Board of Legislators
County Office Building, Room 201
7 Court Street
Belmont, New York 14813
Phone: 585-268-9222

Click here for Facebook live streaming:
https://www.facebook.com/alleganycountyny/

WAYS & MEANS COMMITTEE AGENDA
August 17, 2022
2:30 p.m.

1. **Roll Call**

2. **County Administrator Carissa Knapp**
   - Request Agreement with Kinetik Healthcare Solutions, Inc.
   - Request to Accept and Budget CDBG CARES Program Award (NYS CDBG Project #20CVSB70-22)

3. **County Treasurer Terri Ross on behalf of the Sheriff's Office**
   - Request for Budget Adjustment for PrimeCare Medical Contract

4. **Clerk of the Board Brenda Rigby Riehle**
   - Meeting Dates

5. **Referrals from Committees**

6. **Old Business**

7. **New Business**

8. **Good of the Order**

9. **Adjournment**

MEMORANDUM OF EXPLANATION

Intro No._____
(Clerk's Use Only)

COMMITTEE: Ways & Means **DATE: August 17, 2022**

Seeking authorization to enter into an agreement with Kinetik and authorization for Chairman of the Board to execute the agreement. The term for the agreement is September 1, 2022 through August 31, 2023.

Kinetik is a company with a software program that supports the Non-Emergent Medical Transportation (NEMT) billing processes using cloud-based servers. The Kinetik software platform allows customer to submit ride transactions to payors. Kinetik extracts information for NEMT from the Medical Answering Services (MAS) system and efficiently submits the billing information to ePaces.

Kinetik technology provides the infrastructure that migrates the final data from MAS to ePaces. Upon further review, it is important to note Kinetik reports there are no additional IT requirements needed by either Allegany County or Ardent Solutions to implement the software.

FISCAL IMPACT:
Ardent Solutions will pay Kinetik a monthly platform fee with charges being the greater of $149 or $0.30 per ride transaction. It is anticipated by utilizing this software, Ardent Solutions mobility management staff will save 32 hours of staff time per month that was previously spent inputting billing information into the ePaces system.

FOR FURTHER INFORMATION REGARDING THIS MATTER, CONTACT:

Carissa M. Knapp, County Administrator (585) 268-9216
NAME AND DEPARTMENT TELEPHONE NUMBER

Kinetik Healthcare Solutions, Inc.
11-48 46th Rd
Long Island City, NY 11101

Offer Valid Through: 08/19/2022
Prepared By: Sebastian Gerschman

Order Form

CUSTOMER INFORMATION

Sold To:

Customer Legal Name:
Allegany County

Address:
7 Court Street,
Belmont, NY, 14813

Bill To:

Billing Contact: Terri Ross, County Treasurer

Email: terri.ross@alleganyco.gov

Phone: (585) 268-9217

ORDER SUMMARY

Initial Term (Months): 12
Billing Frequency: Monthly
Payment Terms: 1st of Month; prorated
Payment Method: Credit Card
Payment Method Details:

PRODUCT DETAILS

PRODUCT/SERVICE	PER TRANSACTION FEE
RCM	$0.30
MINIMUM MONTHLY FEE OF **$149**	
SETUP FEE OF **$0**	

1. MEDICAL BILLING PRODUCTS.

1.1. Kinetik Billing Platform. Kinetik will provide a Software Platform that allows Customer to submit Ride Transactions to Payors. Customer shall pay Kinetik a monthly platform fee (the "Billing Platform Fee") beginning on the Effective Date. If the Effective Date is not the first day of the month, Customer will be billed a prorated fee for the initial month and will be billed on the first of each month thereafter.

FEES AND PAYMENTS

1. PAYMENT TERMS

1.1 Setup Fee. Setup Fee is detailed in the Order Form

1.2. Transaction Fee. Transaction Fees are detailed in the Order Form.

1.3. Terms of Payment. Kinetik shall invoice Client at the beginning of each month in arrears for the Services provided in the previous month. Each invoice will summarize the total amount due based on the total transactions processed for the month being invoiced. All payments are due within thirty (30) days of receipt of invoice. Delinquent payments are subject to a late fee in the amount of $50.00 per delinquent month or 2% monthly interest, whichever is greater. All payments shall be made by Client to Kinetik via bank ACH or wire transfer.

1.4. Disputed Fees. Should Client dispute any portion of an invoice, Client shall notify Kinetik within ten (10) days of the date of invoice. Failure to notify Kinetik within this timeframe shall be deemed acceptance to pay Kinetik the full amount stated in the invoice.

1.5 Trial Period. Kinetik will offer Customer a trial period. This indicates that the first 2 month(s), starting on the Effective Date, will initially be free of charge.

TERMS AND CONDITIONS

1. CLIENT RESPONSIBILITIES

1.1. Reasonable Assistance. Client agrees to provide Kinetik with all necessary records, information and assistance to enable Kinetik to provide the Services. Client shall be responsible for ensuring the accuracy and completeness of coding associated with claims and for ensuring the medical necessity and appropriateness of the Services for which a bill is submitted. Additionally, Client agrees to promptly provide Kinetik with (a) copies of all Explanation of Benefits forms received from third party payors and (b) records of payments received directly from patients.

1.2. Systems Access. Client hereby grants to Kinetik the right to access and use any applicable transportation software to facilitate the submission of medical claims. All patient information and data provided by the Client to Kinetik shall be kept confidential and shall only be disclosed to parties with a need-to know in order to process and submit claims on behalf of the Client.

1.3. Submission of Claims. Client shall be responsible for maintaining all original source documents in order to verify and document the claims submitted to third party payors. Kinetik shall not be responsible for fixing claims that were denied more than 90 days after the initial claim submission date. Claim submission completed by Kinetik shall begin for claims as of the contract start date, and not for previous claims unless otherwise agreed.

2. CONFIDENTIALITY AND HIPAA. Kinetik and Client will abide by the covenants and provisions of a Business Associate Agreement, which is attached hereto as Exhibit A incorporated herein by reference.

3. TERM AND TERMINATION

3.1. Term. This Agreement shall remain in effect for a period of one (1) year or until terminated by either party as provided herein. This Agreement may be terminated if there is a breach, and such breach is not cured by the breaching -party within ten (10) days after notice of the breach is provided. If terminated by convenience, the terminating party is shall provide a thirty (30) day written notice to the other party.

3.2 Rights of Termination. Upon termination, Client shall be permitted to terminate Kinetik's access to its systems, if any. Client shall be required to pay all fees accrued as of the date of termination plus any claims or charges that are pending or in-transit.

4. DISCLAIMER OF WARRANTIES. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. KINETIK DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. CLIENT SHALL BE RESPONSIBLE FOR ANY AND ALL DATA SUBMITTED TO KINETIK FOR THE PERFORMANCE OF THE SERVICES UNDER THIS AGREEMENT.

5. LIMITATION OF LIABILITY. To the maximum extent permitted by applicable law, in no event shall either party be liable for special, indirect, incidental, punitive or consequential damages, whether arising under contract, warranty, or tort (including negligence or strict liability) or any other theory of liability. Client expressly acknowledges and agrees that in no case shall Kinetik's liability for damages, regardless of the form of the action, exceed the amount of fees paid by Client hereunder during the three (3) month period immediately preceding the event giving rise to the claim.

6. INDEMNIFICATION. "Client hereby agrees to indemnify and hold Kinetik and it owners, directors, employees and contractors harmless from and against any and all liability, claims, causes of action, damages, fines, assessments, penalties, costs (including reasonable attorneys' fees) and responsibility to the extent permitted by law arising from (a) the performance or non-performance of this agreement or any acts or omissions associated; (b) any claims submitted on behalf of and in the name of the Client for which Client has provided Kinetik false, fraudulent, incomplete, misleading, or otherwise incorrect information or data, including but not limited to, the coding of claims; (c) Client's violation of any applicable laws and regulations."

7. ATTESTATION SERVICES. In the event, attestation service is required for the payor, Client shall be responsible for all data in the dispatch system and the accuracy thereof and shall specify instances such as ghost riders, false logs, false/forged signatures, etc. Client understands and agrees that attestation services can only be performed when live GPS data is available through dispatch. If such data is not available, Client shall be responsible for attestation that an actual trip has been completed.

8. INDEPENDENT CONTRACTOR. Kinetik is an independent contractor and nothing in this Agreement or in the course of performance of this Agreement shall be interpreted to create an employment relationship between Kinetik and Client. Accordingly, neither Party nor any of its personnel will be considered to be an employee, co-employee or co-owner of each other for any purpose whatsoever, including, any salary, wages, bonuses, commissions, overtime, penalties, fringe benefits, withholdings, taxes, contributions or other payments of any form or kind.

9. COMPLIANCE WITH LAWS. The submission of false, fraudulent or misleading data, information, or statements to the government and/or commercial third-party payors in connection with health insurance coding, billing and claims submission is a crime and can subject the violator to imprisonment and fines. Client agrees that all times it shall comply with all applicable local, state, and federal laws.

10. DISPUTES.

10.1. Dispute Resolution. In the event a Party provides written notice to the other Party of any controversy, claim, dispute, difference or misunderstanding between the Parties arising out of or relating to this Agreement, each Party will designate managers to meet within ten (10) days and negotiate in good faith in an attempt to reach a mutually acceptable resolution. In the event the Parties are unable to resolve such matter through good faith negotiations within ten (10) days of such meeting each Party agrees to submit to arbitration in accordance with Section 10.2 below.

10.2. Arbitration. The Parties agree that any dispute or controversy in connection with this Agreement, including its interpretation, will be conclusively settled by submission to arbitration (the "Arbitration") in accordance with the rules of arbitration of the American Arbitration Act as amended from time to time. The Arbitration will be conducted in Allegany County, New York before a single arbitrator mutually agreeable to the parties (the "Arbitrator"). The initial costs of the Arbitrator will be borne equally by the Parties. The Arbitrator shall have the power to award costs in his or her discretion in making his or her award or decision. Nothing in this clause prohibits each Party from seeking injunctive relief in New York Courts against the other Party as referenced in this Agreement. The decision of the Arbitrator shall be final and binding and without any right of appeal. THE PARTIES ACKNOWLEDGE AND AGREE THAT BY AGREEING TO ARBITRATE, THEY ARE IRREVOCABLY AND UNCONDITIONALLY WAIVING ANY RIGHT TO BRING AN ACTION AGAINST THE OTHER IN A COURT OF LAW AND ARE WAIVING THE RIGHT TO HAVE CLAIMS AND DAMAGES, IF ANY, DETERMINED BY A JURY.

