

THIS ADOPT-A-HIGHWAY AGREEMENT (this “Agreement”) is made the day of
, 20 by and between

THE COUNTY OF ONTARIO, a municipal corporation of the State of New York,
having an office and place of business at 20 Ontario Street, Canandaigua, New York 14424
(hereinafter referred to as the "County")

and

1.Name of Group in Caps, having an office at **2.Group’s Address** (hereinafter referred to as
the "Group"). The County and Group are sometimes referenced to in this Agreement
individually as a “Party” or collectively as the “Parties.”

WHEREAS, the Group desires to contribute towards maintaining an attractive and litter-
free County highway right-of-way known as _____ (the
“Highway Segment”); and

WHEREAS, the Group acknowledges and understands the many dangers associated with
picking up litter on highway rights-of-way including, but not limited to, hazards posed by traffic,
nature, the condition of the right-of-way and hazardous materials which may be found on the right-
of-way; and

WHEREAS, the Group assumes these risks and hereby desires to participate in the County
Adopt-A-Highway program upon the following terms and conditions.

NOW, THEREFORE, in consideration of the terms and conditions herein contained, the
Parties agree as follows:

FIRST: The Group shall be permitted to participate in the County Adopt-A-Highway
Program contributing towards maintaining an attractive and litter-free Highway Segment upon the

terms of this Agreement, Schedule "A" and the corresponding County highway work permit, both of which are attached hereto and made a part hereof. Notwithstanding anything to the contrary, if any of the terms and provisions of this Agreement conflict with or differ from any of the terms and provisions of Schedule "A," the terms and provisions of this Agreement shall control.

THIRD: This Agreement shall commence on **3.Commencement Date** and shall terminate on **4.Completion Date** except as extended by the County in writing and if required, duly approved by the County's Board of Supervisors.

FOURTH: The Group shall issue progress reports to the County as the County may direct and shall immediately inform the County in writing of any cause for delay in the performance of the Group's obligations under this Agreement.

FIFTH: The County, upon thirty (30) days' notice to the Group, may terminate this Agreement in whole or in part when the County deems it to be in its best interest, whether with or without cause. In such event, the Parties obligations hereunder shall be terminated with all County equipment provided to support the Group returned in the same condition as it was received, except normal wear and tear.

SIXTH: All original records compiled by the Group in completing the work described in this Agreement, including but not limited to written reports, studies, drawings, blueprints, negatives of photographs, computer printouts, graphs, charts, plans, specifications and all similar recorded data, shall become and remain the property of the County. The Group may retain copies of such records for its own use.

SEVENTH: Any purported delegation of duties or assignment of rights under this Agreement, or any other agreement to fulfill this Agreement, is void without the prior express

written consent of the County. In no event shall anyone other than the Group and its participants who have signed a County release participate hereunder.

EIGHTH: The Group agrees that it has no interest and will not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of the services and duties hereunder. The Group further agrees that, in the performance of this Agreement, no person having any such interest shall be employed by it. Conflict of interest shall include, but not be limited to, when an individual is employed by the County.

The Group represents and warrants that it has not employed or retained any person, other than a bona fide full time salaried employee working solely for the Group to solicit or secure this Agreement, and that it has not paid or agreed to pay any person (other than payments of fixed salary to a bona fide full time salaried employee working solely for the Group) any fee, commission, percentage, gift or other consideration, contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, without limiting any other rights or remedies to which the County may be entitled or any civil or criminal penalty to which any violator may be liable, the County shall have the right, in its discretion, to terminate this Agreement without liability, and to deduct the contract price, or otherwise to recover, the full amount of such fee, commission percentage, gift or consideration.

