

Contract No. _____

MONROE COUNTY
JumpstARTS MONROE PROGRAM
GRANT AGREEMENT

This Grant Agreement is made this ____ day of _____ 2021, by and between:

MONROE COUNTY, a municipal corporation duly organized and existing under the laws of the State of New York (the "County"), having its principal offices at 39 West Main Street, Rochester, New York 14614, and _____ ("Grantee"), with a location in _____ ("Arts Location").

WHEREAS, the County was allocated funding through the Coronavirus Aid, Relief, and Economic Security (CARES) Act fundings; and

WHEREAS, the purpose of this economic relief package is to protect people from the public health and economic impacts of COVID-19; and

WHEREAS, the CARES Act provides fast and direct economic assistance for American workers, families, and small businesses, and preserves jobs for our American industries and provides for payments to local small businesses adversely impacted by the COVID-19 outbreak via the Coronavirus Relief Fund; and

WHEREAS, the United States Department of Treasury has issued guidelines and interpretations with regard to the authorized use of funds allocated to local governments under the CARES Act; and

WHEREAS, under the CARES Act, should the Office of the Inspector General determine that the funds were used in a manner contrary to the intent of the Congress or contrary to the United States' Department of Treasury guidelines and interpretations, the CARES Act provides that the federal government may recoup the improperly spent funds from the County; and

WHEREAS, this Grant Agreement is intended to assist local small businesses adversely effected by the COVID-19 pandemic and the government and private responses to contain the pandemic; and

WHEREAS, the County, is the jurisdiction responsible for disbursement of funds under the CARES Act and finds that it is appropriate to use these funds to defray certain costs incurred by the business related to the coronavirus emergency; and

WHEREAS, County has developed the JumpstARTS Monroe Program which is an emergency small business support program (the "Program") to assist the arts and cultural organizations (collectively the "Arts") with annual operating budgets of less than Two Million and 00/100 Dollars (\$2,000,000), to pay for COVID-19 related costs including lost revenue, incurred between March 20, 2020 and June 30, 2021(collectively "Eligible Expenses"); and

WHEREAS, Grantee has requested assistance for costs and expenses contained in the definition of Eligible Expenses; and

WHEREAS, County has approved the Eligible Expenses and will provide CARES Act funding subject to the terms and condition of this Grant Agreement; and

WHEREAS, County requires this Grant Agreement be executed by any Grantee who receives CARES Act funding through the Program and agrees to comply with the requirements of the CARES Act and the Program prior to County dispersing such funds.

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

ARTICLE I RECITALS AND PURPOSE

A. Recitals Incorporated

The recitals set forth above are incorporated in this Grant Agreement by reference and made a part of this Grant Agreement.

B. Purpose.

The purpose of this Grant Agreement is to establish a contractual relationship between Grantee and the County, following disbursement of the proceeds with regards to a Grant hereunder ("Grant") to cover Eligible Expenses of the Grantee associated with the coronavirus emergency from federal CARES Act Funds which the United States Federal Government has disbursed to the County. This Grant Agreement shall remain in effect between the parties to govern the form of application for the Grant, the review of the application, the criteria for Eligible Expenses, the retention of documents, and other material terms governing the processing of Grant applications and subsequent review of use of the Grant proceeds.

ARTICLE II THE GRANT

A. AMOUNT OF GRANT: up to _____ and 00/100 Dollars (\$_____)

- 1.) The County reserves the right to reduce the amount of this Grant by the amount, if any, by which the Eligible Expenses, is less than the Grant Amount.
- 2.) Grantee shall use the Grant funds only for Eligible Expenses, and for no other purpose.
- 3.) Grantee shall immediately repay any amounts not used for Eligible expenses on or before August 31, 2021.

B. DISBURSEMENT: Upon receipt of this Agreement, executed by Grantee, the County shall disburse the proceeds of the Grant, via an ACH Payment, to Grantee in a single, lump-sum payment.

C. TERM: The Term of the Grant is twenty-four (24) months commencing as of the first day of the first month after the date of this Grant Agreement.

ARTICLE III THE GRANTEE CERTIFICATIONS

- A. The obligation of the County to make the Grant to Grantee is subject to Grantee certifying:
- 1.) Grantee's operations are located at the Arts Location, in Monroe County.
 - 2.) Grantee's business is a qualified business involved in the Arts and is able to participate in the Program.

- 3.) Grantee will use the Grant funds only to pay or reimburse itself for Eligible Expenses.
- 4.) Grantee, and if applicable, its officers, are current on all real property, federal, state, sales, franchise, income and withholding taxes.
- 5.) If Grantee is a corporation, it is duly organized, validly existing and is in good standing under the laws of the State of New York with all requisite corporate power and authority to enter into this Grant Agreement and to carry on its obligations hereunder,
or
if Grantee is a limited liability company it is duly organized, validly existing and in good standing under the laws of the State of New York with all requisite power and authority to enter into this Grant Agreement and to carry on its obligations hereunder.
- 6.) No member, partner, officer, or employee of the County or its designees, nor agents, or consultant, who exercises or has exercised any functions or responsibilities with respect to Grantee, during his or her tenure, shall have any interest, direct or indirect, in any contract or subcontract, the proceeds thereof, or for work to be performed in connection with Grantee.
- 7.) Grantee and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any Federal department or agency.
- 8.) Grantee and its principals have not within a three (3) year period preceding this transaction/application/ proposal/contract/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
- 9.) Grantee and its principals are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in this certification.
- 10.) Grantee and its principals have not within a three (3) year period preceding this agreement had one or more public transactions (Federal, State or local) terminated for cause or default.
- 11.) Grantee shall only use the Grant proceeds for Eligible Expenses incurred after March 1, 2020.

