

CHAUTAUQUA COUNTY FINANCE DEPARTMENT  
REQUEST FOR PROPOSALS



PROPOSAL NO. RFP-1-23 JHW  
Jamestown Airport Restaurant Operator

PROPOSAL ISSUE DATE:	October 2, 2023
VISITS TO RESTAURANT:	November 1 – 10, 2023
QUESTIONS DUE BY:	November 10, 2023
PROPOSAL DUE DATE:	November 30, 2023
TIME:	3:30 PM

RESPOND TO:

ATTN: BECKY ANDERSON, PURCHASING MANAGER

3 NORTH ERIE ST. MAYVILLE, NY 14757

PH. 716-753-4918

PAUL M. WENDEL, JR.  
COUNTY EXECUTIVE

KITTY CROW  
DIRECTOR OF FINANCE

BECKY ANDERSON  
PURCHASING MANAGER

BRANDI PETERSON  
PURCHASING AGENT

JOSE SOLER  
PURCHASING CLERK

NICOLE PATTISON  
PURCHASING AGENT

### **Intent of Proposal:**

Chautauqua County is looking for qualified parties to lease/operate a 2,900 sq. ft. restaurant space at the Chautauqua County/Jamestown Airport. The newly remodeled, full-service dining, bar facility, and fully equipped kitchen can accommodate up to 132 patrons. This turn-key restaurant facility offers:

- Full service restaurant and bar
- Carry-out opportunities: community, local businesses, general aviation/charter/business aircraft operators, and traveling public
- Catering for on or off-site conferences or event hosting
- Unique Atmosphere

The selected operator will be professional, adaptable, an established business owner and a good partner to the County; adding value to the County properties while maintaining/establishing a positive rapport and welcoming environment for the community and flying public.

Interested parties please provide a detailed proposal of intent. To coordinate a visit to the Airport restaurant, please contact Shannon Fischer at (716)661-8930.

## **GENERAL TERMS AND CONDITIONS**

### **SECTION 1: INSTRUCTIONS**

- 1.1. RFP - The services that are required herein are not subject to formal competitive bidding under Section 103 of New York State General Municipal Law. Chautauqua County Purchasing Policy rules in this case require selection of a contractor through a Request for Proposal process.
- 1.2. Chautauqua County encourages all qualified applicants, including Minority-Owned Business Enterprises, Women-Owned Business Enterprises, Small Business Enterprises and Disadvantaged Business Enterprises, to partake in the solicitation of these and all other services. The successful proposer must be an Equal Opportunity Employer.
- 1.3. Chautauqua County is exempt from all Federal and State taxes.
- 1.4. Insurance shall be in place prior to execution of the agreement and shall be up to date and maintained for the contract term. It is preferred that you attach samples or original certificates of insurance along with your proposal.

- Within (5) five days receipt of the notice of award the proposer shall supply up-to-date certificates of insurance. Certificates may be e-mailed to the insurance department representative at the following address email wakamata@chqgov.com.
  - Failure to do so may be cause for the County to declare a proposal non-responsive, with the result that the award may go to the next highest scoring proposal.
- 1.5 A copy of the Chautauqua County Minimum Insurance Requirements is attached, along with a sample copy of the contract or agreement of service with terms and conditions.
- 1.6 The successful proposer must obtain Chautauqua County approval prior to utilizing a subcontractor in order to perform the requirements of this RFP.

**SECTION 2: SUBMISSION OF PROPOSALS:**

Sealed proposals shall be submitted to Chautauqua County Purchasing Department 3 North Erie St., Mayville, NY by November 30th, 2023 at 3:30p.m.

Please include the following information on the front of the sealed envelope:

<b>Attention:</b>	<b>Becky Anderson, Purchasing Manager</b>
<b>Proposal No:</b>	<b>RFP-1-23 JHW</b>
<b>Title of Proposal:</b>	<b>Jamestown Airport Restaurant Operator</b>

Any proposals, or unsolicited amendments to proposals, received after the due date and time specified on the cover page may not be considered in the review process. No faxed or e-mailed documents will be accepted. Chautauqua County takes no responsibility for any third party error in the delivery of the applications (e.g., U.S. Post Office, Federal Express, UPS, courier, etc.).

Copies of proposals shall be available in a Microsoft Word or PDF document by e-mail after all proposals have been opened and awarded.

- 2.1 No proposal will be considered which is not accompanied by pricing information for services to be rendered, and all proposals shall be signed by an authorized individual.
- 2.2 Confidential, trade secret or proprietary materials as defined by the laws of the State of New York must be clearly marked and identified as such upon submission. Proposers intending to seek an exemption from disclosure of these materials under the Freedom of Information Law (NYS Public Officers Law, Sections 84-90) must request the exemption in writing, at the time of the submission of the materials, setting forth the reason for the claimed

exemption. In addition, the proposer must mark each page of its submission on which there appears any material claimed to be protected as confidential or proprietary with the following legend, in bold face, capital letters at the top of each page: "THE PROPOSER BELIEVES THAT THIS INFORMATION IS PROTECTED FROM DISCLOSURE UNDER THE NEW YORK STATE FREEDOM OF INFORMATION LAW". Acceptance of the claimed materials does not constitute a determination on the exemption request, which determination will be made in accordance with statutory procedures.

**SECTION 3: MODIFICATIONS OR WITHDRAWAL OF PROPOSAL:**

- 3.1 Questions about or requests for clarification of an item for this RFP must be submitted in writing to Becky Anderson, Purchasing Manager at [andersob@chqgov.com](mailto:andersob@chqgov.com). Questions must be submitted prior than the date on the front of this solicitation. County responses will be submitted to all parties in the form of an Addendum to the original RFP, receipt of which must be acknowledged with each proposal submittal.
- 3.2 **Other than the contact person identified in the proposal, or their designee, prospective proposers shall not approach County employees during the period of this RFP process about any matters related to this RFP or any proposals submitted pursuant thereto.**
- 3.3 A proposal that is in the possession of Chautauqua County may be altered by a sealed letter bearing the signature or name of the authorized person, provided it is received PRIOR to the date and time of the proposal due date. Fax, email, telephone or verbal alterations will not be accepted. A proposal that is in the possession of Chautauqua County may be withdrawn by the proposer up to the time of the proposal due date. Failure of the successful proposer to furnish the service awarded, as a result of this Request for Proposal, may eliminate the proposer from the active vendors list for a period of time as determined by the Purchasing Manager.

