

**Memorandum of Understanding (MOU) Between Marathon County Health Department and  
Oneida County Health Department**

**Purpose:** The purpose of this agreement between Marathon County Health Department (MCHD) and the Oneida County Health Department (OCHD) is to define the scope of lead hazard investigation and clearance activities that will be performed by Marathon County Health Department on a fee for service basis as outlined by local health departments per Wisconsin Statutes s. 254.166.

**MCHD will provide the following activities:**

Lead Hazard Investigations, to include collect and ship samples to Wisconsin State Occupational Health Lab, Madison, WI; provide a property sketch outlining areas affected by lead; and provide corrective actions.

Lead Hazard Order, to include either a draft lead order for Health Officer's signature or provide consultation to the Health Officer or designee to write the order. All orders written by another agency whereby MCHD has been requested to provide lead hazard investigation and clearance activities, will be reviewed and updated as necessary by MCHD's Environmental Health Sanitarian. MCHD will be available to provide consultation to property owners and/or contractors to comply with lead hazard order – informing Health Officer or designee of consultation provided.

Lead Hazard Clearance, to provide an on-site visual inspection to verify that the work completed is in accordance to the order; collect and ship samples to Wisconsin State Occupational Health Lab; and provide a letter interpreting the results of the clearance sample to the Health Officer. Additionally, upon satisfactory clearance results provide the Property Investigation Closure Report (<http://www.dhs.wisconsin.gov/forms/F4/F44771D.pdf>) to the Health Officer.

MCHD will assure Environmental Health Sanitarians are certified in lead hazard and clearance investigations by the State of WI Department of Health Services, Bureau of Environmental and Occupational Health, Asbestos and Lead Section. A copy of proof of certification will be made available upon request. MCHD will retain a copy of records generated for given property.

**OCHD will be responsible for the following activities;**

Lead Hazard Investigation, provide on-site staff to accompany MCHD's Environmental Health Sanitarian. Provide MCHD with the Property Investigation Report which would be completed and returned for submission (<http://www.dhs.wisconsin.gov/forms/F4/F44771C.pdf>).

Lead Hazard Order, Health Officer or designee will sign and issue lead hazard order. MCHD will either prepare or consult with Health Officer or designee as to contents of the order. Agency is responsible for carrying out any enforcement actions needed and ensuring the contractor has proper certification.

Lead Hazard Clearance, communicate the status of the clearance to the property owner. Submit necessary paperwork to the State of WI – Division of Health, Bureau of Environmental and Occupational Health. Provide on-site staff to accompany MCHD’s Environmental Health Sanitarian.

Agency is responsible for providing all written and verbal communication to the property owner.

### **Terms of Reimbursement**

OCHD agrees to reimburse MCHD as follows: OCHD shall reimburse MCHD for the hourly wage concerning the necessary time spent by MCHD employees for the above activities, including necessary telephone and travel time; mileage at the current IRS rate, and actual material and shipping costs for samples. In addition, a 10% indirect fee based upon 10% of the hourly wage charges will be added to cover administrative costs. No other costs shall be allowed, and the parties acknowledge and agree that it is not the intent to have MCHD profit from providing these services, but rather, only to be reimbursed for its actual and necessary costs. Furthermore, all such services and materials shall be for projects as requested by OCHD, and MCHD agrees to provide a breakdown of the anticipated costs, including the hourly wages, mileage and materials expenses anticipated to be approved by OCHD in advance of any work or services or materials being provided.

MCHD will issue an invoice within 60 days of service. Agency agrees to reimburse within 30 days of receipt of any reasonable invoice addressed to Dale Grosskurth, Director of Environmental Health & Safety, 1000 Lakeview Drive, Suite 100, Wausau, WI 54403-6786.

### **Termination**

This Agreement may be terminated at any time by either party by providing written notification to either party. This Agreement remains in effect for one year upon signing, unless terminated in accordance with the above provision.

### **Indemnity/Disputes**

MCHD agrees that it shall hold harmless, save and indemnify OCHD for and from any and all claims, liability, damages, demands, third-party claims, counterclaims, cross-claims and/or judgments sought by OCHD and/or any other person, party, entity and/or business arising out of and/or relating to any wrongful act and/or omission of MCHD, its employees, agents, contractors, and/or subcontractors. Any and all disputes arising out of and/or relating to this agreement and/or the services thereunder shall be venued in and only in the circuit court located in Oneida County, Wisconsin. No other venue is allowable. MCHD agrees to waive any statutory damage limitation and/or immunity provision that may reduce or abrogate its indemnity requirement hereunder.

