

AMENDMENT NO. 1

WHEREAS, Suffolk County Community College ("College") and Scantron Corporation ("Consultant") entered into an Agreement on February 22, 2022 (herein the "Original Agreement"), wherein Consultant agreed to provide to the College professional services in connection with the implementation of a presidential evaluation process on behalf of the Board of Trustees ("**Services**"); and

WHEREAS, the College wishes to extend the term of the Agreement and supplement certain provisions thereof.

NOW, THEREFORE, it is mutually understood and agreed by and between the parties hereto as follows:

- 1) The term of the Agreement shall be extended for the period beginning **February 1, 2023 through January 31, 2024** ("Renewal Term"); and
- 2) Exhibits D ("Description of Services") of the Original Agreement, as well as Exhibit E ("Payment Terms and Conditions") of the Original Agreement shall be amended as reflected in **ATTACHMENT 1**, attached hereto and made a part hereof. To the extent that there are conflicting terms between Exhibits D and E and ATTACHMENT 1, the terms listed in ATTACHMENT 1 shall govern; and
- 3) In Compliance with Exhibit A, Paragraph 17 of the Original Agreement ("Assignment and Subcontracting"), the College is hereby authorizing Scantron to utilize a subcontractor, Meazure Learning, to perform a portion of the professional services under this Agreement; and
- 4) All other terms and conditions of the Original Agreement, not inconsistent herewith, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the latest date written below.

Scantron Corporation
FID: 95-2767912
Tel.: (800) 735-2566 x1373

Suffolk County Community College

By: JoAnn Smith
JoAnn Smith
Vice President, Finance, Planning & Analysis

By: Edward T. Bonahue
Edward T. Bonahue, Ph.D.
President

Date: 03/22/2023

Date: 3/24/23

Approved as to Legality:
Suffolk County Community College

Approved:

By: Alla Brodsky
Alla Brodsky
College Deputy General Counsel

By: Mark D. Harris
Mark D. Harris, DBA
Vice President for Business & Financial Affairs

Date: 3/22/23

Date: 03.22.2023



ATTACHMENT 1

Project Overview

Scantron provides professional services to Suffolk County Community College (or, Suffolk CCC) in connection with the implementation of a presidential evaluation process on behalf of the Board of Trustees. Four stakeholder groups, consisting of approximately 70 total participants, are surveyed on an annual basis in April:

1. Internal Stakeholders
2. Students/Alumni
3. External Stakeholders
4. Board of Trustees

The timeline will be mutually agreed on. A draft timeline provided by Suffolk CCC is included in Attachment A.

Scantron Solution Overview

Scantron will support Suffolk CCC's goals with the following services:

- Minor text changes to the surveys and email invitations.
- Hosting of four previously developed online surveys.
- Sending email invitations to members of the four stakeholder groups.
- Creation of PDFs of the four surveys for delivery to Suffolk CCC, who will print surveys from the provided PDFs and provide a paper copy to participants who don't have online survey access or prefer to fill out a paper survey.
- Key entry of the returned paper surveys into the corresponding online surveys.
- Providing four data reports (one for each stakeholder group) with the aggregate/disaggregate results.
- *Optional: Executive Summary Report (outsourced to Measure Learning).*

I. **Project Summary**

A. **Optional for Year 3: Item Review and Updating**

A Research Analyst will meet with the client to discuss the research goals, changes to the survey content, and reporting requirements. Based on the initial meeting, the Research Analyst will update the four surveys and send the surveys to the client for review. Upon completion of the client's review, the consultant and client will meet to review the survey drafts, client's comments, and discuss any additional changes that need to be made. The Research Analyst will update the survey content and provide the final

version of the surveys to the client. Additional follow-up meetings may take place to update the question set to better meet the needs of client.

B. Hosting Services

Scantron will setup and QC the four existing online surveys. Scantron assumes that only minor changes may be made to introductory text, if necessary.

A unique URL for each of the four evaluations will be provided to Suffolk CCC for review and approval prior to going live. Upon final approval by Suffolk CCC, Scantron will host the four evaluations for approximately two weeks.

Scantron will provide unique login information for each survey participant in an Excel file back to Suffolk County CCC for approximately 70 survey participants.

Upon completion of the survey hosting period, a notification will be displayed on the site to indicate the survey is no longer active.

C. Communication Services

Suffolk CCC will provide Scantron with text modifications to the email template created last year. Scantron will send an email to approximately 70 email addresses provided by Suffolk CCC.

Scantron will send two reminder emails within the term of the evaluation process to those participants who have not yet responded to the evaluation by a specific date.

D. Paper Surveys

Scantron will create PDF versions of the four surveys taken from screen shots of the online surveys. The PDFs will be provided to one contact at Suffolk CCC. Suffolk CCC can then print out paper copies to hand out to those participants who request them.

Any completed paper surveys will be shipped to Scantron by a mutually agreed on date. Suffolk CCC anticipates that a very small number of participants may use this option, if any.

Paper survey responses will be key entered into the corresponding online survey version. Scantron assumes that a minimum of one hour of time may be required. If no paper surveys are completed, then the fee will not be charged.

E. Reporting and Analytical Services

Scantron will use the same data analysis program that was developed last year to create the aggregate results reports. The reports show the counts, percentages and total counts for each response to each item on the evaluations. These reports show section totals for each section of the evaluation as well as overall evaluation totals, when applicable.

Scantron will provide one report per evaluation type for a total of four aggregate reports.

A disaggregate report will contain the open-ended comments captured from each evaluation. The disaggregate report will contain open-ended comments separated into sections by evaluation type.

Scantron will provide a total of five (5) PDF reports: one PDF report for each of the stakeholder groups (Internal, Students/Alumni, External and Board of Trustees) and one disaggregate comment report.

If the questions change in Year 3, then corresponding changes will be made to the data reports above and the fee will be higher, as reflected below in the Section III, "Pricing Summary".

F. Final Report (Executive Summary)

Following the completion of all data collection, Scantron/Meazure Learning will provide a written summary of the survey results through a written Executive Summary, which includes the following:

- Introduction to the survey project, including a review of the survey objectives, methodology, a description of the sample, and a summary of the analysis.
- A review of survey questions with descriptive statistics (mean, median, or frequency percentages), and supporting charts and graphs. In addition, feedback to open-ended questions is included.
- An evaluation of major themes emerging from the survey results, including the key performance strengths and areas of improvement.

G. Change of Scope

If requirements change during the project, Scantron will use a standard Change Control process to document needed changes and then present them to you for review and approval before implementation.

A *Change of Scope* must be approved by the client in writing before it is implemented. Project tasks that may require a *Change of Scope* include, but are not limited to, modified programming specifications, increased or decreased processing volumes, and form design modifications.

II. Attachment A

The following is the proposed timeline by Suffolk County Community College. Scantron and Suffolk County Community College will mutually agree on the final dates.

2023 Presidential Evaluation Timeline (Draft)

ACTION	DUE BY
President mid-year update to Committee	Jan 18 th
Committee to review evaluation timeline and engage Scantron.	March 6 th
President consults with Committee to create representative list of at least 25, Cabinet members and BOT to also receive assessment.	March 16 th
Email survey participants distribution list to Scantron	March 20 th
Online Evaluation links to SCCC/Personnel Committee for review before release.	March 27 th
Provide Online Evaluation feedback to Scantron.	April 3 rd
Evaluation launched and emailed to participants.	April 6 th
Evaluation period closes.	April 20 th

Scantron prepares final data and executive summary to Personnel Committee.	May 9 th
Committee prepares recommendation to the Board at SCCC Board meeting. President is present at the executive session.	May 11 th
Board Exec session to review President's contract, annual salary and other terms and conditions.	June 15 th

III. Pricing Summary:

Option Year 2 – assumes no changes to surveys	Total
Hosting Services	\$1,155.00
Communication Services	\$178.50
PDF Creation of Four Stakeholder Surveys	\$100.00
Key Entry of Returned Paper Surveys <ul style="list-style-type: none"> • Billed for the actual number of hours needed to key enter all paper surveys. • One hour minimum fee. 	\$125.00/hour
Reporting & Analytical Services	\$537.50
<i>Optional: Final Report</i> <ul style="list-style-type: none"> • Executive Summary provided by Meazure Learning. Assumes no changes to questions 	\$4,800.00

Option Year 3 – assumes no changes to surveys	Total
Hosting Services	\$1,155.00
Communication Services	\$178.50
PDF Creation of Four Stakeholder Surveys	\$100.00
Key Entry of Returned Paper Surveys <ul style="list-style-type: none"> • Billed for the actual number of hours needed to key enter all paper surveys. • One hour minimum fee. 	\$125.00/hour
Reporting & Analytical Services	\$537.50
<i>Optional: Final Report</i> <ul style="list-style-type: none"> • Executive Summary provided by Meazure Learning. Assumes no changes to questions. 	\$4,800.00

The following are optional prices for Option Year 3. If changes to the survey questions are made, then the report PDFs and final report/executive summary price will be replaced with the price below:

Option Year 3 – if changes are made to the surveys	
<i>Optional: Item Review & Updating</i>	\$6,200
Reporting & Analytical Services (required if changes to the survey questions are made)	\$1,137.50
<i>Optional: Final Report</i>	\$6,425
<ul style="list-style-type: none"> • Executive Summary provided by Measure Learning. Assumes there are changes to the survey questions. 	

