

GRANT ADDENDUM TO AGREEMENT

This **GRANT ADDENDUM TO AGREEMENT** ("Grant Addendum") effective as of _____, 20__ ("Effective Date"), modifies that certain Consultant Services Agreement dated and effect as of _____, 20__ ("Agreement"), by and between the **COUNTY OF ORANGE** ("COUNTY"), and _____ ("CONSULTANT"). COUNTY and CONSULTANT are each a "Party" and collectively the "Parties."

RECITALS

WHEREAS, COUNTY received federal grant funding of \$1,271,833.00 with a maximum reimbursable amount of \$221,833.00 from the U.S. Department of Health and Human Services ("HHS") Centers for Disease Control and Prevention ("CDC") through Health Research, Inc. ("HRI") and New York State Department of Health ("NYSDOH") under the *Public Health Emergency Preparedness Program* ("Grant");

WHEREAS, of the Grant award from HRI and NYSDOH, an amount not to exceed \$30,000.00 was allocated for a subcontract with CONSULTANT to serve as the Medical Reserve Corps ("MRC") Volunteer Coordinator for COUNTY's ("OCDOH");

WHEREAS, COUNTY and CONSULTANT entered into the Agreement under which CONSULTANT agreed to serve as the MRC Volunteer Coordinator for OCDOH and perform certain services in such capacity as described in **Schedule A** to the Agreement ("Services");

WHEREAS, use of the Grant funding for the PHEP program and Services requires COUNTY and CONSULTANT comply with the Grant requirements and all applicable Federal and State laws, rules, and regulations; and

WHEREAS, this Grant Addendum incorporates the agreement between COUNTY and HRI for the Grant ("Grant Contract") and contains a non-exhaustive list of certain Grant requirements applicable to the performance of the Services that CONSULTANT shall abide by when performing the Services under the Agreement.

NOW, THEREFORE, for and in consideration of the covenants and obligations contained herein and for good and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Incorporation of Recitals. The foregoing Recitals are true and correct and are hereby incorporated in and made a part of this Grant Addendum.
2. Authority to Bind. The individual executing this Grant Addendum on behalf of CONSULTANT has the full legal authority to bind CONSULTANT.
3. Incorporation of and Compliance with Grant Contract. CONSULTANT shall perform all Services in accordance with the Grant Contract, a copy of which is attached to this Grant Addendum as **Exhibit 1** and the terms and conditions of which are incorporated in and made a part of this Grant Addendum, as may be amended by HRI, NYSDOH, HHS, CDC, and/or by modification to any of the statutes, regulations, or guidelines applicable to the Grant Contract. CONSULTANT shall comply with all terms and conditions outlined in the Grant Contract, including Grant policy terms and conditions contained in applicable HHS *Grant Policy Statements* ("GPS") (note any references in the GPS to 45 C.F.R. Part 74 or Part 92 are now replaced by 45 C.F.R. Part 75, and the SF-269 is now the SF-425), and requirements imposed by program statutes and regulations, Executive Orders, and HHS Grant administration regulations, as applicable, as well as any requirements or limitations in any applicable appropriations acts.

4. Disclosure Requirements. Consistent with 45 C.F.R. §75.113, CONSULTANT shall disclose, in a timely manner, all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Grant. All disclosures must be in writing and sent to COUNTY at the address provided in the opening paragraph of this Grant Addendum and to the HHS Office of the Inspector General at the following address:

U.S. Department of Health and Humans Services Office of Inspector General
ATTN: Mandatory Grant Disclosures, Intake Coordinator
330 Independence Avenue, SW
Cohen Building, Room 5527
Washington, DC 20201

Fax: (202) 205-0604 (Include “Mandatory Grant Disclosures” in subject line) or
Email: MandatoryGranteeDisclosures@oig.hhs.gov

Failure to make required disclosures can result in any of the remedies described in 45 C.F.R. §75.371. Remedies for noncompliance, including suspension or debarment (*See* 2 C.F.R. Parts 180 and 376 and 31 U.S.C. §3321).