- 12.) Grantee's wiring instructions set forth in **Exhibit "A"** are accurate.
- 13.) Grantee has not:
 - a.) Applied for or consented to the appointment of or the taking of possession by a receiver, custodian, trustee, or liquidator of itself or of all or a substantial part of its property;
 - b.) Admitted in writing its inability, to pay its debts as such debts become due;
 - c.) Made a general assignment for the benefit of its creditors;
 - d.) Commenced a voluntary action under the Federal Bankruptcy Code (as now or hereafter in effect);
 - e.) Filed a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts;
 - f.) Failed to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against itself in an involuntary case under the Federal Bankruptcy Code; or
 - g.) Taken any action for the purpose of effecting any of the foregoing.
- 14.) Grantee shall not use the Grant proceeds for any expense which Grantee has submitted or will submit to any other entity, whether public or private, for reimbursement. Should Grantee at any time receive reimbursement for any expense for which the Grant proceeds have been already used, Grantee shall within 14 days refund those Grant proceeds to the County.
- 15.) The expenses for which it is seeking reimbursement under the Program arise from the economic harm suffered by Grantee as a consequence of the COVID-19 emergency.
- 16.) Grantee is not a charity or registered non-profit entity.
- 17.) If Grantee hires an attorney, accountant or other entity, Grantee shall pay all fees associated with such third party and will not use any portion of the Grant proceeds to pay any such fees.
- 18.) The representations it made in the application for this Grant are being relied upon by the County in making this Grant and complying with the terms of the CARES Act.
- 19.) All of the representations of Grantee made in its application are incorporated herein by this reference.
- 20.)

OR for corporations serving as fiduciaries for unincorporated boards, commissions, or organizations.

ARTICLE III
THE GRANTEE CERTIFICATIONS

A. The obligation of the County to make the Grant to Grantee is subject to Grantee certifying:

- 1.) The Commission's operations are located at the Arts Location, in Monroe County.
- 2.) If the Commission uses Grantee as a fiduciary, it is a qualified organization, involved in the Arts, and is able to participate in the Program.
- 3.) Grantee will ensure the Commission will use the Grant funds only to pay or reimburse itself for Eligible Expenses.
- 4.) Grantee, has performed the due diligence to opine that the Commission, and if applicable, its officers, are current on all real property, federal, state, sales, franchise, income and withholding taxes.
- 5.) If Grantee is a corporation, it is duly organized, validly existing and is in good standing under the laws of the State of New York with all requisite corporate power and authority to enter into this Grant Agreement and to carry on its obligations hereunder,
or
if Grantee is a limited liability company it is duly organized, validly existing and in good standing under the laws of the State of New York with all requisite power and authority to enter into this Grant Agreement and to carry on its obligations hereunder.
- 6.) No member, partner, officer, or employee of County or its designees, nor agents, or consultant, who exercises or has exercised any functions or responsibilities with respect to Grantee or the Commission, during his or her tenure, shall have any interest, direct or indirect, in any contract or subcontract, the proceeds thereof, or for work to be performed in connection with Grantee or the Commission.
- 7.) Grantee, the Commission and either entities' principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any Federal department or agency.
- 8.) Grantee, the Commission and either entities' principals have not within a three (3) year period preceding this transaction/application/ proposal/contract/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State

antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.

9.) Grantee, the Commission and either entities' principals are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in this certification.

10.) Grantee, the Commission and either entities' and its principals have not within a three (3) year period preceding this agreement had one or more public transactions (Federal, State or local) terminated for cause or default.

11.) Grantee shall ensure the Commission only uses the Grant proceeds for Eligible Expenses incurred after March 1, 2020.

12.) Grantee's wiring instructions set forth in Exhibit "A" are accurate.

13.) Grantee has not:

a.) Applied for or consent to the appointment of or the taking of possession by a receiver, custodian, trustee, or liquidator of itself or of all or a substantial part of its property;

b.) Admitted in writing its inability, to pay its debts as such debts become due;

c.) Made a general assignment for the benefit of its creditors;

d.) Commenced a voluntary action under the Federal Bankruptcy Code (as now or hereafter in effect);

e.) Filed a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts;

f.) Failed to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against itself in an involuntary case under the Federal Bankruptcy Code; or

g.) Taken any action for the purpose of effecting any of the foregoing.

14.) Grantee shall ensure that use the Grant proceeds will not be used for any expense which Grantee has submitted or will submit to any other entity, whether public or private, for reimbursement. Should Grantee or the Commission at any time receive reimbursement for any expense for which the Grant proceeds have been already used, Grantee shall within 14 days refund those Grant proceeds to the County.