**SECTION 4: EVALUATION CRITERIA:**

- 4.1 The County reserves the right to seek any clarifications needed to determine the most qualified submittal and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a proposer's proposal and/or to determine compliance with the requirements of the solicitation.
- 4.2 **Alternatives/Value-Added Considerations:** The Proposer may include items not specified in this RFP in their proposal in which the vendor feels can be pertinent to or an added benefit to the services requested. All such alternatives must be listed separately from the proposal and the cost thereof must be separated and itemized.

- 4.3 A contract may be awarded to the proposer whose proposal achieves the highest evaluation score by the evaluation committee based on the specified criteria, and not solely on the basis of price.
- 4.4 Unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of sixty (60) days from the due date of the proposals.
- 4.5 Evaluation will be performed to determine the proposers understanding of work to be performed, technical approach, potential for completing the work as specified herein, cost reasonableness, the probable cost to the County, and ranking with competing proposers.

#### **SECTION 5: PROPOSAL FORMAT AND SUBMITTALS:**

- 5.1 The County requests that the following format be followed when submitting your proposal:
- ✓ The title page: RFP Subject, name of proposer, address, telephone, email address, contact person and table of contents.
  - ✓ Qualifications: List of qualifications and experience to carry out the requested services. Qualification to do business in NYS, number of years in business and length of experience. Limit this to two (2) pages maximum.
  - ✓ References: Include at least two references from supervisors of previous projects. Provide a list of municipal clients whom you have had past projects with that are of similar size and quality.
  - ✓ Plan Implementation: This is the scope of services in terms of the proposer's plan to carry out the requested services. Limit of a total of 6 pages maximum.
  - ✓ Mandatory Documents: Please use the Response Checklist when submitting your proposal.

#### **SECTION 6: PREPARATION OF PROPOSAL**

- 6.1 In case of error in the extension of prices in the proposal, unit prices will govern, where applicable.
- 6.2 Proposers are expected to examine special provisions, the scope of work, schedules and instructions included in this Request. Failure to do so will be at the proposer's risk
- 6.3 The County will not reimburse proposers for any costs associated with the preparation and submittal of any proposal, or for any travel and/or per diem costs that are incurred.

#### **SECTION 7: PROPOSER QUALIFICATIONS:**

- 7.1 Each proposer shall submit a statement of the proposer's qualifications, experience, organization, equipment, and facilities available to adequately provide the service and material necessary to fulfill the minimum specifications for this RFP, unless otherwise specified in the scope of work.
- 7.2 The County shall have the right to take such steps as it deems necessary to determine the ability of the proposer to perform obligations under the contract, and the proposer shall furnish to the County all such information and data for this purpose as may be requested.

**SECTION 8: AWARD AND CONTRACT INFORMATION:**

- 8.1 The proposer agrees that should their firm be awarded a contract, proposer will not discriminate against any person who performs work hereunder because of age, race, color, sex, creed, sexual orientation, national origin, or disability.
- 8.2 The proposer expressly warrants to the County that it has the ability and expertise to perform its responsibilities hereunder and in so doing shall use the highest standards of professional workmanship.
- 8.3 Chautauqua County reserves the right to reject any or all proposals, to waive any informality or technical defect in the proposals, or to award the contract in whole or in part, if deemed to be in the best interest of the County to do so. Explanations of County decisions shall not be required except as otherwise provided by law.
- 8.4 The successful proposer will be required to enter into and sign an Agreement or an Agreement of Services (Contract) with the County with reasonable adjustments acceptable to the County. This RFP and the response of the successful proposer may become a part of the Contract and will be in effect for the duration of the contract. The Contract language will control over any conflicting language contained within this RFP.
- 8.5 The successful proposer will not commence any work, which could be billed, until a valid Contract has been executed by both the proposer and the County.

The County intends to enter into a one (1) year contract with the awarded proposer, to begin January 1, 2024. Longer contract terms can be negotiated in 2<sup>nd</sup> lease.

**CHAUTAUQUA COUNTY  
RESPONSE CHECKLIST - PROPOSAL NO. RFP-1-23 JHW**

Please note below a list of documents which must be submitted in full as part of this proposal. Failure to submit any of the documents as part of your proposal or failure to acknowledge any addendum in writing with your proposal may be cause for rejection of the proposal.

Submitting a proposal on any condition, limitation or provision not officially invited in this RFP (Request for Proposal) may also be cause for rejection.

**Please check each item indicating your compliance:**

THIS CHECKLIST MUST BE SUBMITTED AS PART OF YOUR PROPOSAL.