Additional Charges:

- *Applicable taxes not included.*
- *Project billed as quoted for services used.*
- *In the event customer requests processing of additional forms or data after agreed upon cut off, additional charges may apply.*

IV. Scantron Services Standards:

The following standards (to the extent applicable) will govern the Services identified above:

A. Paper Surveys Set up and Distribution:

- **Design:** Scantron will design and print scannable forms with tiebacks (if applicable). Customer will supply logos in a Scantron accepted format. Guidelines for submitting digital files to Scantron will be provided by your project manager at project implementation. Logos must be 300 dpi or higher; EPS, TIF or JPG format are acceptable. Scantron will provide proofs in electronic format and will be provided via email to Customer. This process is designed to shorten the cycle for forms design and will allow Customer to print a non-scannable color copy for review within its organization.
- **Revisions:** The Project Manager will work with Customer on any changes it requires during the proof process. Design includes one set of modifications to the surveys. Any additional changes/modifications are billable at the current hourly rate (in 30-minute increments).
- **Corrections:** If Customer finds an error made by Scantron before the proof has been approved by Customer, Scantron will correct such error at no additional charge to Customer. Such corrections will not be counted as the one set of alterations by Customer.
- **Proof Approval:** Within 8 business hours after Customer’s receipt of the applicable proof from Scantron, Customer shall review and approve such proof. Customer’s approval will be documented by its return of the proof (with Customer’s signature and date of such signature) to Scantron. After

Customer's acceptance of the proof, any additional alterations, corrections, or other modifications to the survey will be billable and the delivery due date for the Services will be extended accordingly.

- **Data File:** Customer supplies mailing data file per *Scantron's Distribution File Requirements*. Only fields required for distributing and processing surveys should be included. Scantron is not responsible for additional data included in data files that are not required for the project. Client agrees that all records provided are eligible to be contacted.
- **Address Updating and Standardization:** In order to obtain best postal discounts, Scantron processes outgoing mail with a pre-sort services organization. This provides quick sorting process and prepares mailing for efficient USPS processing as well as address accuracy validation and change of address corrections.
- **Print Quantities:** All print quantities follow industry-accepted range of +/- 10%.

B. Paper Data Collection:

Scanning

- Scantron will receive the completed survey forms via method specified in the Project Summary above. Survey forms returned in bulk must be free of staples, rubber bands, paper clips, or any other foreign objects.
- If Survey forms are returned via return postal mail, Scantron will obtain a Business Reply Mail (BRE) permit and open a P.O. Box specifically for the project. Upon completion of the Services, mail delivered to the P.O. Box will not be forwarded to Scantron and will be considered "dead mail." Dead mail will be disposed of by the U.S. Postal Services. If Customer wishes to have the dead mail forwarded, Customer shall be responsible for arranging such forwarding services with its local post office. The resulting fees for providing such forwarding services will be billed directly to Customer by the U.S. Postal Services.
- Scantron scanners' machine read accuracy is based on ALL OMR marks being completed correctly and Scantron providing the printed forms.
- If a question has Multiple Responses, then an asterisk (*) will be returned.
- If a question has Blank Responses, then a blank () will be returned.
- All forms received in scannable condition, will be processed.
- Damaged forms will NOT be processed (this includes, but is not limited to, torn, trimmed, crumpled, stapled, mutilated, punched, missing timing marks or cornerstones, and other damage out of Scantron's control coming through return mail or other shipments).
- It is the experience of Scantron that approximately 1% to 3% of surveys arriving for scanning will be damaged or otherwise unscannable. Data contained on unscannable surveys will not be part of the final data file.
- Scantron will provide Response Rates:
Two options:
➤ Number of forms scanned per schedule and project requirements; or

- Number of Valid Forms Scanned against the numbers distributed by date. A valid form is a scanned form with appropriate amount of data on it.

Key Entry

Scantron will key comments following Scantron’s list of the standards used for comment entry. These standards have been developed to ensure comment reports are easy to use and preserve confidentiality and respondent intent. Scantron will use these comment entry standards in all cases, unless otherwise specified. If there are unique words, acronyms, names, or jargon for a specific company, Customer will provide those terms to the Project Manager.

C. Web-Based Surveys:

Web Setup:

- **Design:** Scantron will design, program, and host a web-based version of the survey. The website for the web survey will include a welcome page, the pages with the survey content and a thank you page. The URL link for the web survey will be SSL (secure sockets layer). A standard Scantron URL link will be used. Scantron will supply a proofing link to Customer for review and approval.
- **Revisions:** The Project Manager will work with Customer on any changes it requires during the survey review process. Design includes one set of modifications to the surveys. Any additional changes/modifications are billable at the current hourly rate (in 30-minute increments).
- **Corrections:** If Customer finds an error made by Scantron before the survey has been approved by Customer, Scantron will correct such error at no additional charge to Customer. Such corrections will not be counted as the one set of alterations by Customer.
- **Survey Approval:** Within 8 business hours after Customer’s receipt of the applicable proofing link from Scantron, Customer shall review and approve the survey. Customer’s approval will be documented by return email (with Customer’s electronic signature and date of such signature) to Scantron. After Customer’s acceptance of the survey, any additional alternations, corrections, or other modifications to the survey will be billable and the delivery due date for the Services will be extended accordingly.
- **Data File:** Customer supplies distribution data file per *Scantron’s Distribution File Requirements*. Only fields required for distributing and processing surveys should be included. Scantron is not responsible for additional data included in data files that are not required for the project.
- **Testing:** Scantron will test programming to verify that the website is accessible by the recipients accessing the survey with current versions of popular web browsers.
- **Business Rules:** Scantron will develop business rules with Customer for requirements on the web survey including one or more of the following:
 - Responses available – Single Choice, Multiple-Choice, Drop-Down list boxes, Dual Scales, Ranking, Fixed length Comment Boxes, Paragraph Boxes, Required Fields/Answers
 - Branching requirements
 - Piping – prefilled information from database look ups or previous survey question answer
 - Timing for survey deployment

- Timing for resends or reminders
- Disposition List
- Data cut-off dates
- Redirect web site address after survey submission
- **Features:** Web surveys will also include the following features:
 - Navigation Panel - features to ease moving through survey pages
 - Pause/Resume Feature (Not available with generic link)
 - Progress Bar – respondent view showing percent completion of survey
 - Submit Survey Button with single submit allowed
 - Redirection to another website upon completion of Survey

Web Distribution:

Recipients will be invited to take the survey per agreed upon method and agreed upon frequency as listed in the Project Summary above. If the survey invitation is deployed via email, the body of the email text, subject line, and address list is to be provided by Customer. Scantron shall have no duty to independently investigate or verify that any recipient named on any distribution lists provided by Customer for receipt of e-mail messages has, in fact, consented to receipt of e-mail from Customer. Customer agrees to indemnify, defend, and hold Scantron harmless from and against any and all damages, losses, liabilities, causes of action, costs, and expenses, including, without limitation, attorneys' fees, and expenses, relating to or arising from any claims by any third party that Customer did not have authority to include such third party as a recipient in any e-mail marketing messages directed by Customer.

Web Data Collection:

- Scantron will host the web survey on-line on an on-going basis for the agreed upon number of weeks or months listed in the Project Summary above.
- The pricing assumes basic technical support, which includes sending email notifications and reminders based on an agreed upon schedule, sending data and updating the data base.
- Additional support will be handled on a time and materials basis at charges specified on the Pricing Summary above and includes programming, project management and basic technical support. Time and materials tasks include but are not limited to troubleshooting connectivity issues, telephone, or email support.
- Scantron will bill Customer on time and material basis in 30-minute increments (60 minutes as the minimum) for programming and project management for any other requests made which do not fall into the basic ongoing support. The following are example of non-basic ongoing support:
 - Add/Delete new participants after the agreed upon cut-off date
 - Troubleshooting connectivity issues, telephone, or email support from participants.
 - Survey design modifications and any programming related to modifications after design has been approved.
 - Reset participants for re-entry
 - Check status of individual participants when requested
 - Investigate and resolve questionnaire errors/issues notified by participants

- Data file re-download and re-upload when requested
- Other miscellaneous requests
- Customer acknowledges Scantron will own and maintain the domain name and website (the "Site") on which Scantron will deliver the surveys to the audience via Scantron's proprietary web survey hosting system (the "System"). From time to time during the term of this Agreement, there will be periods when the System may not be accessible and/or the Site may be down because of required maintenance. The scheduled maintenance period is the first and third Saturdays of each month from 6 pm to 2 am central time. When unscheduled maintenance is required, Scantron will attempt to contact Customer at least 48 hours in advance via email. In the event of an emergency, such as a security breach, appropriate measures will be taken immediately, up to including shutting down the Site and/or otherwise suspending the Services. Scantron will use commercially reasonable efforts to promptly notify Customer of such emergencies via email or phone.