15.) The expenses for which it is seeking reimbursement under the Program arise from the economic harm suffered by the Commission, as a consequence of the COVID-19 emergency.

16.) If Grantee or the Commission hires an attorney, accountant or other entity, Grantee or the Commission shall pay all fees associated with such third party and will not use any portion of the Grant proceeds to pay any such fees.

17.) The representations it made in the application for this Grant are being relied upon by the County in making this Grant and complying with the terms of the CARES Act.

18.) All of the representations of Grantee made in its application are incorporated herein by this reference.

ARTICLE IV COVENANTS OF GRANTEE

- A. Grantee shall comply with all terms and conditions of this Grant Agreement including the **Appendix "A"** attached hereto which contains the standard clauses for all Monroe County contracts and is hereby made a part of this Grant Agreement as set forth fully herein.
- B. Grantee shall obtain, or cause to be obtained, all federal, state, and local governmental approvals and permits required by law to be obtained by Grantee in carrying out the project funded with the Eligible Expenses.
- C. Grantee shall comply, or cause there to be in compliance, with all the rules and requirements of the CARES Act funding through the U.S. Department of Housing and Urban Development, including but not limited to the specific requirements set forth in this Agreement.
- D. Grantee further agrees grant representatives from the County and any other governmental entity with an interest in the Program, the Program funding, access to the Arts Location at all reasonable times for any reasonable purpose.
- E. Grantee shall use, or cause to be used, the Grant proceeds exclusively for the purposes permitted under the CARES Act, the United States Department of the Treasury guidelines and interpretations, as currently exist or as may be amended and supplemented in the future, the County guidelines, and as set forth in the on-line application used in the Program. In order to achieve the County's approval of the Grantee's use of the Grant proceeds provided hereunder, Grantee agrees to submit the forms, certifications and documentation as may be

required by the County, in its sole and absolute discretion, which document any expense for which Grantee has used or will use by June 30, 2021, the Grant proceeds under this Grant Agreement. Grantee agrees that the sole and exclusive decision as to whether or not Grantee's use of the Grant proceeds is approved lies within the discretion of the County. Grantee agrees that the County may deny approval of the use of the Grant proceeds which, in the discretion of the County, is not a permitted use of CARES Act Funds. Grantee also agrees that the use of the Grant proceeds that may otherwise be eligible under the CARES Act may be rejected by the County in their sole discretion and that the County is under any obligation to approve any particular use of the Grant proceeds. Any portion of the Grant proceeds that is not used for expenses allowed by the CARES Act shall be repaid to the County.

- F. In addition to the required documents to verify expenses set forth above, if requested by the County, in its sole and absolute discretion, Grantee will provide any back up documents needed to meet the criteria of the CARES Act or the Program or verify any other information previously supplied.
- G. Grantee will provide a certification certifies that the Eligible Expenses for which the Grant proceeds were used: (i) are necessary expenditures incurred due to the public health emergency with response to the COVID-19, (ii) were incurred during the period between March 1, 2020 and June 30, 2021, and (iii) meet the criteria set forth in the United States Department of Treasury guidelines and interpretations, both current and as they may be amended and supplemented in the future.
- H. Grantee agrees that if reimbursement is received for expenses not expended prior to the date hereof, it may be called upon to certify through a follow-on certification that such funds were expended for Eligible Expenses prior to June 30, 2021. Such follow-on certification shall be submitted to County by the date set forth in such a request for such follow-on certification from the County.
- I. Grantee shall keep, or cause to be kept, adequate records regarding the Eligible Expenses and retain such records at the Arts Location for ten (10) years after the Term.
- J. Grantee accepts that time is of the essence in communications seeking supporting documents or requesting records under this Grant Agreement and agrees that it shall use all reasonable speed and diligence in responding to requests for records or supporting documents.

ARTICLE V DEFAULT

- A. Any one or more of the following events occurring during the Term, shall constitute an "Event of Default" hereunder:
- 1.) If Grantee fails to perform or comply with any covenant or term of this Grant Agreement and such failure shall continue for a period of thirty (30) days after the County's issuance of written notice of the failure to perform and/or comply and requiring such failure to be remedied.
 - 2.) If Grantee, and if applicable, its officers, are not current on all real property, federal, state, sales, franchise, income and withholding taxes, at the time of entering into this Grant Agreement.
 - 3.) If Grantee's principal business operations are not located in Monroe County at the time of entering into this Grant Agreement.
 - 4.) If Grantee is a corporation and during the Term it ceases to be a corporation duly organized, validly existing and in good standing under the laws of the State of New York with all requisite corporate power and authority to enter into this Grant Agreement and to carry out its obligations thereunder, or if Grantee is a limited liability company and during the Term it ceases to be a limited liability company duly organized, validly existing and in good standing under the laws of the State of New York with all requisite corporate power and authority to enter into this Grant Agreement and to carry out its obligations thereunder.
 - 5.) Grantee fails to submit proof, satisfactory to the County, when requested pursuant to the terms of this Agreement.
 - 6.) If Grantee uses or permits any portion of Grant proceeds for any other purposes then Eligible Expenses incurred before March 1, 2020.
 - 7.) If Grantee fails to obtain or cause to be obtained, all federal, state, and local governmental approvals and permits required by law and/or fails to comply with all applicable federal, state, and local codes, and acts including State Environmental Quality Review Act (SEQRA), National Environmental Protection Act (NEPA), OSHA requirements, zoning requirements, and building permit requirements.
 - 8.) If Grantee, sells or leases to a third party, any item purchased with Grant proceeds during the Term.
 - 9.) If Grantee fails to pay, or cause to be paid, in full, when due, all County, ad valorem real property taxes, assessments, charges, interest, and fees due for the Premises, and/or payment in lieu of such County of Monroe ad valorem real property taxes, assessments, charges, interest, and fees due