Parties hereby agree to, and incorporate by reference, the contract clauses attached hereto as Addendum A.

BY SIGNING BELOW THE SIGNORS AFFIRM AND ACKNOWLEDGE THAT: they have read and understand Agreement and its Attachments, if any; they have authority to enter into Agreement on behalf of the Entity, Corporation, or County they are signing for; they are knowingly, freely, and voluntarily entering into Agreement; and that they accept and agree to be bound by the terms and conditions of Agreement and its Attachments, if any, as outlined in Agreement.

_____	_____	_____	_____
Joan Theurer, Health Officer Marathon County Health Department	Date	Ted Cushing, Oneida County Board Chair Oneida County Health Department	Date

_____	_____
Romelle Vandervest, Chairwoman Oneida County Board of Health	Date

## **Addendum A**

### **STANDARD CONTRACT CLAUSES**

**Effective Date.** The effective date of this Agreement shall be the date of the last signature on the Agreement.

**Standard of Care.** The same degree of care, skill, and diligence shall be exercised in the performance of the Services as is ordinarily possessed and exercised by a member of the same profession, currently practicing, under similar circumstances in the State of Wisconsin.

**Survival.** The warranties, representations and covenants of this Agreement shall survive completion of the Services under this agreement or any termination of this Agreement.

**Delay in Performance.** Neither party shall be considered in default of this Agreement or any Task Order for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions, floods, earthquakes, fire, epidemics, war, riots, and other civil disturbances, strikes, lockouts, work slowdowns, and other labor disturbances, sabotage, judicial restraint, and delay in or inability to procure permits, licenses or authorizations from any local, state or federal agency for any of the supplies, materials, accesses, or services required to be provided by either party under this Agreement or any Task Order. The nonperforming party shall be granted a reasonable extension of time for any delay in its performance caused by any such circumstances.

**Notices.** Any legal notice required by this Agreement shall be made in writing to the address specified below:

Oneida County:                      Oneida County  
                                                      Attn: Mary Bartelt  
                                                      P.O. Box 400  
                                                      Rhinelander, WI 54501

Marathon County:                      Marathon County Health Department  
                                                      Attn: Health Officer  
                                                      1000 Lake View Drive, Suite 100  
                                                      Wausau, WI 54403-6786

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the parties.

**Waiver** A waiver by either of the parties of any breach of this Agreement shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

**Severability** The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect

the validity or enforceability of any other portion or provision of this Agreement or any Task Order. Any void provision shall be deemed severed from this Agreement and the balance of this Agreement shall be construed and enforced as if it did not contain the particular portion or provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

**Assignment** Neither party shall assign any rights or duties under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld; provided, however, Marathon County may assign its rights to payment without Oneida County's consent. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

**Independent Consultants** Nothing contained in this Article shall prevent Marathon County from engaging independent consultants, associates and subcontractors to assist in the performance of the Services, provide Marathon County is paying all expenses related to the engaging those individuals. Any consultant hired on behalf of Oneida County, whereby Oneida County is responsible for costs and fees, requires Oneida County's written consent.

**No Construction Against Either Party.** This agreement is the product of negotiations between the parties and was either reached with the advice of legal counsel or the opportunity to obtain legal counsel, and shall not be construed against either party.

**Multiple Originals.** This contract may be executed in multiple originals, each of which together shall constitute a single agreement.

**Captions.** The parties agree that in this contract, captions are used for convenience only and shall not be used in interpreting or construing this contract.

**No Partnership or Joint Venture.** This contract shall not in any way be deemed to create a partnership or joint venture between the parties to the agreement.

**Statutory Protections.** It is agreed by the parties that nothing in this contract, including but not limited to indemnification and hold harmless clauses, shall in any way constitute a waiver on the part of the County of any immunity, liability limitation or other protection available to the County under any applicable statute or other law. To the extent that any provision of this contract is found by any court of competent jurisdiction to conflict with any such legal protection, then whichever protections, either statutory or contractual, provide a greater benefit to the County shall apply unless the County elects otherwise.

**Open Records Law Compliance.** Marathon County understands and agrees that, because County is a party to this contract, provisions of the Wisconsin Open Records Law and other laws relating to public records may apply to records kept by Marathon County. Marathon County agrees to fully comply with such laws, and to cooperate with Oneida County in its compliance with such laws. Cooperation shall include, but not be limited to, the provision of records, or copies of records to Oneida County or others upon the request of Oneida County. Compliance and cooperation of Marathon County shall be at its sole cost and expense.