5. Indemnity. To the fullest extent permitted by law, CONSULTANT shall indemnify, hold harmless and defend HRI, its agents, employees, officers, board members, NYSDOH, and the People of the State of New York against all claims, damages, losses or expenses including but not limited to attorneys' fees arising out of or resulting from the performance of Services under the Agreement, provided any such claim, damage, loss or expense arises out of, or in connection with, any act or omission by CONSULTANT, or anyone directly or indirectly employed or contracted by CONSULTANT, in the performance of Services under the Agreement, and such acts or omissions (a) constitute negligence, willful misconduct, or fraud; (b) are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including loss of use resulting there from; (c) cause the breach of any confidentiality obligations set forth in the Grant Contract; (d) relate to any claim for compensation and payment by any employee or agent of CONSULTANT; (e) result in intellectual property infringement or misappropriation by CONSULTANT, its employees, agents, or subcontractors; or (f) are violations of regulatory or statutory provisions of the New York State Labor Law, OSHA or other governing rule or applicable law. The obligation of the CONSULTANT to indemnify any party under this section shall not be limited in any manner by any limitation of the amount of insurance coverage or benefits including workers' compensation or other employee benefit acts provided by the CONSULTANT.

6. Insurance. CONSULTANT shall purchase and maintain the same types and amounts of insurance that COUNTY is required to maintain under the Grant Contract. Specifically, CONSULTANT shall purchase and maintain, at a minimum, the following types of insurance coverage and limits of liability:

(a) Commercial General Liability (“CGL”) with limits of insurance of not less than \$1,000,000 each Occurrence and \$ 2,000,000 Annual Aggregate. If the CGL coverage contains a General Aggregate limit, such as General Aggregate shall apply separately to each project. HRI and the People of the State of New York shall be included as Additional Insureds on the CONSULTANT’s CGL, using ISO additional Insured Endorsement CG 20 10 11 85 or an endorsement providing equivalent coverage to the Additional Insureds. The CGL insurance for the Additional Insureds shall be as broad as the coverage provided for the Named Insured CONSULTANT. It shall apply as primary and non-contributing insurance before any insurance maintained by the Additional Insureds.

(b) Business Automobile Liability (“AL”) with limits of insurance of not less than \$1,000,000 each accident. AL coverage must include coverage for liability arising out of all owned, leased, hired and non-owned automobiles.

(c) Workers' Compensation ("WC") and Employers Liability ("EL") with limits of insurance of not less than \$100,000 each accident for bodily injury by accident and \$100,000 each employee for injury by disease.

(d) Professional Liability Insurance with limits of liability of \$1,000,000 each occurrence and \$3,000,000 aggregate.

7. Publications and Conferences.

(a) All written materials, publications, journal articles, audio-visuals that are either presentations of, or products of the Services which are authorized for publication or public dissemination, subject to the confidentiality restrictions herein, will acknowledge HRI, NYSDOH, and the Project Sponsor (which here is the CDC) and will specifically reference the Sponsor Reference Number (i.e., 5NU90TP9220090300) as the contract/Grant funding the work with a disclaimer, as appropriate, such as: "The content of this publication (journal article, etc.) is solely the responsibility of the authors and does not necessarily represent the official views of HRI or the CDC.

(b) Conference Disclaimer. Where a conference is funded by the Grant, CONSULTANT must include the following statement on conference materials, including promotional materials, agenda, and Internet sites. "Funding for this conference was made possible (in part) by the CDC. The views expressed in written conference materials or publications and by speakers and moderators do not necessarily reflect the official policies of HRI, NYSDOH, or the CDC, nor does mention of trade names, commercial practices, or organizations imply endorsement by the U.S. Government."

(c) Use of Logos. In order to avoid confusion as to the conference source or a false appearance of government, HRI, or NYSDOH endorsement, the CDC, HRI and/or NYSDOH's logos may not be used on conference materials without the advance, express written consent of the CDC, HRI, and/or NYSDOH.