NINTH: The Group expressly understands and agrees that the Group is and shall in all respects be considered an independent contractor. The Group, its employees, partners, associates, subcontractors, subconsultants and any others employed or retained by the Group to participate hereunder, are not and shall not hold themselves out nor claim to be an officer or employee of the County, nor make claim to any rights accruing thereto, including but not limited to Workers

Compensation, Unemployment Benefits, Social Security or retirement plan membership or credit. Further, Group, by virtue of his/her independent Group status, shall under no circumstance constitute an employee of the County for purposes of the Affordable Care Act, shall not be entitled to any subsidy or credit in connection with this Agreement, and agrees if the County were to be assessed a penalty related to this Agreement that Group will defend and indemnify the County for any said penalty or related penalty.

TENTH: In performing under this Agreement, the Group shall comply with all applicable Federal, State, local laws and regulations and any terms and conditions of a grant associated with this Agreement. Group agrees that, to the extent it is a covered entity or business associate under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), it will comply with all applicable requirements of HIPAA. Group shall comply with the rules and regulations of the County. The County’s Compliance Plan regarding Federal and State fraud and abuse laws is available on the County’s website at <http://www.co.ontario.ny.us/DocumentCenter/Home/View/236>. The Group shall abide by the terms of this Plan when delivering services under this Agreement and shall ensure that each individual that provides such services under this Agreement is provided with a copy of the Plan or given access to the Plan.

Furthermore, the Group represents and warrants that it, its officers, employees, or agents have not been excluded or terminated from participation in any federal health care programs or New York Medicaid. Should such exclusion or termination occur during the term of this Agreement, Group shall promptly notify the County, and such exclusion or termination shall be considered a material breach of this Agreement.

ELEVENTH: The Group expressly agrees that:

(a) in the hiring of employees for the performance of work under this Agreement or any subcontract hereunder, neither the Group, any subcontractor, nor any person acting on their behalf, shall discriminate against any person on the basis of any characteristic or classification protected under New York State or federal anti-discrimination laws, who is otherwise qualified and available to perform the work to which the employment relates; and

(b) neither the Group, any subcontractor, nor any person acting on behalf of such Group or subcontractor shall, in any manner, harass, discriminate against or retaliate against any employee hired for the performance of work under this Agreement on account of any characteristic or classification protected under New York State or federal anti-discrimination laws; and

(c) in the course of performance of work under this Agreement, neither the Group, any subcontractor, nor any person acting on their behalf shall, in any manner, harass, discriminate against, or retaliate against any person on account of any characteristic or classification protected under New York State or federal anti-discrimination laws; and

(d) that there may be deducted from the amount payable to the Group by the County under this Agreement a penalty of fifty dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the Agreement; and

(e) that this Agreement may be cancelled or terminated by the County, and all moneys due or to become due hereunder may be forfeited, for a second or any subsequent violation of this section of the Agreement.

TWELFTH: Failure to secure and maintain the required insurances contained in

Schedule "B," which is attached hereto and made a part hereof, is a material breach of this Agreement. Group shall reimburse County for any funds expended by County that would have been paid by Group's insurance carrier under any required insurance. Should Group's required insurance be cancelled or lapse in any way, Group shall submit the insurer's notice of cancellation or lapse to County within two business days of receipt.

In addition to, and not in limitation of the insurance requirements contained in Schedule "B," the Group agrees to the fullest extent of the law:

(a) that except for the amount, if any, of damage contributed to, caused by or resulting from the negligence of the County, the Group shall indemnify and hold harmless the County, its officers, employees and agents from and against any and all liability, damage, penalties, claims, demands, costs, judgments, fees, attorneys' fees or loss arising directly or indirectly out of the performance or failure to perform hereunder by the Group or third Parties under the direction or control of the Group; and

(b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of the performance or failure to perform referred to in Sub-paragraph "(a)" of the "TWELFTH" paragraph and to bear all other costs and expenses related thereto. The duty to defend hereunder shall be triggered immediately upon notice to the Group by the County of the County's receipt of a Notice of Claim, service of process or other demand or claim.