for the Premises pursuant to any agreement(s) by COMIDA (also known as "PILOT" payments).

- 10.) If Grantee fails to correct, or cause to be corrected, any violation of any applicable federal, state and local governmental laws, rules, and regulations, including but not limited to any applicable building, zoning and property codes governing the use, repair, reconstruction, construction, environmental condition and maintenance of the Premises (including all buildings thereon), set forth in any notice, order, or any other communication from a government or governmental entity, within the time limits set forth for compliance.
- 11.) If Grantee shall:
 - a) apply for or consent to the appointment of or the taking of possession by a receiver, custodian, trustee, or liquidator of itself or of all or a substantial part of its property;
 - b) admit in writing its inability, to pay its debts as such debts become due;
 - c) make a general assignment for the benefit of its creditors;
 - d) commence a voluntary action under the Federal Bankruptcy Code (as now or hereafter in effect);
 - e) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts;
 - f) fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against itself in an involuntary case under the Federal Bankruptcy Code; or
 - g) take any action for the purpose of effecting any of the foregoing.
- 12.) If a proceeding or case shall be commenced against Grantee in any court of competent jurisdiction seeking:
 - a) the liquidation, reorganization, dissolution, winding-up or composition or readjustment of debts of Grantee;
 - b) the appointment of a trustee, receiver, custodian, liquidator or the like of Grantee or of all or any substantial part of its assets; or
 - c) similar relief in respect of Grantee under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition and adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of sixty (60) days, or any order for relief against Grantee shall be entered in an involuntary case under the Federal Bankruptcy Code.

- 13.) Any representation or warranty made by Grantee herein or in any report, certificate, financial statement or other instrument furnished by Grantee or any other party pursuant hereto which shall prove to be false, misleading or incorrect in any material respect as of the date made.
- 14.) An act or failure to do any act, which would cause Grantee's dissolution or termination, or impair its ability to perform its obligations under this Grant Agreement.
- 15.) If the County determines, in its sole discretion, Grantee has relocated its principal business operations outside Monroe County during the Term.
- 16.) Failure of Grantee to comply, in all material respects with all applicable laws, rules, regulations, and orders, such compliance to include, without limitation, filing all necessary tax returns, local, state, or federal, and paying before the same become delinquent, all taxes, assessments, and governmental charges imposed upon it.
- 17.) As soon as possible and in any event within fifteen (15) days after Grantee shall have discovered occurrence of an Event of Default, provide written notice setting forth the details of such Event of Default and the action which is proposed to be taken by Grantee with respect thereto shall be sent to County, in accordance with the Notice provisions set forth in the Grant Agreement.
- 18.) If Grantee closes its business operations for reasons other than normal seasonal closings, for more than sixty (60) days.
- 19.) If Grantee uses the Grant proceeds or allows the Grant proceeds to be used for any expense which Grantee has submitted or will submit to any other entity, whether public or private, for reimbursement.
- 20.) If Grantee at any time receives reimbursement for any expense for which the Grant proceeds have been already used, and fails to refund those Grant proceeds to the County within 14 days.
- 21.) If it is found that an officer, employee, consultant, elected or appointed officials of the County (and no one with whom they have family or business ties) has obtained any personal or financial benefit from the Grant proceeds.

B. Whenever any Event of Default shall have occurred and be continuing, the County may take one or more of the following remedial steps:

- 1.) Declare the Grant in default.
- 2.) Take whatever action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce the performance or observance of any obligations, agreements, or covenants of Grantee under this Grant Agreement.

- C. The rights and remedies of the County under this Grant Agreement shall be cumulative and shall not exclude any other rights and remedies of County allowed by law with respect to any Event of Default under this Grant Agreement. Failure by the County to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon an Event of Default by Grantee hereunder shall not be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce by appropriate legal remedy a strict compliance by Grantee with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such Event of Default by Grantee be continued or repeated.
- D. In case any proceeding taken by the County under this Grant Agreement on account of any Event of Default hereunder shall have been discontinued or abandoned for any reason or shall have been determined adversely to the County, then and in every such case, the County shall be restored, respectively, to its former position and rights hereunder, and all rights, remedies, powers and duties of the County shall continue as in effect prior to the commencement of such proceedings.
- E. If following and during the continuation of an Event of Default the County should employ its attorneys or outside counsel or incur other reasonable expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligation or agreement on the part of Grantee herein contained, Grantee agrees that it will, on demand, therefore pay to the County the reasonable fees and disbursements of such attorneys and such other reasonable expenses so incurred.

