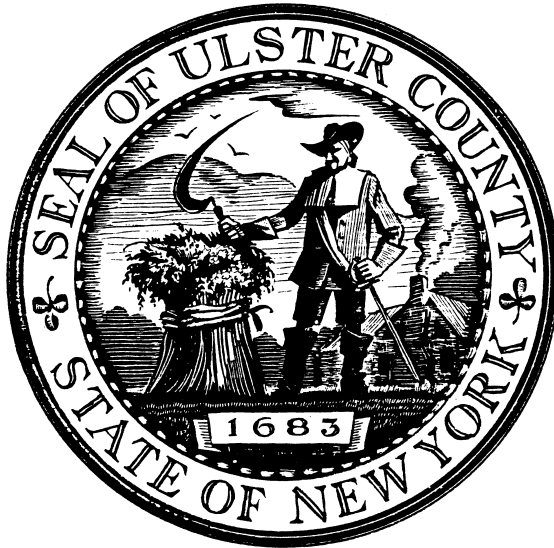


**COUNTY OF ULSTER
REQUEST FOR PROPOSALS**



RFP-UC23-062

**ULSTER COUNTY TRANSPORTATION COUNCIL
LONG RANGE TRANSPORTATION PLAN PUBLIC
ENGAGEMENT SERVICES**

***ULSTER COUNTY PURCHASING DEPARTMENT
EDWARD JORDAN
DIRECTOR OF PURCHASING
100 Development Court
KINGSTON, NY 12401***

RECEIPT CONFIRMATION FORM

**PLEASE COMPLETE AND RETURN THIS CONFIRMATION FORM WITHIN 5 WORKING DAYS
OF RECEIVING BID PACKAGE TO:**

Erin Lynch; Principal Buyer
Telephone: (845) 334-5574
Ulster County Purchasing Department
100 Development Court, Kingston, NY 12401
Fax: (845) 340-3434
Email: erly@co.ulster.ny.us

RFP-UC23-062: Ulster County Transportation Council Long Range Transportation Plan
Public Engagement Services

Failure to return this form may result in no further communication or addenda regarding this Bid.

Company Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Contact Person: _____

Phone Number: _____ EXT: _____ Fax Number: _____

Email: _____

I have received a copy of the above noted PROPOSAL.

_____ We will be submitting a PROPOSAL

_____ We will NOT be submitting a PROPOSAL – (please indicate reason)

Signature: _____

Title: _____

If a bidders meeting has been arranged for this Bid, please indicate if you plan to attend: **Yes / No**

COUNTY OF ULSTER – PURCHASING DEPARTMENT 100 DEVELOPMENT COURT, KINGSTON, NY 12401 PHONE: 845-340-3400 / FAX: 845-340-3434 / WEB: www.ulstercountyny.gov/purchasing		
RFP NAME: ULSTER COUNTY TRANSPORTATION COUNCIL LRTP PUBLIC ENGAGEMENT SERVICES	RFP-UC23-062	- 1 -

REQUEST FOR PROPOSAL

DATE: **AUGUST 24, 2023**

NOTICE IS HEREBY GIVEN THAT SEALED PROPOSALS ARE SOUGHT AND REQUESTED FOR THE FOLLOWING:

**RFP NAME: ULSTER COUNTY TRANSPORTATION COUNCIL
LONG RANGE TRANSPORTATION PLAN
PUBLIC ENGAGEMENT SERVICES**

RFP NUMBER: RFP-UC23-062

MAIL PROPOSAL TO: Ulster County Purchasing
100 Development Court
Kingston, NY 12401

SUBMISSION DATE September 22, 2023 by 4:00 P.M.

Proposals received after the time specified will not be opened.

CONTACT PERSON: **Erin Lynch, Principal Buyer**
Ph: 845-334-5574 Email: erly@co.ulster.ny.us

PROPOSALS MUST BE SUBMITTED IN A SEALED ENVELOPE OR PACKAGE.