11. GOVERNING LAW; JURISDICTION. This Agreement will be governed by and construed in accordance with the laws of the State of New York, excluding its body of law controlling conflict of laws. Any legal action or proceeding arising under this Agreement will be exclusively in the courts located in Allegany County, New York and the parties irrevocably consent to the personal jurisdiction and venue therein.

12. NOTICES. Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and if sent by (i) personal delivery, by a nationally recognized overnight courier (provided a written acknowledgement of receipt is obtained) or (ii) by First Class or Certified Mail to the addresses provided by the Parties in the signature page to this Agreement or to such other address as such party shall notify the other.

13. GENERAL PROVISIONS. This Agreement contains the entire agreement of the parties, and there are no other promises or conditions in any other agreement whether oral or written concerning the subject matter of this Agreement. This Agreement supersedes any prior written or oral agreements between the parties. If any provision of this Agreement will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Except as otherwise provided, nothing in this Agreement shall provide any benefit to any third party or entitle any third party to any claim, cause of action, remedy, or right of any kind. The rights and obligations created by this Agreement shall be binding upon and inure to the benefit of the Parties, their successors and assigns. The section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretations of this Agreement. This Agreement may be modified or amended in writing, if the writing is signed by both Parties to this Agreement. The Agreement and any documents pursuant hereto may be separately executed by the Parties in two or more counterparts, and by facsimile, PDF, or similar means of electronic delivery, and all such counterparts shall be deemed an original, but all of which together shall constitute one and the same instrument and will be binding on the Parties as if they had originally signed one copy of the Agreement.

SIGNATURES

This Order Form amends and restates, and supersedes and replaces, any previous Order Form executed by and between Kinetik and Customer. By signing this Order Form below, the Customer authorizes that it has read and agrees to its terms.

CUSTOMER:	**KINETIK:**
Allegany County	KINETIK HEALTHCARE SOLUTIONS, INC.
Address: 7 Court Street, Belmont, NY, 14813	**Address:** 11-48 46th Rd Long Island City, NY 11101
By:	**By:**
Print Name:	**Print Name:** Sebastian Gerschman
Title:	**Title:** Account Executive
Date:	**Date:** 07/19/2022

HIPAA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("**BAA**") is entered into effective this day ("Effective Date") by and between Allegany County ("**Business Associate 1**") and KINETIK HEALTHCARE SOLUTIONS, INC. ("**Business Associate 2**") (each "**Party**" and collectively, the "**Parties**").

RECITALS

a. Business Associate 1 is a "Business Associate" as that term is defined under the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-91), as amended, ("HIPAA"), and the regulations promulgated thereunder by the Secretary of the U.S. Department of Health and Human Services ("**Secretary**"), including, without limitation, the regulations codified at 45 C.F.R. Parts 160 and 164 ("**HIPAA Regulations**");

b. Business Associate 2 performs Services for or on behalf of Business Associate 1, and in performing said Services; Business Associate 2 creates, receives, maintains, or transmits Protected Health Information ("**PHI**")

c. The Parties intend to protect the privacy and provide for the security of PHI Disclosed by Business Associate 1 to Business Associate 2, or received or created by Business Associate 2, when providing Services in compliance with HIPAA, the Health Information Technology for Economic and Clinical Health Act (Public Law 111-005) (the, "**HITECH Act**") and its implementing regulations and guidance issued by the Secretary, and other applicable state and federal laws, all as amended from time to time; and

d. As a Business Associate 1, Business Associate 1 is required under HIPAA to enter into a BAA with Business Associate 2 that meets certain requirements with respect to the Use and Disclosure of PHI, which are met by this BAA.

AGREEMENT

In consideration of the Recitals and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

ARTICLE I

DEFINITIONS

The following terms shall have the meaning set forth below. Capitalized terms used in this BAA and not otherwise defined shall have the meanings ascribed to them in HIPAA, the HIPAA Regulations, or the HITECH Act, as applicable.

1.1. "Breach" shall have the meaning given under 42 U.S.C. S 17921 (1) and 45 C.F.R. § 164.402.

1.2. "Designated Record Set" shall have the meaning given such term under 45 C.F.R. § 164.501.

1.3. "Disclose" and **"Disclosure"** mean, with respect to PHI, the release, transfer, provision of access to, or divulging in any other manner of PHI outside of Business Associate 2 or to other than members of its Workforce, as set forth in 45 C.F.R. § 160.103.

1.4. "Electronic PHI" or **"e-PHI"** means PHI that is transmitted or maintained in electronic media, as set forth in 45 C.F.R. § 160.103.

1.5. "Protected Health Information" and **"PHI"** mean any information, whether oral or recorded in any form or medium, that: (a) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual; (b) identifies the individual (or for which there is a reasonable basis for believing that the information can be used to identify the individual); and (c) shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. § 160.103. Protected Health Information includes e-PHI.

1.6. "Security Incident" shall have the meaning given to such term under 45 C.F.R. § 164.304.

1.7. "Services" shall mean the services for or functions on behalf of Business Associate 1 performed by Business Associate 2 pursuant to any service agreement(s) between Business Associate 1 and Business Associate 2(s) which may be in effect now or from time to time ("Underlying Agreement"), or, if no such agreement is in effect, the services or functions performed by Business Associate 2 that constitute a Business Associate relationship, as set forth in 45 C.F.R. § 160.103.

1.8. "Unsecured PHI" shall have the meaning given to such term under 42 U.S.C. § 17932(h), 45 C.F.R. § 164.402, and guidance issued pursuant to the HI TECH Act including, but not limited to the guidance issued on April 17, 2009 and published in 74 Federal Register 19006 (April 27, 2009) by the Secretary.

1.9. "Use" or **"Uses"** mean, with respect to PHI, the sharing, employment, application, utilization, examination or analysis of such PHI within Business Associate 2's internal operations, as set forth in 45 C.F.R. § 160.103.

1.10. "Workforce" shall have the meaning given to such term under 45 C.F.R. § 160.103.

ARTICLE Il

OBLIGATIONS OF BUSINESS ASSOCIATE

2.1 Permitted Uses and Disclosures of Protected Health Information Business Associate 2 shall not Use or Disclose PHI other than for the for the purposes listed on the signature page hereto for performing the Services, as permitted or required by this BAA, or as Required by Law. Business Associate 2 shall not Use or Disclose PHI in any manner that would constitute a violation of Subpart E of 45 C.F.R. Part 164 if so Used or Disclosed by Business Associate 1. However, Business Associate 2 may Use or Disclose PHI (i) for the proper management and administration of Business Associate 1; (ii) to carry out the legal responsibilities of Business Associate 1, provided that with respect to any such
Disclosure either:
(a) the Disclosure is Required by Law; or (b) Business Associate 2 obtains a written agreement from the person to whom the PHI is to be Disclosed that such person will hold the PHI in confidence and will not Use and further Disclose such PHI except as Required by Law and for the purpose(s) for which it was Disclosed by Business Associate 2 to such person, and that such person will notify Business Associate 1 of any instances of which it is aware in which the

confidentiality of the PHI has been breached; (iii) for Data Aggregation purposes for the Health Care Operations of Business Associate 1. To the extent that Business Associate 2 carries out one or more of Business Associate I's obligations under Subpart E of 45 C.F.R. Part 164, Business Associate 2 must comply with the requirements of Subpart E that apply to the Business Associate 1 in the performance of such obligations.

2.2. Prohibited Marketing and Sale of PHI Notwithstanding any other provision in this BAA, Business Associate 2 shall comply with the following requirements: (i) Business Associate 2 shall not Use or Disclose PHI for fundraising or marketing purposes, except to the extent expressly authorized or permitted by this BAA and consistent with the requirements of 42 U.S.C. § 17936, 45 C.F.R. SS 164.514(f), and 164.508(a)(3)(ii), and (iii) Business Associate 2 shall not directly or indirectly receive remuneration in exchange for PHI except with the prior written consent of Business Associate 1 and as permitted by the HITECH Act, 42 U.S.C. § 17935(d)(2), and 45 C.F.R. § 164.502 (a)(5)(ii).

2.3. Adequate Safeguards of PHI Business Associate 2 shall implement and maintain appropriate safeguards to prevent Use or Disclosure of PHI other than as provided for by this BAA. Business Associate 2 shall reasonably and appropriately protect the confidentiality, integrity, and availability of e-PHI that it creates, receives, maintains or transmits on behalf of Business Associate 1 in compliance with Subpart C of 45 C.F.R. Part 164 to prevent Use or Disclosure of PHI other than as provided for by this BAA.

2.4. Mitigation Business Associate 2 agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate 1 of a Use or Disclosure of PHI by Business Associate 2 in violation of the requirements of this BAA.

2.5. Reporting Non-Permitted Use or Disclosure

2.5.1. Reporting Security Incidents and Non-Permitted Use or Disclosure Business Associate 2 shall report to Business Associate 1 in writing each Security Incident or Use or Disclosure that is made by Business Associate 2, members of its Workforce or Subcontractors that is not specifically permitted by this BAA no later than three (3) business days after becoming aware of such Security Incident or non-permitted Use or Disclosure, in accordance with the notice provisions set forth herein. Business Associate 2 shall investigate each Security Incident or non-permitted Use or Disclosure of Business Associate I's PHI that it discovers to determine whether such Security Incident or non-permitted Use or Disclosure constitutes a reportable Breach of Unsecured PHI. Business Associate 2 shall document and retain records of its investigation of any Breach, including its reports to Business Associate 1 under this Section 2.5.1 Upon request of Business Associate 1, Business Associate 2 shall furnish to Business

Associate 1 the documentation of its investigation and an assessment of whether such Security Incident or non-permitted Use or Disclosure constitutes a reportable Breach. If such Security Incident or non-permitted Use or Disclosure constitutes a reportable Breach of Unsecured PHI, then Business Associate 2 shall comply with the additional requirements of Section 2.5.2 below.