ARTICLE VI NOTICES

All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or when mailed by registered or certified mail, postage prepaid, and addressed as follows:

To County:

Monroe County
Department of Planning and Development
1150 CityPlace

50 West Main Street
Rochester, New York 14614
Attn: JumpstARTS Monroe

To Grantee:

Grantee's name:

___Business Address___

Anything herein to the contrary notwithstanding, the obligations of Grantee under this Grant Agreement shall be subject to the limitation that payments of interest shall not be required to the extent that receipt thereof would be contrary to provisions of law applicable to the County limiting rates of interest which may be charged or collected by the County.

ARTICLE VII JURISDICTION

In addition to Section 13 of Appendix "A", Grantee hereby irrevocably submits to the jurisdiction of the New York State Supreme Court, Rochester, New York or United States Federal Court sitting in Monroe County over any action or proceeding arising out of or relating to this Grant Agreement and Grantee hereby irrevocably agrees that all claims with respect to such action or proceeding may be heard and determined in such New York State or Federal court. If the amount of the dispute is too low to be heard by the New York State Supreme Court, Rochester, New York or United States Federal Court, any action will be brought in the applicable Court located in Monroe County, New York. Grantee irrevocably consents to the service of any and all process in such action or proceeding by the mailing of copies of such process to Grantee at its address above and such mailing shall constitute due, personal service on Grantee. Grantee agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in any jurisdictions by suit on the judgment or in any other manner provided by law unless stayed on appeal.

Nothing in this Section shall affect the right of the County to serve legal process in any other manner permitted by law or affect the right of the County to bring any action or proceeding against Grantee or its property in the courts of any other jurisdiction.

To the extent that Grantee has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service or notice,

attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself or its property, Grantee hereby irrevocably waives such immunity with respect to its obligations under this Grant Agreement and the Note.

ARTICLE VII
CAPTIONS

The captions and headings hereunder are for convenience only and shall not affect the interpretation or construction of this Grant Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Grant Agreement.

MONROE COUNTY

BY: _____

Name: Adam J. Bello

Title: County Executive

By: _____

Name:

Title:

State of New York)

) ss:

County of Monroe)

On the ____ day of _____ in the year 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signatures on the instrument, the individuals, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

APPENDIX "A"

STANDARD CLAUSES FOR COUNTY CONTRACTS

The parties to the attached Grant Agreement (hereinafter, "the Grant Agreement") agree to be bound by the following clauses which are hereby made a part of the Grant Agreement:

Section 1. AMENDMENTS

This Grant Agreement may be modified or amended only in writing duly executed by both parties. Any modification or amendment shall be attached to and become part of this Grant Agreement. All notices concerning this Grant Agreement shall be delivered in writing to the parties at the principal addresses as set forth above unless either party notifies the other of a change in address.

Section 2. INSURANCE AND FAMILY LEAVE BENEFITS

Grantee will, at its own expense, procure and maintain a policy or policies of insurance during the term of this Grant Agreement. The policy or policies of insurance required are standard Worker's Compensation and Disability Insurance, and general liability insurance (including, without limitation, contractual liability) and including insurance against fire, theft, and all casualty, and extended coverage insurance risks for coverage for any personal, business or real property funded in whole or in part as a component of Eligible Expenses, with single limits of liability in the amount of \$1,000,000 per occurrence, and \$3,000,000 aggregate coverage; automobile liability insurance in the amount of \$1,000,000 with a minimum of \$1,000,000 each occurrence, bodily injury, and property damage. Original certificates and endorsements evidencing such coverage shall be delivered to the County before final execution of this Grant Agreement. The certificates shall indicate that such coverage will not be cancelled or amended in any way without thirty (30) days prior written notice to the County and original renewal certificates conforming to the requirements of this section shall be delivered to the County at least sixty (60) days prior to the expiration of such policy or policies of insurance. Grantee's insurance shall provide for and name Monroe County as an additional insured. All policies shall insure the County for all claims arising out of the Grant Agreement. All policies of insurance shall be issued by companies in good financial standing duly and fully qualified and licensed to do business in New York State or otherwise acceptable to the County.

If any required insurance coverage contain aggregate limits or apply to other operations of Grantee, outside of those required by this Grant Agreement, Grantee shall provide Monroe County with prompt written notice of any incident, claims settlement, or judgment against that insurance which diminishes the protection of such insurance affords Monroe County. Grantee shall further take immediate steps to restore such aggregate limits or shall provide other insurance protection for such aggregate limits.

Grantee will also provide proof duly subscribed by an insurance carrier in a form satisfactory to the Chair of the Worker's Compensation Board that the payment of family leave benefits for all its employees required under New York law to receive such benefits has been secured.

Section 3. INDEMNIFICATION

Grantee shall defend, indemnify and save harmless the County, its officers, agents, and employees from and against all liability, damages, costs or expenses, causes of actions, suits, judgments, losses, and claims of every name not described, including attorneys' fees and disbursements, brought against the County which may arise, be sustained, or occasioned directly or indirectly by any person, firm or corporation arising out of or resulting from the performance of the services by Grantee, its employees, agents or subcontractors, the provision of any products by Grantee, its employees, agents or subcontractors, arising from any act, omission or negligence of Grantee, its employees, agents or subcontractors, or arising from any breach or default by Grantee, its employees, agents or subcontractors under the Grant Agreement. Nothing herein is intended to relieve the County from its own negligence or misfeasance or to assume any such liability for the County by Grantee.

