

**MONROE COUNTY CONTRACT**



**DEPARTMENT OF COMMUNICATIONS**

Monroe County, New York

**Adam J. Bello**, County Executive

November 25, 2020

George Dahlbender  
Green Haven Correctional Facility  
PO Box 4000  
Stromville, NY 12582

**RE: Freedom of Information Request # 20-2180**

Dear Mr. Dahlbender,

Your request for information under the Freedom of Information Law (F.O.I.L.) has been approved as to existing records.

Additionally, we have received your payment of \$4.50 for the records which are attached.

At this time the Monroe County Department of Communication now considers this request closed.

You may appeal this decision, in writing, within 30 days. The Appeals Officer for

Monroe County is Jeffery L. McCann, 39 W. Main Street, Suite 110, Rochester, New York, 14614.

Sincerely,

Monroe County  
Department of Communications

By Legislators Boyce and Delehanty

Intro. No. 37

RESOLUTION NO. 31 OF 2020

**AMENDING RESOLUTION 270 OF 2019 AUTHORIZING CONTRACT WITH SECURUS TECHNOLOGIES, INC. TO PROVIDE COLLECT TELEPHONE AND TABLET SERVICES TO INMATES AT MONROE COUNTY JAIL AND MONROE CORRECTIONAL FACILITY**

BE IT RESOLVED BY THE LEGISLATURE OF THE COUNTY OF MONROE, as follows:

Section 1. Section 1 of Resolution 270 of 2019 is hereby amended to read as follows:

The County Executive, or her his designee, is hereby authorized to execute a contract, and any amendments thereto, with Securus Technologies, Inc., to provide collect telephone and tablet services to the inmates at the Monroe County Jail and Monroe Correctional Facility, for the period of March 1, 2020 through February 28, 2025, with the option to renew for five (5) additional one-year periods. The contract will pay a commission of 78.5% of the total gross billed telephone call revenues, 20% of premium tablet content purchases, and 25% on video visitation and eMessaging, all to trust fund 9620, T99 Jail Commissary-Phone.

Section 2. This resolution shall take effect in accordance with Section C2-7 of the Monroe County Charter.

Public Safety Committee; January 27, 2020 - CV: 9-0  
Ways and Means Committee; January 29, 2020 - CV: 10-1  
File No. 20-0033

ADOPTION: Date: February 11, 2020

Vote: 24-3

*(Legislators Barnhart, Hasman and LaMar Voted in the Negative.)*

ACTION BY THE COUNTY EXECUTIVE

APPROVED: ✓ VETOED: \_\_\_\_\_

SIGNATURE: Adley Bell DATE: 2/20/2020

EFFECTIVE DATE OF RESOLUTION: 2/20/2020

Added language is underlined.

Deleted language is ~~stricken~~.

By Legislators Boyce and Delchanty

Intro. No. 328

RESOLUTION NO. 270 OF 2019

**AUTHORIZING CONTRACT WITH SECURUS TECHNOLOGIES, INC. TO PROVIDE COLLECT TELEPHONE AND TABLET SERVICES TO INMATES AT MONROE COUNTY JAIL AND MONROE CORRECTIONAL FACILITY**

BE IT RESOLVED BY THE LEGISLATURE OF THE COUNTY OF MONROE, as follows:

Section 1. The County Executive, or her designee, is hereby authorized to execute a contract, and any amendments thereto, with Securus Technologies, Inc., to provide collect telephone and tablet services to the inmates at the Monroe County Jail and Monroe Correctional Facility, for the period of March 1, 2020 through February 28, 2025, with the option to renew for five (5) additional one-year periods. The contract will pay a commission of 78.5% of the total gross billed revenues to trust fund 9620, T99 Jail Commissary-Phone.

Section 2. This resolution shall take effect in accordance with Section C2-7 of the Monroe County Charter.