2.5.2. Breach of Unsecured PHI If Business Associate 2 determines that a reportable Breach of Unsecured PHI has occurred, Business Associate 2 shall provide a written report to Business Associate 1 without unreasonable delay but no later than thirty (30) calendar days after discovery of the Breach. To the extent that information is available to Business Associate 2, Business Associate 2's written report to Business Associate 1 shall be in accordance with 45 C.F.R. § 164.410(c). Business Associate 2 shall cooperate with Business Associate 1 in meeting Business Associate I 's obligations under the HITECH Act with respect to such Breach. Business Associate 1 shall have sole control over the timing and method of providing notification of such Breach to the affected individual(s), the Secretary and, if applicable, the media, as required by the HI TECH Act. Business Associate 2 shall reimburse Business Associate 1 for its reasonable costs and expenses in providing the notification, including, but not limited to, any administrative costs associated with providing notice, printing and mailing costs, and costs of mitigating the harm (which may include the costs of obtaining credit monitoring services and identity theft insurance) for affected individuals whose PHI has or may have been compromised as a result of the Breach.

2.6. Availability of Internal Practices, Books, and Records to Government Business Associate 2 agrees to make its internal practices, books and records relating to the Use and Disclosure of PHI received from, or created or received by the Business Associate 2 on behalf of Business Associate 1 available to the Secretary for purposes of determining Business Associate 1 's compliance with HIPAA, the HIPAA Regulations, and the HI TECH Act. Except to the extent prohibited by law, Business Associate 2 shall notify Business Associate 1 of all requests served upon Business Associate 2 for information or documentation by or on behalf of the Secretary. Business Associate 2 agrees to provide to Business Associate 1 proof of its compliance with the HIPAA Security Standards.

2.7. Access to and Amendment of Protected Health Information To the extent that Business Associate 2 maintains a Designated Record Set on behalf of Business Associate 1 and within fifteen (15) days of a request by Business Associate 1, Business Associate 2 shall (a) make the PHI it maintains (or which is maintained by its Subcontractors) in Designated Record Sets available to Business Associate 1 for inspection and copying, or to an individual to enable Business Associate 1 to fulfill its obligations under 45 C.F.R. § 164.524, or (b) amend the PHI it maintains (or which is maintained by its Subcontractors) in Designated Record Sets to enable

Business Associate 1 to fulfill its obligations under 45 C.F.R. § 164.526. Business Associate 2 shall not Disclose PHI to a health plan for payment or Health Care Operations purposes if and to the extent that Business Associate 1 has informed Business Associate 2 that the patient has requested this special restriction and has paid out of pocket in full for the health care item or service to which the PHI solely relates, consistent with 42 U.S.C. § 17935(a) and 42 C.F.R. § 164.522(a)(1)(vi). If Business Associate 2 maintains PHI in a Designated Record Set electronically, Business Associate 2 shall provide such information in the electronic form and format requested by the Business Associate 1 if it is readily reproducible in such form and format, and, if not, in such other form and format agreed to by Business Associate 1 to enable Business Associate 1 to fulfill its obligations under 42 U.S.C. § 17935(e) and 45 C.F.R. § 164.524(c)(2). Business Associate 2 shall notify Business Associate 1 within fifteen (15) days of receipt of a request for access to PHI.

2.8. Accounting To the extent that Business Associate 2 maintains a Designated Record Set on behalf of Business Associate 1, within thirty (30) days of receipt of a request from Business Associate 1 or an individual for an accounting of disclosures of PHI, Business Associate 2 and its Subcontractors shall make available to Business Associate 1 the information required to provide an accounting of disclosures to enable Business Associate 1 to fulfill its obligations under 45 C.F.R. § 164.528 and its obligations under 42 U.S.C. § 17935(c). Business Associate 2 shall notify Business Associate 1 within fifteen (15) days of receipt of a request by an individual or other requesting party for an accounting of disclosures of PHI.

2.9. Use of Subcontractors Business Associate 2 shall require each of its Subcontractors that creates, maintains, receives, or transmits PHI on behalf of Business Associate 2, to execute a Business Associate Agreement that imposes on such Subcontractors the same restrictions, conditions, and requirements that apply to Business Associate 2 under this BAA with respect to PHI

2.10. Minimum Necessary Business Associate 2 (and its Subcontractors) shall, to the extent practicable, limits its request, Use, or Disclosure of PHI to the minimum amount of PHI necessary to accomplish the purpose of the request, Use or Disclosure, in accordance with 42 U.S.C. § 17935(b) and 45 C.F.R. § 164.502(b)(1) or any other guidance issued thereunder.

ARTICLE Ill

TERM AND TERMINATION

3.1. Term The term of this Agreement shall be effective as of the Effective Date and shall terminate as of the date that all of the PHI provided by Business Associate 1 to Business Associate 2, or created or received by Business Associate 2 on behalf of Business Associate 1, is destroyed or returned to Business Associate 1, or, if it is infeasible to return or destroy the PHI, protections are extended to such information, in accordance with Section 3.3, or on the date that Business Associate 1 terminates for cause as authorized in Section 3.2, whichever is sooner.

3.2. Termination for Cause Upon Business Associate I's knowledge of a material breach or violation of this BAA by Business Associate 2, Business Associate 1 shall either:

a. Notify Business Associate 2 of the breach in writing, and provide an opportunity for Business Associate 2 to cure the breach or end the violation within ten (10) business days of such notification; provided that if Business Associate 2 fails to cure the breach or end the violation within such time period to the satisfaction of Business Associate 1, Business Associate 1 may immediately terminate this BAA upon written notice to Business Associate 2; or

b. Upon written notice to Business Associate 2, immediately terminate this BAA if Business Associate 1 determines that such breach cannot be cured.

3.3. Disposition of Protected Health Information Upon Termination or Expiration

3.3.1. Upon termination or expiration of this BAA, Business Associate 2 shall either return or destroy all PHI received from or created or received by Business Associate 2 on behalf of Business Associate 1, that Business Associate 2 still maintains in any form and retain no copies of such PHI. If Business Associate 1 requests that Business Associate 2 return PHI, PHI shall be returned in a mutually agreed upon format and timeframe, at no additional charge to Business Associate 1

3.3.1. If return or destruction is not feasible, Business Associate 2 shall (a) retain only that PHI which is necessary for Business Associate 2 to continue its proper management and administration or to carry out its legal responsibilities; (b) return to Business Associate 1 the remaining PHI that Business Associate 2 still maintains in any form; (c) continue to extend the protections of this BAA to the PHI for as long as Business Associate 2 retains the PHI;

(d) limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction of the PHI infeasible and subject to the same conditions set out in Section 2.1 and 2.2 above, which applied prior to termination; and (e) return to Business Associate 1 the PHI retained by Business Associate 2 when it is no longer needed by Business Associate 2 for its proper management and administration or to carry out its legal responsibilities.

ARTICLE IV

MISCELLANEOUS

4.1. Amendment to Comply with Law This BAA shall be deemed amended to incorporate any mandatory obligations of Business Associate 1 or Business Associate 2 under the HI TECH Act and its implementing HIPAA Regulations. Additionally, the Parties agree to take such action as is necessary to amend this BAA from time to time as necessary for Business Associate 1 to implement its obligations pursuant to HIPAA, the HIPAA Regulations, or the HI TECH Act.

4.2. Indemnification Both companies/organizations (Covered Entity and/or Business Associate(s) hereby agree to indemnify and hold harmless the other, its affiliates, and their respective officers, directors, managers, members, shareholders, employees and agents from and against any and all fines, penalties, damage, claims or causes of action and expenses (including, without limitation, court costs and attorney's fees) arising from any violation of HIPAA the companies/organizations incurs, from violations against the HIPAA Regulations, or the HI TECH Act or from any negligence or wrongful acts or omissions, including but not limited to failure to perform its obligations, that results in a violation of HIPAA, the HIPAA Regulations, or the HI TECH Act, by either company/organization or its employees, directors, officers, subcontractors, agents or members of its Business Associate workforce.

4.3. Notices Any notices required or permitted to be given hereunder by either Party to the other shall be given in writing: (1) by personal delivery; (2) by electronic mail or facsimile with confirmation sent by United States first class registered or certified mail, postage prepaid, return receipt requested; (3) by bonded courier or by a nationally recognized overnight delivery service; or (4) by United States first class registered or certified mail, postage prepaid, return receipt, in each case, addressed to a Party on the signature page(s) to this Agreement or to such other addresses as the Parties may request in writing by notice given pursuant to this Section 4.3. Notices shall be deemed received on the earliest of personal delivery; upon delivery by electronic facsimile with confirmation from the transmitting machine that the transmission was

completed; twenty-four (24) hours following deposit with a bonded courier or overnight delivery service; or seventy-two (72) hours following deposit in the U.S. mail as required herein.

4.4. Relationship of Parties Business Associate 2 is an independent contractor and not an agent of Business Associate 1 under this BAA. Business Associate 2 has the sole right and obligation to supervise, manage, contract, direct, procure, perform or cause to be performed all Business Associate 2 obligations under this BAA.

4.5. Survival The respective rights and obligations of the Parties under Sections 3.3 and 4.2 of this BAA shall survive the termination of this BAA.

4.6. Applicable Law and Venue This Agreement shall be governed by and construed in accordance with the laws of the State of New York (without regards to conflict of laws principles). The Parties agree that all actions or proceedings arising in connection with this BAA shall be tried and litigated exclusively in the State or federal (if permitted by law and if a Party elects to file an action in federal court) courts located in New York County, New York.

[SIGNATURE SECTION FOLLOWS]

The Parties hereto have duly executed this Agreement as of the Effective Date.

BUSINESS ASSOCIATE 1:

Allegany County

Address:
7 Court Street, Belmont, NY, 14813

By:

Print Name:

Title:

Date:

BUSINESS ASSOCIATE 2:

KINETIK HEALTHCARE SOLUTIONS, INC.

Address:
11-48 46th Rd
Long Island City, NY 11101

By:

Print Name: Sebastian Gerschman

Title: Account Executive

Date: 07/19/2022

MEMORANDUM OF EXPLANATION

For Acceptance and Budgeting of GRANTS

INTRODUCTION NO: _____

(Clerk's use only)

Committee of Jurisdiction: Ways & Means Date: August 17, 2022

Explanation of Grant:

Seeking authorization to accept and budget the CDBG CARES Program Award for Small Business Assistance Program (NYS CDBG Project #20CVSB70-22). Please see attached CDBGCARES Program Award Letter dated July 14, 2022 from the NYS Homes and Community Renewal and a copy of Resolution #95-22 authorizing Allegany County to pursue the grant application. Seeking authorization for the Chairman of the Board to execute the agreement. See attached agreement and checklist.