In addition, the Parties agree that where the County may rely upon the certification of the Grantee that such expenses which Grantee used the Grant proceeds met the minimum requirements of the Cares Act, and where the Office of the Inspector General, or any other person, official, or department which is charged with the auditing and review of expenditures of Cares Act Funds determines that such use was not permitted under the Cares Act, Grantee agrees to indemnify, reimburse and make whole the County for any funds which the United States Government or its agencies seeks to recoup or collect, either by litigation, or by withholding other federal funds owed to the County. Grantee further agrees to indemnify, reimburse, or make whole the County for any penalties associated with the federal government seeking to recoup the expended Cares Act funds which the County disbursed to Grantee including interest, attorney's fees or any penalty provided by law.

Failure to provide records may result in the denial of the County's approval of the use of the Grant proceeds. In circumstances where the use of the Grant proceeds has been granted and the records are needed to justify the use to the Office of the Inspector General or any other office, official, or department which may later become responsible for auditing disbursements of CARES Act funds, failure by BUSINESS to provide these records, for any reason in a timely fashion, including the prior destruction of these records, shall constitute a breach of this Grant Agreement. The sole and exclusive remedy for such a breach is that Grantee shall be responsible for repayment of any portion of the Grant proceeds which the Office of Inspector General, or its successor, finds improper, unsupported, or unable to be verified. Additionally, Grantee agrees to indemnify the County or make the County whole for any penalty assessed against the Failure to provide records may result in the denial of the County's approval of the use of the Grant proceeds. In circumstances where the use of the Grant proceeds has been granted and the records are needed to justify the use to the Office of the Inspector General or any other office, official, or department which may later become responsible for auditing disbursements of CARES Act Funds, failure by BUSINESS to provide these records, for any reason in a timely fashion, including the prior destruction of these records, shall constitute a breach of this Grant Agreement. The sole and exclusive remedy for such a breach is that Grantee shall be responsible for repayment of any portion of the Grant proceeds which the Office of Inspector General, or its successor, finds improper, unsupported, or unable to be verified. Additionally, Grantee agrees to indemnify the County or make the County whole for any penalty assessed against the County

based upon Grantee's failure to retain or provide records for the period provided in based upon Grantee's failure to retain or provide records for the period provided in

Section 4. INDEPENDENT CONTRACTOR

For the purpose of this Grant Agreement, Grantee is and shall in all respects be considered an independent contractor. Grantee, its individual members, directors, officers, employees and agents are not and shall not hold themselves out as, nor claim to be, an officer or employee of Monroe County nor make claim to any rights accruing thereto, including, but not limited to, Worker's Compensation, unemployment benefits, Social Security or retirement plan membership or credit.

Grantee shall have the direct and sole responsibility for the following: payment of wages and other compensation; reimbursement of Grantee's employees' expenses; compliance with Federal, state and local tax withholding requirements pertaining to income taxes, Worker's Compensation, Social Security, unemployment and other insurance or other statutory withholding requirements; and all obligations imposed on the employer of personnel. The County shall have no responsibility for any of the incidences of employment.

Section 5. EXECUTORY NATURE OF CONTRACT

This Grant Agreement shall be deemed executory only to the extent of the funding available and the County shall not incur any liability beyond the funds annually budgeted therefor. The County may make reductions in this Grant Agreement for the loss/reduction in State Aid or other sources of revenues. If this occurs, Grantee's obligations regarding the services provided under this Grant Agreement may be reduced correspondingly.

Section 6. NO ASSIGNMENT WITHOUT CONSENT

Grantee shall not, in whole or in part, assign, transfer, convey, sublet, mortgage, pledge, hypothecate, grant any security interest in, or otherwise dispose of this Grant Agreement or any of its right, title or interest herein or its power to execute the Grant Agreement, or any part thereof to any person or entity without the prior written consent of the County.

Section 7. FEDERAL SINGLE AUDIT ACT

In the event Grantee is a recipient through this Grant Agreement, directly or indirectly, of any funds of or from the United States Government, Grantee agrees to comply fully with the terms and requirements of Federal Single Audit Act [Title 31 United States Code, Chapter 75], as amended from time to time. Grantee shall comply with all requirements stated in "[Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#)" (Uniform Grant Guidance) Subpart F and such other circulars, interpretations, opinions, rules or regulations that may be issued in connection with the Federal Single Audit Act.

If on a cumulative basis Grantee expends Seven Hundred and Fifty Thousand and no/100 Dollars (\$750,000.00) or more in federal funds in any fiscal year, it shall cause to have a single audit

conducted, the Data Collection Form (defined in Federal Office of Management and Budget Uniform Grant Guidance) shall be submitted to the County; however, if there are findings or questioned costs related to the program that is federally funded by the County, Grantee shall submit the complete reporting package (defined in Federal Office of Management and Budget Uniform Grant Guidance) to the County.