**PRINT (ON THE FACE OF ENVELOPE): 1) NAME & ADDRESS OF COMPANY
2) RFP NAME & NUMBER**

It is the responder’s responsibility to read the attached RFP Specifications.

**By: Edward Jordan
Director of Purchasing**

COUNTY OF ULSTER – PURCHASING DEPARTMENT

100 DEVELOPMENT COURT, KINGSTON, NY 12401

PHONE: 845-340-3400 / FAX: 845-340-3434 / WEB: www.ulstercountyny.gov/purchasing

**RFP NAME: ULSTER COUNTY TRANSPORTATION COUNCIL LRTP
PUBLIC ENGAGEMENT SERVICES**

RFP-UC23-062

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REQUEST FOR PROPOSAL

1.0 PURPOSE

Ulster County Transportation Council (UCTC), as the Metropolitan Planning Organization for the Kingston Urbanized Area and greater Ulster County Metropolitan Planning Area, is seeking a qualified firm to provide public engagement services in support of its Year 2050 Long Range Transportation Plan update, due for completion no later than September 30, 2024.

2.0 PROJECT BACKGROUND

The UCTC serves as the designated Metropolitan Planning Organization (MPO) for Ulster County, New York. In accordance with the provisions set forth in 23 U.S.C. 134 and 49 U.S.C. 5303, the UCTC is tasked with carrying out a comprehensive multimodal transportation planning process for the metropolitan area. This includes the development of plans and programs that promote the safe and efficient movement of people and goods across all modes of transportation. The UCTC, hosted by the Ulster County Planning Department, periodically uses its federal planning funds to support consultant services that help carry out various aspects of its planning work.

As an MPO, the UCTC is responsible for ensuring that federal highway and transit funds are committed through a locally driven, comprehensive planning process. The UCTC provides a forum for state and local officials to coordinate transportation issues and reach consensus on transportation plans and funding for transportation projects. The UCTC strives to ensure that federally funded projects are the products of a credible planning program, meeting the goals and priorities of the metropolitan area.

One of the key products of the UCTC’s transportation planning process is the completion of a long-range transportation plan (LRTP) that recommends policies and projects to build and maintain a safe and efficient transportation system. The UCTC updates the LRTP every five years and it must address no less than a 20-year planning horizon. The current Year 2045 LRTP was adopted in 2020, requiring a new update no later than September 30, 2024.

The new LRTP will utilize a planning horizon year of 2050 and will be an update to the 2045 LRTP, with a focus on providing a more in-depth public outreach process that will broaden UCTC brand recognition and inform future transportation projects and planning emphasis areas.

3.0 OBJECTIVES

The UCTC seeks to engage the public during the development of its long-range, countywide transportation plan, with the following objectives:

- Expand the UCTC’s name recognition in the public domain, while also educating the public about its role and function.
- Provide the public with multiple ways to inform the UCTC about the transportation issues they face in Ulster County.
- Group identified issues into major focus areas (to be determined). Empower the public to offer solutions and help prioritize future transportation investment.
- Gather and process feedback on short- and long-range policy and project recommendations.

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- Participate and hold meetings/events in support of the UCTC’s public comment period on the Draft LRTP, prior to its adoption in September 2024 (two separate meetings are required in different locations of Ulster County; these are typically held in June or July prior to forwarding to the UCTC Technical Committee for review and Policy Committee for adoption).
- Engage a diverse range of population groups to include the elderly, disabled, low- and moderate-income populations, minority groups, college students, school-aged children, and non-English speakers, and interest groups such as transit customers, walkers and bikers, and long-distance commuters.
- Provide direction and allow sufficient time to develop outreach findings into LRTP implementation strategies and recommendations.