THIRTEENTH: All notices of any nature referred to in this Agreement shall be in writing and sent by registered or certified mail postage pre-paid, to the respective addresses set forth below or to such other addresses as the respective Parties hereto may designate in writing:

To the County:

5.Name of Department

6.Street Address

7.City,State,Zip

To the Group:

8.Name of Group

9.Street Address

10.City,State,Zip

FOURTEENTH: This Agreement and its attachments constitute the entire Agreement between the Parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the Parties.

FIFTEENTH: If any provision of this Agreement is determined to be invalid or unenforceable, that shall not affect the validity or enforceability of the remaining portions of this Agreement. Any such invalid or unenforceable provision shall be modified so as to give effect to the original intent of the Parties to the maximum extent possible.

SIXTEENTH: The defense and indemnification obligations provided herein shall survive the expiration or termination of this Agreement, whether occasioned by this Agreement's expiration or earlier termination.

SEVENTEENTH: The Parties hereto understand and agree that each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein, and if through mistake or inadvertence such provision is not inserted, said clause shall be deemed to have been inserted and shall have the full force and effect of law.

EIGHTEENTH: Notwithstanding, in accordance with Section 362 of the County Law, the County shall have no liability under this Agreement to Group or to anyone else beyond funds appropriated for this Agreement.

NINETEENTH: This Agreement shall not be enforceable until signed by all Parties and approved by the County of Ontario.

TWENTIETH: This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, The County and the Group have executed this Agreement in duplicate.

COUNTY OF ONTARIO

By _____
Mary A. Krause, County Administrator

GROUP:

By _____
(Name and Title)

Authorized by the Board of Supervisors of the County of Ontario on the _____ day of _____, _____, pursuant to Resolution No. _____-_____.

Approved as to form and manner of execution:

The County of Ontario

INDIVIDUAL, CORPORATE, PARTNERSHIP OR LLC ACKNOWLEDGMENT

STATE OF _____)
)SS:
COUNTY OF _____)

On the ___ day of _____, in the year 20__ before me personally appeared _____, known to me to be the person who
(name of person signing contract)
executed the within instrument, who being duly sworn by me did depose and say that __he resides at _____ in the Town of _____, County of _____, State of _____, and further that:

[Check One]

If an individual: __he executed the foregoing instrument in his/her name and on his/her own behalf, or doing business as (d/b/a) _____.
(name of company)

If a corporation: __he is the _____ of _____, the
(title) (name of company)
corporation described in said instrument; that, by authority of the Board of Directors of said corporation, __he is authorized to execute the foregoing instrument on behalf of the corporation for the purposes set forth therein; and that, pursuant to that authority, __he executed the foregoing instrument in the name of and on behalf of said corporation, as the act and deed of said corporation.

If a partnership: __he is the _____ of _____, the
(title) (name of company)
partnership described in said instrument; that, by the terms of said partnership, __he is authorized to execute the foregoing instrument on behalf of the partnership for the purposes set forth therein; and that, pursuant to that authority, __he executed the foregoing instrument in the name and on behalf of said partnership, as the act and deed of said partnership.

If a limited liability company: __he is a duly authorized member of _____, LLC, the limited liability company described in said
(name of company)
instrument; that __he is authorized to execute the foregoing instrument on behalf of the limited liability company for the purposes set forth therein; and that, pursuant to that authority, __he executed the foregoing instrument in the name of and on behalf of said limited liability company, as the act and deed of said limited liability company.