- RESPONSE CHECKLIST
- NON-COLLUSION CERTIFICATE
- IRANIAN DIVESTMENT CERTIFICATE
- FINANCIAL AFFIDAVIT
- AFFIDAVIT OF A FOREIGN CORPORATION
- CORPORATE ACKNOWLEDGEMENT CERTIFICATE
- EXCLUSION CHECK
- PRICING SUBMISSION SHEET (PROPOSAL FORM) IF INCLUDED OR VENDOR'S OWN SUBMISSION
- REQUIRED FORMS AS LISTED IN RFP
- ADDENDUM(S) ACKNOWLEDGE (IF APPLICABLE)
- ONE (1) ORIGINAL AND ONE (1) COPY OF YOUR SUBMITTED PROPOSAL
- INSURANCE CERTIFICATES

COMPANY	TELEPHONE NUMBER
ADDRESS	EMAIL ADDRESS
AUTHORIZED REPRESENTATIVE (PRINT)	TITLE

AUTHORIZED SIGNATURE	DATE
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**PROPOSAL RESPONSE FORM**

**Proposal No. REP-1-23 JHW**

**Proposal Title: Airport Restaurant Operator**

**VENDOR NAME:** \_\_\_\_\_

**COMPANY:** \_\_\_\_\_

**REPRESENTATIVE:** \_\_\_\_\_

**EMAIL:** \_\_\_\_\_ **/PH.** \_\_\_\_\_

Below are two options, please indicate which one is applicable to your response and return to the contact below:

We the above referenced Company will be preparing a proposal to submit for this project. I am returning this document to assure that I receive all further communication regarding the RFP including any addendums issued.

We the above referenced Company will not be preparing a proposal to submit for this project for the following reasons listed below.  
**Please check where applicable:**

- \_\_\_\_\_ Project or scope not suited to our Company.
- \_\_\_\_\_ Our items and/or materials do not meet your specifications.
- \_\_\_\_\_ Insurance Requirements
- \_\_\_\_\_ Bond Requirements too restrictive (when required)
- \_\_\_\_\_ Scope of services are not clearly understood or applicable \_\_\_\_\_ too vague \_\_\_\_\_ too rigid
- \_\_\_\_\_ Insufficient time allowed for preparation of proposal
- \_\_\_\_\_ Other reason not listed above (or) elaborate on the checked marked reason above:

Please send your response to:      Becky Anderson, Purchasing Manager  
 Phone: 716-753-4918  
 Email: [andersob@chqgov.com](mailto:andersob@chqgov.com)



LEASE AGREEMENT

Use of restaurant Space in Terminal Building at the  
Chautauqua County - Jamestown Airport

This Agreement is made as of December 1, 2023, by and  
between the following parties:

COUNTY: COUNTY OF CHAUTAUQUA, NEW YORK  
A Municipal Corporation  
Gerace Office Building  
Mayville, New York 14757-1007  
hereinafter called "County,"

-and-

TENANT: CONTRACTOR  
A New York State [Company]  
address  
address  
hereinafter called "Contractor"

WITNESSETH:

WHEREAS, County owns and operates the Chautauqua County  
Jamestown Airport (hereinafter called "Airport") in the Town of  
Ellicott, State of New York, and desires to lease Restaurant  
space in the Robert H. Jackson Terminal for use as a restaurant  
facility with commercial kitchen for catering, and

WHEREAS, County is authorized and empowered to enter this  
Agreement pursuant to Resolution No. \_\_\_\_, County Law Section  
215, County Charter Section 3.02(h), and Section 352 of the  
General Municipal Law,

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. Premises. County hereby leases to Contractor County  
Terminal Building Restaurant comprising 2,909 gross square feet  
of open floorplan office.

County, at no additional cost to Contractor, shall provide  
for the exclusive use of parking adjacent to Terminal building  
next to restaurant door entrance directly to the outside.

Contractor may install, operate, and maintain at its sole expense an attractive sign, subject to the written approval of the County's Airport Manager as to the type, size, design, and location thereof.

In addition, County grants to Contractor all reasonable ingress and egress to and from the leased premises on the land side of the terminal. Contractor's access to aircraft movement areas shall be restricted in accordance with the policies and procedures enumerated in the Jamestown Airport Certification Manual, Section 329, incorporated by reference as part of this Agreement. Contractor shall use in common with others all public facilities at the Airport including unreserved parking areas, restrooms, the terminal lobby, waiting rooms, and common area conference rooms, as long as there is no conflict and coordination is made with Airport Manager.

2. Uses. Contractor shall use the leased premises only for the purposes of operating a restaurant facility and commercial kitchen for catering; the parties agree that Contractor shall not use the leased premises for any other operations not expressly authorized in this Lease without the advanced written consent of the County. Use outside daily business hours will require written consent of the Airport Manager and may require an additional charge for overhead, utilities and staff time related to after-hours events. Contractor agrees to observe and obey all reasonable and applicable laws, rules, and regulations of the United States of America, the State of New York, the Chautauqua County Legislature, the County Airport Manager, the County Airport Commission, or any agency authorized to establish laws, rules, and regulations with respect to business conducted at airports.

3. Rent. Contractor shall pay County a monthly sum of

\_\_\_\_\_ Dollars (\$\_\_\_\_\_.00), payable in advance on or before the first day of each month.

4. Term. This Lease shall take effect as of December 1, 2023, and shall terminate November 30, 2024; except as hereinafter specified.

5. Termination.

a. Either party can terminate this Lease upon at least thirty (30) days advance notice to the other party, with accounts between the parties to be adjusted and prorated as of such termination date, in the event that (i) the other party violates the provisions of this Agreement and such violation continues more than thirty (30) days following written notice thereof; (ii) the United States or any of its agencies occupies the airport to such an extent as to interfere with Contractor's operations provided this Lease shall be reinstated upon termination of such interference for the balance of the term of the Lease; (iii) destruction of the leased premises as provided in paragraph 10; or (iv) governmental or other actions outside or beyond the control of the parties, such as fuel shortages, war, civil disruption, riots, or other similar activities which substantially curtail general aviation.

b. In the event that commercial air service is restored at the Chautauqua County Jamestown Airport, County may, at its sole discretion, revise this agreement upon thirty (30) days written notice to Contractor.

c. County may immediately terminate this Agreement in the event that Contractor becomes bankrupt, as determined by a court of competent jurisdiction, insolvent, or subject to the appointment of receiver, as determined by a court of competent jurisdiction, provided Contractor shall have thirty (30) days to cure said insolvency or terminate the appointment of said

receiver.

d. Not later than the last day of the term Contractor shall remove, at its own expense, all of its personal property and those improvements made which have not become the property of County, including but not limited to trade fixtures, cabinet work, movable paneling, and partitions; repair all injury done by or in connection with the installation or removal of the property and improvements; and surrender the premises in as good condition as they were at the beginning of the lease, normal wear and tear excepted, and damage by fire, the elements, casualty, or other cause not due to the misuse or neglect by Contractor or its agents, servants, visitors, or licensees. The parties mutually agree that all of Contractor's property remaining on the premises after the last day of the term of this Agreement shall be deemed abandoned and may be removed by County, and Contractor shall reimburse County for the cost of such removal. County may have any such property stored at Contractor's risk and expense.