D. Data Files and Reporting:

- **Set up:** There will be an initial Set-Up to format standard reports with Customer's logo and color scheme. Customer shall indemnify and hold harmless Scantron from any third-party infringement claims related to the use of Customer's logo or other Customer directed customization.
- **Data Files:** Collected data will be provided in an ASCII file format upon completion of the specified data collection period as listed in the Project Summary above.
 - Scantron may issue a user ID and password to Customer in order to assist Customer in obtaining access to the Customer Data. Customer hereby represents and warrants that it shall maintain at all times the secrecy and confidentiality of such user ID and password and to limit access to such user ID and password only to its employees, agents, and other representatives who have a legitimate reason to access and use Customer's account and data. Customer is fully responsible for all activities that occur under its user ID and password. Customer shall immediately notify Scantron of any unauthorized access to its account or data, unauthorized use of its user ID or password and/or any other breach of security. Scantron will not be liable for any loss as a result of someone else using Customer's user ID, using Customer's password, or otherwise accessing Customer's account or data, either with or without Customer's knowledge. Customer shall indemnify and hold harmless Scantron from and against any and all damages, expenses, fees, and costs (including reasonable attorneys' fees) arising out of or relating to the authorized and/or unauthorized use of Customer's user ID and/or password.
- **Reports:**
 - Reports will be provided in a .pdf format through Scantron's secure on-line data transfer site.
 - Report frequencies and quantities are listed in the Project Summary above.

E. Project Management:

Scantron will appoint an individual to manage the Services (the "Project Manager"), who will function as the single point of contact for Customer for such Services. As needed and appropriate, the Project Manager will escalate issues within Scantron. The Project Manager shall usually be available from 8:00 AM to 5:00 PM (of his/her local time zone), Monday through Friday (except for local holidays recognized

by Scantron). The Project Manager shall communicate any unavailability via an automatic "out-of-office" email message and an appropriate voicemail message.

Customer shall maintain a single point-of-contact for communications regarding the Services. Customer shall provide to the Project Manager (and keep current with the Project Manager) the name and contact information of Customer's point-of-contact.

F. Property Retention:

Scantron shall retain the following types of property in accordance with the following schedule:

Property	Type	Schedule
Distribution Lists	Customer Generated Digital Data File	Customer generated files provided to Scantron will be retained a minimum of 90 days after distribution to the applicable survey recipient. Depending on project requirements, for purposes of deduping and opt-out master lists, Scantron may retain information about a postal or email address indefinitely, without associating it with a particular potential respondent.
Paper Documents	Forms returned to Scantron for scanning	Retained for a minimum of 90 days after completion of scanning before recycling. Forms received after cut-off will not be processed and will be retained a minimum of 30 days after the original scheduled cut-off date.
Images	Digital Copy of Paper scanned	Retained for a minimum of 90 days after final delivery for the project before deletion.
Collected Data	Digital Responses to Surveys (from paper or electronic deployment)	Retained for a minimum of 90 days after final delivery of the project before deletion. For purposes of trend reporting, aggregated data may be retained indefinitely.
Reports	Digital	Retained for a minimum of 90 days after delivery of the applicable report.

CONSULTING SERVICES AGREEMENT

This Agreement ("Agreement") is between the **Suffolk County Community College ("College")**, having its principal office at 533 College Road, Selden, New York 11784-2899, a community college established pursuant to New York State Education Law, under the sponsorship of the **County of Suffolk ("County")**, a municipal corporation of the State of New York; and

Scantron Corporation ("Consultant" or "Scantron"), a Delaware corporation having its principal place of business at 3975 Continental Drive, Columbia, Pennsylvania 17512.

The parties hereto desire for Consultant to provide to the College professional services in connection with the implementation of a presidential evaluation process on behalf of the Board of Trustees ("**Services**").

Term of Agreement: February 1, 2022 through January 31, 2023, with two (2) additional one-year options to renew exercised at the College's sole and absolute discretion

Total Cost of Agreement: Shall be as set forth in **Exhibit E**, attached hereto.

Terms and Conditions: Shall be as set forth in **Exhibits A through F**, attached hereto and made a part of this Agreement

In Witness Whereof, the parties hereto have executed this Agreement as of the latest date written below.

Scantron Corporation
FID: 95-2767912
Tel.: (800) 735-2566 x1373

Suffolk County Community College

By: *Amanda Montanez*
Amanda Montanez
Processing Services Manager

By: *Dr. Edward T. Bonahue*
Dr. Edward T. Bonahue
President

Date: 02/21/2022

Date: 2/22/22

Approved as to Legality:
Suffolk County Community College

Approved:

By: *Alicia S. O'Connor*
Alicia S. O'Connor
College Deputy General Counsel

By: *Mark D. Harris*
Mark D. Harris, DBA
Vice President for Business & Financial Affairs

Date: 2/22/2022

Date: 02.22.2022

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Exhibit C 18
Notices and Contact Persons

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Exhibit D 21
Description of Services / College's Request for Quote (RFQ)

Exhibit E 29
Payment Terms and Conditions

1. General Payment Terms
2. Limit of Payment Obligations
3. Specific Payment Terms and Conditions

Exhibit F 31
Consultant's Proposal

EXHIBIT A

General Terms and Conditions

Whereas, the College issued an informal Request for Quote (RFQ) on July 21, 2021; and

Whereas, the Consultant submitted a proposal in response to such RFQ dated August 4, 2021; and

Whereas, the College has selected the Consultant to provide the services as set forth herein; and

Now, therefore, in consideration of the mutual promises and covenants hereafter set forth, the parties hereto agree as follows:

1. Consultant Responsibilities

a. Services

The Consultant shall provide Services as described in Exhibit D, entitled "Description of Services / College's Request for Quote."

b. Qualifications and Licenses

To the extent applicable, the Consultant specifically represents and warrants that it has and shall possess, and that, to the extent applicable, its employees, agents and subcontractors have and shall possess, the required education, knowledge, experience and character necessary to qualify them individually for the particular duties they perform and that the Consultant has and shall have, and, to the extent applicable, its employees, agents and subcontractors have and shall have, all required authorizations, certificates, certifications, registrations, licenses, permits or other approvals required by the State, County or other authorities for the Services provided.

2. Term and Termination

a. Term

This Agreement shall cover the period set forth on page one of this Agreement, unless sooner terminated as provided below. Upon receipt of a Termination Notice, as that term is defined below, pursuant to the following paragraphs, the Consultant shall promptly discontinue all Services affected, unless otherwise directed by the Termination Notice.

b. Termination for Cause

- i. A failure to maintain the amount and types of insurance required by this Agreement may result in immediate termination of this Agreement, in the sole discretion of the College.
- ii. Failure to comply with federal, state or local laws, rules, regulations, or College or County policies or directives, may result in immediate termination of this Agreement, in the sole discretion of the College.
- iii. If the Consultant becomes bankrupt or insolvent or falsifies its records or reports, or misuses its funds from whatever source, the College may terminate this Agreement in whole or in part, effective immediately, or, at its option, effective at a later date specified in the notice of such termination to the Consultant.

- iv. In the event of a failure on the part of Consultant to observe any of the other terms and conditions of this Agreement, this Agreement may be terminated in whole or in part in writing by the College provided that no such termination shall be effective unless the Consultant is given five (5) calendar days' (or longer, at the College's option) written notice of intent to terminate ("Notice of Intent to Terminate"), delivered in accordance with Exhibit C entitled "Notices and Contact Persons." During such five (5) day period, (or longer, at the College's option) the Consultant will be given an opportunity for consultation with the College and an opportunity to cure all failures of its obligations prior to termination by the College. In the event that the Consultant has not cured all its failures to fulfill its obligations to the satisfaction of the College by the end of the (5) day period (or longer, at the College's option), the College may issue a written termination notice ("Termination Notice"), effective immediately.

c. Termination for Emergencies

An emergency or other condition involving possible loss of life, threat to health and safety, destruction of property or other condition deemed to be dangerous, in the sole discretion of the College, may result in immediate termination of this Agreement, in whole or in part.

d. Termination for Convenience

The College shall have the right to terminate this Agreement at any time and for any reason deemed to be in its best interest, provided that no such termination shall be effective unless the Consultant is given thirty (30) calendar days' prior written notice termination notice ("Termination Notice"). In such event of termination, the College shall pay the Consultant for the services rendered through the date of termination.

e. Payments upon Termination

- i. Upon receiving a Termination Notice, the Consultant shall promptly discontinue all services affected unless otherwise directed by the Termination Notice.
- ii. The College shall be released from any and all responsibilities and obligations arising from the services provided in accordance with by this Agreement, effective as of the date of termination, but the College shall be responsible for payment of all claims for services provided and costs incurred by the Consultant prior to termination of this Agreement, that are pursuant to, and after the Consultant's compliance with, the terms and conditions of this Agreement.
- iii. Upon termination, the Consultant agrees to promptly reimburse to the College the balance of any funds advanced to the Consultant by the College. Upon termination, any funds paid to the Consultant by the College which were used by the Consultant in a manner that failed to comply with the terms and conditions of this Agreement must be promptly reimbursed. If there is no response or if satisfactory repayments are not made, the College may recoup such payments from any amounts due or becoming due to the Consultant from the College under this Agreement or otherwise. The provisions of this subparagraph shall survive the expiration or termination of the Agreement.