8. Confidentiality. Information relating to individuals who may receive Services pursuant to the Agreement shall be maintained and used only for the purposes intended under the Agreement and in conformity with applicable provisions of laws and regulations or specified in Attachment B to the Grant Contract, entitled "Program Specific Clauses." CONSULTANT acknowledges and agrees that, during the course of performing Services under the Agreement, it may receive information of a confidential nature, whether marked or unmarked ("Confidential Information"). CONSULTANT agrees to protect such Confidential Information with the same degree of care it uses to protect its own confidential information of a similar nature and importance, but with no less than reasonable care. CONSULTANT will not use Confidential Information for any purpose other than to facilitate the provision of Services under the Agreement, and CONSULTANT will not disclose Confidential Information in an unauthorized manner to any third party without HRI's advance written consent.

9. Equal Opportunity and Non-Discrimination. CONSULTANT shall abide by the requirements of 41 C.F.R. §60-1.4(a) which is hereby incorporated in this Grant Addendum. CONSULTANT shall abide by the requirements of 41 C.F.R. §60-741.5(a) which prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities. CONSULTANT shall also abide by the requirements of 41 C.F.R. §60-300.5(a) which prohibits discrimination against qualified protected veterans and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans. Furthermore, CONSULTANT agrees that neither it nor its authorized subcontractors, if any, shall, by reason of race, color, creed, religion, sex, sexual orientation, gender identity, national origin, age,

disability, pregnancy-related condition, military or veteran status, genetic predisposition or carrier status, marital or familiar status, domestic violence victim status, individual's relationship or association with a member of a protected category or any other basis protected by applicable state and federal law (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 the Agreement.

10. Employer Obligations. If applicable, CONSULTANT shall pay employee compensation, fringe benefits, disability benefits, workers' compensation, and/or withholding and other applicable taxes (collectively, "Employers Obligations") when due.

11. Acknowledgement of Federal Support. When issuing statements, press releases and other documents describing projects or programs funded in whole or in part by federal money, all awardees receiving Federal funds, including and not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

12. Criminal Penalties for Acts Involving Federal Health Care Programs. CONSULTANT is subject to the strictures of the Medicare and Medicaid anti-kickback statute (42 U.S.C. §1320a-7b) and should be cognizant of the risk of criminal and administrative liability under this statute, including for making false statements and representations and illegal remunerations.

13. Clean Air Act and the Federal Water Pollution Control Act Compliance. CONSULTANT shall comply, where applicable, with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §7401-7671q.) and the Federal Water Pollution Control Act as amended (33 U.S.C. §1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

14. Whistleblower Protections. Congress has enacted a whistleblower protection statute at 41 U.S.C. §4712, which applies to all employees working for contractors, grantees, subcontractors, and subgrantees on federal grants and contracts. This program requires all grantees, subgrantees, and subcontractors to inform their employees working on any federally-funded award they are subject to the whistleblower rights and remedies of the program; inform their employee in writing of employee whistleblower protections under 41 U.S.C. §4712 in the predominant native language of the workforce; and contractors and grantees will include such requirements in any agreement made with a subcontractor or subgrantee. The statute (41 U.S.C. §4712) states that an employee of a contractor, grantee (or subgrantee) may not be discharged, demoted, or otherwise discriminated against as a reprisal for "whistleblowing." In addition, whistleblower protections cannot be waived by an agreement, policy, form, or condition of employment. Whistleblowing is defined as making a disclosure "that the employee reasonably believes is evidence of any of the following: gross mismanagement of a federal contract or grant; a gross waste of federal funds; an abuse of authority relating to a federal contract or grant; a substantial and specific danger to public health or safety; or a violation of law, rule, or regulation related to a federal contract or grant (including the competition for, or negotiation of, a contract or grant)." To qualify under the statute, the employee's disclosure must be made to: a Member of Congress a representative of a Congressional committee; or an Inspector General; or the Government Accountability Office or a Federal employee responsible for contract or grant oversight or management at the relevant agency; or an authorized official of the Department of Justice or other law enforcement agency; or a court or grand jury; a management official or other employee of the contractor, subcontractor, grantee or subgrantee who has the responsibility to investigate, discover or address misconduct.

15. Required Federal Certifications. Execution of this Grant Addendum by CONSULTANT constitutes certification by CONSULTANT of all of the following, as applicable to the Services performed under the Agreement:

(a) CONSULTANT is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

(b) CONSULTANT is not delinquent on any Federal debt.

