hereinafter collectively referred to as the "Leases"); and

WHEREAS, to provide for the receipt of secured juvenile detention services at the Detention Facility, the Counties entered into agreements with CDYCI (the "Use Agreements") setting forth the terms and conditions of such use and services, including the preferred rights to use certain beds based upon the number of beds leased pursuant to the Leases; and

WHEREAS, to provide for the day-to-day operation, staffing and management of the Detention Facility, CDYCI contracted with a not-for-profit independent contractor (the "Operator"); and

WHEREAS, on February 10, 2017 the Bonds to construct the Project were discharged and pursuant to § 4.4 of the Cooperative Agreement, fee title to the Detention Facility was conveyed by CDYCI to Albany County without consideration and all Leases, including the Ground Lease, management contracts and other encumbrances automatically terminated on the date of such discharge; and

WHEREAS, notwithstanding the automatic transfer of title in the Detention Facility to Albany County, the Counties desired to maintain CDYCI's role in the administration, management and operation of the Detention Facility on behalf of the Counties in accordance

with Article 5-G of the NYS General Municipal Law and Section 218-a of NYS County Law; and

WHEREAS, Albany County and CDYCI entered into a First Amendment to Ground Lease dated February 10, 2017, referred to therein as the “Master Lease”, for CDYCI’s lease of the Land and Detention Facility from Albany County (the “Master Lease”); and

WHEREAS, to provide a source of revenue in the event expenses exceed operating income from the Use Agreements, the Counties and CDYCI entered into a First Amendment to the Leases dated February 10, 2017, for the lease of premises (i.e. beds) within the Detention Facility; and

WHEREAS, the Counties and CDYCI entered into a new Use Agreement dated December 1, 2017 for the Counties’ use of secured detention services at the Detention Facility; and

WHEREAS, Chapter 59 of the Laws of 2017, Part WWW, raised the age of juvenile jurisdiction to include 16 and 17 year olds, commonly known as Raise the Age (hereinafter “Raise the Age”), that requires, among other things, Specialized Secured Detention Facilities for Adolescent Offenders, as defined therein; and

WHEREAS, the Counties continue to desire to utilize the Detention Facility for its eligible JDs, JOs and Adolescent Offenders as defined in the NYS Criminal Procedure Law (“AO”, and collectively with JD and JO, “Youth”); and

WHEREAS, the New York State Office of Children and Family Services (“OCFS”) has certified the Detention Facility as a secured detention facility (“SD”) and, OCFS and the New York State Commission of Correction (“SCOC”) has certified the Detention Facility as a specialized secured detention facility (“SSD”), which is co-administered with the Albany County Sheriff; and

WHEREAS, the Counties and CDYCI entered into amended Leases and Use Agreements dated as of October 1, 2018, as further amended, to implement Raise the Age; and

WHEREAS, with the implementation of Raise the Age, OCFS is requiring certain changes to the process for how the Counties will fund and be reimbursed for costs related to secure detention and specialized secure detention care for Youth; and

WHEREAS, the Counties and CDYCI hereby desire to implement such billing and claiming modifications required by OCFS and to consolidate and simplify the contractual relationships between and among CDYCI and the Counties for the use and operation of the Detention Facility on a joint and regional basis within the spirit of the Cooperative Agreement; and

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties mutually agree as follows:

**ARTICLE I
REPRESENTATIONS, COVENANTS AND WARRANTIES**

SECTION 1.1 The Counties represent, covenant and warrant as follows:

(A) The County is authorized to enter into this Agreement and the transactions contemplated hereby, and to perform all of its obligations hereunder.

(B) The office of the County executing this Agreement has been duly authorized to execute and deliver this Agreement by appropriate official action on the part of the County Legislature or Board of Supervisors, as the case may be.

SECTION 1.2 CDYCI represents, covenants and warrants as follows:

(A) CDYCI is a not-for-profit corporation duly organized, existing and in good standing under, and by virtue of, the laws of the State, and is duly qualified and in good standing authorized to transact business in the State; has power to enter into this Agreement and the transactions contemplated hereby, and to perform all of its obligations hereunder.

(B) The officer of CDYCI executing this Agreement has been duly authorized to execute and deliver this Agreement by appropriate official action on the part of the governing board of CDYCI.

(C) Neither the execution and delivery of this Agreement, nor the fulfillment of, or compliance with, the terms and conditions thereof, nor the consummation of the transactions contemplated thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which CDYCI is now or by which CDYCI is bound, constitutes a default under any of the foregoing.

**ARTICLE II
TERM and TERMINATION**

SECTION 2.1 **TERM.** The Term of this Agreement shall commence as of January 1, 2020 and shall remain in effect until terminated.

SECTION 2.2 **TERMINATION.**

(A) This Agreement may be terminated at any time upon the mutual consent of all Parties.

(B) In the event CDYCI ceases to have a leasehold interest, or other possessory right, in the Detention Facility, CDYCI may terminate this Agreement upon sixty days (60) written

notice to the Counties, in which event the obligations of CDYCI and the Counties under this Agreement, with the exception of any amounts due and owing to CDYCI, shall terminate at the end of the sixty (60) days from the date of notice of such termination.

(C) Any County may withdraw from participation in this Agreement. Withdrawal may occur by providing CDYCI and each remaining County a written notice of withdrawal (the "Withdrawal Notice"). Withdrawal of the withdrawing County shall take effect sixty (60) days from the date of the Withdrawal Notice. A withdrawal of a County from this Agreement shall terminate the obligations of CDYCI and such County under this Agreement with the exception of any amounts due and owing to CDYCI. The Agreement shall remain in full force and effect with respect to all remaining Parties.

ARTICLE III DELEGATION OF AUTHORITY TO CDYCI

SECTION 3.1 The Counties hereby designates CDYCI to directly interface with OCFS, SCOC or any other applicable governmental agency, authority, board, body or commission on their behalf for any purpose relating to the use and operations of the Detention Facility, including but not limited to, reporting, certification, compliance, funding, reimbursement, capital improvements, repairs and maintenance.

ARTICLE IV RESERVATION OF BEDS WITHIN THE DETENTION FACILITY

SECTION 4.1 CDYCI hereby grants each County (referred to in this Article IV as "Participating County" or collectively "Participating Counties") the right to use the number of beds indicated on Exhibit "A", attached hereto, reserved for the use of detainees referred by those Participating Counties and their respective agencies (hereinafter "Reserved Beds"). The Participating Counties also have preferential rights to the remaining beds in the Detention Facility (hereinafter "Preferred Beds"). Unoccupied Reserved Beds and unoccupied Preferred Beds will be provided based upon availability on a first-come-first-served basis first to Participating Counties and then to other referring counties ("Referring County"). If a Reserved or Preferred Bed is made available for a Youth other than one referred from a Participating County and a need arises for the use of that bed by one of the Participating Counties, the Youth will be removed to another facility. CDYCI will coordinate with the Referring County in attempting to locate an alternative bed, but the primary responsibility for finding an alternative bed shall rest with the Referring County. In the event all Reserved Beds have been filled by the counties for which they have been reserved, and all remaining Preferred Beds have been filled by Participating Counties and a need arises for the use of a bed by a Participating County, CDYCI will coordinate with the Participating County in attempting to locate an alternative bed at another facility, but the primary responsibility for finding such alternative bed shall rest with such Participating County.

ARTICLE V
RESPONSIBILITIES OF THE PARTIES

SECTION 5.1 On behalf of the Counties, CDYCI will manage the Detention Facility and the administration of secure detention services for JDs, JOs and AOs as follows:

(A) CDYCI will assist with the certification, including any re-certifications or continuing compliance requirements, of the Detention Facility by OCFS as a secured detention facility and by OCFS and SCOC as a specialized secure detention facility, including coordination with the Albany County Sheriff.

(B) CDYCI will provide financial oversight of the Detention Facility, including budget preparation, costs reporting to OCFS and cost sharing among the Counties.

(C) CDYCI will plan for and manage capital projects, major repairs, major maintenance, and procurements related thereto.

(D) CDYCI will engage an independent operator to provide for the staff and day to day operations of the Detention Facility (the "Operator").

(E) CDYCI, through the Operator will provide the following:

(1) secure detention and specialized secure detention services of Youth in compliance with all rules and regulations for the care, maintenance and supervision of Youth placed in the Detention Facility by the Counties;

(2) routine health assessment and a mental health screening;

(3) 24 hour-a-day intake service;

(4) a smoke free environment inside the Detention Facility and on the Detention Facility grounds; and

(5) record keeping in accordance with all applicable laws and regulations;

(F) CDYCI, directly or through its Operator or both, shall: obtain and maintain all permits, licenses, certifications and approvals necessary for the use and occupancy of the Detention Facility; comply with all State and Federal Laws applicable to the use and occupancy of the Detention Facility; maintain, preserve and keep the Detention Facility and its furnishings in good repair and condition, and shall make all repairs and replacements as necessary, pay any applicable taxes, assessments, water and sewer rents, charges or fees; and pay any and all utilities consumed at the Detention Facility.