NEW COST CENTER - CB 8680 – CBDG Cares Small Business Assistance Program #20CVSB70-22

Appropriations ($1,000,000)

CB 8680.409	Administration Fees	$ 40,000
CB 8680.493	Contractual – Program Delivery Cost	$ 60,000
CB 8680.495	Contractual – Small Business Asst Grants	$ 900,000
	Total Program	$ 1,000,000

Revenues ($1,000,000)

CB 8680.3989.CBSB St Aid – CDBG Cares Small Business #20CVSB70-22 $ 1,000,000

FISCAL IMPACT: Total grant: $1,000,000

Local county share: -0-

State Grant? ___X____ Revenue # _CB 8680.3989.CBSB_____ $ _1,000,000_____

Federal Grant? _____ Revenue # _____ $ _____

If Federal, please list Federal Catalog of Federal Domestic Assistance

(CFDA) number _____-_____

This grant is a _____ renewal of existing grant funded program or _X____ new grant fund program.

Grant Fiscal Year: 4/1-3/31/2023 – State Fiscal Calendar

Obligation of County after grant expires: No obligations.

Major benefits of accepting this grant are: Eligible small businesses will receive assistance for a variety of activities that prepare for, prevent, and respond to the COVID-19 pandemic while assisting in the recovery of New York State communities by improving resiliency of businesses and safety of homes and public facilities serving its residents.

Department Head: Carissa M. Knapp Phone: 585-268-9216

NEW YORK STATE OF OPPORTUNITY. | Homes and Community Renewal

KATHY HOCHUL
Governor

RUTHANNE VISNAUSKAS
Commissioner/CEO

July 14, 2022

Philip Stockin
Chairperson
Allegany County
County Office Building
7 Court Street
Belmont, New York 14813

Re: CDBG CARES Program Award
Allegany County - Small Business Assistance Program
NYS CDBG Project # 20CVSB70-22

On behalf of the Housing Trust Fund Corporation (HTFC) and the Office of Community Renewal (OCR), it is my pleasure to inform you that the application submitted for New York State Community Development Block Grant (CDBG) Coronavirus Aid, Relief, and Economic Security Act (CARES) funds has been selected for a $1,000,000 award.

OCR has made CDBG CARES funding available on a rolling basis for a variety of activities that prepare for, prevent and respond to the COVID-19 pandemic. The projects selected for award will assist in the recovery of New York State communities by improving the resiliency of businesses and safety of homes and public facilities serving its residents.

A grant agreement will be transmitted separately for this award. Please be advised that no work can be performed, nor any cost committed or incurred prior to the execution of a grant agreement with HTFC and approval of all required environmental review record materials. HTFC reserves the right to rescind an award and deobligate funds for projects unable to satisfy all requirements.

OCR program staff will contact you to outline the procedures necessary to advance this project. Should you have any questions in the interim, please contact the Office of Community Renewal at 518-474-2057 or OCRinfo@hcr.ny.gov.

Sincerely,

RuthAnne Visnauskas
Commissioner/CEO

RESOLUTION NO. 95-22

RESOLUTION AUTHORIZING ALLEGANY COUNTY TO PURSUE A GRANT APPLICATION SEEKING A $1,000,000 GRANT UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT GRANT TO PROVIDE SMALL BUSINESS SUPPORT GRANTS TO ELIGIBLE BUSINESSES IN ALLEGANY COUNTY

Offered by: Ways & Means Committee

WHEREAS, Allegany County, in partnership with the Allegany County Industrial Development Agency (ACIDA), wishes to submit a grant application under the Community Development Block Grant (CDBG) Coronavirus Aid, Relief, and Economic Security (CARES) Act Grant, and

WHEREAS, the application will seek a grant in the amount of $1,000,000 to provide small business support grants to eligible businesses in Allegany County which have been negatively impacted by the COVID-19 pandemic, and

WHEREAS, the grant funds will support the ACIDA in providing financial assistance to local businesses in Allegany County and help them prevent, prepare for, or respond to the impacts of the COVID-19 pandemic, and

WHEREAS, there is no requirement that any County dollars be committed as a condition of receiving the grant, and

WHEREAS, the ACIDA intends to prepare the grant application and oversee the administration of the grant, and

WHEREAS, the program requires that a municipal corporation act as the lead agency and the recipient of the grant funds, and

WHEREAS, Allegany County is willing to serve as the lead agency, and

WHEREAS, as part of the grant process a public hearing was conducted, now, therefore, be it

RESOLVED:

1. That Allegany County is authorized to pursue a grant application seeking a $1,000,000 grant under the CDBG CARES Act Grant.

2. That the Chairman of this Board is authorized to sign all documents necessary to apply for the grant.

I, Brenda Rigby Riehle, Clerk of the Board of Legislators of the County of Allegany, State of New York, do hereby certify that the foregoing constitutes a correct copy of the original on file in my office and the whole thereof of a resolution passed by said Board on the **23rd day of March 2022**.

Brenda Rigby Riehle
Clerk, Board of Legislators, Allegany County

Dated at Belmont, New York, this 24th day of March 2022

Moved by: **Fanton** Seconded by: **Ricci** VOTE: Ayes: **11** Noes: **0** Absent: **4** Voice:

Absent: Demick, Ricketts-Swales, Rumfelt, Stockin

Community Development Block Grant (CDBG)
Program Grant Agreement Checklist

Submit the following to execute the CDBG Grant Agreement:

- ☐ One (1) Notarized signed copy of CDBG Grant Agreement
- ☐ Schedule A Documentation (if applicable)
- ☐ Form 1-1, Authorized Signature Form
- ☐ Form 1-2, Designation of Depository for Direct Deposit of Funds Form
- ☐ Form 7-2, Program Schedule
- ☐ Form 8-1, Project Team
- ☐ **NEW** Proof of Insurance Coverage
  - ☐ General liability Insurance
  - ☐ Fidelity/Crime Coverage
  - ☐ Automobile Insurance
  - ☐ Workers' Compensation Coverage
- ☐ **NEW** Section 3 Compliance Plan (applies to any public works and housing projects for any NYS CDBG award after July 1, 2021, for more than $200,000, does not apply to Microenterprise, Small Business Assistance and Economic Development)

CDBG Grant Agreement

Sign the Grant Agreement and return full package via email to the assigned Developer.

Grant Agreement includes two schedules:

- Schedule A – If applicable, provides additional requirements or instructions that must be addressed prior to the execution of the Grant Agreement. Notify HousingTrust Fund Corporation (HTFC) if information is incorrect.
- Schedule B – A summary of the approved CDBG Program budget, activities, proposed accomplishments, and a description of the target area, as stated in the application.

Form 1-1 | Authorized Signature Form

An original signed copy of the "Authorized Signature Form for Request for Payment on CDBG Account"; and is required for every new award and for both new and prior recipients.

Form 1-2 | Designation of Depository for Direct Deposit of Funds Form

- An original signed copy of the "Designation of Depository for Direct Deposit of CDBG Funds", and is required for both new and prior recipients
- Please include a voided or canceled check with the recipient organization name imprinted on it to verify account ownership.

Form 7-2 | Program Schedule

- The Program Schedule reflects the implementation of the Project and expenditure of funds over the term of the grant agreement.

Form 8-1 | Project Team

- The Project Team identifies key personnel that may be involved with the project and is required for both new and prior recipients.

NEW Proof of Insurance coverage

- The Grant Agreement outlines the required insurance documentation. Insurance coverage must be from a New York State licensed carrier.
  - **General liability insurance**
    Coverage in a minimum amount of one million dollars. The certificate must name **both** the Housing Trust Fund Corporation **and** the State of New York as additional insured.
  - **Fidelity/Crime Coverage**
    Amount must be no less than the largest anticipated disbursement request for Program funds naming **both** the Housing Trust Fund Corporation **and** State of New York as loss payees.
  - **Automobile insurance**
    Automobile insurance coverage is required. Either coverage for vehicles owned and operated by the organization (if applicable), or hired and non-owned vehicles. If the organization does not own automobiles, a letter must be provided to state that auto insurance coverage will be adjusted to "any auto" if the organization acquires an automobile.
  - **Workers' compensation coverage**

NEW Section 3 Compliance Plan

- A template for Section 3 Compliance Plan, additional information is available on the FEHO website.

All the above referenced forms as well as the Grant Administration Manual and other pertinent information and forms can be found on the NYS CDBG website.

The effective date of the Grant Agreement is the date your community can begin incurring costs for exempt activities, as identified in 24 CFR 58.34 and 58.35. *Costs for non-exempt activities cannot be incurred until the required Environmental Review Record (ERR) is submitted to the OCR and the Request for Release of Funds has been approved.* CDBG funds will only be disbursed after the ERR has been accepted and a Release of Funds is approved, or a concurrence letter is issued.

Specific guidelines for administering the grant, including the required environmental review requirements, can be found in the Grant Administration Manual located on the OCR website. Also found at this location is the template for the NYS CDBG Local Recipient Administrative Plan which is required prior to requesting funds for the first time.

NEW YORK STATE
COMMUNITY DEVELOPMENT BLOCK GRANT AGREEMENT
CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT (CARES)

Project No. 20CVSB70-22

AGREEMENT, made effective as of the 14th day of July 2022, between the Housing Trust Fund Corporation (HTFC), represented by the Office of Community Renewal (collectively the "Corporation"), with offices at 38-40 State Street, Hampton Plaza, 4th Floor, Albany, New York, 12207, and Allegany County ("Recipient"), a unit of general local government with offices at County Office Building 7 Court Street, Belmont, New York 14813.