Notary Public

SCHEDULE A

ONTARIO COUNTY ADOPT-A-HIGHWAY

A. Responsibilities of the Group and its participants

1. The Group will obtain a Highway Work Permit from the County. The County will waive the permit fee.
2. The Group shall provide to the County completed Release Forms for all participants (adults & minors).
3. The Group will pick up supplies and materials from the County during normal working hours, and return unused materials and supplies to the County during normal working hours within three (3) business days following each field activity.
4. Activities permitted, except as modified by the County Commissioner of Public Works, are of a roadside maintenance nature including, but not limited to, litter clean-up.
5. The Group will conduct activities at a frequency which will enhance the attainment of the goal which is to provide a park-like appearance along the adopted roadway. The Group shall agree upon the frequency of clean up dates with the County Commissioner of Public Works.
6. The Group will organize and conduct a safety briefing before each field activity.
7. All participants must read the County Adopt-A-Highway Program Roadside Safety Training Guidelines for Volunteer Groups, sign the County's Adopt-A-Highway Release Form and attend the safety briefing before participating in any field activity.
8. All program participants must wear the new ANSI Class II hi-vis reflective safety vest supplied by the County while on the cleanup site. **NO EXCEPTIONS!**
9. Only the official orange Ontario County Adopt-A-Highway trash bags may be used at the cleanup site. All filled bags must be placed in a plainly visible location off the shoulder of the road. (If possible, place filled bags away from homes & businesses). Recyclable materials should be taken home with you for refund.
10. All 12-to-17 year old participants must be supervised and there must be at least one (1) adult supervisor for every six (6) 12-to-17 year old participants.
11. No more than ten (10) cars are allowed at the cleanup site. Participants are urged to car pool to the cleanup site.
12. No food or alcoholic beverages shall be consumed at the cleanup site. No illegal substances shall be allowed at the cleanup site.
13. All the tools and supplies you came with upon leaving the cleanup site must be taken with you. Remember, any supply or tool left behind could cause injury and create a potential liability for your organization and Ontario County.
14. All participants must behave in a responsible manner at all times. No horseplay or throwing trash allowed. Remember, passersby tend to associate all highway workers as government workers. You are representing not only your organization, but Ontario County as well.
15. Absolutely no horseplay. No work shall be done on the paved area of the road under any circumstances. Participants must never walk on guide rail or lean over bridge railings. Participants shall not operate or work near power equipment.
16. The Group will not work on or clean up litter on or from private property outside the County right-of-way.
17. One person on each cleanup shall serve as project coordinator. The coordinator shall have a cellular telephone able to call 911 in an emergency and shall provide the telephone number to the County. The coordinator shall be responsible for insuring that all materials borrowed from the county are safely stored, kept clean and in working order. This includes all signs, vests and unused garbage bags. The coordinator shall also be responsible for insuring proper placement, continuous locating and retrieval of the roadwork warning sign.
18. The Group shall as soon as practicable notify the County Attorney's Office at (585) 396-4411, in the event of any motor vehicle accident and illness or injury of a participant.

SCHEDULE A

ONTARIO COUNTY ADOPT-A-HIGHWAY

19. Participants are encouraged to avoid over exertion and project coordinator should make arrangements to provide drinking water to all participants.
20. The roadwork warning signs shall be used at all cleanup sites without exception. Participants are encouraged to work in such a way as to face on-coming traffic.
21. Road Work Warning Sign Placement Guidelines: The location of the signs shall be determined by multiplying the highway speed limit by a factor of 10. The resulting product is the number of feet away from the cleanup site that the sign should be placed. For example, on 55 miles per hour (mph) highway, the number of feet away from the cleanup site is approximately 550 feet. This allows a motorist enough time to recognize and react to the sign.
NOTE: AS WORK PROGRESSES DOWN THE HIGHWAY, THE SIGN MUST BE CONTINUALLY MOVED!
22. BE ALERT. All participants should watch out for motorists distracted by the activities taking place off the road.

B. Responsibilities of the County

1. The County will furnish and erect an Ontario County Adopt-A-Highway sign at the beginning of the Highway Segment displaying the name of the Group.
2. The County will continue to apply its assets, as it deems necessary, in the maintenance of the Highway Segment.
3. The County will provide a representative to present the first safety briefing.
4. The County will provide reflective vests, garbage bags and warning signs.
5. The County will provide for disposal of collected waste from locations specified in the highway work permit.