(G) All information and records maintained by CDYCI and/or the Operator will be held confidential pursuant to any and all applicable laws and regulations.

(H) CDYCI will use, and will require the Operator to use, accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of the services under this Agreement and will maintain all financial books, records and necessary supporting

documents needed to do so. CDYCI and/or its Operators records will be subject at all reasonable times to inspection, review and audit by authorized County and New York State representatives.

(I) CDYCI agrees to procure and maintain at its own expense, and/or cause its contract Operator to procure and maintain at its own expense, insurance of the kinds and the amounts hereinafter provided, with insurance companies authorized to do business in New York, covering all operations under this Agreement. CDYCI and/or its contract Operator upon request will furnish a certificate of insurance, naming the County as additionally insured on its Commercial General Liability, the Physical Abuse and Sexual Misconduct and Automobile policies. The certificate shall provide that coverage shall not be canceled or reduced until forty-five (45) days after written notice is provided to the County. The coverage parts and amount of insurance shall be as follows: (i) **Commercial General Liability** \$1,000,000 per occurrence/\$3,000,000 aggregate. Coverage shall include bodily injury, property damage, personal injury and blanket contractual liability; (ii) **Professional Liability Insurance** with minimum limits of \$1,000,000 per occurrence and a \$3,000,000 annual aggregate, (iii) **Physical Abuse and Sexual Misconduct** in the amount of not less than \$1,000,000.00, (iv) **Statutory NYS Workers Compensation Coverage**; (v) **Automobile Liability Insurance** with minimum limits of \$1,000,000 each accident. Coverage shall provide for any vicarious liability of the County and be applicable to all owned, non-owned, hired, borrowed or temporarily used vehicles of the Contractor and/or its contract operator.

(J) Except as provided herein, the Counties acknowledge that they will not be an insured party under any policy of liability or property insurance maintained by CDYCI or the Operator with respect to the Detention Facility and that the Counties will ascertain that the risk of public liability associated with the use of the Detention Facility will be adequately covered under the County's own insurance policies or self-insurance programs.

(K) All insurance policies (or riders) required by this Section 5.1 shall be taken out and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State and shall contain a provision that the insurer shall not cancel or revise coverage thereunder without giving written notice to the insured parties at least forty-five (45) days before the cancellation or revision becomes effective.

SECTION 5.2 The Counties agree as follows:

(A) Prior to the admission of each Youth to the Detention Facility, the County will provide the Operator with an order from a court of competent jurisdiction or designated magistrate, as applicable, remanding the Youth to a secure detention facility or specialized secured detention, as applicable. Due to the potential need to move the Youth from one facility to another, orders specifically directing that the Youth is to be placed in the Detention Facility will not be accepted. Use of an order substantially similar to the samples included as Exhibit "B" and Exhibit "C" hereto will be deemed to comply with this requirement.

(B) If the County is notified that a Youth must be removed from the Detention Facility for any reason, that Youth must be removed within 12 hours of such notification. The

CDYCI or the Operator will, however, endeavor to provide as much notice as possible prior to requiring the removal of a Youth.

(C) At the close of each quarter, CDYCI will report actual operational costs in the Statewide Standards of Payment (“SSOP”) system and will invoice Rensselaer County, Saratoga County and Schenectady County for their share of Youth from their county (“Home County”) for which they will be claiming for such quarter. CDYCI will invoice Albany County for its share of Home County Youth as well as all Youth from Referring Counties for which Albany County will claim for such quarter. OCFS is expected to directly reimburse each County for 49% of the eligible detention costs for detained Home County JDs and JOs under the age of sixteen and 100% of the eligible detention costs for detained Home County AOs and JDs sixteen years of age or older. In addition, OCFS is expected to directly reimburse Albany County for 100% of the eligible detention costs for detained Referring County JDs and JOs under the age of sixteen and 100% of the eligible detention costs for detained Referring County AOs and JDs sixteen years of age or older. OCFS is expected to directly invoice Referring Counties for 51% of the eligible detention costs for their detained JDs and JOs under the age of sixteen that utilized the Detention Facility. The Counties hereby agree to pay CDYCI’s invoice within 30 days of the date thereof.

(D) Each County hereby agrees to include its proportionate share of non-care Raise the Age costs in its Raise the Age County Plan as estimated and provided to each County by CDYCI.

(E) The Counties recognize that certain cost will be incurred to renovate and/or expand the Detention Facility to comply with the standards mandated by Raise the Age for certification as a specialized secured detention facility. These Detention Facility improvement and expansion costs are separate and distinct from the actual costs of providing a day of care to a Youth, which may not be eligible to be included in the reimbursements facilitated via the SSOP cost reporting. The Counties recognize the goal of financing such non-care costs through the issuance of indebtedness, but recognize that certain non-care expenses may need to be incurred prior to access to the proceeds of any such indebtedness. Therefore, the Counties hereby agree to either reimburse or pre-fund for such non-care costs as follows: all non-care Raise the Age costs shall be allocated among the Counties in the same proportions as the number of Adolescent Offender Beds reserved by each County as it bears to the total number of Adolescent Beds being reserved by all Counties as set forth in Exhibit D. Each County hereby agrees, upon receiving an invoice from CDYCI, to reimburse or pre-fund its proportionate share of all services, materials and equipment, including but not limited to, pre-construction services, procured for implementation of Raise the Age prior to the issuance of any Indebtedness financing such non-care costs, within 30 days from the date thereof. Such invoices issued by CDYCI pursuant to this Section 5.2(E) shall reflect the pro-rata share of non-care costs procured by CDYCI or Albany County for which payment has been made or is due to be made to the vender. In the event such non-care costs were procured by Albany County, the Counties hereby agree that CDYCI shall serve as a paying agent for the collection and distribution of funds necessary for the implementation of such non-care costs activities and for the payment or reimbursement of same.

(F) The determination of which costs are eligible for reimbursement is made by

OCFS and CDYCI cannot warrant that any particular cost will be eligible for reimbursement. Costs not eligible for reimbursement are the responsibility of the Counties.

(G) The Counties further agree that in the event CDYCI incurs costs related to the Detention Facility that is ineligible or which are otherwise not captured within (i) the care costs submitted via SSOP and approved by OCFS or (ii) the RTA plans of the Counties, such as future capital projects beyond the initial implementation of RTA and related facility improvements, the Counties shall share such costs proportionately based upon the number of reserved beds reserved by each County as it bears to the total number of beds reserved by all Counties as set for in Exhibit A. Such costs, if any, shall be invoiced by CDYCI and payable within 30 days of the date thereof. In the event one or more Counties withdraw from this Agreement as provided for in Section 2.2 of Article II, the allocation of costs herein described shall be recalculated proportionately based upon the revised number of reserved beds reserved by each remaining County as it bears to the total number of beds reserved by all remaining Counties. Exhibit A shall be deemed to contain such recalculations upon the effective date of any such withdrawal.

ARTICLE VI INDEMNIFICATION

SECTION 6.1

(A) The obligations of the Parties under this section shall survive any expiration or termination of this Agreement, and shall not be limited by any enumeration herein of required insurance coverage.

(B) To the fullest extent permitted by applicable law, CDYCI (the “Indemnifying Party”) shall indemnify and hold harmless, and at the County’s option, defend, the County, and/or its officers, directors, members, agents, employees, contractors and other representatives (each, individually, an “Indemnified Party” and, collectively, the “Indemnified Parties”), from and against any and all liabilities, damages, losses, costs, expenses (including, without limitation, any and all reasonable attorneys' fees and disbursements), causes of action, suits, liens, claims, damages, penalties, obligations, demands or judgments of any nature, including, without limitation, for death, personal injury and property damage, economic damage, and claims brought by third parties for personal injury and/or property damage (collectively, “Damages”), incurred by any Indemnified Party caused by any (alleged or proven) negligent act or omission, or intentional misconduct of the Indemnifying Party or the Operator, their officers, agents, employees arising out of or in connection with the performance by CDYCI or the Operator pursuant to this Agreement.

(C) To the fullest extent permitted by applicable law, the County (the “Indemnifying Party”) shall indemnify and hold harmless, and at the CDYCI’s option, defend, the CDYCI, and/or its officers, directors, members, agents, employees, contractors and other representatives (each, individually, an “Indemnified Party” and, collectively, the “Indemnified Parties”), from and against any and all liabilities, damages, losses, costs, expenses (including, without limitation, any and all reasonable attorneys' fees and disbursements), causes of action, suits, liens, claims,

damages, penalties, obligations, demands or judgments of any nature, including, without limitation, for death, personal injury and property damage, economic damage, and claims brought by third parties for personal injury and/or property damage (collectively, "Damages"), incurred by any Indemnified Party caused by any (alleged or proven) negligent act or omission, or intentional misconduct of the Indemnifying Party, its officers, agents, employees arising out of or in connection with the performance by the County pursuant to this Agreement.