If on a cumulative basis Grantee expends less than Seven Hundred and Fifty Thousand and no/100 Dollars (\$750,000.00) in federal funds in any fiscal year, it shall retain all documents relating to the federal programs for three (3) years after the close of Grantee's fiscal year in which any payment was received from such federal programs.

All required documents must be submitted within nine (9) months of the close of Grantee's fiscal year end to:

Monroe County Internal Audit Unit 303
County Office Building
39 West Main Street Rochester, New York 14614

Grantee shall, upon request of the County, provide the County such documentation, records, information and data and response to such inquiries as the County may deem necessary or appropriate and shall fully cooperate with internal and/or independent auditors designated by the County and permit such auditors to have access to, examine and copy all records, documents, reports and financial statements as the County deems necessary to assure or monitor payments to Grantee under this Grant Agreement.

The County's right of inspection and audit pursuant to this Grant Agreement shall survive the payment of monies due to Grantee and shall remain in full force and effect for a period of three (3) years after the close of Grantee's fiscal year in which any funds or payment was received from the County under this Grant Agreement.

Section 8. RIGHT TO INSPECT

Designated representatives of the County shall have the right to monitor the provision of services under this Grant Agreement which includes having access, at reasonable times and places, to Grantee's employees, reports, books, records, audits and any other material relating to the delivery of such services. Grantee agrees to maintain and retain all pertinent records related to this Grant Agreement for a period of ten (10) years after final payment. Grantee may retain all pertinent records in electronic format provided written notice is provided to the County that such method will be used. Retention of electronic records shall be for a period of ten (10) years after final payment.

Section 9. NON-DISCRIMINATION

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, Grantee will not discriminate against any employee or applicant for employment because of race,

creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, military status or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Grantee agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Grantee agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Grantee is subject to penalties by the County of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

Section 10. GRANTEE QUALIFIED, LICENSED, ETC.

Grantee represents and warrants to the County that it and its employees is duly and fully qualified under the laws of the state of its incorporation and of the State of New York, to undertake the activities and obligations set forth in this Grant Agreement, that it possesses as of the date of its execution of this Grant Agreement, and it will maintain throughout the term hereof, all necessary approvals, consents and licenses from all applicable government agencies and authority and that it has taken and secured all necessary board of directors and shareholders action and approval.

Section 11. CONFIDENTIAL INFORMATION

For the purpose of this Grant Agreement, "Confidential Information" shall mean information or material proprietary to the County or designated as "Confidential Information" by the County, and not generally known by non-County personnel, which Grantee may obtain knowledge of or access to as a result of a contract for services with the County. The Confidential Information includes, without limitation, the following types of information or other information of a similar nature (whether or not reduced to writing): methods of doing business, computer programs, computer network operations and security, finances and other confidential and proprietary information belonging to the County. Confidential Information also includes any information described above which the County obtained from another party which the County treats as proprietary or designates as Confidential Information, whether or not owned or developed by the County. Information publicly known and that is generally employed by the trade at the time that Grantee learns of such information or knowledge shall not be deemed part of the Confidential Information.

1. Scope of Use

1. Grantee shall not, without prior authorization from the County, acquire, use or copy, in whole or in part, any Confidential Information.
2. Grantee shall not disclose, provide or otherwise make available, in whole or in part, the Confidential Information other than to those employees of Grantee who have executed a confidentiality agreement with the County, have a need to know such Confidential Information, and who have been authorized to receive such Confidential Information.
3. Grantee shall not remove or cause to be removed, in whole or in part, from County facilities, any Confidential Information, without the prior written permission of the County.
4. Grantee shall take all appropriate action, whether by instruction, agreement or otherwise, to insure the protection, confidentiality and security of the Confidential Information and to satisfy its obligations under this portion of the Grant Agreement.

2. Nature of Obligation

Grantee acknowledges that the County, because of the unique nature of the Confidential Information, would suffer irreparable harm in the event that Grantee breaches its obligation under this Grant Agreement in that monetary damages would be inadequate to compensate the County for such a breach. The parties agree that in such circumstances, the County shall be entitled, in addition to monetary relief, to injunctive relief as may be necessary to restrain any continuing or further breach by Grantee, without showing or proving any actual damages sustained by the County.

3. Freedom of Information Law

This paragraph 3 of Section 11 shall apply only after written notice by Grantee that certain information provided to the County is Grantee's Confidential Information. In the event that the County or any of the County's members, officers, agents or representatives is requested or required (by oral question, interrogatory, request for information or document in a legal proceeding, subpoena, civil investigative demand or other similar process) to disclose any Confidential Information relative to Grantee, the County shall provide Grantee with prompt written notice of any such request or requirement so that Grantee may seek a protective order or other appropriate remedy and/or waive compliance with this provision of the Grant Agreement. Furthermore, in recognition of the fact that the County is subject to laws requiring disclosure of public documents, including the Freedom of Information Law ("FOIL"), the parties agree that in the event that the County receives a request or order for the release of Grantee's Confidential Information, the County shall provide Grantee with prompt notice thereof so that Grantee may seek a protective order or other appropriate remedy prior to such disclosure, if Grantee chooses to do so. If, in the absence of a protective order or waiver from Grantee, the County is nonetheless, in the opinion of the County Attorney and after consultation with Grantee, compelled to disclose some portion of Grantee's confidential information, the County may disclose such information to such person without penalty under the terms of this Grant Agreement and shall immediately advise Grantee of such disclosure.