3. Indemnification

a. General

The Consultant agrees that it shall protect, indemnify and hold harmless the College and/or County and their officers, officials, employees, contractors, agents and other persons from and

against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, costs, expenses, suits or actions and reasonable attorneys' fees, arising out of the acts or omissions or the negligence of the Consultant in connection with the services described or referred to in this Agreement. The Consultant shall defend the College and /or County and their officers, officials, employees, contractors, agents and other persons in any suit, including appeals, or at the College and /or County's option, pay reasonable attorney's fees for defense of any such suit arising out of the acts or omissions or negligence of the Consultant, its officers, officials, employees, subcontractors or agents, if any, in connection with the services described or referred to in this Agreement.

b. Federal Copyright Act

The Consultant hereby represents and warrants that it will not infringe upon any copyrighted work or material in accordance with the Federal Copyright Act during the performance of this Contract. Furthermore, the Consultant agrees that it shall protect, indemnify and hold harmless the College and/or County and their officers, officials, employees, contractors, agents and other persons from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, costs, expenses, suits or actions and reasonable attorney's fees, arising out of the acts or omissions or the negligence of the Consultant in connection with the services described or referred to in this Agreement. The Consultant shall defend the College and/or County and their officers, officials, employees, contractors, agents and other persons in any suit, including appeals, or, at the College and/or County's option, pay reasonable attorney's fees for defense of any such suit arising out of the acts or omissions or negligence of the Consultant, its officers, officials, employees, subcontractors, lessees, licensees, invitees or agents, if any, in connection with the services described or referred to in this Agreement.

4. Insurance

- a.** The Consultant agrees to procure, pay the entire premium for and maintain throughout the term of this Agreement, insurance in amounts and types specified by the College and/or the County and as may be mandated and increased from time to time. The Consultant agrees to require that all of its subcontractors, in connection with work performed for the Consultant related to this Agreement, procure, pay the entire premium for and maintain throughout the term of this Agreement insurance in amounts and types equal to that specified by the College and/or the County for the Consultant. Unless otherwise specified by the College and/or the County and agreed to by the Consultant, in writing, such insurance shall be as follows:
- i. Commercial General Liability** insurance, including contractual liability coverage, in an amount not less than Two Million Dollars (\$2,000,000.00) per occurrence for bodily injury and property damage.
 - ii. Automobile Liability** insurance (if any vehicles are used by the Consultant in the performance of this Agreement) in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) per accident, for bodily injury and actual cash value or cost of repair, whichever is less, for physical damage.
 - iii. Worker's Compensation and Employer's Liability** insurance in compliance with all applicable New York State laws and regulations and **Disability Benefits** insurance, if required by law. Consultant shall furnish to the College, prior to its execution of this Agreement, the documentation required by the State of New York Workers' Compensation Board of coverage or exemption from coverage pursuant to §§57 and 220 of the Workers' Compensation Law. In accordance with General Municipal Law §108, this Agreement shall be void and of no effect unless the Consultant shall provide and maintain coverage during the term of this Agreement for the benefit of such

employees as are required to be covered by the provisions of the Workers' Compensation Law.

- iv. **Professional Liability** insurance in an amount not less than Two Million Dollars (\$2,000,000.00) on either a per occurrence or claims made coverage basis.
- b. All policies providing such coverage shall be issued by insurance companies with an A.M. Best rating of A- or better.
- c. The Consultant shall furnish to the College Declaration Pages for each such policy of insurance and upon request, a true and certified original copy of each such policy, evidencing compliance with the aforesaid insurance requirements. **In the case of commercial general liability insurance, the College and the County of Suffolk shall be named as additional insureds and the Consultant shall furnish a Declaration Page and endorsement page evidencing the College and the County's status as additional insureds on the policy. The Consultant must ensure that the certificate of insurance references the assigned Contract Number and Project Name.**
- d. Any such Declaration Page, certificate of insurance, policy, endorsement page or other evidence of insurance supplied to the College shall provide for the College and the County of Suffolk to be notified in writing thirty (30) days prior to any cancellation, nonrenewal or material change in the policies. Such Declaration Page, certificate of insurance, policy, endorsement page, other evidence of insurance and any notice of nonrenewal or material change shall be mailed to the College and the County at the addresses set forth in this Agreement in Exhibit C entitled "Notices and Contact Persons" or at such other address of which the College and/or the County shall have given the Consultant notice in writing.
- e. In the event the Consultant shall fail to provide the Declaration Page, certificate of insurance, policy, endorsement page or other evidence of insurance, or fails to maintain any insurance required by this Agreement, the College and/or the County may, but shall not be required to, obtain such policies and deduct the cost thereof from payments due Consultant under this Agreement or any other agreement between the College and/or the County and Consultant.

4a. **Limitation of Liability**

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY LOST PROFITS OR COST OF PROCURING SUBSTITUTE SERVICES, OR FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, HOWEVER ARISING, WHICH ARE RELATED TO THIS AGREEMENT AND THE PROVISION OF SERVICES HEREUNDER, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR CLAIMS CAUSED BY THE GROSS NEGLIGENCE, FRAUD OR WILLFUL MISCONDUCT OF A PARTY, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR CLAIMS, LIABILITIES OR EXPENSES RELATING TO THIS AGREEMENT FOR AN AGGREGATE AMOUNT IN EXCESS OF THE LESSER OF: (i) ACTUAL DIRECT DAMAGES OR (ii) AMOUNTS ACTUALLY PAID BY COLLEGE TO SCANTRON UP TO THE TIME THE EVENT RESULTING IN LIABILITY OCCURS.

4b. **Limited Warranties**

a. Services Warranty. Scantron warrants that the Services will be provided in a professional and workmanlike manner consistent with the definition of the Services to be performed. Provided that College gives Scantron written notice of failure to meet the foregoing warranty within thirty (30) days after completion of the applicable Services, Scantron will use reasonable efforts to correct or re-perform any Services that fail to comply with the foregoing warranty. If Scantron is unable to correct or re-

perform such Services, Scantron will refund a reasonable portion of the fees paid with respect to such Services. SCANTRON SHALL NOT BE RESPONSIBLE FOR THE DECISIONS MADE AND ACTION TAKEN BY COLLEGE BASED UPON THE SERVICES AND RECOMMENDATIONS PROVIDED.

b. Product Warranty. The Services may include delivery of the survey forms or other products manufactured by Scantron specifically in connection with the Services (the "Products"). For a period of thirty (30) days following delivery of a Product (the "Warranty Period"), Scantron warrants that such Product will function in all material respects consistent with its specifications appearing in this Agreement. Scantron does not warrant that the Product(s) are free from all bugs, errors or omissions. The warranty does not extend to any failure of the Products caused by: (a) any modification or change not made by Scantron; (b) any noncompliance caused by use of the Product(s) in combination with products, goods, services or other items furnished by anyone other than Scantron or not otherwise approved in writing for use with the Products by Scantron; or (c) use of the Product(s) in an operating environment other than as specified in writing by Scantron. Scantron will use reasonable efforts at its facility to correct any Product that fails to comply with the foregoing warranty by delivering one or more error corrections, provided that College gives Scantron prompt written notice of such failure during the Warranty Period, and Scantron is able to reproduce the noncompliance in the operating environment for which such Product is designed. If, after the expenditure of such reasonable efforts, Scantron is unable to correct the Product such that it complies with the foregoing warranty, Scantron will refund all or (if College continues to use such Product) a reasonable portion of the fees College has paid with respect to such Product in full satisfaction of all of College's claims relating to such noncompliance. College will supply Scantron with all reasonably requested information to assist Scantron in reproducing the failure.

c. Exclusive Warranties and Remedies. REGARDLESS OF THE TERMS AND CONDITIONS CONTAINED IN ANY TSOW, SERVICE SCHEDULE OR OTHER DOCUMENT, THE WARRANTIES AND REMEDIES SET FORTH IN THIS SECTION ARE EXCLUSIVE AND ARE IN SUBSTITUTION FOR ALL OTHER WARRANTIES, OBLIGATIONS AND LIABILITIES OF SCANTRON, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

d. Third Party Items. The Services may include delivery, installation and/or use of hardware and software manufactured by or for a third-party manufacturer (the "Third-Party Items"). All such Third-Party Items are supplied "AS IS" by Scantron. The specific Third-Party Items to be provided under the Agreement and the fees for such Third-Party Items are subject to change (even after the execution of this Agreement) based on manufacturer availability and pricing.

5. Independent Contractor

It is expressly agreed that the Consultant's status hereunder is that of an independent contractor. Neither the Consultant, nor any person hired by the Consultant shall be considered employees of the College and/or the County for any purpose.

6. Severability

It is expressly agreed that if any term or provision of this Agreement, or the application thereof to any person or circumstance, shall be held invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and every other term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

7. Merger; No Oral Changes

It is expressly agreed that this Agreement represents the entire agreement of the parties and that all previous understandings are merged in this Agreement. No modification of this Agreement shall be valid unless written in the form of an Amendment and executed by both parties.