ARTICLE VII MISCELLANEOUS

SECTION 7.1 **NOTICES.** All notices, consents, invoices and other communications required, permitted or otherwise delivered under this Agreement shall be in writing and sufficiently given if delivered in person, mailed using United States postage or by a nationally recognized overnight delivery service, addressed as follows:

If to Capital District Youth Center, Inc.:

c/o Capital District Regional Planning Commission
One Park Place, Suite 102
Albany, New York 12205
Attention: Chief Administrator

If to Albany County:

County of Albany
Albany County Office Building
112 State Street, Room 200
Albany, New York 12207
Attention: County Executive

If to Rensselaer County:

County of Rensselaer
Rensselaer County Office Building
1600 Seventh Avenue
Troy, New York 12180
Attention: County Executive

If to Saratoga County:

County of Saratoga
Saratoga County Municipal Center
40 McMaster Street
Ballston Spa, New York 12020
Attention: Chair, Board of Supervisor

If to Schenectady County:

If to Schenectady County:

County of Schenectady
Schenectady County Office Building
620 State Street
Schenectady, New York 12307
Attention: County Manager

SECTION 7.2 INSPECTION OF DETENTION FACILITY. Authorized personnel of the Counties shall have the right to examine and inspect the Detention Facility at all reasonable times upon 24 hour notice to CDYCI.

SECTION 7.3 LIMITATION OF LIABILITY. The obligations and agreements of CDYCI contained herein shall be deemed the obligations and agreements of CDYCI, and not of any member, director, officer, agent or employee of CDYCI in his or her individual capacity, and such members, directors, officers, agents and employees shall not be liable personally hereon or thereon or be subject to any personal liability based upon this Agreement.

SECTION 7.4 COOPERATION. In the spirit of the Cooperative Agreement and to reflect the desire to continue to operate the Detention Facility on a joint and regional basis through CDYCI, each County hereby agrees to appoint and maintain individuals to serve as members of CDYCI in the capacity of County representatives pursuant to and in accordance with CDYCI's certificate of incorporation and by-laws. Further Albany County, as fee title holder of the Detention Facility, hereby agrees to grant CDYCI possession of the Detention Facility through lease, license or otherwise, on such terms and conditions memorialized by Albany County and CDYCI in a separate written agreement, in order for CDYCI to manage the provision of secured detention and specialized secured detention services on behalf of the Counties. In the event CDYCI, for any reason, fails to maintain a leasehold interest or other possessory right in the Detention Facility, it hereby agrees to assign its rights under this Agreement to Albany County upon Albany County's request, in order for the Detention Facility to continue to be used and operated on a joint and regional basis with Rensselaer, Saratoga and Schenectady counties.

SECTION 7.5 ENTIRE AGREEMENT. This Agreement constitutes the entire agreement and understanding of the Parties and supersedes all prior proposals, agreements and understandings, oral and written, relating to the same subject matter.

SECTION 7.6 AMENDMENT. This Agreement may be amended only in writing, which writing shall be signed by all Parties.

SECTION 7.7 NO ASSIGNMENT. Neither this Agreement nor any rights and obligations hereunder may be assigned by any Party without the prior written consent of the

other Parties; provided, however, CDYCI may assign its interest in this Agreement to Albany County in accordance with Section 7.4 herein.

SECTION 7.8 EXECUTION IN COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

SECTION 7.9 SEVERABILITY. In the event that any of the provisions, portions, or applications of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the Parties shall negotiate an equitable adjustment in the provisions of this Agreement with a view toward effecting the purpose of this Agreement, and the validity and enforceability of the remaining provisions, portions, or applications thereof shall not be affected thereby.

SECTION 7.10 APPLICABLE LAW. The interpretation and performance of this Agreement shall be in accordance with and controlled by the laws of the State of New York.

SECTION 7.11 SOCIAL SERVICE DISTRICTS. Nothing herein shall relieve or release the Counties of or from their responsibilities as Social Services Districts or the equivalent thereof, as defined by applicable law.

[Signature Page to Follow]

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed in its corporate name by its duly authorized officer, each as of the date first above written.

CAPITAL DISTRICT YOUTH CENTER INC.

BY: Lucille McKnight

NAME: Lucille McKnight

TITLE: President

DATE: 12/18/19

COUNTY OF ALBANY

BY: Daniel P. McCoy

NAME: Daniel P. McCoy

TITLE: Albany County Executive

DATE: February 7, 2020

COUNTY OF RENSSELAER

BY: _____

NAME: _____

TITLE: _____

DATE: _____

COUNTY OF SARATOGA

BY: _____

NAME: _____

TITLE: _____

DATE: _____

COUNTY OF SCHENECTADY

BY: _____

NAME: _____

TITLE: _____

DATE: _____

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed in its corporate name by its duly authorized officer, each as of the date first above written.

CAPITAL DISTRICT YOUTH CENTER INC.

BY: Lucille McKnight

NAME: Lucille McKnight

TITLE: President

DATE: 2/5/2020

COUNTY OF ALBANY

BY: _____

NAME: _____

TITLE: _____

DATE: _____

COUNTY OF RENSSELAER

BY: Steven F. McLaughlin

NAME: Steven F. McLaughlin

TITLE: County Executive

DATE: 02/18/20

APPROVED AS TO FORM

SK
Carl J. Kempf III
Rensselaer County Attorney
Date 2/10, 2020

Approved by the
Rensselaer County Bureau of Budget

Stacey A. Farrar
Stacey A. Farrar
Director of Budget 2/13/2020

COUNTY OF SARATOGA

BY: _____

NAME: _____

TITLE: _____

DATE: _____

COUNTY OF SCHENECTADY

BY: _____

NAME: _____

TITLE: _____

DATE: _____

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed in its corporate name by its duly authorized officer, each as of the date first above written.

CAPITAL DISTRICT YOUTH CENTER INC.

BY: Lucille McKnight

NAME: Lucille McKnight
TITLE: President
DATE: 1/27/2020

COUNTY OF ALBANY

BY: _____

NAME: _____
TITLE: _____
DATE: _____

COUNTY OF RENSSELAER

BY: _____

NAME: _____
TITLE: _____
DATE: _____

COUNTY OF SARATOGA

BY: Kevin J. Tollisen

NAME: Kevin J. Tollisen
TITLE: Chairman, Board of Supervisors
DATE: 12/27/17

Stephen M. Doney
Approved: Saratoga County Attorney

COUNTY OF SCHENECTADY

BY: _____

NAME: _____
TITLE: _____
DATE: _____

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed in its corporate name by its duly authorized officer, each as of the date first above written.

CAPITAL DISTRICT YOUTH CENTER INC.

BY: Lucille McKnight

NAME: Lucille McKnight

TITLE: President

DATE: 1/27/2020

COUNTY OF ALBANY

BY: _____

NAME: _____

TITLE: _____

DATE: _____

COUNTY OF RENSSELAER

BY: _____

NAME: _____

TITLE: _____

DATE: _____

COUNTY OF SARATOGA

BY: _____

NAME: _____

TITLE: _____

DATE: _____

COUNTY OF SCHENECTADY

BY: Rory Fluman

NAME: Rory Fluman

TITLE: County Manager

DATE: 1/21/20

EXHIBIT A
PARTICIPATING COUNTY RESERVED BEDS

<u>COUNTY</u>	<u>JD/JO</u>	<u>AO</u>	<u>TOTAL</u>	<u>PERCENTAGE</u>
ALBANY	4.5	7.5	12	54%
RENSSELAER	1.0	2.0	3.0	14%
SARATOGA	1.0	1.0	2.0	9%
SCHENECTADY	<u>3.0</u>	<u>2.0</u>	<u>5.0</u>	<u>23%</u>
	9.5	12.5	22	100%

EXHIBIT B

ORDER DIRECTING SECURE DETENTION OF RESPONDENT
(attached hereto)

Order Directing Detention)
9/2012

At a term of the Family Court
of the State of New York, held
in and for the County of
at New York
on

PRESENT:

Hon.
Judge

In the Matter of
A Person Alleged to be a
Juvenile Delinquent,

Docket No.
ORDER DIRECTING
DETENTION OF
RESPONDENT

Respondent.