6. Utilities. County shall provide heat and air-conditioning, overhead lighting, electricity, water and sewer service, and provide periodic cleaning and housekeeping services for Airport terminal common areas and bathrooms. Contractor shall be responsible for acquisition, installation, and maintenance of any and all communications and network services it requires for the conduct of its business, trash removal inside of the leased space, and cleaning and maintenance that is in addition to what is provided by County in item 8.

7. Taxes. County shall be solely responsible for any real property taxes and assessments attributable to the leased premises, water, sewer, lights, fire, or other district taxes or assessments, special assessments or other similar governmental

charges which at any time may be levied or imposed against the leased premises.

8. Maintenance and Repairs. County shall provide the property in a complete and functional condition at the time Contractor assumes possession. Contractor shall be responsible for normal maintenance and repair of the premises, including but not limited to replacement of light bulbs and light fixtures; interior painting, redecorating, and interior finishes maintenance and repair. Repair or replacement of appliances and fixtures shall be at Contractor's expense during the term of the lease, following written consent of the County which will not be unreasonably withheld. Unless otherwise agreed by the parties, all replacement appliances and fixtures will become property of the County at the termination of the lease. Each party shall be solely responsible for any damage to the premises caused by their own employees, invitees, or guests. All such repairs shall be made in a prompt and professional manner. Any and all equipment brought in and not owned by County, is the responsibility of Contractor.

Contractor recognizes that airport operations have priority over maintenance and repairs to leased space.

In the event that Contractor fails to effectuate repairs within thirty (30) days following receipt of written notice by County, County shall have the right, but not the obligation, to have said repairs completed at the expense of Contractor who shall promptly remit payment and such sums shall be deemed additional rent. All improvements made to the premises by Contractor that are so attached to the premises that they cannot be removed without material injury to the premises shall become the property of County upon installation.

9. Alterations.

a. Contractor shall make no alterations, structural changes, improvements, or additions to the leased premises of any fixed equipment or fixtures without the advance written consent of the County Airport Manager, which consent shall not be unreasonably withheld. No alterations, improvements, additions, or fixtures shall adversely affect the integrity, market value, physical security, or building code adherence of the premises. If, in the sole judgement of the County Airport Manager, a hazard determination is necessary to determine whether a risk to aviation is posed by the proposed alteration, Contractor shall submit an Airport Airspace Analysis request in compliance with 14 CFR Part 77.9

b. All alterations, structural changes, improvements, additions, or fixtures installed by Contractor shall be the property of County at the termination of this Agreement except trade fixtures, kitchen equipment, machinery, and related equipment built or placed upon the premises by Contractor specifically relating to its business which are to be removed by Contractor at its expense at or before the expiration of this Agreement unless option to renew is offered. Any damage caused by the removal of such trade fixtures shall be repaired by Contractor at its expense.

10. Destruction of Premises. If during the term of this Agreement the leased premises are destroyed or partially destroyed by fire or other casualty so as to render the premises unfit for occupancy and not repairable within ninety (90) days of the happening of such injury, Contractor may cancel or terminate this Lease as of the day of such injury or destruction. All insurance proceeds relating to said building shall then be remitted to County immediately upon receipt. If Contractor does not terminate the Agreement, then Contractor

shall promptly proceed to repair, rebuild, or replace the premises with comparable facilities. Contractor shall be entitled to use any insurance proceeds for the purposes of repairing, rebuilding, or replacing such facilities. If the premises are only slightly damaged or are repairable within ninety (90) days from the date of the damage, Contractor shall promptly repair the premises. Contractor shall continue to pay all rent due hereunder unless the Agreement is terminated as provided above.

11. Inspection. County shall have the right but not the obligation to inspect the leased premises, and may also enter thereon for the purposes of making repairs at any reasonable time upon twenty-four (24) hours' notice, except no notice shall be required in the event of a bona fide emergency or to allow inspections by governmental authorities pursuant to law.

12. Governing Law. Notwithstanding any statement in this or any other document to the contrary, this Agreement shall be governed by the laws of the State of New York, without regard to its principles on conflicts of law, and Contractor consents to New York State Court jurisdiction in Chautauqua County, New York as the exclusive jurisdiction for this contract, and any disputes hereunder shall be heard by a court of competent jurisdiction in Chautauqua County, New York, unless this paragraph is physically crossed out and initialed by both parties, or unless the Federal supremacy clause requires otherwise.

13. Statutory Compliance. Contractor shall perform in accordance with all applicable federal, state, and local laws, rules, and regulations, including without limitation any applicable provisions of the Labor Law of the State of New York. All statutory and regulatory provisions applicable to this

Agreement are hereby incorporated by reference.

14. Independent Contractor. Contractor is an independent contractor and not an employee, servant, or agent of County. Contractor shall have exclusive responsibility for the means, manner, and methods of performing its obligations under this Agreement.

15. Indemnification.

a. Contractor shall indemnify and hold County harmless from any liability, claim, demand, or judgment, including the reasonable costs of defense, arising from Contractor's performance or failure to perform the terms of this Agreement, provided that County shall remain liable for any portion of any judgment attributable to its own negligence.

b. County shall indemnify and hold Contractor harmless from any liability, claim, demand, or judgment, including the reasonable costs of defense, arising from County's performance or failure to perform the terms of this Agreement, provided that Contractor shall remain liable for any portion of any judgment attributable to its own negligence.