8. Set-Off Rights

The College and/or the County shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the College and/or the County's option to withhold, for the purposes of set-off, any moneys due to the Consultant under this contract up to any amounts due and owing to the College and/or County with regard to this contract and/or any other contract with the College or any County department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the College and/or the County for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The College and/or the County shall exercise its set-off rights in accordance with normal College and County practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the College and/or the County, their representatives, or the County Comptroller, and only after legal consultation with the College General Counsel and County Attorney.

9. Non-Discrimination in Services

During the performance of this Agreement:

- a. The Consultant shall not, on the grounds of race, creed, color, national origin, sex, age, disability, sexual orientation, military status or marital status:
 - i. deny any individual any services or other benefits provided pursuant to this Agreement; or
 - ii. provide any services or other benefits to an individual that are different, or are provided in a different manner, from those provided to others pursuant to this Agreement; or
 - iii. subject an individual to segregation or separate treatment in any matter related to the individual's receipt of any service(s) or other benefits provided pursuant to this Agreement; or
 - iv. restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any services or other benefits provided pursuant to this Agreement; or
 - v. treat an individual differently from others in determining whether or not the individual satisfies any eligibility or other requirements or condition which individuals must meet in order to receive any aid, care, service(s) or other benefits provided pursuant to this Agreement.
- b. The Consultant shall not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, creed, color, national origin, sex, age, disability, sexual orientation, military status or marital status, or have the effect of defeating or substantially impairing accomplishment of the objectives of this Agreement in respect to individuals of a particular race, creed, color, national origin, sex, age, disability, sexual orientation, military status or marital status, in determining:
 - i. the types of service(s) or other benefits to be provided, or

- ii. the class of individuals to whom, or the situations in which, such service(s) or other benefits will be provided; or
- iii. the class of individuals to be afforded an opportunity to receive services.

10. College's Non-Discrimination Notice

Suffolk County Community College does not discriminate on the basis of race, color, religion, creed, sex, age, marital status, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, equal pay compensation-sex, national origin, military or veteran status, domestic violence victim status, criminal conviction or disability in its admissions, programs and activities, or employment. This applies to all employees, students, applicants or other members of the College community (including, but not limited to, vendors and visitors). Grievance procedures are available to interested persons by contacting either of the Civil Rights Compliance Officers/Coordinators listed below and are located at www.sunysuffolk.edu/nondiscrimination. Retaliation against a person who files a complaint, serves as a witness, or assists or participates in the investigation of a complaint in any manner is strictly prohibited.

The following persons have been designated to handle inquiries regarding the College's non-discrimination policies:

Civil Rights Compliance Officers

Christina Vargas
Chief Diversity Officer/Title IX Coordinator
Ammerman Campus, NFL Bldg., Suite 230
533 College Road, Selden, New York 11784
vargasc@sunysuffolk.edu
(631) 451-4950

or

Dionne Walker-Belgrave
Affirmative Action Officer/Deputy Title IX Coordinator
Ammerman Campus, NFL Bldg., Suite 230
533 College Road, Selden, New York 11784
walkerd@sunysuffolk.edu
(631) 451-4051

11. Nonsectarian Declaration

The Consultant agrees that all services performed under this Agreement are secular in nature, that no funds received pursuant to this Agreement will be used for sectarian purposes or to further the advancement of any religion, and that no services performed under this program will discriminate on the basis of religious belief.

12. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to conflict of laws. Venues shall be designated in Suffolk County, New York or the United States District Court for the Eastern District of New York.

13. No Implied Waiver

No waiver shall be inferred from any failure or forbearance of the College and/or the County to enforce any provision of this Agreement in any particular instance or instances, but the same shall otherwise remain in full force and effect notwithstanding any such failure or forbearance.

14. Conflicts of Interest

- a. The Consultant agrees that it will not during the term of this Agreement engage in any activity that is contrary to and/or in conflict with the goals and purposes of the College and/or the County.
- b. The Consultant is charged with the duty to disclose to the College and/or the County the existence of any such adverse interests, whether existing or potential. This duty shall continue so long as the Consultant is retained on behalf of the College. The determination as to whether or when a conflict exists or may potentially exist shall ultimately be made by the College General Counsel and the County Attorney after full disclosure is obtained.

15. Cooperation on Claims

Each of the parties hereto agrees to render diligently to the other party, without additional compensation, any and all cooperation, that may be required to defend the other party, its employees and designated representatives against any claim, demand or action that may be brought against the other party, its employees or designated representatives in connection with this Agreement.

16. Confidentiality

Any records, reports or other documents of the College and/or the County or any of its agencies used by Consultant pursuant to this Agreement or any documents created as a part of this Agreement shall remain the property of the College and/or the County and shall be kept confidential in accordance with applicable laws, rules and regulations.

17. Assignment and Subcontracting

- a. The Consultant shall not assign, transfer, convey, sublet, or otherwise dispose of this Agreement, or any of its right, title or interest therein, or its power to execute the Agreement, or assign all or any portion of the monies that may be due or become due hereunder, to any other person or corporation, without the prior consent in writing of the College, and any attempt to do any of the foregoing without such consent shall be of no effect.
- b. The Consultant shall not enter into subcontracts for any of the work contemplated under this Agreement without obtaining prior written approval of the College. Such subcontracts shall be subject to all of the provisions of this Agreement and to such other conditions and provisions as the College and/or the County may deem necessary, provided, however, that notwithstanding the foregoing, unless otherwise provided in this Agreement, such prior written approval shall not be required for the purchase of articles, supplies, equipment and services which are incidental to, but necessary for, the performance of the work required under this Agreement. No approval by the College of any subcontract shall provide for the incurrence of any obligation by the College and/or the County in addition to the total agreed upon price. The Consultant shall be responsible for the performance of any subcontractor for the delivery of service.

18. No Intended Third-Party Beneficiaries

This Agreement is entered into solely for the benefit of College and Consultant. No third party shall be

deemed a beneficiary of this Agreement, and no third party shall have the right to make any claim or assert any right under this Agreement.

19. Certification as to Relationships

The parties to this Agreement hereby certify that, other than the funds provided in this Agreement and other valid Agreements with the College and/or the County, there is no known relationship within the third degree of consanguinity, life partner, or business, commercial, economic, or financial relationship between the parties, the signatories to this Agreement, and any partners, members, directors, or shareholders of five percent (5%) (or more) of any party to this Agreement.

20. Publications and Publicity

- a. The Consultant shall not issue or publish any book, article, report or other publication related to the Services provided pursuant to this Agreement without first obtaining written prior approval from the College. Any such printed matter or other publication shall contain the following statement in clear and legible print:

“This publication is fully or partially funded by Suffolk County Community College and the County of Suffolk.”

- b. The College shall have the right of prior approval of press releases and any other information provided to the media, in any form, concerning the Services provided pursuant to this Agreement.

21. Copyrights and Patents

a. Copyrights

If the work of the Consultant under this Agreement should result in the production of original books, manuals, films or other materials for which a copyright may be granted, the Consultant may secure copyright protection. However, the College and/or the County reserves, and the Consultant hereby gives to the College and/or the County, and to any other municipality or government agency or body designated by the College and/or the County, a royalty-free, nonexclusive license to produce, reproduce, publish, translate or otherwise use any such materials.

b. Patents

If the Consultant under this Agreement makes any discovery or invention in the course of or as a result of work performed under this Agreement, the Consultant may apply for and secure for itself patent protection. However, the College and/or the County reserves, and the Consultant hereby gives to the College and/or the County, and to any other municipality or government agency or body designated by the College and /or the County, a royalty-free, nonexclusive license to produce or otherwise use any item so discovered or patented.

22. Lawful Hiring of Employees Law in Connection with Contracts for Construction or Future Construction

This Agreement is subject to the Lawful Hiring of Employees Law of the County of Suffolk, Suffolk County Code Chapter 234, as more fully set forth in Exhibit B entitled "Suffolk County Legislative Requirements." In accordance with this law, the Consultant or employer, as the case may be, and any subcontractor or owner, as the case may be, agree to maintain the documentation mandated to be kept

by this law on the Construction Site at all times. The Consultant or employer, as the case may be, and any subcontractor or owner, as the case may be, further agree that employee sign-in sheets and register/log books shall be kept on the Construction Site at all times during working hours and all covered employees, as defined in the law, shall be required to sign such sign in sheets/register/log books to indicate their presence on the Construction Site during such working hours.

23. COVID-19 Safety Protocols

Consultant shall be required to comply with all applicable laws, regulations, mandates, standards, directives, policies and procedures issued or promulgated by the U.S. government, New York State, the County of Suffolk, and Suffolk County Community College in connection with the COVID-19 pandemic, including, but not limited to, Executive Orders, New York State reopening guidelines, and standards and directives issued by the New York State Department of Health, the Centers for Disease Control and Prevention (CDC), the United States Department of Labor's Occupational Safety and Health Administration (OSHA), and/or the New York State Department of Labor's Public Employee Safety & Health Bureau (PESH).