Respondent, _____, a child under the age of 16, having been taken into custody
by a [check applicable box]: police officer peace officer private person ; and

A petition under section 311.1 of the Family Court Act having been filed in this Court with
respect to

Respondent, including a charge of [specify most serious charge]:
an act that would be a crime if committed by an adult; and

**[Applicable where the New York State Office of Children and Family
Services has approved a risk assessment instrument; omit if inapplicable]:**

The Respondent having been assessed as a [check applicable box]: low medium
 high level risk on a risk assessment instrument approved by the New York State Office of
Children and Family Services; and

Respondent having been brought before this Court and a hearing having been held, this
Court finds that [Note: judicial findings must be made under both I and II and, if required, III,
below]:

I. Criteria for Detention [REQUIRED; check one or both boxes]:

Detention of the Respondent is necessary, pursuant to Family Court Act §320.5, because available alternatives, including conditional release, would not be appropriate and because:

where the New York State Office of Children and Family Services has approved a risk assessment instrument; omit if inapplicable]:

Respondent requires detention, despite the assessed risk level, for the following reasons [specify]:

NOW, therefore, it is hereby

ORDERED that the Respondent is remanded to _____, to be detained pending further proceedings herein on _____; and it is further

ORDERED that the custodial authority produce the Respondent on that date subject to further order of this Court; and it is further

ORDERED that in the event the Respondent absconds from the above-named facility, written notice of that fact shall be given within 48 hours by an authorized representative of the facility to the Clerk of Court, stating the name of the Respondent, the docket number of this proceeding, the date on which the Respondent absconded and the efforts made to locate and secure the return of the Respondent;^a and it is further

ORDERED

ENTER

Judge of the Family Court

Dated:

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM AN ORDER OF THE FAMILY COURT MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check applicable box:

- Order mailed on [specify date(s) and to whom mailed]:
- Order received in court on [specify date(s) and to whom given]:.

^a See 22 NYCRR 205.26.

EXHIBIT C

SECURING ORDER FOR JUVENILE OFFENDER AND ADOLESCENT OFFENDER
(attached hereto)

STATE OF NEW YORK COUNTY OF _____
YOUTH PART OF THE SUPERIOR COURT

THE PEOPLE OF THE STATE OF NEW YORK

v.

SECURING ORDER
DOCKET

NYSID

#: _____

Dob: _____

Defendant.

The above named defendant having appeared before the undersigned on a (ACCUSATORY INSTRUMENT) / (WARRANT), charging the defendant with the most serious offense of _____ in violation of Section _____ Sub Div _____ of the _____ Law a (Class _____ Felony/Misd)

AND (Check one box only)

further court attendance being required on the _____ day of _____, 20____, at _____ (AM/PM) before the _____ Court of _____.

OR the matter having been transferred for action of the Grand Jury.

Now therefore it is **ORDERED** that the defendant be

RELEASED; (Check one box only)

On bail fixed in the amount of \$ _____ and received by this Court;

OR Other _____ (Explain)

OR **REMANDED** to the custody of the County Sheriff/Commissioner of Corrections until his/her appearance is required as set forth, (Check one box only)

until bail is posted in the amount of \$ _____ CASH or \$ _____ BOND _____;

Specify Type

OR without bail.

AND that this ORDER includes the lesser offence(s) of:

SPECIAL ORDERS/INSTRUCTIONS

CPL 730 (competency) Exam ordered (UCS# 16-A Attached)

Local Mental Health Referral

Additional

Comments

Dated: _____

Hon.

EXHIBIT D

NON-CARE RTA COSTS ALLOCATION

<u>COUNTY</u>	<u>AO</u>	
ALBANY	7.5	60%
RENSSELAER	2.0	16%
SARATOGA	1.0	8%
SCHENECTADY	<u>2.0</u>	<u>16%</u>
TOTAL	12.5	100%

RENSSELAER COUNTY LEGISLATURE

Introduced by Legislator(s) Grant, Tesman, Sullivan-Teta

Sent To: Social Services

Committee

Date January 14, 2020

Resolution No. G/30/20

**RESOLUTION AUTHORIZING AGREEMENT WITH THE CAPITAL DISTRICT YOUTH CENTER,
INC. REGARDING THE REGIONAL SECURE DETENTION FACILITY -
DEPARTMENT OF SOCIAL SERVICES**

WHEREAS, This Resolution is filed with the Rensselaer County Legislature by the Rensselaer County Executive; and

WHEREAS, Pursuant to Article 3 of the Family Court Act of the State of New York, it is the County's duty and responsibility to provide secure detention services for juvenile delinquents under court orders; and

WHEREAS, The County developed a cost-effective means to provide secure detention to juveniles on a regional basis by joining with the neighboring counties of Albany, Saratoga and Schenectady to create a regional facility operated by the Capital District Youth Center, Inc., and

WHEREAS, By Resolution No. G/27/17, the Rensselaer County Legislature authorized entry into an agreement with the Capital District Youth Center, Inc. for the period beginning January 1, 2017 through December 31, 2017, with an option for one-year renewal; and

WHEREAS, Pursuant to Resolution G/420/18, the Rensselaer County Legislature authorized the amendment of the January 1, 2018 to December 31, 2018 agreement between Rensselaer County and the Capital District Youth Center, Inc. in order to provide secure detention facilities for Rensselaer County adolescent offenders for the period October 1, 2018 through December 31, 2018, with a one-year automatic renewal term with Rensselaer County having the right to cancel such renewal term, with rates, effective January 1, 2019, set by the New York State Office of Children and Family Services, subject to quarterly adjustment based on usage and operational costs; now, therefore, be it

WHEREAS, Effective October 1, 2019, New York's Raise the Age (RTA) Legislation changed the age that a child can be prosecuted as an adult to 18 years old in criminal cases in New York State; and

WHEREAS, Rensselaer County is required to provide secure detention facilities for such adolescents/offenders, in accordance with New York State Raise the Age law requirements; and

WHEREAS, The Rensselaer County Department of Social Services, along with the other affected County divisions, including the Rensselaer County Office of Probation, believe it is in the best interest for Rensselaer County to secure adolescent offenders and juvenile delinquents/offenders that it is responsible for in the regional facility operated by the Capital District Youth Center, Inc.; now, therefore be it

RESOLVED, That the Rensselaer County Legislature does hereby authorize the County Executive to enter into an agreement with the Capital District Youth Center, Inc. for the term January 1, 2020 through December 31, 2020 with an option for a one-year renewal, at New York State Office of Children and Family Services set rates, for the provision of secure detention of juveniles under court orders; and, be it further

RESOLVED, The Rensselaer County Executive, or his designee, is authorized to execute all agreements and documents necessary to carry out the purpose and intent of this Resolution, subject to approval as to form by the Rensselaer County Attorney.

Resolution ADOPTED by the following vote:

Ayes: 17

Nays: 0

Abstain: 1 (Bendett)

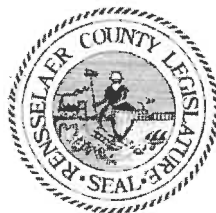
January 14, 2020

Clerk of the Legislature

Sent to County Executive 1/15/20

Received from County Executive 1/16/20

Jessica L. Chantz
Clerk of the Legislature



Executive Action

Approved Date 1/15/20

Disapproved _____

Veto Message Attached and Returned to Clerk

Arthur F. McGill
County Executive

LEGISLATIVE FISCAL IMPACT STATEMENT

Type of Legislation: Local Law: _____ G Resolution: ^X P Resolution: _____

RESOLUTION AUTHORIZING CONTINUED PARTICIPATION WITH CAPITAL DISTRICT YOUTH CENTER
Title of Legislation: _____ INC. REGARDING THE REGIONAL SECURE DETENTION FACILITY

Requested by: _____ Department of Social Services

Sponsor(s): _____

FISCAL IMPACT

1) Projected cost of proposed legislation, if any: \$ _____ daily rate set by NYS
OCFS quarterly current year
\$ _____ ongoing expenses per year

2) Method of financing – note all that apply (federal funding, state funding, bonding, tax levy, etc.): State & local funding

a) For federal funding: amount \$ none and length of time federal funding is available _____. Is it available for ongoing expenses? Yes _____ or No _____
49% of approved rate for non-RTA

b) For state funding: amount \$ _____ and length of time state funding is available _____. Is it available for ongoing expenses? Yes ✓ or No _____
100% for RTA approved youth

c) If bonded, state amount of total indebtedness this legislation will create and projected interest cost over the course of borrowing:
Principal \$ _____

d) Tax levy impact for current year \$ _____ and ongoing \$ _____
51% of approved rate for non-RTA
\$0 for RTA approved youth

e) Other (please explain) \$ _____

3) Is this expense or program mandated? Yes ✓ No _____

4) Length of expense or project (one time only, ongoing, etc.): Ongoing

5) Justification for the appropriation/expenditure requested. Include any revenue this will produce or any expense that will be avoided: _____

Pursuant to Article 3 of the Family Court Act of the State of New York, it is the County's duty and responsibility to provide secure detention services for juvenile delinquents under court orders.

Department Head

Michael P. McMahon

#3

RENSSELAER COUNTY LEGISLATURE

Introduced by Legislator(s) Brownell

Sent To: Rules & Legislative Operations

Committee

Date January 10, 2017

Resolution No. G/27/17

RESOLUTION AUTHORIZING AN AGREEMENT WITH THE CAPITAL DISTRICT YOUTH CENTER, INC. REGARDING THE JUVENILE SECURE DETENTION FACILITY

WHEREAS, Pursuant to Article 3 of the Family Court Act of the State of New York, it is the County's duty and responsibility to provide secure detention services for juvenile delinquents under court orders, and.

