

**Memorandum of Understanding  
Tompkins County Area Development, Inc. &  
Tompkins County**

**AGREEMENT**

AGREEMENT, made by and between Tompkins County Area Development, a not-for-profit corporation of the State of New York, having offices at 401 East State Street, Suite 402B, Ithaca, New York, 14850, hereinafter referred to as “TCAD”, and Tompkins County, hereinafter referred to as “the County”.

**WITNESSETH**

WHEREAS, TCAD, is a qualified and experienced economic development not-for-profit corporation, which offers program management, financial assistance, technical assistance and real estate development services; and

WHEREAS, it is in the County’s interest to utilize the services of TCAD to promote and sustain a healthy economy throughout the County of Tompkins; and

WHEREAS, the County desires to contract with TCAD for the provision of economic development services and TCAD desires to contract with the County to provide such services in furtherance of its mission, powers and purposes;

NOW, THEREFORE, in consideration of the agreements contained herein, the parties agree as follows:

1. The term of this agreement shall be from **January 1, 2019 through December 31, 2023**
2. The County agrees to pay TCAD for the services referenced on the attached work plan, the estimated equivalent of one-third of TCAD’s annual budget, subject to annual appropriation by the County Legislature, provided that the County contribution shall not exceed:
  - a. \$250,410 in 2019
  - b. \$255,418 in 2020
  - c. \$260,527 in 2021
  - d. \$265,737 in 2022
  - e. \$271,052 in 2023
3. The amounts above include room tax revenues that have been committed by the County to support its contract with TCAD for its services. The agreement will be revisited if room tax collections are more than 10% below the corresponding quarter of the prior year

for two consecutive quarters, or if IDA/LDC reserves fall below one-year's budget contribution target (i.e., 1/3<sup>rd</sup> of TCAD's operating budget).

Addressing shortfalls between TCAD's budget needs and the amount allocated from the room tax is solely a County responsibility. The County will not seek additional draws of room tax revenue if TCAD's budget needs exceed the levels currently projected.

4. In each year of this agreement, TCAD will submit to the County Administrator an updated proposed work plan by December 1 of each year that describes the services to be provided during the upcoming year.
5. TCAD agrees that its work plans under this Agreement shall include assisting and supporting activities and projects within the hospitality industry and tourism sector that generate net new wealth for the community.
6. At least twice per year, TCAD shall report to the appropriate standing committee of the County Legislature regarding the status of activities and progress in attaining the goals and objectives derived from the work plan.
7. It is the understanding of the County and TCAD that the fees generated by the Tompkins County Industrial Development Agency (IDA) and Tompkins County Local Development Corporation (LDC) will be pledged to compensate TCAD for its services to such entities in an amount equal to one-third of TCAD's annual budget. Recognizing the ebbs and flows of project activity, it is agreed that IDA/LDC fee income in excess of each year's annual pledge of operating support to TCAD be held in reserve to ensure that adequate operating support is available in years when project activity does not produce sufficient fee income to fulfill the commitment to TCAD. In the event that the accumulated fund balance of IDA/LDC exceeds \$600,000, TCAD will report the fund balance total at the next standing committee meeting, along with intended uses of the additional funds. The County reserves the right to change the County allocation to TCAD based on accumulated fund balance.
8. TCAD agrees to allow the County Legislature to appoint one County representative on the TCAD Board of Directors to also serve on the TCAD Executive Committee.
9. It is mutually agreed between the parties that an independent contractor relationship is hereby established under the terms and conditions of this Agreement.
10. The provision of this agreement shall be construed under the laws of the State of New York.
11. The parties agree that as a condition of receipt of Federal funds, if any, that audits be performed of the **AGENCY'S** records by auditors in compliance with the Federal Single Audit Act of 1984.
12. The **AGENCY** shall indemnify, hold harmless and defend **TOMPKINS COUNTY** and its officers, employees, agents and elected officials from and against any and all claims and

actions brought against **TOMPKINS COUNTY** and its officers, employees, agents and elected officials for injury or death to any person or persons or damage to property arising out of the performance of this contract by the **AGENCY**, its employees, subcontractors or agents with the exception of all actions and claims arising out of the negligence of **TOMPKINS COUNTY**. The **AGENCY** shall maintain the following minimum limits of insurance, or as required by law, whichever is greater.

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A.) **Workers' Compensation and New York Disability** –  
Statutory Coverage Employer's Liability – Unlimited.

B.) **Commercial General Liability** including, contractual,  
independent contractors, products/completed operations-  
Occurrence Form required.