WHEREAS, pursuant to Title I of the Housing and Community Development Act of 1974, as amended ("Act"), the Corporation is authorized to administer and distribute Community Development Block Grant ("CDBG") funds to units of general local government located in the State of New York ("State"); and

WHEREAS, the Coronavirus Aid, Relief and Economic Security Act (CARES Act) (Public Law 116-136), signed into law on March 27, 2020, made available supplemental Community Development Block Grant (CDBG-CV) funding to prevent, prepare for and respond to the effects of the coronavirus pandemic; and

WHEREAS, the funding provided pursuant to the CDBG-CV is subject to the authorities and conditions imposed on fiscal year 2020 CDBG grants, the Notice published in the Federal Register 6218-N-01; and

WHEREAS, The Corporation has made CDBG-CV funding available to help communities throughout the State to safely reopen and restart their local economies in the wake of the coronavirus pandemic; and

WHEREAS, the Recipient has applied to the Corporation for CDBG funds to finance eligible community development activities ("Project"), as described in the Recipient's CDBG-CV Grant application ("Application"); and

WHEREAS, the Corporation has selected the Recipient to receive an award in an amount not to exceed $1,000,000 ("Grant Funds").

NOW, THEREFORE, the parties agree that the Grant Funds will be administered in accordance with the following terms and conditions:

1. Contents of Agreement. The following documents are incorporated by reference into this Agreement as if fully set out herein: **a)** the Recipient's approved Application and accompanying submissions, as modified by the terms of this Agreement or any subsequent amendment approved by the Corporation; **b)** the Corporation's CDBG Grant Administration Manual and its Program Guidelines (as now in effect and as may be revised from time to time); **c)** applicable Federal and State law and regulations, as may be amended, including, but not limited to, Department of Housing and Urban Development ("HUD") regulations found at 24 CFR Part 570; **d) Schedule A**, "Special Conditions", **Schedule B**, "Awarded Budget and Projected Accomplishments", and **Schedule C**, "Period of Affordability" attached hereto.

2. Recipient Performance. **a)** The Recipient agrees to utilize Grant Funds only to implement the activities described in, and in accordance with the terms of: **(i)** the Recipient's application, as amended by the Special Conditions attached as Schedule A; **(ii)** this Agreement; and **(iii)** all applicable State and Federal laws and regulations. This provision shall survive the termination or expiration of this Agreement. **b)** The period of performance for all activities (with the exception of those activities required for the close out and final audit) assisted pursuant to this Agreement shall commence on the effective date of this Agreement and shall end **July 13, 2023**.

3. Grant Funds. **a)** The amount of Grant Funds that the Corporation has agreed to provide the Recipient under this Agreement is expressly conditioned upon the Corporation's receipt of CDBG funds from HUD pursuant to the Act and the CARES Act. **b)** The Grant Funds to be disbursed hereunder shall not exceed the amount first set forth in this Agreement, and any additional funds required to complete the Project will be the sole responsibility of the Recipient. **c)** The Grant Funds are based upon the cost estimates provided by the Recipient in its Application. The Corporation reserves the right to reduce the Grant Funds: **(i)** to conform to any revision to which the parties may agree with respect to the Recipient's Application; or **(ii)** if the actual costs for the approved activities are less than those budgeted for in the Recipient's Application.

4. Disbursement of Grant Funds. **a)** The Recipient is authorized to request Grant Funds only in accordance with the provisions of this Agreement and the procedures established by the Corporation. No payment by the Corporation of an improper or unauthorized request shall constitute a waiver of the Corporation's right to: **(i)** challenge the validity of such payment; **(ii)** enforce all rights and remedies set forth in this Agreement; or **(iii)** take corrective or remedial administrative action including, without limitation, suspension, or termination of the Recipient's funding under this Agreement. **b)** The Recipient shall certify with each request for Grant Funds that: **(i)** all statements and representations previously made regarding this Agreement are correct and complete and **(ii)** the funds do not duplicate reimbursement of costs and services from any other source. **c)** The use of Grant Funds is conditioned upon the Recipient incurring costs permitted under the terms of this Agreement or as otherwise approved by the Corporation in writing. The Recipient shall not incur costs to be charged against Grant Funds until all Environmental Conditions of 24 CFR Part 58 have been fully satisfied and the Corporation has issued the environmental clearance required thereunder, unless the activity is exempt under section 58.34 or falls under a categorical exclusion listed in section 58.35(b).

5. Use of Grant Funds to Make Loans. **a)** If the Recipient utilizes Grant Funds to make loans and this Agreement is terminated, or if there is a finding by the Corporation of deficient performance or inadequate management capacity by the Recipient, the Corporation shall have the right to require that all payments due under the loan be paid directly to the Corporation, and the Corporation shall be entitled to all rights and remedies under any loan documents between the Recipient and the property owner/ loan's borrower. The following language must be inserted into every Promissory Note that evidence a loan of Grant Funds by the Recipient:

"The Lender, in consideration of the Community Development Block Grant ("CDBG") awarded to it by the Housing Trust Fund Corporation ("HTFC"), assigns all of its rights and remedies under this Promissory Note to HTFC. In the event (i) the CDBG Agreement entered into between the Lender and HTFC is terminated for any reason, or (ii) HTFC, in its sole and absolute discretion, finds deficient performance, any wrongdoing on the part of Recipient, sub-recipient or “borrower, or inadequate management capacity on the part of the Lender, HTFC shall have the right to notify the Debtor under this Promissory Note to make payment directly to HTFC, and to enforce any and all obligations of the Debtor under this Promissory Note or any other loan instrument executed in

connection herewith. Until such time as HTFC elects to exercise such rights by mailing to Lender and Debtor written notice thereof, Lender is authorized to collect payments and enforce all rights under this Promissory Note." **b)** If funding property(ies) which are non-owner occupied residential rental unit(s), the Recipient shall, and shall cause the owner of said propert(ies) ("Awardee"), to enter into a regulatory agreement between the Corporation and the Awardee ("Regulatory Agreement"), a construction loan agreement between the Corporation and the Awardee (the "Construction Loan Agreement") and a grant enforcement mortgage between the Corporation and the Awardee ("Grant Enforcement Mortgage") and further shall require the units to remain affordable for the term of the Regulatory Agreement as set forth in **Schedule C** "Period of Affordability".

6. Award Increases and Extensions. The Corporation may, at its sole discretion, provide need-based awards to commit additional grant funds specifically for the continuance or expansion of CDBG eligible activities. The Corporation may, at its sole discretion, also provide multi-year grant agreements based on the Corporation's available CDBG funds. Additional funds are subject to board approval.

7. Subcontracts. The Recipient shall: **a)** require any participating Subrecipient, Borrower, Awardee, contractor, subcontractor, or agent ("Third Party") to comply with all applicable Federal, State and Local laws and regulations; **b)** adopt and perform such review and inspection procedures as are necessary to ensure compliance by a Third Party with all applicable Federal, State and Local laws and regulations; **c)** require any Third Party to indemnify the Corporation and the Recipient against any and all claims arising out of the Third Party's performance of work; **d)** remain fully obligated under this Agreement notwithstanding its designation of a Third Party to undertake all or any portion of the Project.

8. Program Income. Program Income is defined as the gross income, which includes principal and interest, of the Recipient or its Subrecipients that was generated from the use of CDBG funds when such total exceeds $35,000 as provided in 24 CFR 570.489(e). When the income is generated by an activity that is only partially funded with CDBG funds, the income must be prorated to reflect the percentage of CDBG used.

The gross income from the CDBG funds must be accumulated in a separate local account. If during the State's fiscal year (April 1 - March 31), the gross income does not exceed $35,000, the funds are considered miscellaneous revenue and may be retained by the Recipient and moved to its general account at the end of the State's fiscal year. However, prior to moving the funds to the general account, the Recipient must submit the account bank settlements to OCR, for the State's fiscal year, to demonstrate that the gross income did not exceed $35,000. The OCR will provide written approval to transfer. However, if during the State's fiscal year, the gross income exceeds $35,000, then all funds received, including the initial $35,000, are considered Program Income and must be returned to HTFC at the end of the State's fiscal year with a Program Income Report. Nevertheless, no Program Income may be directly disbursed to activities by the Recipient or Subrecipients without HTFC written consent.

Gross income accrued after the grant has been closed out by the HTFC may still be Program Income if it exceeds $35,000 during the State's fiscal year, in which case it must be returned to the HTFC.

Real property sold within five (5) years from the date of closeout by the HTFC, must be included in gross income for the purposes of determining Program Income. However, after five (5) years from the date of closeout by the HTFC, any proceeds from the sale of real property purchased or

improved with CDBG funds are not considered Program Income and may be retained by the Recipient.

Notwithstanding any other provisions of this clause, all revolving loan fund income, both of principal and interest, is Program Income. Revolving loan fund income must be returned monthly upon receipt to the HTFC. Revolving loan fund income is not included in the total gross income calculation when determining program income.

9. Uniform Administrative Requirements. The Recipient shall comply or cause compliance with the Uniform Administrative Requirements as set forth in 2 CFR Part 200 and the Uniform Administrative Requirements, Cost Principals and Audit Requirements and as described in 24 CFR Part 570, subpart I and K, as applicable and as may be amended from time to time.

10. Other Program Federal Requirements.

The Recipient shall, during the term of this Contract, carry out each activity in compliance with all Federal laws, the Statutes, and regulations as applicable described in 24 CFR Part 570, subpart I and K.

A. Citizen Participation: 24 CFR 570.486, requiring each unit of general local government meet the requirements as required by the state at 24 CFR 91.115 (e). Which provides for and encourages citizen participation, particularly by low- and moderate-income persons.

B. Environmental Standards: This project is subject to environmental review under the National Environmental Policy Act (NEPA) and State Environmental Quality Review Act (SEQRA). An Environmental Review Record (ERR) and a Request for Release of Funds (RROF) or concurrence must be approved by the Corporation prior to incurring any project costs. All Environmental Review requirements, can be found in Chapter 2 of the Corporation's CDBG Grant Administration Manual.

C. Nondiscrimination and Debarred Contractors: In compliance with 24 CFR 570.60, the Recipient must comply with the Federal requirements set forth in 24 CFR Part 5, subpart A, which includes non-discrimination and equal opportunity, disclosure requirements, debarred, suspended or ineligible contractors (each contractor employed on a CDBG assisted project must be documented that he/she is not on the Federal debarred, suspended or ineligible contractor list) and drug-free workplace.

D. Displacement, Relocation, and Acquisition: The CDBG Program is subject to an overall policy of minimizing displacement and is subject to the Uniform Relocation Act (URA) and Section 104(d) of the Housing and Community Development Act of 1974, as amended. The Recipient must ensure that it has taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted with CDBG funds.