WHEREAS, The County developed a cost-effective means to provide secure detention to juveniles on a regional basis by joining with the neighboring counties of Albany, Saratoga and Schenectady to create a regional facility operated by the Capital District Youth Center, Inc., and

WHEREAS, The Commissioner of the Department for Children, Youth and Families has requested an agreement with the Capital District Youth Center, Inc. for the term January 1, 2017 through December 31, 2017, with an option for a one year renewal, at NYS Division for Youth approved rates and subject to adjustments based on usage and operation costs, now, therefore be it

RESOLVED, The Rensselaer County Legislature does hereby authorize the County Executive to enter into an agreement with the Capital District Youth Center, Inc. for the term January 1, 2017 through December 31, 2017 with an option for a one year renewal at NYS Division for Youth set rates, with said rates subject to adjustment based on usage and operational costs for the provision of secure detention of juveniles under court orders, and, be it further

RESOLVED, That the Rensselaer County Executive shall be, and hereby is authorized and empowered to execute the above referenced contracts subject to the approval as to form by the Rensselaer County Attorney.

Resolution ADOPTED by the following vote:

Ayes: 17

Nays: 0

Abstain: 0

January 10, 2017

Clerk of the Legislature

Sent to County Executive 1/11/17

Received from County Executive 1/12/17

Jessica L. Charita
Clerk of the Legislature



Executive Action

Approved Date 1/12/2017

Disapproved _____
Veto Message Attached and Returned to Clerk

Kathleen M. Jimenez
County Executive

#3

RENSSELAER COUNTY LEGISLATURE

Introduced by Legislator(s) Grant, Tesman, Sullivan-Teta

Sent To: Social Services

Committee

Date September 11, 2018

Resolution No. G/420/18

**RESOLUTION AUTHORIZING AMENDMENT OF AGREEMENTS WITH THE CAPITAL DISTRICT
YOUTH CENTER INC. REGARDING THE REGIONAL SECURE DETENTION FACILITY -
DEPARTMENT OF SOCIAL SERVICES**

WHEREAS, This resolution is filed with the Rensselaer County Legislature by the Rensselaer County Executive; and

WHEREAS, Pursuant to Article 3 of the Family Court Act of the State of New York, it is the County's duty and responsibility to provide secure detention services for juvenile delinquents under court orders; and

WHEREAS, The County developed a cost-effective means to provide secure detention to juveniles on a regional basis by joining with the neighboring counties of Albany, Saratoga and Schenectady to create a regional facility operated by the Capital District Youth Center Inc.; and

WHEREAS, By Resolution No. G/27/17, the Rensselaer County Legislature authorized entry into an agreement with the Capital District Youth Center Inc. for the period beginning January 1, 2017 through December 31, 2017, with an option for one year renewal at NYS Division for Youth approved rates and subject to adjustments based on usage and operation costs; and

WHEREAS, Pursuant to Resolution No. G/27/17, the County entered into an agreement with the Capital District Youth Center Inc. for the period January 1, 2017 through December 31, 2017 and renewed the agreement for the period January 1, 2018 through December 31, 2018; and

WHEREAS, Under the New York State Raise the Age law that becomes effective for 16 year olds on October 1, 2018, Rensselaer County will be required to provide secure detention facilities for such adolescent offenders in accordance with New York State Raise the Age law requirements; and

WHEREAS, The Capital District Youth Center Inc. anticipates that its regional facility will be in compliance with New York State Raise the Age law requirements in order to provide secure detention facilities for adolescent offenders; and

WHEREAS, The Rensselaer County Department of Social Services, along with the other affected County divisions, including the Rensselaer County Office of Probation, believe it is in the best interest for Rensselaer County to secure the adolescent offenders that it is responsible for in the regional facility operated by the Capital District Youth Center Inc.; and, now, therefore, be it

RESOLVED, That the Rensselaer County Legislature authorizes amendment of the current agreement, as renewed, between Rensselaer County and the Capital District Youth Center Inc., as well as the related leaseback agreement between Rensselaer County and the Capital District Youth Center Inc., in order to provide secure detention facilities for Rensselaer County adolescent offenders for the period October 1, 2018 through December 31, 2018, with a one year automatic renewal term with Rensselaer County having the right to cancel such renewal term, at NYS Division for Youth set rates, with said rates subject to adjustment based on usage and operational costs; and, be it further

RESOLVED, That the Rensselaer County Executive or his designee shall be and hereby are authorized to execute all agreements and documents necessary to carry out the purpose and intent of this Resolution, subject to approval as to form by the Rensselaer County Attorney.

Resolution ADOPTED by the following vote:

Ayes: 19
Nays: 0
Abstain: 0
September 11, 2018

Clerk of the Legislature

Sent to County Executive 9/12/18

Received from County Executive 9/17/18

Jessica L. Charis
Clerk of the Legislature



Executive Action

Approved Date 9/13/18

Disapproved
Veto Message Attached and Returned to Clerk

[Signature]
County Executive

RENSSELAER COUNTY LEGISLATURE

Introduced by Legislator(s) Grant, Loveridge, Weaver

Sent To: Social Services

Committee

Date August 9, 2022

Resolution No. G/5

RESOLUTION AUTHORIZING AN AGREEMENT FOR RECRUITMENT AND TRAINING OF FAMILY DAY CARE HOMES AND PROVIDERS - DEPARTMENT OF SOCIAL SERVICES

WHEREAS, This Resolution is filed with the Rensselaer County Legislature by the Rensselaer County Executive; and

WHEREAS, The Department of Social Services ("Department") is mandated by New York State to provide registration and inspection of day care homes; and

WHEREAS, The Department is desirous of entering into a contract with Brightside Up, Inc. who will recruit and train prospective family day care homes and school age childcare providers; and

WHEREAS, Brightside Up, Inc. will fulfill the requirements of fingerprinting, criminal history record check, employment history documentation, personal and employment references, and New York State Central Register Child and Abuse screening; and

WHEREAS, The New York State Office of Children and Family Services approves the Day Care Registration Memorandum of Understanding; and

WHEREAS, The amount of this contract is 100% reimbursable with Federal Child Care funding; and

WHEREAS, The start and end dates of such contract, the source of funding of the same, the total amount to be expended over the life of same, which shall not exceed budgetary appropriations, and the name and address of the contracting parties are as follows:

<u>CONTRACT DESCRIPTION AND DATES</u>	<u>VENDOR</u>	<u>APPROPRIATION CODE</u>	<u>AMOUNT OF CONTRACT</u>
Registration and Inspection of Day Care Homes 1/1/22 - 12/21/22	Brightside Up, Inc. (formerly Capital District Child Care Coordinating Council) 91 Broadway Menands, NY 12204	A6010.04900	Not to exceed \$130,829.00

; now, therefore, be it

RESOLVED, That the Rensselaer County Executive, or his designee, is authorized to sign the above-referenced agreement subject to the approval as to form by the Rensselaer County Attorney.

Resolution ADOPTED by the following vote:

Ayes:

Nays:

Abstain:

August 9, 2022

Clerk of the Legislature

Sent to County Executive _____

Received from County Executive _____

Clerk of the Legislature



Executive Action

Approved _____ Date _____

Disapproved _____
Veto Message Attached and Returned to Clerk

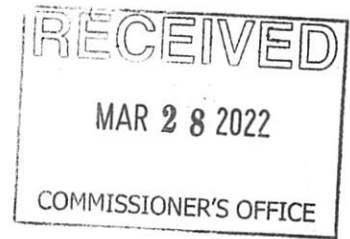
County Executive



**Office of Children
and Family Services**

KATHY HOCHUL
Governor

SHEILA J. POOLE
Commissioner



March 24, 2022

Dear Commissioner's Office:

Please find enclosed a signed copy of your 2022 MOU for Registration. Please pardon the delay in our office getting this signed copy back to you.

If you have any questions or concerns regarding this MOU, please call or email your local Regional OCFS office or reach out to the Contract Unit at the below phone and email.

Again, thank you for your office's patience during this time.

Sincerely-

Shondra Frazier

Shondra Frazier

Child and Family Specialist I

Office of Children and Family Services
Division of Child Care Services
52 Washington Street
309 South Building
Rensselaer, NY 12144
518-473-0677

APPENDIX X

MODIFICATION AGREEMENT

Agency Code: 25000

MOU: 2301

Period: 1/01/2022 to 12/31/2022


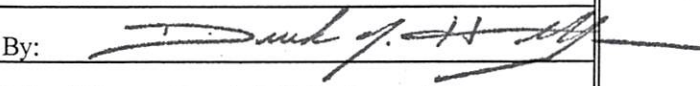
Funding Amount for Period \$130,829.00

<input type="checkbox"/> This MOU is funded with non-Federal funds only
<input checked="" type="checkbox"/> This MOU is funded in whole or in part with Federal funds (see Appendix A3, paragraph 14 for Federal audit information)
<input checked="" type="checkbox"/> OCFS has determined that the Contractor is NOT a sub recipient
<input type="checkbox"/> OCFS has determined that the Contractor is a sub recipient
The Federal Funds for this contract are from CFDA Number(s): 93-575

This is an AGREEMENT between THE STATE OF NEW YORK, acting by and through the Office of Children and Family Services, having its principal office at 52 Washington Street, Rensselaer, New York 12144 (hereinafter referred to as the STATE), and Rensselaer County Department of Social Services (hereinafter referred to as the CONTRACTOR), for modification of MOU 2301, as amended in attached Appendix(ices) C-1, and D.