End of Text for Exhibit A

EXHIBIT B

Suffolk County Legislative Requirements

1. Consultant's/Vendor's Public Disclosure Statement

The Consultant represents and warrants that it has filed with the Comptroller of Suffolk County the verified public disclosure statement required by Suffolk County Administrative Code Article V, Section A5-7 and shall file an update of such statement with the said Comptroller on or before the 31st day of January in each year of this Agreement's duration. The Consultant acknowledges that such filing is a material, contractual and statutory duty and that the failure to file such statement shall constitute a material breach of this Agreement, for which the College shall be entitled, upon a determination that such breach has occurred, to damages, in addition to all other legal remedies, of fifteen percent (15%) of the amount of the Agreement.

Required Form: Suffolk County Form SCEX 22; entitled "Contractor's/Vendor's Public Disclosure Statement"

2. Living Wage Law

This Agreement is subject to the Living Wage Law of the County of Suffolk. The law requires that, unless specific exemptions apply all employers (as defined) under service contracts and recipients of County financial assistance, (as defined) shall provide payment of a minimum wage to employees as set forth in the Living Wage Law. Such rate shall be adjusted annually pursuant to the terms of the Suffolk County Living Wage Law of the County of Suffolk. Under the provisions of the Living Wage Law, the County shall have the authority, under appropriate circumstances, to terminate this Agreement and to seek other remedies as set forth therein, for violations of this Law.

The Consultant represents and warrants that it has read and shall comply with the requirements of Suffolk County Code Chapter 347, Suffolk County Local Law No. 12-2001, the Living Wage Law.

Required Forms: Suffolk County Living Wage Form LW-1; entitled "Suffolk County Department of Labor – Living Wage Unit Notice of Application for County Compensation (Contract)"

Suffolk County Living Wage Form LW-38; entitled "Suffolk County Department of Labor – Living Wage Unit Living Wage Certification/Declaration – Subject To Audit"

3. Use of County Resources to Interfere with Collective Bargaining Activities Local Law No. 26-2003

The Consultant represents and warrants that it has read and is familiar with the requirements of Chapter 466, Article 1 of the Suffolk County Local Laws, "Use of County Resources to Interfere with Collective Bargaining Activities." County Contractors (as defined) shall comply with all requirements of Local Law No. 26-2003 including the following prohibitions:

- a. The Consultant shall not use County funds to assist, promote, or deter union organizing.
- b. No County funds shall be used to reimburse the Consultant for any costs incurred to assist, promote, or deter union organizing.

- c. The County of Suffolk shall not use County funds to assist, promote, or deter union organizing.
- d. No employer shall use County property to hold a meeting with employees or supervisors if the purpose of such meeting is to assist, promote, or deter union organizing.

If Consultant services are performed on County property the Consultant must adopt a reasonable access agreement, a neutrality agreement, fair communication agreement, nonintimidation agreement and a majority authorization card agreement.

If Consultant services are for the provision of human services and such services are not to be performed on County property, the Consultant must adopt, at the least, a neutrality agreement.

Under the provisions of Local Law No. 26-2003, the County shall have the authority, under appropriate circumstances, to terminate this Agreement and to seek other remedies as set forth therein, for violations of this Law.

Required Form: Suffolk County Labor Law Form DOL-LO1; entitled "Suffolk County Department of Labor – Labor Mediation Unit Union Organizing Certification/Declaration – Subject to Audit"

4. Lawful Hiring of Employees Law

This Agreement is subject to the Lawful Hiring of Employees Law of the County of Suffolk (Local Law 52-2006). It provides that all covered employers, (as defined), and the owners thereof, as the case may be, that are recipients of compensation from the County through any grant, loan, subsidy, funding, appropriation, payment, tax incentive, contract, subcontract, license agreement, lease or other financial compensation agreement issued by the County or an awarding agency, where such compensation is one hundred percent (100%) funded by the County, shall submit a completed sworn affidavit (under penalty of perjury), certifying that they have complied, in good faith, with the requirements of Title 8 of the United States Code Section 1324a with respect to the hiring of covered employees (as defined) and with respect to the alien and nationality status of the owners thereof. The affidavit shall be executed by an authorized representative of the covered employer or owner, as the case may be; shall be part of any executed contract, subcontract, license agreement, lease or other financial compensation agreement with the County; and shall be made available to the public upon request.

All contractors and subcontractors (as defined) of covered employers, and the owners thereof, as the case may be, that are assigned to perform work in connection with a County contract, subcontract, license agreement, lease or other financial compensation agreement issued by the County or awarding agency, where such compensation is one hundred percent (100%) funded by the County, shall submit to the covered employer a completed sworn affidavit (under penalty of perjury), certifying that they have complied, in good faith, with the requirements of Title 8 of the United States Code Section 1324a with respect to the hiring of covered employees and with respect to the alien and nationality status of the owners thereof, as the case may be. The affidavit shall be executed by an authorized representative of the contractor, subcontractor, or owner, as the case may be; shall be part of any executed contract, subcontract, license agreement, lease or other financial compensation agreement between the covered employer and the County; and shall be made available to the public upon request.

An updated affidavit shall be submitted by each such employer, owner, contractor and subcontractor no later than January 1 of each year for the duration of any contract and upon the renewal or amendment of the contract, and whenever a new contractor or subcontractor is hired under the terms of the contract.

The Consultant acknowledges that such filings are a material, contractual and statutory duty and that the failure to file any such statement shall constitute a material breach of this agreement.

Under the provisions of the Lawful Hiring of Employees Law, the County shall have the authority to terminate this Agreement for violations of this Law and to seek other remedies available under the law.

This Agreement is subject to the Lawful Hiring of Employees Law of the County of Suffolk, Suffolk County Code Chapter 234, as more fully set forth in Exhibit B collectively referred to as the "Suffolk County Legislative Requirements." In accordance with this law, Consultant or employer, as the case may be, and any subcontractor or owner, as the case may be, agree to maintain the documentation mandated to be kept by this law on site at all times. Consultant or employer, as the case may be, and any subcontractor or owner, as the case may be, further agree that employee sign-in sheets and register/log books shall be kept on site at all times during working hours and all covered employees, as defined in the law, shall be required to sign such sign in sheets/register/log books to indicate their presence on the site during such working hours.

The Consultant represents and warrants that it has read, is in compliance with, and shall comply with the requirements of Suffolk County Code Chapter 234, Suffolk County Local Law No. 52-2006, the Lawful Hiring of Employees Law.

Required Forms: Suffolk County Lawful Hiring of Employees Law Form LHE-1; entitled "Suffolk County Department of Labor –"Notice Of Application To Certify Compliance With Federal Law (8 U.S.C. SECTION 1324a) With Respect To Lawful Hiring of Employees"

"Affidavit Of Compliance With The Requirements Of 8 U.S.C. Section 1324a With Respect To Lawful Hiring Of Employees" Form LHE-2.

5. **Gratuities**

The Consultant represents and warrants that it has not offered or given any gratuity to any official, employee or agent of Suffolk County or New York State or of any political party, with the purpose or intent of securing an agreement or securing favorable treatment with respect to the awarding or amending of an agreement or the making of any determinations with respect to the performance of an agreement, and that the signer of this Agreement has read and is familiar with the provisions of Local Law No. 32-1980 of Suffolk County (Chapter 386 of the Suffolk County Code).

6. **Prohibition Against Contracting with Corporations that Reincorporate Overseas**

The Consultant represents that it is in compliance with Suffolk County Administrative Code Article IV, §§A4-13 and A4-14, found in Suffolk County Local Law No. 20-2004, entitled "A Local Law To Amend Local Law No. 5-1993, To Prohibit The County of Suffolk From Contracting With Corporations That Reincorporate Overseas." Such law provides that no contract for consulting services or goods and services shall be awarded by the County to a business previously incorporated within the U.S.A. that has reincorporated outside the U.S.A.

7. **Child Sexual Abuse Reporting Policy**

The Consultant agrees to comply with Chapter 577, Article IV, of the Suffolk County Code, entitled "Child Sexual Abuse Reporting Policy", as now in effect or amended hereafter or of any other Suffolk County Local Law that may become applicable during the term of this Agreement with regard to child sexual abuse reporting policy.

8. Non-Responsible Bidder

The Consultant represents and warrants that it has read and is familiar with the provisions of Suffolk County Code Chapter 143, Article II, §§143-5 through 143-9. Upon signing this Agreement the Consultant certifies that he, she, it, or they have not been convicted of a criminal offense within the last ten (10) years. The term “conviction” shall mean a finding of guilty after a trial or a plea of guilty to an offense covered under the provision of Section 143-5 of the Suffolk County Code under “Nonresponsible Bidder.”

9. Use of Funds in Prosecution of Civil Actions Prohibited

Pursuant to the Suffolk County Code Section §590-3, the Consultant represents that it shall not use any of the moneys received under this Agreement, either directly or indirectly, in connection with the prosecution of any civil action against the County of Suffolk or any of its programs, funded by the County, in part or in whole, in any jurisdiction or any judicial or administrative forum.

10. Suffolk County Local Laws

Suffolk County Local Laws, Rules and Regulations can be found on the Suffolk County website at <http://suffolkcountyny.gov/>.