16. Insurance. Contractor shall secure and maintain throughout the term of this Agreement \$1,000,000 in commercial general liability, with County named as an additional insured for purposes of coverage on a direct, primary, and non-contributory basis. The parties agree that should Contractor hire, employ, or engage any employees at any time during the term of this Agreement, Contractor shall be required to obtain Worker's Compensation and Disability Insurance in accordance with New York State law. County also agrees to waive its Automobile Liability and Excess Liability Insurance requirements during the term of this Agreement. Contractor shall file a certificate of insurance with County prior to occupying the



leased space pursuant to this Agreement, and shall be responsible for updating the certificate as necessary throughout the term of this Agreement.

17. Licenses and Permits. Contractor shall secure and maintain throughout the term of this Agreement all necessary licenses, permits, and other certifications and qualifications required for its performance. Contractor shall immediately notify County of any notice of, or actual, revocation, or restriction of a license, permit, or other certification necessary for its performance of this Lease.

18. Non-Discrimination. Contractor covenants in accordance with Title VI of the Civil Rights Act of 1964 and FAA Administrative Order 1400.11 that it will not, on the grounds of age, race, creed, color, national origin, sex, religion, disability, or marital status, discriminate or permit discrimination against any person or group of persons in any manner.

19. Notice of Investigation. Contractor shall notify County in writing within five (5) calendar days of obtaining knowledge of the commencement of any investigation or audit or adverse action against Contractor by any governmental agency, to the extent such audit, investigation, or action may impact the Lease in any way.

20. Assignment. Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of this Agreement or any of its right, title, or interest therein, or the power to execute this Agreement, without the prior written consent of the County.

21. Waiver, Modification and Amendments. No waiver, modification, or amendment of this Agreement or any part thereof shall be valid unless in writing and duly executed by both parties. A waiver of any breach hereof shall not prevent a

forfeiture for any succeeding breach.

22. Entire Agreement. This Agreement contains the sole and entire agreement between the parties relating to the services provided hereunder and shall supersede any and all other leases between the parties. Any other statements or representations made by either party are void and have no force or effect.

23. Severability. Should any part, term, or provision of this Agreement be determined, by a court of competent jurisdiction, to be invalid, unenforceable, illegal, or in conflict with any law, the validity, legality, and enforceability of the remaining portions shall not be impaired or affected.

24. Survival. The terms and conditions of this Agreement shall survive the expiration of this Lease to the full extent necessary for their enforcement and for the protection of the party in whose favor they operate.

25. Binding Lease. This Agreement shall be binding on the parties, their successors, heirs, and assigns. This Agreement is subject to approval by the Chautauqua County Legislature and consent of the Federal Aviation Administration, but is intended to be otherwise binding on all parties to the Lease upon its execution.

26. Digital Signatures and Document Storage. Each party may affix a digital signature to this Agreement by electronic means. By affixing a digital signature the parties are affirming they have authority to enter into this Agreement, and that this Agreement executed by digital signature or other electronic means shall be legally binding and effective. Each party also agrees that this Agreement, and any document including or relating to this Agreement, may be imaged and

stored electronically and may be introduced as evidence as original business records and neither party shall contest their admissibility.

27. Execution in Counterparts. This Agreement, and any amendment or modification, may be signed in counterparts, each one of which is considered an original, but all of which constitute one and the same instrument. The exchange of copies of signature pages by scanned portable document format (".pdf") email attachment, or through any digital signature program, shall constitute effective execution of this Agreement, and .pdf copies of this Agreement shall have the same force and effect as an original.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

COUNTY OF CHAUTAUQUA

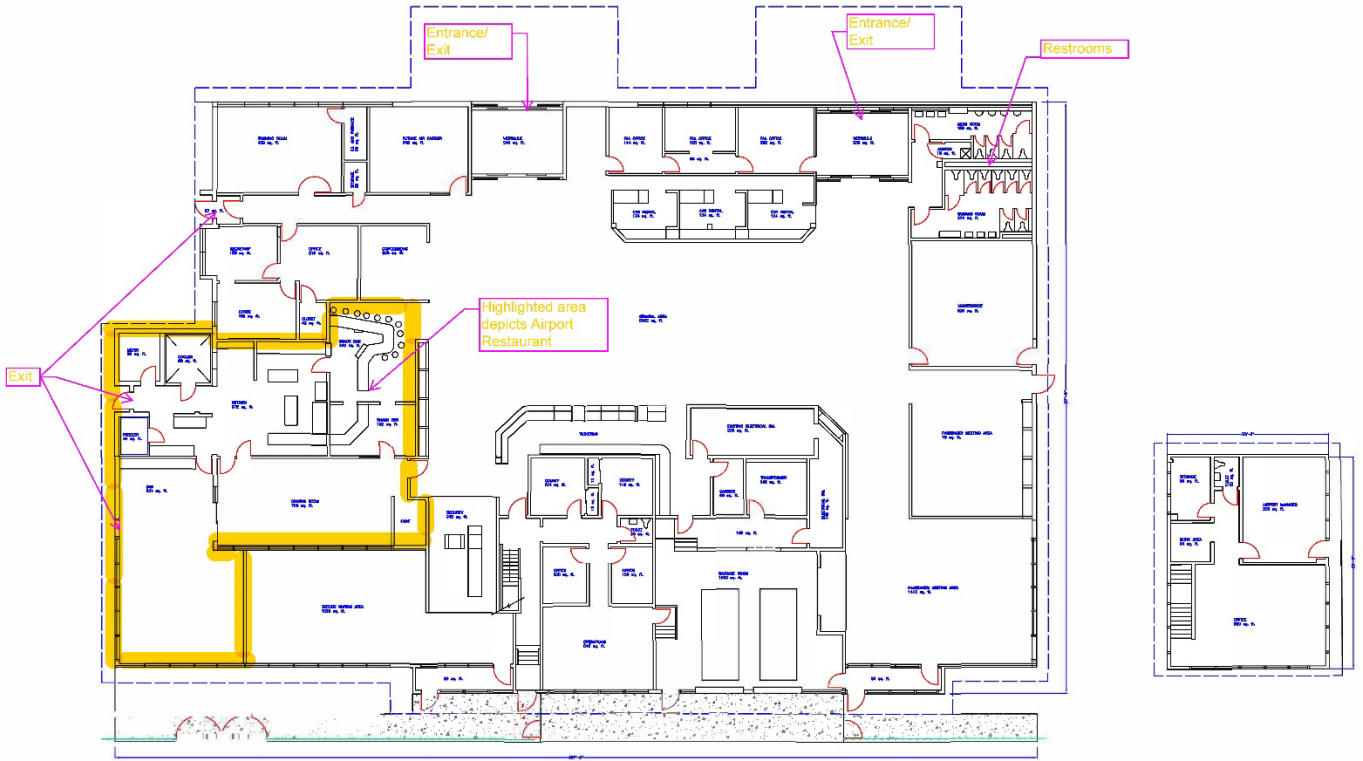
BY \_\_\_\_\_ DATE \_\_\_\_\_  
Paul M. Wendel, Jr., County Executive