All other provisions of said agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the dates appearing under their signatures.

CONTRACTOR SIGNATURE	STATE AGENCY
Contractor: <u>Rensselaer County Department of Social Services</u>	Office of Children and Family Services
By: 	By: 
Printed Name: <u>Theresa A. Beaudoin</u>	Printed Name: Derek J. Holtzclaw
Title: <u>Commissioner</u>	Title: Deputy Commissioner for Administration
Date: <u>12/16/2021</u>	Date: <u>3/3/22</u>
	<u>State Agency Certification</u> "In addition to the acceptance of this mou, I also certify that original copies of this signature page will be attached to all other exact copies of this mou."

MUNICIPAL CORPORATION:

STATE OF NEW YORK

SS.:

County of)

On the 16th day of Dec, 2021, before me personally appeared Theresa Beaudoin to me known, who being by me duly sworn, did depose and say that he/she resides at 127 Bloomingrove Dr. Troy, NY 12180, that he/she is the commissioner of the Rensselaer County DSS, the municipal corporation described herein which executed the foregoing instrument; and that he/she signed his/her name thereto by order of the governing board of said municipal corporation.

Sarah M. Fasano (Notary)

My Commission expires: 12/2/23

SARAH M. FASANO
NOTARY PUBLIC, State of New York
No. 01FA6401093
Qualified in Rensselaer County
Commission Expires December 2, 2023

SARAH M. FABANO
NOTARY PUBLIC, State of New York
No. 01FA640103
Qualified in Rensselaer County
Commission Expires December 2, 20

Appendix C-1
Standard Performance Levels
Payment Schedule

CONTRACTOR Name: Rensselaer County Department of Social Services

CONTRACT Period: 01/01/22 to 12/31/22

\$32,707.25, per quarter will be paid to the Contractor, for a maximum of four (4) quarters, not to exceed the Maximum Funding Amount for the contract period of **\$130,829.00**, for an acceptable level of compliance for all Quarterly Standard Performance Levels as specified in this Appendix C-1. A quarterly program review will be conducted by the Division of Child Care Services (DCCS), after the end of the applicable quarter, to determine if the Contractor has reached an acceptable level of compliance for the quarter. The determination of whether a Contractor met an acceptable level of compliance for each Quarterly Standard Performance Level will be based on the Contractor's compliance with all applicable timelines, operating procedures and other requirements as set forth in Office regulations and policies and the Child Care Facility System (CCFS) Users' Manual, which are deemed to be incorporated herein by reference.

Payment will be made upon approval by the Office for the number of achieved standard performance levels, as defined in Appendix C-1. If the Office determines that the Contractor has not met the acceptable Quarterly Standard Performance Level for a particular activity during a quarter, the applicable percentage set forth herein for that Quarterly Standard Performance Level will be withheld and the amount paid to the Contractor for the quarter will be reduced accordingly. The Office may completely waive the reduction for a particular unmet Quarterly Standard Performance Level based upon a written request submitted by the Contractor demonstrating that such failure was due to extraordinary or unforeseen circumstances. The Office shall notify the Contractor in writing of the Office's approval of any such waiver request, or shall notify the Contractor of the Office's disapproval of any such waiver request and delineate the reasons for such disapproval.

Quarterly Standard Performance Level – Initial Registrations/Licenses

The Contractor will process initial registration/licensing applications within 90 days of receipt of completed applications, including providing applicants with all appropriate notifications regarding the status of the applications. The acceptable resolution categories are: approved, withdrawn, and referred to enforcement for denial. The Quarterly Standard Performance Level for initial registrations/licenses for an acceptable level of compliance is 95%. Performance will be assessed by DCCS upon review of quarterly data from CCFS. If at least 95% of the previous quarter's Quarterly Standard Performance Level for initial registrations/licenses is not met, 10% of the quarterly contract amount will be withheld.

Quarterly Standard Performance Level – Renewals of Registrations/Licenses

The Contractor will process completed applications for renewals of registrations/licenses, including providing providers with all appropriate notifications regarding the renewal process, prior to the applicable registration/license lapse date or will initiate enforcement action.

All renewals of Family Day Care, School-Age Child Care, and, in New York City only, Group Family Day Care will include a renewal inspection as required by regulation. The Quarterly Standard Performance Level for renewals of registrations/ licenses for an acceptable level of compliance is 95%. Performance will be assessed by DCCS upon review of quarterly data from CCFS. If at least 95% of the previous quarter's Quarterly Standard Performance Level for renewals of registrations/licenses is not met, 10% of the quarterly contract amount will be withheld.

Quarterly Standard Performance Level – Complaint Investigations

The Contractor will initiate complaint investigations within the required time frames and make determinations on the complaints within 60 days of receipt of the complaint. The Quarterly Standard Performance Level for complaint investigations for an acceptable level of compliance is 95%. Performance will be assessed by DCCS upon review of quarterly data from CCFS. If at least 95% of the previous quarter's Quarterly Standard Performance Level for complaint investigations is not met, 10% of the quarterly contract amount will be withheld.

Quarterly Standard Performance Level – Safety Assessments

The Contractor will conduct safety assessments based on the categories of arrests/convictions and submit the assessments to DCCS within the required time frames. The Quarterly Standard Performance Level for safety assessments for an acceptable level of compliance is 100%. Performance will be assessed by DCCS upon review of quarterly data from CCFS. If 100% of the previous quarter's Quarterly Standard Performance Level for safety assessments is not met, 10% of the quarterly contract amount will be withheld.

Quarterly Standard Performance Level – Annual Inspections

The Contractor will conduct one quarter of the required annual inspections for Family Day Care, School-Age Child Care, and, in New York City only, Group Family Day Care programs and complete all required documentation. The Quarterly Standard Performance Level for annual inspections for an acceptable level of compliance is 100%. Performance will be assessed by DCCS upon review of quarterly data from CCFS. If 100% of the Standard Performance Level for Annual Inspections is not met at the completion of the four quarters, 10% of the contract amount will be withheld.

Quarterly Standard Performance Level – Mid-Point Requirements

The Contractor will process completed reviews of mid-point documentation, including providing providers with all appropriate notifications regarding the mid- point requirements. The Contractor will conduct mid-point inspections for Family Day Care, School-Age Child Care, and, in New York City only, Group Family Day Care programs and complete all required documentation within the required timeframes pursuant to current policy and procedures. The Quarterly Standard Performance Level for mid-point requirements for an acceptable level of compliance is 95%. Performance will be assessed by DCCS upon review of quarterly data from CCFS. If at least 95% of the Quarterly Standard Performance Level for mid-point requirements is not met each quarter, 10% of the quarterly contract amount will be withheld.

Quarterly Standard Performance Level – On-Site Case and Management Review

For on-site case review, the Contractor will provide appropriate registration, licensing, and monitoring activities, maintain appropriate case files and make appropriate entries into CCFS in

the time, manner and form required by the Office. The on-site case review will include a review of a sample of case files regarding initial applications, renewal applications, mid-point requirements, annual inspections, complaint investigations and other investigations chosen in accordance with a consistent sampling framework to determine whether: Office policies, procedures, and regulations are applied accurately; required observations are made during inspections and investigations; all applicable entries are made in case files and/or CCFS; proper notifications are given to providers and parents, where applicable, within the required time frames, including issuance of the final CCFS inspection report within 10 days after the inspection being conducted; each facility has the required comprehensive background check approvals and are entered into CCFS upon receipt; inspections are conducted along with exit interviews with the provider prior to inspector's departure, when appropriate, to verify compliance with any corrective action plans and/or continued regulatory violations; appropriate and timely enforcement referrals are made and appropriate and timely follow-up activities are conducted in accordance with Office policies and directions, including cooperating with the Office's Division of Legal Affairs on enforcement activities and, when determined necessary by the Office, testifying at fair hearings and/or court proceedings and assisting the Office in responding to litigation. The Contractor shall not revise or alter Office policy/procedures or create its own policy/procedure without receiving prior approval in writing from the Office. The Quarterly Standard Performance Level for an acceptable level of compliance for an individual on-site case review is 100% of statutory items and 75% of non-statutory items. The Quarterly Standard Performance Level for an acceptable level of compliance for on-site case review in total is 90%. Performance will be assessed by DCCS upon review of quarterly data from CCFS. If at least 90% of the previous quarter's Quarterly Standard Performance Level for on-site case review is not met, 10% of the quarterly contract amount will be withheld.