(c) Byrd Anti-Lobbying Amendment (31 U.S.C. §1352) – Contracts for \$100,000 or more must file the required certifications. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. §1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(d) CONSULTANT shall comply with the requirements of the Pro-Children Act of 1994 and shall not allow smoking within any portion of any indoor facility used for the provision of health, day care, early childhood development, education, or library services to children under the age of eighteen (18) if the services are funded by a federal program or if the services are provided in indoor facilities that are constructed, operated, or maintained with such federal funds.

(e) CONSULTANT has established administrative policies regarding Scientific Misconduct as required by the Final Rule 42 C.F.R. Part 93, Subpart A as published at the 54 Federal Register 32446, August 8, 1989.

(f) CONSULTANT maintains a drug free workplace in compliance with the Drug Free Workplace Act of 1988 as implemented in 45 C.F.R. Part 76.

(g) If the Project Sponsor is either an agency of the Public Health Service or the National Science Foundation, CONSULTANT is in compliance with the rules governing Objectivity in Research as published in 60 Federal Register July 11, 1995.

(h) Compliance with EO13513, Federal Leadership on Reducing Text Messaging while Driving, October 1, 2009. Recipients and sub recipients of CDC grant funds are prohibited both from texting while driving a Government owned vehicle and/or using Government furnished electronic equipment while driving any vehicle. Grant recipients and subrecipients are responsible for ensuring their employees are aware of this prohibition and adhere to this prohibition.

(i) EO 13166, August 11, 2000, requires recipients receiving Federal financial assistance to take steps to ensure that people with limited English proficiency can meaningfully access health and social services. A program of language assistance should provide for effective communication between the service provider and the person with limited English proficiency to facilitate participation in, and meaningful access to, services. The obligations of recipients are explained on the OCR website at <http://www.hhs.gov/sites/default/files/ocr/civilrights/resources/specialtopics/lep/lepguidance.pdf>.

(j) Equal Employment Opportunity, requires compliance with E.O. 13672 "Further Amendments to Executive Order 11478," Equal Employment Opportunity in the Federal Government, and Executive Order 11246, "Equal Employment Opportunity," and as

supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

16. No Contractual Relationship. Nothing contained in the Agreement or under the Grant Contract shall be deemed to create any contractual relationship between CONSULTANT and HRI or NYSDOH, and CONSULTANT shall not be entitled to avail itself of any rights or remedies afforded to COUNTY under the Grant Contract vis-à-vis HRI or NYSDOH.

17. No Impairment. Nothing contained in the Agreement shall impair the rights of HRI or NYSDOH under the Grant Contract.

18. Necessary Documentation. CONSULTANT shall timely submit to COUNTY all supporting documentation as necessary to permit COUNTY to recover funds under the Grant Contract for Services rendered under the Agreement. CONSULTANT acknowledges that there is a possibility of non-payment or rejection by COUNTY of claims that do not contain the required information, and/or are not received by COUNTY by the required due date.

19. Termination of Appropriation. If for any reason HRI, NYSDOH, HHS, or the CDC terminates its appropriation or fails to pay the full amount of the Grant funds allocated for the Services, the Agreement may be terminated or reduced at the discretion of COUNTY, provided that no such reduction or termination shall apply to Services already performed by CONSULTANT where funds are available to COUNTY for payment of such Services. In any event, no liability shall be incurred by COUNTY beyond monies available for the purposes of the Agreement.

20. Inconsistency or Conflict. In the event of any conflict or inconsistency between the Agreement (including **Schedules A** and **B** annexed to said Agreement), as modified by this Grant Addendum, and any requirement in the Grant Contract, the conflict shall be resolved by giving precedence to the requirement in the Grant Contract over the Agreement, as modified by this Grant Addendum.

21. Execution. By execution of this Grant Addendum, the Parties agree to the foregoing modifications and additions to the Agreement. All other terms of the Agreement, except as specifically modified by this Grant Addendum, shall remain in full force and effect.

IN WITNESS THEREOF, the Parties have executed this Grant Addendum to be effective as of the Effective Date.

COUNTY OF ORANGE

By: _____

Stefan ("Steven") M. Neuhaus
County Executive

By: _____

EXHIBIT 1
GRANT CONTRACT