Public Safety Committee; October 22, 2019 - CV: 9-0  
Ways and Means Committee; October 22, 2019 - CV: 11-0  
File No. 19-0255

ADOPTION: Date: November 12, 2019                      Vote: 26-1  
*(Legislator Barnhart Voted in the Negative.)*

ACTION BY THE COUNTY EXECUTIVE

APPROVED: ✓                      VETOED: \_\_\_\_\_

SIGNATURE: *Cheryl D. Boyce*                      DATE: 11/18/19

EFFECTIVE DATE OF RESOLUTION: 11/18/19

## **AGREEMENT**

THIS AGREEMENT which shall be deemed to be dated as of the date the last party executed this Agreement, by and between the **COUNTY OF MONROE**, a municipal corporation with offices at the County Office Building, 39 West Main Street, Rochester, New York 14614 (the "County"), the **MONROE COUNTY SHERIFF**, with offices at 130 South Plymouth Avenue, Rochester, New York 14614 (the "Sheriff") and **Securus Technologies, Inc**, with an address at 4000 International Parkway, Carrollton, Texas 75007 hereinafter referred to as the "Contractor".

### **WITNESSETH:**

**WHEREAS**, County is desirous of obtaining the services of the Contractor to perform the scope of services set forth in Section I hereof; and

**WHEREAS**, the County issued a Request for Proposals ("RFP") on March 1, 2019; and

**WHEREAS**, the Contractor responded to the RFP; and

**WHEREAS**, the Contractor is willing, able and qualified to perform such services and was awarded the contract; and

**WHEREAS**, the County Legislature, by Resolution Number 270 of 2019, adopted on November 12, 2019, and Resolution Number 31 of 2020, adopted on February 11, 2020, authorized the execution of an Agreement with the Contractor for such services; and

**WHEREAS**, the Contractor has agreed to all the terms and conditions listed in Appendix "B", Certification Regarding Debarment, Suspension and Responsibility and Certification Regarding Monroe County Procurement Policy and Consequences for Violation.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto mutually agree as follows:

#### **I. REQUIRED STANDARD CLAUSES FOR COUNTY CONTRACTS**

Appendix "A" contains the standard clauses for all Monroe County contracts and is attached hereto and is hereby made a part of this Agreement as if set forth fully herein.

#### **II. SCOPE OF SERVICES**

Scope of Services Addendum is attached herein and made a part of this agreement.

All services provided by Contractor shall be provided in accordance with said attached Scope of Services Addendum and shall include, but not be limited by:

A. This system, Secure Call Platform, will operate and control all inmate telephones at the Monroe County Jail located at 130 Plymouth Avenue South and the Monroe Correctional Facility located at 750 East Henrietta Road, any renovated areas or additions to those facilities, or any new jail facilities built during the contract period.

B. The Contractor will provide, operate, and maintain all telephones within the jail facilities and any renovated areas or additions to those facilities, or any new jail facilities built during the contract period.

C. Title to Equipment - The Equipment installed in the facility pursuant to this Agreement shall remain the sole and exclusive property of the Contractor, subject to the following exception: Any and all wiring installed by the contractor within the walls of the jail facilities, shall become and remain the property of the County.

D. Maintenance and Repair During the Term of this Agreement - Contractor shall repair and maintain the equipment in good operating condition, including without limitation furnishing all parts and labor at its sole cost and expense. Contractor will provide continuing and ongoing maintenance to the equipment at its sole cost and expense during the initial term as well as all subsequent contract extensions. In all cases said maintenance and repair shall be in a manner consistent with, and in accordance with, the attached Scope of Service Addendum. The County shall permit employees or contractors of the Contractor reasonable access to the facility at all times in order to service, repair and maintain the equipment. The County shall notify Contractor in

writing of any misuse, destruction, damage, or vandalism to the equipment as soon as practicable after ascertaining it. In no event shall the County be liable for any damage or destruction to any item of the equipment, except that the County shall be responsible for loss or damage to equipment in its possession caused by fault or negligence of the County or its employees.