The management review will include a review of other documentation to determine whether identified registration/licensing staff have: participated in any mandatory training as required by the Office related to the performance of registration/licensing duties and management and supervisory sessions on a regional and Statewide basis, as required; provided technical assistance in regard to the start-up of new programs, compliance with existing programs and information on available training and funding resources applicable to Family Day Care, School-Age Child Care, and, in New York City only, Group Family Day Care programs; and provided parents and the general public with access to information regarding the compliance history of all regulated providers, as required. Not less than annually, the Contractor will report to the Office the evidence of risk-based assessment outcomes for identified programs, if applicable. In addition, the Contractor will participate in Office Quality Indicator initiatives and any inter-rater reliability studies conducted by the Office. The Quarterly Standard Performance Level for an acceptable level of compliance for management review is 100%. Performance will be assessed by DCCS upon review of quarterly data from CCFS. If 100% of the previous quarter's Quarterly Standard Performance Level for management review is not met, 10% of the quarterly contract amount will be withheld.

Quarterly Standard Performance Level– Approved Staffing Plan

The Contractor will maintain the Office-approved Contractor staffing plan, including the percentage of time each staff works on the project, during the quarter. In addition, the DCCS Regional Office Manager is to be notified by the Contractor of the registration/licensure and

inspections coverage plan when the registrar's office is unavailable during regular business hours. In the event of a staff vacancy, the date of the occurrence is to be reported to the Office's respective DCCS Regional Office Manager. The Contractor will be allowed a five-month period from the date the vacancy was created to fill the vacancy and bring staffing back up to the approved level. The Contractor is to provide DCCS with the dates of hire, names of the staff assigned to register and license day care programs and the percentage of time those staff work on the program. The Office will review the qualifications of those staff members as part of the quarterly on-site case and management review and when otherwise requested by DCCS to determine if the qualifications are reasonable for providing the registration and inspection services. The Quarterly Standard Performance Level for approved staffing plan for an acceptable level of compliance is 100%, with the exception of any vacancies that are less than five months old at the end of the quarter. Performance will be assessed by DCCS based upon the quarterly on-site case and management review. If 100% of the previous quarter's Quarterly Standard Performance Level for approved staffing plan is not met, not counting vacancies that are less than five months old at the end of the quarter, 10% of the quarterly contract amount will be withheld. However, the amount withheld may not exceed the value of the personnel costs for the unfilled position(s).

DESIGNATED PAYMENT OFFICE

Program Office: Division of Child Care Services

Program Area: Contract Unit

Address: 52 Washington Street

South Building, Room 309

Rensselaer, New York 12144

APPENDIX D

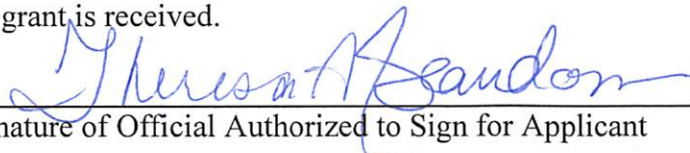
NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES
DIVISION OF CHILD CARE SERVICES

1. PROJECT TITLE : REGISTRATION
2. TYPE OF APPLICATION: NEW CONTINUATION AMENDMENT
3. AMOUNT OF FUNDS REQUESTED: \$130,829.00
 1. PROJECT PERIOD: 1/01/2022 to 12/31/2022
5. ORGANIZATIONAL NAME & ADDRESS:
Rensselaer County Department of Social Services
127 Bloomingrove Drive
Troy, New York 12180 Tel #: (518) 833-6000
6. CONTACT NAME: Theresa A. Beaudoin
TITLE: Commissioner
PHONE: (518) 833-6005
E-MAIL ADDRESS: Theresa.Beaudoin@dfa.state.ny.us
7. INDIVIDUAL(S) AUTHORIZED TO SIGN FOR APPLICANT:
PRIMARY NAME: Theresa A. Beaudoin PHONE# (518)833-6005
PRIMARY TITLE: Commissioner
8. NAME OF PROJECT DIRECTOR: Timothy Bazyk
TITLE: Supervisor
PHONE: (518) 833-6190
LOCATION ADDRESS: 127 Bloomingrove Drive Troy, New York 12180
E-MAIL ADDRESS: Timothy.Bazyk@dfa.state.ny.us
9. INDIVIDUAL TO WHOM PAYMENT SHOULD BE DIRECTED:
NAME: Janis Randall
TITLE: Accounting Supervisor
PHONE: (518) 833-6108
LOCATION ADDRESS: 127 Bloomingrove Drive, Troy, New York 12180
E-MAIL ADDRESS: Janis.Randall@dfa.state.ny.us
- A. MUNICIPALITY NUMBER : 380100000
- B. CHARITABLE REGISTRATION NUMBER: Exempt
- C. DUNS# 080469091

10. Agreement:

It is understood and agreed to by the applicant that: (1) Funds granted for this project will be used only for the conduct of the project as approved. (2) The grant may be terminated in whole, or in part, by the Office. Such termination shall not affect obligations incurred under grant prior to the effective date of such termination. (3) When funds are advanced, any unexpended balance at the end of the approval period will be returned. (4) Any significant revision of the approved project proposal will be requested in writing by the grantee prior to enactment of the change. (5) Progress reports will be submitted as required by the Office. The final program and financial reports will be submitted within a specified time period after the project terminates. Necessary records and accounts, including financial and property controls, will be maintained and made available to the Office for audit purposes. (6) All reports of investigations, studies, publications, etc. made as a result of this proposal will acknowledge the support provided by Office. (7) All personal information concerning individuals served or studies conducted under the project is confidential and such information may not be disclosed to unauthorized persons. (8) The Office reserves a royalty free non-exclusive license to use and authorize others to use all copyrighted material resulting from this project.

The applicant certifies that to the best of his/her knowledge and belief the information in this application is true and correct, and that he/she will comply with the above agreement if the grant is received.



12/16/2021

Signature of Official Authorized to Sign for Applicant

Date

Theresa A. Beaudoin
Commissioner

Name and Title (typed)

PROJECT SUMMARY

On the page below, please describe in (200 words or less) the objectives of the project, and what services will be provided. This summary may be used by the Office of Children and Family Services in various public announcements.

A. Processing Registration Applications

1. Brightside Up Inc. (Formerly known as The Capital District Child Care Coordinating Council, CDCCCC or the Child Care Council) will conduct FDC Information Sessions in locations convenient to bus lines and in lower income neighborhoods. For those individuals or agencies interested in opening school-age programs, technical assistance about the process will be provided on a one-to-one basis. These sessions are offered by Brightside Up, Inc. to potential providers desiring general technical assistance to determine the viability of starting a FDC or SACC business. This Information Session is not a requirement by the NYSOCFS.
2. Registration/Orientation sessions have been conducted at the below sites and Brightside Up, Inc. anticipates using those sites for Information Sessions when needed:
 - Margaret Krauss Ctr. 2213 Burdett Avenue, Troy
 - East Greenbush Library, Community Way, East Greenbush
 - Rural Rensselaer County Council for Human Dev. Church Street, Hoosick Falls
 - Brightside Up, 91 Broadway in Menands which is accessible by public transportationOther sites as identified by current need
3. Upon a request for a family day care application from a prospective provider, staff at Brightside Up, Inc. will forward that request to the NYS OCFS, which will send out the application. For those individuals who need help in completing the application packet, technical assistance in response to specific questions will be given over the telephone. Applicants are also welcome to visit the Brightside Up, Inc. office and receive technical assistance from one of ten staff members who work on family day care registration in the Capital Region as well as the four staff members who are involved in family day care development. On a limited basis, a staff member may arrange to visit the home of a potential provider to provide technical assistance. Brightside Up, Inc. has two staff who are fluent in Spanish who can provide assistance. Potential applicants are also encouraged to call the agency on the number (800) 521-KIDS if they do not have telephone access. The agency also has four Notary Publics on staff who can verify a signature for the required notarization on the application. Brightside Up, Inc. has developed a packet of materials which consists of the health and safety grant application, information for ordering forms to be used in the family day care business, and technical assistance tip sheets (including taxes, insurance, process time line, and start-up expenses) in starting the business. These materials are provided for every participant at an Information Session.

Other supports include information about purchasing such items as receipt books, contract and policy handbooks, *Calendar Keepers* for business record management, etc. Copies of these publications are also available from Brightside Up's Resource Lending Library.