CONTRACTOR

BY \_\_\_\_\_ DATE \_\_\_\_\_  
Name: \_\_\_\_\_ Title: \_\_\_\_\_

# Appendix A

## Chautauqua County Airport Robert H. Jackson Terminal Building



Restaurant Area

Amendment. No waiver, modification, or amendment of this Agreement or any part thereof shall be valid unless in writing and duly executed by the parties hereto. A waiver of any breach hereof shall not prevent forfeiture for any succeeding breach.

Assignment. Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of this Agreement or any of its right, title, or interest therein, or the power to execute this Agreement, without the prior written consent of the County. (GML Section 109)

Audit. County, itself or through a third party, reserves the right to audit Contractor upon reasonable notice to ensure compliance with this Agreement. Contractor shall fully comply with any such audit.

Binding Agreement. This Agreement shall be binding on the parties, their successors, heirs, and assigns.

Certification. By submitting a claim to County for payment, Contractor certifies: that claims are just, true, and correct; that goods are of the quantity and quality stated and/or that the services were actually performed; that prices are reasonable and in accordance with this Agreement; that no portion of any claim has been paid; that there exist no offsets or counterclaims; and that no tax is included.

Confidentiality. Information relating to individuals who may receive services pursuant to this Agreement shall be confidential, and maintained and used only for the purposes intended under this Agreement, in accordance with all applicable State and Federal laws, rules and regulations and industry standards. If Contractor is a Business Associate of the County as defined by HIPAA, Contractor shall comply with the terms of County's standard Business Associate Agreement, as the same may be amended from time to time, unless otherwise agreed upon in writing by the parties. This requirement shall survive termination of this Agreement.

Conflict. In the event of a conflict between the terms of this Agreement and the terms of any other Contract Document, the terms of this Agreement shall be controlling notwithstanding anything in Contractor's documents to the contrary.

Debarment/Suspension – see County solicitation documents.

Digital Signatures and Document Storage. Each party may affix a digital signature to this Agreement by electronic means. By affixing a digital signature the parties are affirming they have authority to enter into this Agreement, and that this Agreement executed by digital signature or other electronic means shall be legally binding and effective. Each party also agrees that this Agreement, and any document including or relating to this Agreement, may be imaged and stored electronically and may be introduced as evidence as original business records and neither party shall contest their admissibility.

Entire Agreement. This Agreement contains the sole and entire Agreement between the parties relating to the services provided hereunder and shall supersede any and all other Agreements between the parties. Any other statements or representations made by either party are void and have no force or effect.

Execution in Counterparts. This Agreement, and any amendment or modification, may be signed in counterparts, each one of which is considered an original, but all of which constitute one and the same instrument. The exchange of copies of signature pages by scanned portable document format (".pdf") email attachment, or through any digital signature program, shall constitute effective execution of this Agreement, and .pdf copies of this Agreement shall have the same force and effect as an original.

Force Majeure. The County may terminate or suspend its performance under this Agreement, in whole or in part, immediately upon the occurrence of a "force majeure." A "force majeure" shall include, but not be limited to, natural disasters, war, rebellion, insurrection, riot, strikes, lockout, and any unforeseen circumstances and acts beyond the control of the County which render performance of its obligations impossible.

Guarantee. Contractor shall fully guarantee the quality and workmanship of the services and/or goods provided, and shall represent and warrant that such goods or services meet or exceed all applicable industry standards.

Governing Law. Notwithstanding any statement in this or any other document to the contrary, this Agreement shall be governed by the laws of the State of New York, without regard to its principles on conflicts of law, and Contractor consents to New York State Court jurisdiction in

Chautauqua County, New York as the exclusive jurisdiction for this contract, and any disputes hereunder shall be heard by a court of competent jurisdiction in Chautauqua County, New York, unless this paragraph is physically crossed out and initialed by both parties, or unless the Federal supremacy clause requires otherwise.

Independent Contractor. Contractor is an independent contractor and not an employee, servant, or agent of the County. Contractor shall have exclusive responsibility for the means, manner, and methods of performing its obligations under this Agreement.

Indemnification. Contractor shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by Contractor or its subcontractors pursuant to this Agreement. To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold County and its officers and employees harmless from any liability, claim, demand, loss, judgment, expense, and cost of every type, amount, and nature, direct and indirect and without limitation, including the costs of defense, arising from Contractor's performance or failure to perform the terms of this Agreement. In the event that this Agreement is funded by Federal or State funds, and County is required to indemnify the funding source(s) of this Agreement, Contractor shall be required to indemnify the funding source to the full extent that County is contractually obligated to do so, to the extent such obligation arises from Contractor's action or failure to act in accordance with this Agreement.