E. The Contractor shall provide all applicable inmate phones and phone lines as specified in the attached Scope of Services Addendum, and upon the reasonable request of the Sheriff.

F. The Contractor shall provide a back-up power supply for the control processors.

G. The Contractor will provide a full-time on-site system administrator/technician; the Sheriff has final approval rights over any proposed change in the person occupying the position of system administrator/technician. The technician, who shall be accountable during regular business hours to Monroe County Sheriff's Office (MCSO) Jail Administration, shall immediately respond to the facilities if called during the hours of 0700 to 1600 hours on a workday (with the exception of holidays), or shall respond to the facilities within three (3) hours of the next working day when notified on a weekend or on a holiday. A technician must be available 24 hours per day, seven (7) days per week to respond to the MCSO within three (3) hours of notification, in the event of a massive (greater than 50%) system failure. New installations shall be completed within five (5) working days of commencement of the installation.

H. Installation of Secure Call Platform and Future Upgrades - All new installations and upgrades shall be completed within five (5) working days of commencement of the installation.

i. The Contractor shall upgrade to the proposed Secure Call Platform system within 90 days of contract execution. The term "day" as used herein shall mean calendar day.

ii. The failure to complete the upgrade installation within the 90 day time period referenced above shall subject the Contractor to penalties amounting to \$1,000.00 per day for each day after the 90 day grace period, until such date as the Secure Call Platform is installed as specified in the attached Scope of Services Addendum, unless it is mutually agreed otherwise by the parties.

iii. The Contractor shall provide written quarterly reports to the Sheriff detailing any and all improvements or upgrades that have either been made to or have become available for the Secure Call Platform system installed at the County jail facilities. Thereafter, upon request by the Sheriff, the parties shall meet to discuss whether or not installation of the improvements/upgrades that would not be completed in ordinary course is appropriate or desirous to the Sheriff, and the steps or changes necessary to complete the installation

iv. Notwithstanding the above provisions, the Contractor shall be required to notify the County of any conditions or instances in which a delay in installation or upgrade is anticipated or might be encountered.

v. The Contractor shall determine all wiring and software requirements for all installations and upgrades.

I. All personnel assigned by the Contractor under this Agreement must be approved by the County and the Sheriff to work inside the Monroe County Jail or the Monroe County Correctional Facility and shall comply with all MCSO rules and regulations.

J. Utilization of Facility. The County and the Sheriff, for and in consideration of the payment of the Commission (as defined below) and the services to be provided by the Contractor hereby grants the Contractor the exclusive right and license to install and maintain an Inmate Telecommunications System (Secure Call Platform) governing all inmate calls, including local and long-distance traffic (Local, Intralatta, Interlatta, and Interstate) and interrelated hardware and software (collectively, the "Equipment") within all pre-existing and future jail and or detention facilities constructed during the contract period, and hereby releases the County for that purpose upon the terms and conditions set forth in this Agreement. The County and Sheriff covenants and agrees to make the facility available to the Contractor for complete installation and operation of the equipment. The Contractor shall, at its sole cost and expense, install all items of equipment in the facility within a reasonably practical time after the facility is available for installation of the equipment.

K. Payment and Accounting. The Contractor agrees to pay the County a commission, payable monthly and based on an expressed percentage of:

1. Seventy-eight and a half percent (78.5%) on total gross billed call revenue;

2. Twenty percent (20%) on premium tablet content purchases;
3. Twenty-five percent (25%) on video visitation; and
4. Twenty-five percent (25%) on eMessaging.

i. The commissions shall be paid no later than sixty (60) days following the month in which revenues were generated from the equipment during the term of this Agreement. All commission payments shall be final and binding upon the County unless written objection thereto is received by the Contractor within sixty (60) days of mailing of the commission payment to the County by the Contractor. Commission checks shall be mailed to: Jail Administration, Monroe County Sheriff's Office, 130 Plymouth Avenue South, Rochester New York, 14614.