Section 12. FEDERAL, STATE AND LOCAL LAW AND REGULATORY COMPLIANCE

- a. Notwithstanding any other provision in this Grant Agreement, Grantee remains responsible for ensuring that any service(s) provided pursuant to this Grant Agreement complies with all pertinent provisions, including but not limited to any and all reporting requirements, of Federal, State and local statutes, rules and regulations, including without limitation, Title VI of the Civil Rights Act of 1964 (CRA Title VI), Federal Executive Order 13166, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA).
- b. Grantee is responsible for ensuring compliance with New York State Labor Law Section 201-g and Executive Law Section 296-d. Upon request, Grantee shall provide evidence of compliance with the sexual harassment training under Labor Law Section 201-g for all its employees performing work under this Grant Agreement.
- c. To the extent that State-funds/State-authorized payments (SF/SAP) received are used to pay for program services by covered providers, any subcontractors or sub-awardees shall be made aware of the provisions of the regulations of 9 NYCRR Part 6157 - "Limits on Administrative Expenses and Executive Compensation". Additionally, Grantee and any subcontractors shall review as appropriate Executive Order No. 38, which can be located at <http://executiveorder38.ny.gov>.

Section 13. LAW

This Grant Agreement shall be governed by and under the laws of the State of New York without regard or reference to its conflict of law principles. In the event that a dispute arises between the parties, venue for the resolution of such dispute shall be the County of Monroe, New York.

Section 14. NO-WAIVER

In the event that the terms and conditions of this Grant Agreement are not strictly enforced by the County, such non-enforcement shall not act as or be deemed to act as a waiver or modification of this Grant Agreement, nor shall such non-enforcement prevent the County from enforcing each and every term of this Grant Agreement thereafter.

Section 15. SEVERABILITY

If any provision of this Grant Agreement is held invalid by a court of law, the remainder of this Grant Agreement shall not be affected thereby if such remainder would then continue to conform to the laws of the State of New York.

Section 16. ~~TITLE TO WORK~~

- a. ~~The title to all work performed by Grantee and any unused materials or machinery purchased by Grantee with funds provided by the County in order to accomplish the work hereunder shall become legally vested to the County upon the completion of the work~~

required under this Grant Agreement. Grantee shall obtain from any subcontractors and shall transfer, assign, and/or convey to Monroe County all exclusive, irrevocable, or other rights to all work performed under this Grant Agreement, including, but not limited to trademark and/or service mark rights, copyrights, publication rights, distribution rights, rights of reproduction, and royalties.

- b. No information relative to this Grant Agreement shall be released by Grantee or its employees for publication, advertising or for any other purpose without the prior written approval of the County. Grantee hereby acknowledges that programs described herein are supported by this Grant Agreement by the County and Grantee agrees to state this fact in any and all publicity, publications and/or public information releases.

Section 17. ~~WAGE AND HOURS PROVISIONS~~

~~If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Grantee's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Grantee and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, if this is a public work contract covered by Article 8 of the Labor Law, Grantee understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County approved sums due and owing for work done upon the project.~~

Section 18. ~~STATE FINANCE LAW PROVISIONS~~

- a. ~~In accordance with Section 139-d of the State Finance Law, if this Grant Agreement was awarded based upon the submission of bids, Grantee affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Grantee further affirms that, at the time Grantee submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on Grantee's behalf.~~
- b. ~~To the extent this Grant Agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this Grant Agreement Grantee certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the County may terminate this Grant Agreement by providing written notification to Grantee in accordance with the terms of the Grant Agreement.~~

Section 19. MISCELLANEOUS

- a. Grantee agrees to comply with all confidentiality and access to information requirements in Federal, State and local laws and regulations.
- b. This Grant Agreement constitutes the entire Agreement between the County and Grantee and supersedes any and all prior Agreements between the parties hereto for the services herein to be provided.
- c. ~~Attached to this Grant Agreement and incorporated herein is the Certification Regarding Debarment, Suspension and Responsibility/Certification Regarding Monroe County Procurement Policy and Consequences for Violation.~~
- d. Grantee agrees that this Grant Agreement may be made available to the public and searchable online in a digital format.

[End of page]

Exhibit "A"
Vendor ACH Payment Enrollment Form

Contract No. _____

Please check one of the following: _____ New _____ Change

PAYEE / COMPANY INFORMATION

Vendor Name:

Mailing Address:

Contact Name:

Phone Number: (____) _____

Email Address:

Vendor # (bottom of check stub):

_____ n/a _____

FINANCIAL INSTITUTION INFORMATION

Bank

Name: _____

Account Type: _____ Checking _____ Savings

Routing

Number: _____

Account

Number: _____

Email for Payment

Notification: _____

Authorizing Agent

Name: _____

Signature: _____

Date: __/__/2021

****Attach a voided check or letter from Bank with account information**