All money expended by County as a result of such claims, actions, damages, losses, expenses, and costs, together with interest at a rate not to exceed the maximum interest rate permitted by law, shall be immediately and without notice due and payable by Contractor to County.

Such obligation to the County shall not be construed to negate, abridge or reduce other rights of indemnity which would otherwise exist. This provision shall supersede any other provision in this Agreement, including attachments and referenced items, deemed to be in conflict, unless specifically stated otherwise.

Insurance. Unless waived by the County Attorney or his/her designee in writing,

Contractor shall secure and maintain the insurance specified at <https://chqgov.com/finance/insurance-requirements> incorporated by reference as though fully set forth herein, with County named as an additional insured for purposes of coverage on a direct, primary, and non-contributory basis. The insurance afforded the additional insureds shall be at least as broad as that afforded to the first named insured. County as additional insured will be entitled to the limits stated in the contract or the full limits of the policy, whichever is greater. Contractor shall file a certificate of insurance with the County prior to performing pursuant to this Agreement or receiving any payment. Contractor shall provide new insurance certificates when the existing certificates expire, without demand.

Contractor shall immediately forward to County (fax (716) 753-4888) any notice of actual or pending termination, suspension, or non-renewal of insurance. In the event Contractor's insurance expires or is terminated or suspended, County shall have all rights available for breach of contract, and may declare this Agreement to be automatically and immediately terminated effective as of the moment of expiration, termination, or suspension. In addition, County reserves the right to withhold payment to Contractor until such new certificates have been provided and approved. County shall have unlimited access to Contractor's insurance company and policies.

**Licenses and Permits.** Contractor shall secure and maintain throughout the term of this Agreement all necessary licenses, permits, and other certifications and qualifications required for its performance of this Agreement. Contractor shall immediately notify the County of any notice of, or actual, revocation or restriction of a license, permit, or other certification necessary for its performance of this Agreement. In the event of a revocation which prohibits Contractor from being able to perform this Agreement, this Agreement shall automatically terminate effective as of the moment of such revocation.

**Non-Discrimination.** In the performance of this Agreement, Contractor will not discriminate or permit discrimination against any individual or group on the grounds of age, color, creed, disability, domestic violence victim status, handicap, marital status, military status, national origin, political affiliation, predisposing genetic characteristics, race, religion, sex

(including gender identity or expression), sexual orientation, or veteran status. Contractor shall comply with County's Title VI (non-discrimination) policy, which can be obtained by contacting the County Compliance Officer at (716) 753-4714, and with the County's DBE policy.

**Payment.** Contractor shall invoice County within ninety (90) days of the date of service. Payment will be made upon timely receipt of a properly executed invoice in form and content approved by the Department Head, or a duly authorized subordinate of the department requesting services, accompanied by such documentation as is reasonably requested. By submitting a claim to County for payment, Contractor certifies that: claims are just, true and correct; goods are of the quantity and quality stated and/or that the services were actually performed; that prices are reasonable and in accordance with the Agreement; that no portion of the claim has been paid; that there exist no offsets or counterclaims on this or any other Agreement with the County; and that no tax is included. Contractor acknowledges that County issues vendor payments electronically, and shall complete payment forms as required by the County for that purpose. Electronic Payment Methods forms can be found at: <http://www.co.chautauqua.ny.us/218/Form-s-Applications>.

**Performance Time.** Notwithstanding the stated Agreement date or term, County shall not be obligated to pay for goods or services which are furnished: prior to the date this Agreement is executed by both parties; or during any time when the required insurance is not in place.

**Notice of Investigation.** Contractor shall notify County in writing within five (5) calendar days of obtaining knowledge of the commencement of any investigation or audit or adverse action against Contractor by any governmental agency, to the extent such audit, investigation, or action relates in any way to contract services.

**Records.** Contractor shall keep and maintain records and other documents as required by the Agreement. Contractor shall submit to County upon request such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records, and other data that County may request concerning work performed or to be performed under this Agreement. All books and records of Contractor shall be available upon request for inspection and/or audit and/or copying by the County

during the time hereof and for a period of six (6) years hereafter. Contractor shall also comply with audit requirements of third parties, as identified in Contract Documents.

**Set-Off Rights.** 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 option to withhold for the purposes of set-off any money due to Contractor under this or any other Agreement, up to any amounts due and owing to County with regard to any contract with any Chautauqua County department, office or agency.

**Severability.** Should any part, term, or provision of this Agreement be determined, by a court of competent jurisdiction, to be invalid, unenforceable, illegal, or in conflict with any law, the validity, legality, and enforceability of the remaining portions shall not be impaired or affected.

**Statutory Compliance.** Contractor shall perform in accordance with all applicable federal, state, and local laws, rules and regulations, including without limitation any applicable provisions of the Labor Law of the State of New York. All statutory and regulatory provisions applicable to this Agreement are hereby incorporated by reference. Contractor shall provide, at its own expense, all permits, licenses, and certifications required for the performance of its services pursuant to this Agreement and shall be solely responsible for paying any and all fines or penalties incurred as a result of any improper activities. Contractor's performance shall meet or exceed industry standards.

**Subcontracts.** Contractor shall: (a) require any subcontractor, agent, volunteer, or other third party (Third Party) performing Agreement services to comply with all applicable Federal, State and Local laws, rules and regulations; (b) adopt and perform such review and inspection procedures as are necessary to ensure compliance by Third Party with this Agreement; (c) require any third party to indemnify County against any and all claims arising out of such Third Party's performance of, or failure to perform, the Agreement, with Contractor assuming such indemnification itself to the extent a Third Party fails to do so; and (d) remain fully obligated under this Agreement notwithstanding its delegation of a Third Party to undertake all or any portion of the performance of this Agreement.