End of Text for Exhibit B

EXHIBIT C

Notices and Contact Persons

1. Notices Relating to Reports, Insurance Payments or Other Submissions

Any communication, notice, report, insurance, or other submission necessary or required to be made by the parties regarding this Agreement shall be in writing and shall be given to the College or Consultant or their designated representative at the following addresses or at such other address that may be specified in writing by the parties and must be delivered as follows:

For the College:

Mark D. Harris, DBA
Vice President for Business and Financial Affairs
Suffolk County Community College
533 College Road, NFL-232
Selden, NY 11784-2899

and

For Consultant:

At the address set forth on page one of this Agreement, attention of the person who executed this Agreement or such other designee as the parties may agree in writing.

Notices for all parties (except those related to termination or litigation) should be delivered by first class and certified mail, return receipt requested, in a postpaid envelope or by courier service, or by fax or by email.

2. Notices Relating to Insurance

Any communication, notice or claim relating to payment by the parties regarding this Agreement shall be in writing and shall be given to the College or Consultant or their designated representative at the following addresses or at such other address that may be specified in writing by the parties and must be delivered as follows:

For the College:

Mark D. Harris, DBA
Vice President for Business and Financial Affairs
Suffolk County Community College
533 College Road, NFL-232
Selden, NY 11784-2899

and

For Consultant:

At the address set forth on page one of this Agreement, attention of the person who executed this Agreement or such other designee as the parties may agree in writing.

Notices for all parties (except those related to termination or litigation) should be delivered by first class and certified mail, return receipt requested, in a postpaid envelope or by courier service, or by fax or by email.

3. Notices Relating to Termination and/or Litigation

In the event the Consultant receives a notice or claim or becomes a party (plaintiff, petitioner, defendant, respondent, third party complainant, third party defendant) to a lawsuit or any legal proceeding related to this Agreement, the Consultant shall immediately deliver to the Office of Legal Affairs and the County Attorney, at the addresses set forth below, copies of all papers filed by or against the Consultant.

Any communication or notice regarding termination shall be in writing and shall be given to the College or the Consultant or their designated representative at the following addresses or at such other addresses that may be specified in writing by the parties and must be delivered as follows:

For the College and County:

Alicia S. O'Connor
College Deputy General Counsel
Office of Legal Affairs
Suffolk County Community College
533 College Road, NFL230
Selden, NY 11784-2899

and

Suffolk County Attorney
Suffolk County Department of Law
H. Lee Dennison Building
100 Veterans Memorial Highway
Hauppauge, NY 11788-5402

And

For Consultant:

At the address set forth on page one of this Agreement, attention of the person who executed this Agreement or such other designee as the parties may agree in writing.

Notices related to termination or litigation should be delivered by first class and certified mail, return receipt requested, in a postpaid envelope or by nationally recognized courier service or personally and by first class mail.

Notices shall be deemed to have been duly delivered: (i) if mailed, upon the seventh business day after the mailing thereof; or (ii) if by nationally recognized overnight courier service, upon the first business day subsequent to the transmittal thereof; or (iii) if personally, pursuant to New York Civil Practice Law and Rules Section 311; or (iv) if by fax or email, upon the transmittal thereof. "Business Day" shall be defined as any day except a Saturday, a Sunday, or any day in which commercial banks are required or authorized to close in Suffolk County, New York.

Each party shall give prompt written notice to the other party of the appointment of successor(s) to the designated contact person(s) or his or her designated successor(s).

End of Text for Exhibit C

EXHIBIT D

Description of Services / College's Request for Quote

Consultant shall provide professional services in connection with the implementation of a presidential evaluation process, in accordance with the College's informal RFQ issued July 21, 2021 and the Consultant's proposal dated August 4, 2021 (specifically, Scope of Services and Scantron Services Standards), both of which are attached hereto as Exhibit D.

Additionally, Consultant shall submit the required HECVAT questionnaires for both Scantron and QuestionPro to the College for review and approval. This submission must be made within two (2) business days of full execution of this Consulting Services Agreement. The College reserves the right to cancel this Consulting Services Agreement if, following the review process conducted by the College upon receipt of such questionnaires, the College determines that there exists a security risk to the College's data.

Presidential Evaluation Request for Quotes

Suffolk County Community College is seeking proposals from qualified Consultants to provide professional services in connection with the implementation of a presidential evaluation process on behalf of the Board of Trustees. Proposals for these services shall be **submitted no later than August 5, 2021 at 12:00 pm. Proposals shall be submitted electronically to the attention of Beatriz Castaño at castanb@sunysuffolk.edu.**

1. **Basic Services:**

Consultant shall provide all services necessary to update or develop a performance evaluation survey for each of the four (4) stakeholder groups (Internal, Students/Alumni, External and the Board of Trustees).

Proposers shall include the following information as part of the proposal submission:

- a. Cost proposal to update/develop a performance evaluation survey for each of the four (4) stakeholder groups (Internal, Students/Alumni, External and the Board of Trustees). All costs associated with project management must be included in the cost proposal.
- b. Provide references for any higher education institutions where similar services were provided by your firm.

2. **Optional Services:**

The College may elect to engage the services of the Consultant for one or more additional tasks related to the performance evaluation process as follows:

- a. **Hosting Services:**
Hosting of the four (4) online surveys based on College's authorized content, including all software needs. Hosting these surveys for approximately 2-3 weeks. Survey participants must have a secured login to complete the survey.
- b. **Communication Services:**
Development of an email template based on text provided by the College. Consultant shall send the email to approximately seventy (70) email addresses to be provided by the College.
- c. **Reporting Services:**
Reports shall provide both aggregate and disaggregate data. Reports shall be in a PDF format.
- d. **Analytical Services:**
Data analysis and preparation for each stakeholder group – Board of Trustees, Internal Stakeholders, Students, and External Stakeholders. Reports shall be finalized and sent to the Board designated liaison within 7 days of the survey closing date.
- e. **Qualitative Data:**
Provide recommended questions to be able to conduct interviews with various stakeholders to obtain qualitative data on interaction with the President.
- f. **Interviews:**
Conduct interviews with the Board, Department Heads and Key stakeholders

selected by the Board of Trustees to obtain qualitative data on interaction with the President.

g. Final Report:

Provide an executive summary on quantitative and qualitative results.

Proposers shall include in the proposal submission the following information:

- a. Define the firm's capabilities for each of these optional services.
- b. Cost proposal for each of the optional services.

3. Consultant Selection:

Selection will be based on the lowest cost submitted under the Basic Services section by a qualified Proposer. Qualification will be based on prior experience. The College reserves the right to contact references and prior customers.

4. Term of Agreement:

Suffolk County Community College will retain the services of the Consultant for one year beginning on the date of notification of selection. The College may extend the agreement for two additional one-year renewal options. Consultant shall hold the pricing provided in the proposal submission for the entire term of the agreement.

Scope of Services

1. Basic Services:

a. Item Review and Updating/Development.

Suffolk County Community College will share existing performance evaluation content with Scantron for item review. It is assumed that existing content will be provided for the Board of Trustees, Internal and External stakeholder group surveys. Scantron will review and propose any suggested changes or new questions as appropriate. Scantron will develop item content for a new evaluation for the Student/Alumni stakeholder group. Scantron will provide the final performance evaluations for the four stakeholder groups in Microsoft Word or PDF file format via email to Suffolk County Community College. Scantron may also provide hardcopies (one each) of the four performance evaluations. The College will administer the evaluations and gather data.

2. Optional Services:

a. Hosting Services.

Scantron will develop the four performance evaluations in an online format based on the final approved content upon completion of item 1a. A unique URL for each of the four evaluations will be provided to Suffolk County Community College for review and approval prior to going live. Upon final approval by the College, Scantron will host the four evaluations for approximately 2-3 weeks. Scantron will also provide unique login information for each survey participant in an Excel file back to Suffolk County Community College for approximately 70 survey participants.

b. Communication Services.

Suffolk County Community College will provide Scantron with text to be used to create an email template. Scantron will send an email to approximately 70 email addresses provided by the College. Scantron will send one reminder email within the term of the evaluation process to those participants who have not yet responded to the evaluation by a specific date. (Date TBD by the College.)

c-d. Reporting and Analytical Services:

Scantron will develop a data analysis program to create aggregate and disaggregate reports. The aggregate reports will show the counts, percentages, total counts and average ratings for each response to each item on the evaluations. These reports will show section totals for each section of the evaluation as well as overall evaluation totals. Scantron will provide one report per evaluation type for a total of four aggregate reports. The disaggregate report will contain the open-ended data captured from each evaluation. It is assumed that the open-ended data will be based off of one "additional comment" field for each evaluation. The disaggregate report will contain open-ended data separated into sections by evaluation type. Scantron will provide a total of five PDF reports - one PDF report for each of the stakeholder groups (Internal, Students/Alumni, External and the Board of Trustees) and one disaggregate Comment Report.

e. Qualitative Data:

Upon the close of the evaluation process, Scantron will review the final data and develop recommended interview question content. The content will be provided to Suffolk County Community College in Microsoft Word or PDF file format.

Scope of Services (continued)

f. Interviews.