L. Call Rates: The Contractor shall be and shall remain in full compliance with FCC and state-tariff rates. Contractor rates will not, at any time during the contract period, which, for purposes of the fees detailed below, shall begin on the date that the last signatory of this agreement, signs the contract, exceed FCC or PSC authorized rates for long-distance station-to-station or person-to-person calls.

i. Local Calls - \$0.10 per minute

ii. Intra-lata Calls (Calls to numbers within the '585' area code that are outside of the straight 'local ' call area) - \$0.10 per minute

iii. Inter-lata Calls (Calls to numbers outside the '585' area code that are within New York State) - \$0.10 per minute

iv. Inter-State (Calls to numbers outside of New York State) - \$0.10 per minute

M. Licenses. The Contractor, at its sole cost and expense, shall secure all licenses required by any state, county, city, or other governmental authority.

### **III. TERM OF CONTRACT**

The initial term of this Agreement shall be for the period of **May 1, 2020, through April 30, 2025**. The County may, at its option, renew the Agreement for up to five (5) additional one-year terms upon notice to Contractor prior to the expiration of the initial term or any renewal term then in effect.

This Agreement shall remain in effect for the period specified above, unless it is terminated by either party hereto, upon thirty (30) days prior written notice sent by registered or certified mail to the Sheriff or the Contractor. This notice shall be sent to the respective parties at the addresses set forth above or at such other address as specified in writing by either party. Upon termination of this Agreement, the Contractor shall have no further responsibility to the County or to any other person with respect to those services specified in this Agreement. Upon termination of this Agreement, the County shall be obligated to pay the Contractor for services only performed through the date of termination and shall allow the Contractor to remove the equipment from County premises. Following such payment and equipment removal, the County shall have no further obligations to the Contractor under this Agreement.

### **IV. PAYMENT FOR SERVICES**

The Contractor agrees to pay the County a commission, payable monthly, and based on an expressed percentage of seventy-eight and a half percent (78.5%) on total gross billed call revenue, twenty percent (20%) on premium tablet content purchases, twenty-five percent (25%) on video visitation, and twenty-five percent (25%) on eMessaging. The commissions shall be paid no later than sixty (60) days following the month in which revenues were generated from the equipment during the term of this Agreement. All commission payments shall be final and binding upon the County unless written objection thereto is received by the Contractor within sixty (60) days of mailing of the commission payment to the County by the Contractor. Commission checks shall be mailed to: Jail Administration, Monroe County Sheriff's Office, 130 Plymouth Avenue South, Rochester New York, 14614.

The County may audit records relating to expenses for services provided by the Contractor pursuant to this Agreement at any time during this Agreement and through and including twelve (12) months following this Agreement.

The Contractor shall prepare and make available such statistical and financial service and other records reasonably requested by the County. These records shall be subject at all reasonable times to inspection, review, or audit by the County, the State of New

York, and other personnel duly authorized by the County. The retention time for statistical or financial data shall be seven (7) years after its genesis. The retention time for call-related computer data reports shall be three (3) years.

**V. USAGE OF COMPUTER AND ELECTRONIC EQUIPMENT**

The Contractor acknowledges and agrees that usage of any computer hardware, computer software, and/or electronic equipment used in the course of carrying out duties under this Agreement will be governed by all applicable laws, rules, and regulations, including County policies and procedures.

**VI. MISCELLANEOUS**

The Contractor agrees to comply with all confidentiality and access to information requirements in Federal, state, and local laws and regulations.

IN WITNESS WHEREOF, Adam J. Bello, County Executive of the COUNTY OF MONROE, Todd Baxter, Monroe County Sheriff, and David Abel, President and Chief Executive Officer of Securus Technologies, Inc, hereto have executed this agreement as of the day and year appearing opposite their respective signatures below. By electronically approving this Agreement, both parties agree to all terms and conditions listed in this contract document, as well as all attachments included with the document.