E. Labor Requirements: 40 USC, Chapter 3, Section 276a-276a-5; and 29 CFR Parts 1, 3, 5, 6 and 7 are triggered when construction work over $2,000 is financed in whole or in part with CDBG funds. It requires that workers receive no less than the prevailing wages being paid for similar work in the same area. Davis-Bacon does not apply to the rehabilitation of residential structures containing less than eight (8) units or force account labor (construction carried out by employees of the Recipient).

F. Conflict of Interest: 24 CFR 570.489 (h): No person(s) who exercise or who have exercised any functions or responsibilities with respect to activities assisted with CDBG funds or who are in a position to participate in decision making process or gain inside information with regard to CDBG- assisted activities may obtain a financial interest or financial benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity or the proceeds from such activity, either for themselves or those with whom they have business or immediate family ties during their tenure or for one year thereafter. Immediate family ties include (whether by blood, marriage, or adoption) the spouse, parent (including a stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister) grandparent, grandchild, and in-laws or a covered person. Further, no officer, employee, agent, elected official, appointed official, or consultant of a covered person may occupy a CDBG- assisted affordable housing unit in the Project.

G. Section 3: Recipients of CDBG funds must comply with the provisions set forth at 24 CFR Part 135. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). A Section 3 Compliance Plan must be submitted and is available https://hcr.ny.gov/S3ParticipationPlan Annual Section 3 Reporting will be required, the report is available here, https://hcr.ny.gov/S3SubReportingForm.

H. Affirmatively Furthering Fair Housing: Pursuant to 24 CFR 570.487, each unit of general local government is required to certify that it will affirmatively further fair housing throughout the community as defined in 65 CFR 16715. The Recipient is required to report on an Annual Basis, in January of each year, through the Annual Performance Report as set forth in the NYS CDBG policies and procedures.

I. Affirmative Marketing: Recipients of NYS CDBG funds must comply with an approved affirmative marketing, tenant selection and long-term management guidelines and plan requirements, and in compliance with the policies and procedures promulgated by HCR and HTFC, as to marketing and tenant selection requirements, and to comply with all federal, New York State and local fair housing and non-discrimination laws, as applicable. The policy must be reviewed and updated every five (5) years.

J. Equal Employment and Minority and Women Owned Business Participation: Under the terms of Executive Order 11246, CDBG Recipients are required to include the equal opportunity clause in all non-exempt federally-assisted contracts for more than $10,000, as set forth in 202 of Executive Order 11246; and ensure that all federally-assisted construction contractors and subcontractors on a NYS CDBG-assisted project take affirmative actions to ensure that employees and applicants for employment are not discriminated against because of race, color, religion, sex, or national origin.

Under Article 15A of the New York State Executive Law, all award recipients and their contractors are required to comply with the Equal Employment Opportunity provisions of Section 312 of that Article. Also, all contractors and awardees are required to make affirmative efforts to ensure that New York State Certified Minority and Women Owned Business Enterprises are afforded opportunities for meaningful participation in projects through inclusion

on the list of contractors funded by HTFC pursuant to Section 313 of the Article. Visit NYS Empire State Development's Division of Minority & Women Business Development website for a directory of certified Minority and Women Owned Businesses: http://www.esd.ny.gov/MWBE.html

K. Affordability: In compliance with 24 CFR 570.208(a)(3) and §570.483(b)(3), Recipients of NYS CDBG and NYS CDBG-CV CARES Act funds must ensure assisted rental units are occupied by and affordable to low- and moderate-income tenants.

11. Insurance. During the Term, the Recipient shall take all adequate measures to safeguard against the risk of liability for injuries or death of employees of the Recipient, contractors and subcontractors, and of any other persons. The Recipient shall provide the Corporation with an insurance certificates for a) comprehensive general liability coverage in a minimum amount of one million dollars naming the Corporation and the State of New York as additional insureds, together with b) crime/fidelity coverage in an amount not less than the largest anticipated disbursement request for Program funds naming the Corporation as loss payee, and c) certificates for automobile insurance (if applicable), fire insurance, workers' compensation, and disability benefits. All certificates shall be with a New York State licensed carrier of insurance. Within two (2) business days of having received any notice of non-renewal, cancellation, termination, or rescindment for any type of insurance required herein; the Recipient shall provide the Corporation with a copy of such notice, either by facsimile or email (in pdf format) to the signatory hereof, together with an explanation of any efforts taken to reinstate such coverage. The Recipient may not cancel, terminate or fail to renew any insurance policy required herein, unless and until the Recipient has received the Corporation's written consent thereto.

12. Records. The Recipient shall and shall cause any Borrower, as applicable, to keep and maintain complete and accurate books, records and other documents as shall be required under applicable Federal and State rules and regulations, including, but not limited to, the Corporation's Grant Administration Manual, the Regulatory Agreement, and the Grant Enforcement Mortgage, as applicable and as may be requested by the Corporation to reflect and fully disclose all transactions relating to the receipt and expenditure of Grant Funds and administration of the Project. All such books, records, and other documents shall be available for inspection, copying and audit at all reasonable times by any duly authorized representative of the State or Federal government. All such records shall be maintained and available for inspection, copying and audit during the term and for seven years following the final disbursement of the Grant Funds.

13. Reports. The Recipient, at such times and in such form as the Corporation may require, shall furnish the Corporation with such periodic reports as it may request pertaining to the Project, the costs and obligations incurred in connection therewith, and any other matters covered by this Agreement. Such reporting requirements can be found in Corporation's CDBG Grant Administration Manual and corresponding laws, regulations, and statutes, the attached Schedule C, Period of Affordability, the Regulatory Agreement, Construction Loan Agreement and the Grant Enforcement Mortgage.

14. Performance Review. The Corporation shall conduct periodic reviews in such manner and at such times as it shall determine for the purpose, among other things, of ascertaining the quality and quantity of the Recipient's activities, as well as their conformity to the provisions of this Agreement, and the financial integrity and efficiency of the Recipient.

15. Notice of Investigation or Default. The Recipient shall notify the Corporation within five (5) calendar days after obtaining knowledge of **a)** the commencement of any investigation or audit of its activities by any governmental agency; or **b)** the alleged default by the Recipient under any mortgage, deed of trust, security agreement, Loan agreement or credit instrument executed in connection with the Project, or **c)** the allegation of ineligible activities, misuse of the Award, or failure to comply with the terms of the Recipient's approved application. Upon receipt of such notification, the Corporation may, in its discretion, withhold or suspend payment of some or all of the Award for a reasonable period of time while it conducts a review of the Project's activities and expenditures.

16. Default. **a)** If an Event of Default as defined below shall occur, all obligations on the part of the Corporation to make any further payment of Grant Funds shall, if the Corporation so elects, terminate and the Corporation may, in its discretion, exercise any of the remedies set forth herein; provided, however, that the Corporation may make any payments after the happening of an Event of Default without thereby waiving the right to exercise such remedies, and without becoming liable to make any further payment(s). **b)** The following shall constitute an Event of Default hereunder: **(i)** if the Recipient fails, in the opinion of the Corporation, to comply with or perform any provision, condition or covenant contained in this Agreement, any applicable State or Federal law or regulation, or the program policies and procedures established by the Corporation; **(ii)** if at any time any presentation or warranty made by the Recipient shall be incorrect or materially misleading; **(iii)** if a lien for the performance of work or the furnishing of labor or materials is filed against the Program or any improvement financed thereunder and remains unsatisfied, undischarged or unbonded at the time of any request for disbursement or for a period of twenty (20) days after the date of filing of such lien; **(iv)** if the Recipient shall fail to comply with any of the terms of any mortgage, deed of trust, security agreement, loan agreement, credit agreement or other instrument executed in favor of any other party; **(v)** if the Recipient has failed to commence the Project in a timely fashion or has failed to complete the Project on or before the Completion Date, or any wrongdoing on the part of Recipient, subrecipient, Awardee or borrower; **(vi)** the Recipient or its subrecipient, borrower or awardee, as applicable, defaults under the Regulatory Agreement, Construction Loan Agreement or the Grant Enforcement Mortgage as applicable; **(vii)** if the housing acquired or improved by Grant Funds does not meet the affordability requirements in accordance with the Schedule C **c)** Upon the happening of an Event of Default, the Corporation may, in its discretion, exercise any one or more of the following remedies, either concurrently or consecutively, and the pursuit of any one of such remedies shall not preclude the Corporation from pursuing any other remedies contained herein or otherwise provided at law or in equity: **(i)** terminate this Agreement, provided that the Recipient is given at least thirty (30) days prior written notice; **(ii)** commence a legal or equitable action to enforce performance of this Agreement; **(iii)** withhold or suspend payment of Grant Funds; **(iv)** exercise any corrective or remedial action, to include, but not be limited to, advising the Recipient to suspend, discontinue or refrain from incurring costs for any activities in question or requiring the Recipient to reimburse the Corporation for the amount of Grant Funds expended or used in an unauthorized manner or for an unauthorized purpose; **(v)** require repayment of Grant Funds in whole or in part. **d)** In the event this Agreement is terminated by the Corporation for any reason, or upon the closeout of the Project, unless the Recipient obtains the prior written consent of the Corporation to the contrary, all unspent Grant Funds held by the Recipient shall immediately be turned over to the Corporation, and the Corporation shall have no further liability or obligation under this Agreement; provided, however, that nothing herein is intended to relieve the Corporation of its obligation to pay for services properly performed by the Recipient prior to such termination. Notwithstanding any such termination or closeout, the Recipient shall remain liable to the

Corporation for any unspent Grant Funds, the expenditure or use of the Grant Funds in a manner or for a purpose not authorized by this Agreement, or damages as a result of any breach of this Agreement by the Recipient. The Corporation shall have the right, at any time prior or subsequent to any such termination or closeout, to pursue any and all available remedies, including seeking injunctive or other equitable relief, to enforce the provisions of this Agreement and to recover Grant Funds which are unspent, expended or used in an unauthorized manner or for an unauthorized purpose.

17. Indemnification. To the fullest extent permitted by law, the Recipient shall defend, indemnify and hold harmless the Corporation and its agents and employees from and against any and all claims, actions, damages, losses, expenses and costs of every nature and kind, including reasonable attorneys' fees, incurred by or asserted or imposed against the Corporation, as a result of or in connection with the Project. All money expended by the Corporation as a result of such claims, actions, damages, losses, expenses, and costs, together with interest at a rate not to exceed the maximum interest rate permitted by law, shall be immediately upon reasonable notice due and payable by the Recipient to the Corporation.