4. Applications will be reviewed to insure that information has been filled out completely. If documentation is not complete, the Registrar will call the applicant or send a letter if the applicant cannot be reached by telephone. The State Central Registry clearance form will be mailed to the Registry. To check references, letters will be mailed to those individuals listed. If a letter is returned as undeliverable, calls will be made to the references. Brightside Up also assists applicants, household members, and staff to initiate a Criminal History Background Check. Brightside Up provides technical assistance with the live scan fingerprinting process by helping individuals make appointments, find print locations and/or navigate the website.
5. Form letters are mailed out to providers within five days of receipt of their initial or renewal applications to notify them of their application status.
6. A computerized data base has been developed to monitor expiration dates of providers' registrations. Providers will be notified with a form letter and registration renewal packet mailed out 120 days prior to the expiration of their registrations.
7. Applications will be evaluated according to the provider's documentation of meeting criteria such as: Health requirement verifying that the provider has received a physical examination by a medical practitioner and a documented TB test, and that the providers' children and other residents of the home do not have health conditions which could endanger the children in the family day care
Safety requirement verifying an inspection of a gas space heater, wood burning stove, fireplace, or well/spring water (if the family day care home does not have municipal water)
References attesting to the provider's ability to provide child care
State Central Registry of Child Abuse and Maltreatment clearing the name of the applicant and other residents of the home who are eighteen years of age or over
Criminal History Record Check by the Division of Criminal Justice Services of applicants, household members, and staff, Environmental hazards statement
Health care and evacuation plan
A recommendation of approval or disapproval of a registration application will then be made to the Albany Regional Office of the Division of Child Care Services

B. Conducting Investigations and Tracking Complaints

1. The Registrars will conduct an initial inspection at the site of each potential registered FDC home and SACC site. At least 50% of the existing sites will be inspected annually. Inspections will be carried out according to guidelines established by the NYS Office of Children and Family Services for Registered Family Day Care Home

and School-Age Program Inspections. At each of these unannounced inspection visits (Initial, Renewal and 50% inspection visits are announced), a full compliance study will be made according to the established guidelines. As part of the compliance assessment, minor violations will be noted and technical assistance provided for correcting violations. Violations of a more serious nature will be referred to the Albany Regional Office of the Division of Child Care Services for enforcement. A safety assessment will be conducted upon receipt of a criminal record to aid in the determination of potential enforcement action.

2. Upon receiving a complaint from the Albany Regional Office, the Registrar will visit the family day care home or school-age program within twenty-four hours if the complaint indicates that children may be in imminent danger. Serious complaints will be investigated within five days. In all other instances, inspection visits will be made within fifteen days of receiving the complaint (including programs that have failed to register).

During the on-site visit, an assessment will be made to substantiate if the complaint is a minor violation or of a serious nature. For minor violations, technical assistance will be provided to correct the condition. If the complaint is considered serious, it will be referred immediately to the Albany Regional Office for enforcement. After an enforcement action, multiple monitoring visits are conducted by the Registrar according to the guidelines established by the NYSOCFS.

While a complaint is being investigated, no public referrals (NPR) will be made to the family day care providers' home or school-age program according to guidelines established for complaint procedures by the Office of Children and Family Services. When a complaint is resolved, the NPR status will be removed and referrals made to the program.

A letter will be hand-delivered to an unregistered provider (who exceeds the legal number of children) informing the caregiver of the option to become registered, the benefits of becoming registered, start-up funding availability, etc. If the provider desires to remain unregistered, information will be given about operating a child care business for only two children on an informal basis which is legally exempt from regulation. If the provider desires to remain unregistered and refuses to take the corrective action of reducing the number of children in care, the matter will be turned over to the Albany Regional Office for enforcement.

3. Upon receipt of the renewal application, if there are unresolved regulatory violations, complaints, or the provider has failed to meet mandated training requirements, an unannounced site visit may be made. If through technical assistance, a plan for corrective action cannot be developed, the matter will be referred to the Albany Regional Office for enforcement.

4. A computerized data base will be maintained for each provider to track inspection reports, compliance documentation, or corrective actions. In addition to this database, information will be retained on paper in files for individual providers.

When Brightside Up, Inc. receives a complaint regarding regulatory violations or child abuse/neglect, the person will be given the appropriate number to call at the Albany Regional Office as required by state policy. If a complaint involves a non-regulatory matter and is of a personal nature such as payment of fees, the Registrar and other Child Care Council staff working in this program area will offer technical assistance concerning contracts between providers and parents, program policies, etc.

5. Brightside Up, Inc. will conduct the required number of Mid-Point Requirements for Family Day Care and School Age Child Care programs and complete all required documentation review and appropriate notices and mandatory inspections within the required timeframes. The Quarterly Standard Performance Level for Mid-Point Requirements for an acceptable level of compliance is 95%. The acceptable level of compliance will be determined by DCCS upon review of quarterly data from CCFS. If at least 95% of the Performance Level for Mid-Point Requirements is not met each quarter, 2% of the quarterly contract amount will be withheld. These inspections will be documented accordingly.

C. Provider Grievances

The Registrar will inform providers that Brightside Up, Inc. has a grievance procedure which providers may use to present grievances about the operation of the Family Day Care Registration Services program and the right of the provider to appeal. Brightside Up, Inc will inform providers and the Local County Department of Social Services of this right.

According to Family Day Care licensing regulations 417.18 and School-Age Child Care licensing regulations 414.18 (Enforcement of Regulations and Hearings), a family day care provider or school-age program has the right to a hearing to determine if the provider/program has failed to comply with applicable law and regulation. After the hearing, determinations are made to reject, revoke, terminate, suspend, limit registration, or impose civil penalties.

D. Outreach to Lower Income Neighborhoods

Outreach to lower income neighborhoods will be an extension of the promotional work that Brightside Up, Inc. currently does to advertise information sessions and its Health and Safety Grant Start-up Program for family day care providers. Brightside Up, Inc. will continue to network with community based agencies in Rensselaer County. Outreach activities will include placing information in community based newsletters, posting fliers, participating in community fairs and events, and meeting with agencies and local groups such as:

Cornell Cooperative Extension of Rensselaer County
Capital District Educational Opportunity Center
Residents groups within the Troy Housing Authority
Neighborhood Associations in Troy and Rensselaer

E. Documentation

Brightside Up, Inc. will provide reports, written assessments, or other documentation as required by the NYS Office of Children and Family Services, Albany Regional Office, and Rensselaer County Department of Social Services. The agency will maintain any additional books, documents, or records as required by federal, state, or county governments for inspection, review, or audit.

F. Compliance

Brightside Up, Inc. will comply with all current and subsequent rules, regulations, and laws pertaining to the provision of the registration program services.

G. Staffing

Brightside Up, Inc. will assure that appropriate staff provides registration services, information programs, investigations, inspections and complaint investigations. These activities will be subject to monitoring by the Rensselaer County Department of Social Services. Any and all documentation associated with these program activities will be made available to the Rensselaer County Department of Social Services upon request.

H. Cooperation and Participation

Brightside Up, Inc. will cooperate and participate in any endeavors incident to the delivery of the registration program services, including but not limited to testimony for fair hearings, grievance hearings and notices thereof to recipients, reports, surveys, studies, audits, court or judicial proceedings and any other matters of procedures.

Other Relevant Information

Brightside Up, Inc. has been successfully providing Registrar Services for Albany County for several years. As part of the four-county (Albany, Rensselaer, Saratoga, and Schenectady) network, Brightside Up is able to provide full services including registration, training, CACFP, and Health and Safety grants to existing and potential family day care providers and school-age child care sites.

LEGISLATIVE FISCAL IMPACT STATEMENT

Type of Legislation: Local Law: _____ G Resolution: P Resolution: _____

Title of Legislation: RESOLUTION AUTHORIZING AN AGREEMENT WITH BRIGHTSIDE UP, INC.

Requested by: Social Services

Sponsor(s): _____

FISCAL IMPACT

- 1) Projected cost of proposed legislation, if any: \$ 130,829 current year
\$ _____ ongoing expenses per year

- 2) Method of financing – note all that apply (federal funding, state funding, bonding, tax levy, etc.): 100% Federal reimbursement
 - a) For federal funding: amount \$ 130,829 and length of time federal funding is available Subject to federal budgets. Is it available for ongoing expenses?
Yes or No _____

 - b) For state funding: amount \$ _____ and length of time state funding is available _____. Is it available for ongoing expenses?
Yes _____ or No _____

 - c) If bonded, state amount of total indebtedness this legislation will create and projected interest cost over the course of borrowing:
Principal \$ _____
Total projected interest costs \$ _____

 - d) Tax levy impact for current year \$ 0 and ongoing \$ _____

 - e) Other (please explain) \$ _____

- 3) Is this expense or program mandated? Yes No _____

- 4) Length of expense or project (one time only, ongoing, etc.): ongoing

- 5) Justification for the appropriation/expenditure requested. Include any revenue this will produce or any expense that will be avoided:
Brightside Up, Inc. fulfills New York State's requirements of fingerprinting, criminal history record check, employment history documentation, personal & employment references & State Central Register Child & Abuse screening. The County is reimbursed by the State when Brightside Up, Inc. satisfies the requirements set forth in the contract & then processes payment to Brightside Up, Inc.

Department Head

Michael P. McMahon