**APPENDIX A**  
**STANDARD CLAUSES FOR COUNTY CONTRACTS**

[See attached document.]

**APPENDIX B**  
**CERTIFICATION REGARDING**  
**DEBARMENT, SUSPENSION, AND RESPONSIBILITY**  
**AND**  
**CERTIFICATION REGARDING MONROE COUNTY PROCUREMENT POLICE**  
**AND CONSEQUENCES FOR VIOLATION**

[See attached document.]

**APPENDIX C**  
**VENDOR PROPOSAL**

[See attached document.]

DIGITAL SIGNATURES

**David Abel** Digitally signed by David Abel  
Date: 2020.03.27 11:40:27 EDT  
Reason: Signed Via ContractHQ  
Location: Monroe County

**Todd Baxter** Digitally signed by Todd Baxter  
Date: 2020.04.01 00:44:24 EDT  
Reason: Signed Via ContractHQ  
Location: Monroe County

**Adam Bello** Digitally signed by Adam Bello  
Date: 2020.04.10 11:22:23 EDT  
Reason: Signed Via ContractHQ  
Location: Monroe County

## APPENDIX A

### STANDARD CLAUSES FOR COUNTY CONTRACTS

The parties to the attached Agreement (hereinafter, "the Agreement") agree to be bound by the following clauses which are hereby made a part of the Agreement (the word "Contractor" herein refers to any party other than the County, whether a contractor, licenser, licensee, lessor, lessee or any other party):

#### **Section 1. AMENDMENTS**

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

#### **Section 2. INSURANCE AND FAMILY LEAVE BENEFITS**

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

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

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

#### **Section 3. INDEMNIFICATION**

The Contractor shall defend, indemnify and save harmless the County, its officers, agents, and employees from and against all liability, damages, costs or expenses, causes of actions, suits, judgments, losses, and claims of every name not described, including attorneys' fees and disbursements, brought against the County which may arise, be sustained, or occasioned directly or indirectly by any person, firm or corporation arising out of or resulting from the performance of the services by the Contractor, its employees, agents or subcontractors, the provision of any products by the Contractor, its employees,

agents or subcontractors, arising from any act, omission or negligence of the Contractor, its employees, agents or subcontractors, or arising from any breach or default by the Contractor, its employees, agents or subcontractors under the Agreement. Nothing herein is intended to relieve the County from its own negligence or misfeasance or to assume any such liability for the County by the Contractor.

#### **Section 4. INDEPENDENT CONTRACTOR**

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

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

#### **Section 5. EXECUTORY NATURE OF CONTRACT**

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

#### **Section 6. NO ASSIGNMENT WITHOUT CONSENT**

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

#### **Section 7. FEDERAL SINGLE AUDIT ACT**

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

If on a cumulative basis the Contractor expends Seven Hundred and Fifty Thousand and no/100 Dollars (\$750,000.00) or more in federal funds in any fiscal year, it shall cause to have a single audit conducted, the Data Collection Form (defined in Federal Office of Management and Budget Uniform Grant Guidance) shall be submitted to the County; however, if there are findings or questioned costs related to the program that is federally funded by the County, the Contractor shall submit the complete reporting package (defined in Federal Office of Management and Budget Uniform Grant Guidance) to the County.

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

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

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

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

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

#### **Section 8. RIGHT TO INSPECT**

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

#### **Section 9. NON-DISCRIMINATION**

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of an individual's age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under

this contract. The Contractor is subject to penalties by the County of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

**Section 10. CONTRACTOR QUALIFIED, LICENSED, ETC.**

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

**Section 11. CONFIDENTIAL INFORMATION**

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

**1. Scope of Use**

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

**2. Nature of Obligation**

Contractor acknowledges that the County, because of the unique nature of the Confidential Information, would suffer irreparable harm in the event that Contractor breaches its obligation under this Agreement in that monetary damages would be inadequate to compensate the County for such a breach. The parties agree that in such circumstances, the County shall be entitled, in addition to



monetary relief, to injunctive relief as may be necessary to restrain any continuing or further breach by Contractor, without showing or proving any actual damages sustained by the County.