18. Non-Liability. Nothing contained in this Agreement or elsewhere shall impose any liability or duty whatsoever on the State, the Corporation, or any agency or subdivision of the foregoing except as otherwise expressly stated in this Agreement.

19. Statute of Limitations. No action shall lie or be maintained against the State or the Corporation upon any claim based upon or arising out of this Agreement or the work performed hereunder or anything done in connection therewith, unless such action shall be commenced within one (1) year from the termination or expiration of this Agreement or six (6) months from the accrual of the cause of action, whichever is earlier.

20. Service of Process. In addition to the methods of service allowed by the State's Civil Practice Law & Rules, the Recipient hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon the Recipient's actual receipt of process or upon the Corporation's receipt of its return by the United States Postal Service marked "refused" or "undeliverable". The Recipient must promptly notify the Corporation, in writing, of each and every change of address to which service of process can be made. Service by the Corporation to the last known address shall be deemed sufficient. The Recipient shall have thirty (30) calendar days after service is complete in which to respond.

21. Notices. All notices, requests, approvals, and consents of any kind made pursuant to this Agreement shall be in writing and shall be deemed to be effective as of the date it is sent by certified mail, return receipt requested. Such written communications shall be mailed to the respective party's address first set out herein or at such other address as may be provided in writing, except that notice of such change of address shall be deemed to have been given the date it is received.

22. Severability. Should any part, term, or provision of this Agreement be decided by a court of competent jurisdiction to be invalid, unenforceable, illegal, or in conflict with any law, the validity, legality, and enforceability of the remaining portions shall not be affected or impaired.

23. Nonwaiver. The Corporation's failure to insist upon the strict performance of any provision of this Agreement, or to exercise any right based upon a breach thereof or the acceptance of any

performance during such breach, will not constitute a waiver of any of its rights under this Agreement.

24. Assignment. No right, benefit or advantage inuring to the Recipient, and no obligation imposed on the Recipient, under this Agreement may be assigned without the prior written approval of the Corporation.

25. Successors. This Agreement shall be binding upon the successors in office of the respective parties.

26. Assurance of Authority. The Recipient hereby assures and certifies that: **a)** The Recipient is duly organized and validly existing under the laws of the State, and has all the requisite power and authority to enter into this Agreement and to assume the responsibilities for compliance with all Federal and State laws and regulations. **b)** A resolution, motion, order or ordinance has been duly adopted, passed, or enacted as an official act of the Recipient's governing body, authorizing the execution and delivery of this Agreement by the Recipient and authorizing and directing the person executing this Agreement to do so for and on behalf of the Recipient, said acts being done in such manner and form as to comply with all applicable laws to make this Agreement the valid and legally binding act and agreement of the Recipient. **c)** There is no action, proceeding, or investigation now pending, nor any basis therefore, known or believed by the Recipient to exist, which **(i)** questions the validity of this Agreement, or any action taken or to be taken under it, or **(ii)** is likely to result in any material adverse changes in the authorities, properties, assets, liabilities, or conditions (Financial or otherwise) of the Recipient which would materially and substantially impair the Recipient's ability to perform any of the obligations imposed upon the Recipient by this Agreement. **d)** The representations, statements, and other matters contained in the Recipient's Application were true and complete in all material respects as of the date of filing. The Recipient is aware of no event that would require any amendment to the Application that would make such representations, statements, and other matters true and complete in all material respects and not misleading in any material respect. The Recipient is aware of no event or other fact that should have been, and has not been, reported in the Application. **e)** Insofar as the capacity of the Recipient to carry out any obligation under this Agreement is concerned, **(i)** the Recipient is not in material violation of its Charter, or any mortgage, indenture, agreement, instrument, judgment, decree, order, statute, rule or regulation and **(ii)** the execution and performance of this Agreement will not result in any such violation.

27. Photography Release. Recipient shall require any Third Party to execute a photography release, an example of which is available in the OCR website at https://hcr.ny.gov/community-development-block-grant or a release in substantially similar form thereof.

28. Expenditure of Funds. Recipient shall complete the Environmental Review Record, obtain approval for a Request for Release of Funds and submit the first request for funds to the OCR within 180 days of the date of the grant award.

If a proposed project is not committed or completed, Program Delivery and Project Costs are not eligible as there is no CDBG-eligible activity. Costs incurred and funds disbursed for projects that do not advance are subject to repayment.

29. Project Completion. Recipient shall submit the Final Annual Performance Report and report all

amendment, modification, or rescission is in writing, and signed by the Corporation.

31. Interpretation. The captions and headings of the various sections herein are for convenience only and do and shall not be deemed to, define, limit, or construe the contents of such sections.

32. Entire Agreement. This Agreement, including the attached schedules, constitutes the entire agreement between the parties and supersedes all prior oral and written agreements with respect to this Grant. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State.

IN WITNESS WHEREOF, this Agreement has been executed by a duly authorized representative of the parties.

Housing Trust Fund Corporation

By: _____
Name: Crystal Loffler
Title: President
Office of Community Renewal

County of Allegany

By: _____
Name: Philip Stockin
Title: Chairperson

STATE OF NEW YORK)

COUNTY OF _____) ss.:

On the _____ day of _____, in the year _____, 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(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
NOTARY PUBLIC

This contract has been approved by the Corporation's Counsel as to form and its Treasurer as to fiscal sufficiency.

SCHEDULE A

SPECIAL CONDITIONS

CDBG CARES funds are available to prepare, prevent and respond to the COVID-19 pandemic. Funds have been provided for the identified project(s) given the need presented and Recipient's ability to deliver the funds efficiently. HTFC must take precautions to meet strict expenditure deadlines imposed on the CDBG CARES funds. For this reason, HTFC reserves the right to terminate this agreement and/or suspend payment of grant funds in the event of default including failure to commence the project within three months or if the project cannot reasonably be completed before the completion date set forth in the agreement.

Recipients must begin and complete all "start-up" activities including the execution of this Grant Agreement and completion of environmental review requirements under SEQRA and NEPA within the schedule outlined below. Recipients that fail to act and reasonably adhere to this schedule will be considered in default and the agreement may be terminated.

Project Start-up Activities

Complete within 45 days of Award: Execution of Grant Agreement
Complete within 60 days of Award: Environmental Review
Complete within 90 days of Award: Miscellaneous Provisions, e.g. labor standards, procurement, etc.

Project Implementation Activities

Complete within 3-12 months of Award: Local Commitment and Expenditure of all Grant Funds

Recipients are not guaranteed time extensions beyond the completion date stated in the agreement. Approval for payment of grant funds after the contract end date is not guaranteed. If a proposed project is not committed or completed in accordance with the terms of the Grant Agreement, Program Delivery and Project Costs will be deemed ineligible. CDBG-CV CARES Act funds disbursed for projects that do not advance are subject to recapture by OCR.

Schedule B
2020 Awarded Budget & Projected Accomplishments

Project Number: 20CVSB70-22

Community	*C/T/V*	*County*	*Type*	*Awarded Amount*
Allegany	County	Allegany	CV Small Business	**$1,000,000**

Award Budget:

Funding Source	*Amount*
CDBG-CV	$1,000,000.00
Equity	$225,000.00
Projected Total Funding:	**$1,225,000.00**

Activity Budget Detail:

Activity(ies)	*Projected Use*	*Amount*
Allegany County COVID Small Business Assistance		
	Business Assistance	$900,000.00
	Program Delivery	$60,000.00
Allegany County Grant Administration		
	Grant Administration	$40,000.00
		$1,000,000.00

Projected Accomplishments:

20CVSB7022-01 Allegany County COVID Small Business Assistance

Businesses	
Businesses Assisted	**18**
LMI Businesses Assisted	**5**
Jobs	
New Full Time	**20**
New Full Time - made available to LMI	**15**
New Part Time	**20**
New Part Time - made available to LMI	**20**
# of PT X Average # of hours (PT) worked per week-New	**400**
Average # of hours per week of Part Time - Created	**20**

Source Key:

AHC - Affordable Housing Corp, RESTORE - Residential Emergency Services to Offer Repair to Elderly, ARC - Appalachian Regional Commission Area Development Program, ANCCEP - Adirondack North Country Community Enhancement Program, DASNY - Dormitory Authority of the State of New York, EDA - US Economic Development Administration, EFC CW - Environmental Facilities Corp. ; Clean Water Act SRF, EFC DW - Environmental Facilities Corp. ; Safe Drinking Water Act SRF, FHLB - Federal Housing Loan Bank, IDA - Industrial Development Agency, LDC - Local Development Corp., NCA - Norty Country Alliance, NYBDC - New York State Business Development Corp., NYSCA - New York State Council of the Arts, , NYSERDA - New York State Energy Research and Development Authority, NYS OCFS - NYS Office of Children and Family Services, NYS OTDA - NYS Office of temporary and Disability Assistance, NYS Strategic Invest Fund, RUS - USDA Rural Development, Rural Utilities Service, Water and Wastewater Disposal Loan and Grant Program, SBTIF - Small Business Technology Investment Fund, US HHS - Department of Health and Human Services (federal)

Schedule C
Period of Affordability

WHEREAS, this Addendum is hereby made a part of the Grant Agreement between Recipient and HTFC, pertaining to a project ("Project") under the Community Development Block Grant ("CDBG") Coronavirus Aid, Relief, and Economic Security Act ("CARES Act");

NOW, THEREFORE, Recipient agrees to maintain, or cause to maintain, the rental housing units regulated under this Grant Agreement ("Regulated Units") as affordable housing under the terms as stated in this Schedule, the Regulatory Agreement and the Grant Enforcement Mortgage.

1. Term of Affordability

The Regulated Units shall remain affordable housing for at least the below-listed periods of affordability (POA) from the date of project completion:

Rental Rehabilitation Per Unit	
Less than $15,000 Investment:	5 years
$15,000-$40,000 Investment:	10 years
Greater than $40,000 Investment:	15 years

2. Affordability Requirements

The affordability requirements apply during the POA to all assisted rental units and include:

A. Low- to Moderate Income Occupancy: At least 51% of the tenants must be at or below 80% of Area Median Income (AMI).

B. Rent Limits: Not to exceed 30% of income, less the approved Utility Allowance, if applicable. If after initial occupancy and income certification, if the tenant's income exceeds 80% of the AMI, the rent shall not exceed 30% of the tenant's income or fair market rent.