Each Occurrence	\$1,000,000
General Aggregate	2,000,000
Products/Completed Operations Aggregate	2,000,000
Personal and Advertising Injury	1,000,000
Fire Damage Legal	50,000
Medical Expense	5,000

**General Aggregate** shall apply separately to the project prescribed in the contract.  
Tompkins County and its officers, employees, agents and elected officials  
are to be included as **Additional Insureds**.

All insurance shall be written with insurance carriers licensed by the State of New York Insurance Department and have a Best's rating of A XI or better. The accord Certificate of Insurance or insurance company certificate may be used for proof insurance. All Certificates shall contain a sixty (60) day notice of cancellation, non-renewal or material change to Tompkins County. All Certificates must be signed by a licensed agent or authorized representative of the insurance company. Broker signature is not acceptable. Certificates of Insurance shall be submitted with the contract.

13. The **AGENCY** certifies to the **COUNTY** that the programs and services to be provided and described herein are accessible to the handicapped in accordance with the provisions of Section 504 of the Federal Rehabilitation Act of 1973.

14. Tompkins County must consider the wage levels and benefits, particularly health care, provided by contractors when awarding bids or negotiating contracts, and to encourage the payment of livable wages whenever practical and reasonable.

If contractor certifies on Attachment A that its employees directly providing services outlined in this contract are NOT paid a living wage, the department contract representative may have a conversation with contractor to understand the cost implications of achieving the living wage threshold, whether there are structural barriers impacting the ability to pay the living wage, plans to improve wages over time, generous fringe benefits, or other considerations that should be applied when addressing the question of whether it is practical or reasonable to meet the living wage threshold including the cost required to bring the contract to the living wage threshold.

**IN WITNESS WHEREOF**, the parties hereto have executed this agreement as of the day and year first above written.

DATED: \_\_\_\_\_

\_\_\_\_\_  
County of Tompkins

DATED: \_\_\_\_\_

\_\_\_\_\_  
Tompkins County Area Development

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Federal Tax ID or Social Security Number

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## Attach to Tompkins County contracts as of December 2013

### **Contractor's Representation—Livable Wage Policy**

**Livable Wage Policy:** By policy, Tompkins County must “consider the wage levels and benefits, particularly health care, provided by contractors when awarding bids or negotiating contracts, and to encourage the payment of livable wages whenever practical and reasonable.”

Paying the living wage rate to all employees directly involved in providing the contracted County service is not mandatory. However, the attainment of a broadly-applied living wage is a County goal and is therefore an important consideration applied by the County when reviewing contract proposals.

**The Current Living Wage:** The Living Wage in Tompkins County is computed by the Alternatives Federal Credit Union and is currently \$12.62 per hour if the employer contributes at least half the cost of an employee's health insurance/benefit cost and \$13.94 per hour if the employer does not make such a contribution. The rate will be adjusted again in May 2015.

**Requirement of All Contractors:** As a part of its proposal or contract representations, a prospective service contractor must advise the County whether it will pay the AFCU livable wage rate to all Covered Employees directly involved in the provision of the contracted service, including employees of any subcontractor engaged to assist in providing the service.

**Additionally, contractors are asked to estimate the number of employees who will be directly involved in the provision of the contracted service.**

**Covered Employees** include all full- and part-time employees, other than those Excluded Employees described below, who are directly involved in the provision of the contracted service, including employees of sub-contractors engaged to assist in providing the service.

**Excluded Employees** are:

- Employees under the age of 18
- Seasonal or temporary employees (90 days or less)
- Employees in a probationary status (90 days or less)
- Those employed in a sheltered or supported work environment
- Employees participating in a limited-duration (90 day) job training program
- Employees participating in an academic work-study or academic internship program
- Volunteers
- Employees participating in mandated welfare-to-work programs
- Employees paid pursuant to a collective bargaining agreement

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**Contractor's Living Wage Representation**

**Approximately how many Covered Employees, including employees of any subcontractor involved in providing the service, will be involved in the provision of the contracted service? \_\_\_\_\_**

**Will all Covered Employees, including employees of any subcontractors directly involved in the provision of County services, be paid at least the living wage?**

Yes  No

Contractor Name: \_\_\_\_\_

If you answered "Yes" to the Living Wage Representation and are awarded the County contract, you will be expected to maintain all employees directly involved in the provision of services under this contract at or above the living wage as of the time of execution of the contract for the duration of the contract.

If you answered "No," your response will be among the considerations applied by the County in making its contract award. As a part of contract negotiations, the County may request additional information from you regarding the basis of this response.