Contractor shall inform Third Parties, and require Third Parties to abide by, all relevant provisions of this Agreement.

Survival. The terms and conditions of this Agreement shall survive the expiration of this Agreement to the full extent necessary for their enforcement and for the protection of the party in whose favor they operate.

Termination Obligations. Upon receipt of notice of termination of this Agreement, Contractor shall cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, unless otherwise directed by County, and shall not incur any new obligations after receipt of the termination notice without written approval of County.

Waivers. Any waiver of a breach of this Agreement shall not be deemed to be a waiver of any preceding or future breach of the same or any other covenant, term, or condition.

Wages and Hours. When applicable, Contractor shall comply with §§220-e and 239 of New York State Labor Law. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, if this is a public work contract covered by Article 8 of the Labor Law, Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by County of any County-approved sums due and owing for work performed upon the project.

Workers Compensation Coverage. If this Agreement is of such a character that the employees engaged thereon are required to be insured under the workers' compensation law, then, in accordance with General Municipal Law §108, this

Agreement is void and of no effect unless the person or corporation making or performing this Agreement shall secure compensation for the benefit of, and keep insured during the life of this Agreement, such employees, in compliance with the provisions of the workers' compensation law.

**CHAUTAUQUA COUNTY MINIMUM INSURANCE REQUIREMENTS**

**INSURANCE SHALL BE PROCURED AND CERTIFICATES DELIVERED BEFORE COMMENCEMENT OF WORK OR DELIVERY OF MERCHANDISE OR EQUIPMENT.**

This document shall be attached to and become part of the contract/agreement/service order. The contractor shall immediately forward to County, via facsimile to the County Department of Insurance (716) 753-4888 any notice of actual or pending termination, suspension or non-renewal of any of its policies. In the event the contractor's insurance expires or is terminated or suspended, County shall have all rights available for breach of contract and the contract/agreement/service order shall automatically and immediately terminate effective as of the moment of expiration, termination or suspension. The contractor agrees that County shall have unlimited access to its insurance company and policies.

**Certificate Requirements** The certificate must:

- A. be addressed to **CHAUTAUQUA COUNTY**, Department of Insurance, 3 N. Erie Street, Mayville, NY 14757-1007;
- B. specify all coverage required below and elsewhere in the contract. **Bid specifications or particular contracts, leases or agreements may require alternate coverages and limits, which must be evidenced on the Certificate in lieu of the coverages and limits specified below;**
- C. be issued by an insurer which has at as a minimum, BEST'S RATING of A- and be size category VII or higher;
- D. state "**CHAUTAUQUA COUNTY** shall be an additional insured, as well as a certificate holder, on a direct, primary and non-contributory basis including products and completed operations"  
Note: Professional Liability, Worker's Compensation, and Disability Benefits Liability Insurance policies are not required to have the County as an additional insured, however County shall be named as certificate holder;
- E. include a waiver of subrogation for "**Construction and Maintenance**" and "**Property Leased to Others or Use of Facilities or Grounds**" coverage;
- F. state "Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions"; and
- G. be delivered to the Chautauqua County, Department of Insurance, 3 North Erie Street, Mayville, New York 14757, Fax No. (716) 753-4888

**MINIMUM COVERAGE LIMITS ARE AS FOLLOWS:**

Policy	Construction and Maintenance	Professional Services	Property Leased to Others or Use of Facilities or Grounds	Concessionaires Services	Livery Services	All Purposes Public Entity Contracts
Commercial General Liability *	\$1,000,000 per occurrence, \$2,000,000 aggregate	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
- Premises & Operations	INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE
- Prods. & Completed OPS	INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE
- Independent Contractors	INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE
- Contractual	INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE
- Broad Form PD	INCLUDE		INCLUDE	INCLUDE	INCLUDE	INCLUDE
- X, C, U	INCLUDE		INCLUDE			
- Personal Injury			INCLUDE	INCLUDE		
- Liquor Law			INCLUDE			
- Host Liquor						INCLUDE
Auto Liability	\$1,000,000 CSL	\$1,000,000 CSL	\$1,000,000 CSL	\$1,000,000 CSL	\$1,000,000 CSL	\$1,000,000 CSL
- Owned	INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE
- Hired	INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE
- Non-Owned	INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE
Excess Umbrella Liability*	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$ 5,000,000	\$1,000,000
NYS Disability Benefit **	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY
Worker's Compensation **	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY
& Employer's Excess Liability	UNLIMITED	UNLIMITED	UNLIMITED	UNLIMITED	UNLIMITED	UNLIMITED
Owners Contractors Protective	\$1,000,000					
Professional Liability		\$1,000,000				

\*The comprehensive/commercial general liability limits can be met by one or more policies or in combination with an excess and/or umbrella liability policy. The COI must indicate if the coverage trigger is an 'occurrence' form or a 'claims-made' form.

\*\* NYS Work Comp Board requires special certificates of insurance for these coverages. WC needs to be on C-105.2 (9-07) or U-26.3. Any business with a location in NYS must show DB on a DB-120.1(5-06) showing beginning and ending dates or DB-155. Self Employed vendors must use CE-200 to waive WC and DB. Form can be completed on NYS WCB website electronically.

Construction and Maintenance contractors shall carry insurance for a minimum of two years after completion of the work. The expiration date for any claims-made policy must be at least ninety (90) days after the expiration of the contract for services or final delivery of any products. All claims made policies shall continue to provide evidence of coverage three (3) years after completion of work or product delivery.

NOTE: Childcare providers minimum liability coverage is \$1,000,000 and must include sexual abuse coverage, with cancellation notice as provided for in the insurance policy. The naming of Chautauqua County as an additional insured on Day Care insurance is required.