C. Utility Allowances: If utilities are not included in the rent, the rent limit must be adjusted to reflect a utility allowance. The owner must use the local Public Housing Authority's (PHA) schedule of utility allowances. The relevant Utility Allowance(s) must be deducted from the rent calculated for the tenant household. The calculation must be reflected on the annual CDBG Rental Project Compliance Report and the Utility Allowance Schedule provided to support the report.

D. Annual Tenant Household Income Eligibility Certifications: Tenant incomes must be certified by the Owner at initial occupancy and annually thereafter during the POA. Income certifications must be signed and dated by the Tenant and Owner. For existing tenants, income certifications need to be completed and signed at the time of lease renewal.

E. Execution of Lease Addendums: The Owner and Tenant execute the following lease addendums that are to be attached to the Owner lease:

i. CDBG & CDBG-CV Lease Addendum: confirms Tenant and Owner agreement with NYS CDBG lease and occupancy requirements, available on the NYS Homes and Community Renewal's Statewide Asset Management Unit (SAMU) website at: https://hcr.ny.gov/asset-management

ii. Violence Against Women Act (VAWA) Lease Addendum: Notifies Tenants of rights and protections under VAWA. For more information, please see the "NYS HOME and CDBG Program Violence Against Women Act Policy." Additional guidance, VAWA Tenant information notices and

template addendums are available from the HCR Fair and Equitable Housing Office (FEHO) online at: https://hcr.ny.gov/marketing-plans-policies

F. Maintenance of the Rental Units: Throughout the POA, the units must be maintained in compliance with NYS and Local Code.

G. Onsite Inspections: To ensure the continued good condition of the project, SAMU will perform an on-site inspection in the first year (within 12 months of transfer by OCR to SAMU) and no less than every three years thereafter.

H. Changes in Rents: The Owner will submit proposed rents to SAMU but may not implement the rents until SAMU approves. Prior to implementation, changes in rent require a minimum of 30 days' notice to Tenants or longer as provided by their lease and the law. See rent increase and budget forms available on the SAMU website at: https://hcr.ny.gov/asset-management

3. Determining Income Eligibility

A. Existing Tenants are certified as income eligible prior to prior to lease renewal execution.

B. New Tenants for vacant units must be certified as income eligible prior to lease execution and occupancy.

C. The Owner must use the HUD CPD Income Eligibility Calculator to determine income per the Part 5 method. The income determination summary from the calculator must be used to document income in the tenant file. The calculator is available online at: https://www.hudexchange.info/incomecalculator/

D. Owners must use the HTFC Credit and Justice-Involvement Assessment when selecting tenants: https://hcr.ny.gov/marketing-plans-policies

E. At initial occupancy for a vacant unit, 2 months source documentation is required to document Tenant income.

i. After initial occupancy, Tenant self-certifications of income are permitted.
ii. Source documentation is not required for income re-certifications.

4. Changes in Rents

Prior to implementation, changes in rent require a minimum of 30 days' notice to Tenants or longer as provided by law.

See template Rent Increase and Budget Forms available on the SAMU website at: https://hcr.ny.gov/asset-management

5. Annual Reporting and Recordkeeping

The Owner is responsible for ensuring full compliance for each assisted unit throughout the POA and for maintaining records to document such compliance. The Owner must annually certify to SAMU that the condition of the units complies with NYS and/or Local Code, have a valid certificate of occupancy and have been rented to income eligible Tenants.

To document these requirements, the Owner must submit to SAMU, within 120 days of the project's fiscal year end:

A. CDBG Owner Annual Certification of Occupancy Report: The form is available on the SAMU website at: https://hcr.ny.gov/asset-management

B. CDBG Rental Project Compliance Report: The form is available on the SAMU website at: https://hcr.ny.gov/asset-management.

C. General rental housing records must be kept for five years after project completion as defined in 24 CFR 92.2. Tenant income, rents and inspection information must be kept for the most recent five-year period, until five years after the POA ends.

6. Ongoing Monitoring and Inspections During the POA

Within 12 months of the project's completion in HUD's IDIS system by OCR, SAMU will do an initial on-site inspection. Thereafter, SAMU will perform an initial on-site inspection at least one year of closeout with OCR and will endeavor to conduct onsite inspections least once every three years thereafter. To prepare for the initial site visit, SAMU will contact the Owner and send pre-monitoring information.

NYS CDBG allows for the inspection of a sufficient sample of CDBG assisted units in a multi-family development rather than inspecting all the CDBG assisted units in the development.

The site, building exterior, building systems and common areas for each building must be inspected. All health and safety issues identified must be corrected immediately. SAMU must re-inspect within 12 months of the corrective action.

Rather than an on-site re-inspection, as approved on a case-by-case basis by SAMU, correction of minor deficiencies may be verified by a third party such as through a paid invoice showing a repair was completed.

A. After the initial monitoring, SAMU will issue a monitoring report that addresses any issues related to project viability and will work with the Owner to ensure compliance to the extent feasible.

B. Throughout the POA, SAMU will continue to monitor:

i. Verify on-going rent and occupancy requirements.

ii. Verify leases, Tenant incomes and rents, and utility allowances.

iii. Verify compliance with the NYS CDBG grant agreement, Regulatory Agreement and NYS CDBG note and mortgage.

7. Identification and Addressing Risk

Risk is determined for CDBG projects in compliance with the NYS CDBG Program Risk Based Monitoring System. During the POA, SAMU will categorize monitoring violations and risk based on three levels of non-compliance:

A. Level 1: One-time instances of noncompliance.

B. Level 2: Moderate to severe instances of noncompliance, multiple occurrences, and/or suggest that there are problems with management or operational issues in carrying out requirements.

C. Level 3: Instances of gross negligence, fraud, discrimination, or physical conditions that pose an imminent threat to the health or safety of the Tenants.

Based on the risks identified, SAMU may provide assistance to the Owner for non-compliance based on three stages of intervention:

A. Stage 1 - Low-level Intervention:
- Identify problem areas with the Owner and mandate required corrective actions.
- Plan a strategy to include training and technical assistance to help address identified issues.
- Require more frequent or more thorough reporting by the Owner.
- Conduct more frequent desk and/or on-site monitoring reviews.

B. Stage 2 - Moderate-level Intervention:
- For continued non-compliance, require full repayment of all CDBG funds invested in the project.

C. Stage 3 - High-level Intervention:
- Initiate legal action.

8. Corrective Actions

A. SAMU will take appropriate actions during the POA when performance problems or situations of non-compliance arise.

B. SAMU reserves the right to conduct additional monitoring, may provide technical assistance as indicated by the monitoring and will enforce all provisions of the NYS CDBG contract, Regulatory Agreement and NYS CDBG security instruments as applicable throughout the POA.

9. Supplemental Documents Identified & Referenced

- NYS CDBG Rental Owner Annual Certification of Occupancy Form
- NYS CDBG Rental Project Compliance Report
- NYS CDBG Lease Addendum Form
- NYS HOME & CDBG Violence Against Women Act Policy and Lease Addendum

M E M O R A N D U M O F E X P L A N A T I O N
Budget Adjustment Request

Introduction No: _____
(clerk's use only)

COMMITTEE: Ways and Means DATE: August 17, 2022

Requesting a resolution for the following budget adjustments to the 2022 budget to provide funding for the PrimeCare Medical contract that was passed by Resolution #230-22 on August 10, 2022.

This budget adjustment/transfer of $ 450,000 is requested to move funds from the Jail salary account and contingency to fund our needs thru the end of the year.

Budget Adjustment

FROM :

Jail Regular Pay	A 3150.101	($ 130,000)
Contingency	A 1990.430	($ 320,000)

TO:

Jail Contractual (Medical Exp)	A 3150.447	$ 450,000

FISCAL IMPACT: no additional 2022 funds – does reduce contingency by $ 320,000

For further information regarding this matter please contact:

Terri Ross, Deputy Budget Office/County Treasurer (585) 268-9290
on behalf of Sheriff Rick Whitney and Undersheriff Scott Cicirello 268-9797

Board of Legislators
County Office Building, Room 201
7 Court Street
Belmont, New York 14813
Phone: 585-268-9222

Ways & Means Committee
August 17, 2022
Referrals from Other Committees

Human Services

1. Social Service Commissioner Edna Kayes is requesting a resolution to approve the Department of Social Services' objective to obtain permission to apply/present to the Ralph C. Wilson Foundation, Health Foundation for Western & Central New York and the Cattaraugus County Regional Foundation an Investment Proposal for funding for the Southern Tier Child Advocacy Center (CAC). The investment proposal requests funding to assist with the costs for the general operation of the Southern Tier Advocacy Center. Upon acceptance of the proposal the grant applications will be complete.

Fund Request:	2023	$451,262
	2024	$469,939
	2025	$487,687

MEMORANDUM OF EXPLANATION

For Authorization to Apply for Grant

INTRODUCTION NO: _____

(Clerk's use only)

Committee of Jurisdiction: Human Services Committee Date: 8/12/2022

Seeking authorization to apply for: Requesting a resolution to approve the Department of Social Services' objective to obtain permission to apply/present to the Ralph C. Wilson Foundation, Health Foundation for Western & Central New York and the Cattaraugus County Regional Foundation an Investment Proposal for funding for the Southern Tier Child Advocacy Center (CAC).

Explanation of grant application: The investment proposal requests funding to assist with the costs for the general operation of the Southern Tier Child Advocacy Center. Upon acceptance of the proposal the grant applications will be completed.

Fund Request: 2023 $451,262
2024 $469,939
2025 $487,687

FISCAL IMPACT:

Total COUNTY SHARE of grant: **$0**

Local county share: _____

State Grant? _____ Revenue: ***# will be established when awarded*** $ _____

This grant is _____ renewal of existing grant funded program or a **x** new grant fund program.

Grant Fiscal Year: **2023-2025**

Obligation of County after grant expires: **None**

Major benefits of applying for this grant are: **Continue daily operations of the CAC.**

Department Head Signature: Edna B. Hayes, Commissioner