**3. Freedom of Information Law**

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

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

a. Notwithstanding any other provision in this Agreement, the Contractor remains responsible for ensuring that any service(s) provided pursuant to this Agreement complies with all pertinent provisions, including but not limited to any and all reporting requirements, of Federal, State and local statutes, rules and regulations, including without limitation, Title VI of the Civil Rights Act of 1964 (CRA Title VI), Federal Executive Order 13166, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA).

b. The Contractor is responsible for ensuring compliance with New York State Labor Law Section 201-g and Executive Law Section 296-d. Upon request by the County, the Contractor shall provide evidence of compliance with the sexual harassment training required under Labor Law Section 201-g for all its employees performing work under this Agreement.

c. To the extent that State-funds/State-authorized payments (SF/SAP) received are used to pay for program services by covered providers, any subcontractors or sub-awardees shall be made aware of the provisions of the regulations of 9 NYCRR Part 6157 - "Limits on Administrative Expenses and Executive Compensation". Additionally, Contractor and any subcontractors shall review as appropriate Executive Order No. 38, which can be located at <http://executiveorder38.ny.gov>.

**Section 13. LAW**

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

**Section 14. NO-WAIVER**

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

**Section 15. SEVERABILITY**

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

**Section 16. TITLE TO WORK**

a. The title to all work performed by the Contractor and any unused materials or machinery purchased by the Contractor with funds provided by the County in order to accomplish the work hereunder shall become legally vested to the County upon the completion of the work required under this Agreement. The Contractor shall obtain from any subcontractors and shall transfer, assign, and/or convey to Monroe County all exclusive, irrevocable, or other rights to all work performed under this Agreement, including, but not limited to trademark and/or service mark rights, copyrights, publication rights, distribution rights, rights of reproduction, and royalties.

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

**Section 17. WAGE AND HOURS PROVISIONS**

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

**Section 18. STATE FINANCE LAW PROVISIONS**

a. In accordance with Section 139-d of the State Finance Law, if this Agreement was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on Contractor's behalf.

b. To the extent this Agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this Agreement the Contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the County may terminate this Agreement by providing written notification to the Contractor in accordance with the terms of the Agreement.

**Section 19. MISCELLANEOUS**

a. The Contractor agrees to comply with all confidentiality and access to information requirements in Federal, State and local laws and regulations.

b. This Agreement constitutes the entire agreement between the County and the Contractor and supersedes any and all prior agreements between the parties hereto for the services herein to be provided.

c. Attached to this Agreement and incorporated herein is the Certification Regarding Debarment, Suspension and Responsibility/Certification Regarding Monroe County Procurement Policy and Consequences for Violation.

d. The Contractor agrees that this Agreement may be made available to the public and searchable online in a digital format.

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**CERTIFICATION REGARDING  
DEBARMENT, SUSPENSION AND RESPONSIBILITY**

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

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

**CERTIFICATION REGARDING MONROE COUNTY PROCUREMENT POLICY  
AND CONSEQUENCES FOR VIOLATION**

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

5. Have read and understand the Monroe County Procurement Policy and agree to abide by its terms (<http://www2.monroecounty.gov/purch-overview.php>);
6. Understand that any violation of the Monroe County Procurement Policy may result in the exclusion of any response to a public bid, Request for Proposals (RFP) or Request for Qualifications (RFQ) submitted on our behalf; and
7. Understand that any contract or agreement entered into subsequent to a violation of this policy during the procurement process is null and void.

By electronically approving this contract document, the Contractor agrees to all terms and conditions listed in this appendix.

Revised 10/3/2013