Scantron will conduct interviews with the Board, department heads and key stakeholders selected by Suffolk County Community College's Board of Trustees to obtain qualitative data based on interaction with the College President. It is assumed that interviews will take no less than 30 minutes. Raw data collected during the interview process will be provided back to the College in Microsoft Word or Excel file format.

g. Final Report.

Scantron will use collected data from the interview process and captured data from the overall evaluation process to develop an executive summary report. The final report will be provided to Suffolk County Community College in PDF file format.

Scantron Services Standards:

The following standards (to the extent applicable) will govern the Services identified above:

A. Paper Surveys Set up and Distribution:

- **Design:** Scantron will design and print scannable forms with tiebacks (if applicable). Customer will supply logos in a Scantron accepted format. Guidelines for submitting digital files to Scantron will be provided by your Project Manager at project implementation. Logos must be 300 dpi or higher; EPS, TIF or JPG format are acceptable. Scantron will provide proofs in electronic format and will be provided via email to Customer. This process is designed to shorten the cycle for forms design and will allow Customer to print a non-scannable color copy for review within its organization.
- **Revisions:** The Project Manager will work with Customer on any changes it requires during the proof process. Design includes one set of modifications to the surveys. Any additional changes/modifications are billable at the current hourly rate (in 30 minute increments).
- **Corrections:** If Customer finds an error made by Scantron before the proof has been approved by Customer, Scantron will correct such error at no additional charge to Customer. Such corrections will not be counted as the one set of alterations by Customer.
- **Proof Approval:** Within 8 business hours after Customer's receipt of the applicable proof from Scantron, Customer shall review and approve such proof. Customer's approval will be documented by its return of the proof (with Customer's signature and date of such signature) to Scantron. After Customer's acceptance of the proof, any additional alterations, corrections, or other modifications to the survey will be billable and the delivery due date for the Services will be extended accordingly.
- **Data File:** Customer supplies mailing data file per *Scantron's Distribution File Requirements*. Only fields required for distributing and processing surveys should be included. Scantron is not responsible for additional data included in data files that are not required for the project.
- **Address Updating and Standardization:** Scantron processes the mail file of the audience of the survey through the National Change of Address database (NCOA) and other standardizing addressing program (CASS certification), which helps update the addresses for those individuals of the audience who have moved within the past six months and adds a postal barcode for mailing.

B. Paper Data Collection:

Scanning

- Scantron will receive the completed forms via method specified in the Summary above. Forms returned in bulk must be facing in the same direction and free of staples, rubber bands, paper clips, or any other foreign objects. Additional fees may apply if prep work is necessary.
- If forms are returned via return postal mail, Scantron will obtain a Business Reply Mail (BRE) permit and open a P.O. Box specifically for the project, if necessary. Upon completion of the Services, mail delivered to the P.O. Box will not be forwarded to Scantron and will be considered “dead mail.” Dead mail will be disposed of by the U.S. Postal Services. If Customer wishes to have the dead mail forwarded, Customer shall be responsible for arranging such forwarding services with its local post office. The resulting fees for providing such forwarding services will be billed directly to Customer by the U.S. Postal Services.
- Scantron scanners’ machine read accuracy is based on ALL OMR marks being completed correctly and Scantron providing the printed forms.
- If a question has Multiple Responses then an asterisk (*) will be returned.
- If a question has Blank Responses then a blank () will be returned.
- All forms received in scannable condition, will be processed.
- Damaged forms will NOT be processed (this includes, but is not limited to, torn, trimmed, crumpled, stapled, mutilated, punched, missing timing marks or cornerstones, and other damage out of Scantron’s control coming through return mail or other shipments).
- It is the experience of Scantron that approximately 1% to 3% of surveys arriving for scanning will be damaged or otherwise unscannable. Data contained on unscannable surveys will not be part of the final data file, unless otherwise specified in the Summary above.
- Photocopied forms have the probability of passing through the scanner along with properly printed forms. The data from photocopied forms may not be captured accurately, which could negatively impact the final deliverable received by Customer. Scantron will assume no responsibility for inaccurate data caused by scanning of a photocopied survey.
- Scantron will provide Response Rates:
Two options:
 - Number of forms scanned per schedule and project requirements; or
 - Number of Valid Forms Scanned against the numbers distributed by date. A valid form is a scanned form with appropriate amount of data on it.

Key Entry

Scantron will key comments following Scantron’s list of the standards used for comment entry. These standards have been developed to ensure comment reports are easy to use and preserve confidentiality and respondent intent. Scantron will use these comment entry standards in all cases, unless otherwise specified. If there are unique words, acronyms, names, or jargon for a specific company, Customer will provide those terms to the Project Manager.

C. Data Files and Reporting:

- **Set up:** There will be an initial Set-Up to format standard reports with Customer's logo and color scheme. Customer shall indemnify and hold harmless Scantron from any third party infringement claims related to the use of Customer's logo or other Customer directed customization.
- **Data Files:** Collected data will be provided in an ASCII file format upon completion of the specified data collection period as listed in the Summary above.
- **Reports:**
 - Reports will be provided in a .pdf format through Scantron's secure on-line data transfer site.
 - Report frequencies and quantities are listed in the Summary above.

D. Ongoing Projects:

For projects that involve multiple processing cycles with downtime between each cycle, an invoice will be issued after each cycle for the services performed during such cycle (with a minimum fee of \$270.00 per cycle).

E. Project Management:

Scantron will appoint an individual to manage the Services (the "Project Manager"), who will function as the single point of contact for Customer for such Services. As needed and appropriate, the Project Manager will escalate issues within Scantron. The Project Manager shall usually be available from 8:00 AM to 4:30 PM EST Monday through Friday (except for local holidays recognized by Scantron). The Project Manager shall communicate any unavailability via an automatic "out-of-office" email message and an appropriate voicemail message.

Customer shall maintain a single point-of-contact for communications regarding the Services. Customer shall provide to the Project Manager (and keep current with the Project Manager) the name and contact information of Customer's point-of-contact.

F. Property Retention:

Scantron shall retain the following types of property in accordance with the following schedule:

Property	Type	Schedule
Distribution Lists	Customer Generated Digital Data File	Customer generated files provided to Scantron will be retained a minimum of two years after distribution to the applicable survey recipient.
Paper Documents	Forms returned to Scantron for scanning	Retain minimum of 90 days after completion of the Services before recycling.
Images	Digital Copy of Paper scanned	Retain minimum of 90 days after final delivery for the project before deletion.
Collected Data	Digital Responses to Surveys (from paper or electronic deployment)	Retain minimum of 18 months after final delivery for the project term before deletion.
Reports	Digital	Retain minimum of 90 days after delivery of the applicable report.

EXHIBIT E
Payment Terms and Conditions

1. General Payment Terms

- a.** Consultant shall prepare and present invoice(s) for payment to the College. Invoices shall be documented by sufficient, competent and evidential matter. Payment by the College will be made within thirty (30) days after the College's approval of said invoice(s).
- b.** Consultant agrees that it shall be entitled to no more than the fees set forth in this Exhibit E for the completion of all work, labor and services contemplated in this Agreement.
- c.** The charges payable to Consultant under this Agreement are exclusive of federal, state and local taxes, the College being exempt from payment of such taxes.
- d.** The acceptance by Consultant of full payment of all approved billings made under this Agreement shall operate as and shall be a release to the College from all claims and liability to Consultant, its successors, legal representatives and assigns, for services rendered under this Agreement.

2. Limit of Payment Obligations

The maximum amount to be paid to the Consultant is set forth on the cover page of this Agreement.

3. Specific Payment Terms and Conditions

See ATTACHMENT 1, annexed hereto.

ATTACHMENT 1

Cost Summary**Year One**

1. **Services:**
 - a. **Item Review and Updating/Development:** \$2,370.00
2. **Optional Services:**
 - a. **Hosting Services:** \$1,955.00
 - b. **Communication Services:** \$178.50
 - c-d. **Reporting and Analytical Services:** \$1,137.50
 - e. **Qualitative Data:** \$700.00
 - f. **Interviews:** \$87.50 *per interview*
 - g. **Final Report:** \$2,100.00

Renewal Year(s)

1. **Basic Services:**
 - a. **Item Review and Updating:** \$795.00
2. **Optional Services:**
 - a. **Hosting Services:** \$1,155.00
 - b. **Communication Services:** \$178.50
 - c-d. **Reporting and Analytical Services:** \$537.50
 - e. **Qualitative Data:** \$350.00
 - f. **Interviews:** \$87.50 *per interview*
 - g. **Final Report:** \$1,400.00

The cost of services and fees listed herein is valid for a period of sixty (60) calendar days from the date on this document. After said date, if this agreement has not been executed by both Parties, Scantron reserves the right to rescind and/or amend these services and fees as Scantron deems appropriate.

Suffolk County Community College will retain the services of Scantron for one year beginning on the date of execution. The College may extend the agreement for two additional one-year renewal options. Renewal option pricing is listed above. Scantron will hold the pricing provided for the entire term of the agreement for up to two additional one-year renewal options.

**Exhibit F
Consultant's Proposal**

Consultant's Proposal dated August 4, 2021, submitted in response to the College's RFQ, is incorporated herein by reference as Exhibit F.

End of Text for Exhibit F