4.0 SCOPE OF SERVICES

The Proposer shall be required to perform the following general scope of work to complete this project. The duration of these services is expected to last 10 months, from December 2023 through September 2024. Work includes:

- a. Provide adequate oversight and management of LRTP public engagement activities to ensure that the contract stays on schedule and budget.
- b. Review previous LRTPs and related studies to understand past, current, and future transportation needs and challenges facing the region, county, and local communities.
- c. Review and understand federal requirements for an LRTP.
- d. Collect, document, and analyze public and stakeholder input on the LRTP.
- e. Prepare for and attend LRTP-related public events and meetings.
- f. Facilitate public participation through face-to-face interactions.
- g. Use visual and online tools, to include maps, infographics, and images to convey data and other information to the public, all while adhering to UCTC’s brand standards.
- h. Use creative ways to engage the public on key transportation issues and potential solutions.
- i. Provide interim progress reports on public engagement activities during the UCTC’s development of the LRTP, to include regular project update calls and progress meetings.
- j. Provide a final summary report that documents all public input during the project.
- k. Translate LRTP related materials (e.g. printed flyers, online content, and open house/pop-up presentations) into Spanish.

The Proposer shall carry-out a public engagement strategy that achieves the UCTC’s objectives for the new LRTP and includes a mix of in-person and virtual engagement tools to increase public awareness of the LRTP, gather feedback during its development, and present interim work products. The Proposer shall complete the following tasks:

TASK 1: REVIEW EXISTING CONDITIONS & PREVIOUS STUDIES

- a. The Proposer shall familiarize themselves with the local area and develop a clear understanding of the county’s existing demographics, the character of its communities, and the nature of its transportation system.

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- b. The Proposer shall review previous LRTPs (with an emphasis on the Year 2045 edition) and UCTC studies to reinforce their knowledge of the transportation opportunities and challenges facing the region and county.

TASK 2: LRTP LOGO AND BRANDING

- a. The Proposer shall develop a unique logo and name for the Year 2050 LRTP. The style should conform generally to the UCTC style guide and brand standards (as first used in the Year 2045 edition; full documents available upon request to bsla@co.ulster.ny.us). Name and logo will be used for all digital and printed project material. The existing Year 2045 LRTP style and format should be considered to be the foundational starting point for any further formatting revisions or variations.
- b. The Proposer will recommend between three (3) and five (5) potential project names, and two (2) to four (4) taglines, as deemed appropriate. Before presenting the options, the Proposer will confirm no trademark infringements exist. The LRTP will include the selected project name and tagline, fonts, color palette, and other visual design aesthetics and layout formats. These shall be done in a way that creates a consistent identity for the new LRTP.
- c. The Proposer shall develop between three (3) and five (5) initial LRTP logo options for UCTC’s review and consideration and will further develop the UCTC’s one (1) preferred option, allowing for two (2) more cycles of review and edits on it before finalizing.
- d. As part of the LRTP logo and style selection process, the Proposer may be required to present its design options at a LRTP Technical Advisory Committee or UCTC Technical Committee via in person meeting, webinar, or conference call.

DELIVERABLES

- a. Guide outlining brand elements that include a project name, tagline, logo, fonts, and color palette.
- b. As needed, one presentation of Guide to relevant UCTC advisory committees.

ASSUMPTION

- a. UCTC will collect comments from reviewers and, where appropriate, provide direction to the Proposer on brand development.

TASK 3: LRTP PROJECT WEBPAGE

- a. UCTC envisions that the LRTP will become a digital document that provides the user with ease of access and dynamic, inviting illustrations and text. The digital document will be hosted on the UCTC Wordpress website as a stand-alone webpage with clear and concise interface, including imbedded and interactive ArcGIS maps and other illustrations and features as described in this scope of work.
- b. The Proposer shall prepare project web content that conforms to the UCTC style guide and brand and based on the logo and brand established under Task 2. The project webpage shall provide visitors with the ability to learn about the LRTP development process, take surveys, submit comments, and view related information and presentations. The site will be hosted through the new UCTC Wordpress website (presently under development with completion date expected December 2023) and should be mobile friendly. Draft webpage will be developed for UCTC’s review; proposer will revise the website based on two (2) cycles of review and will incorporate one (1) final cycle of review and minor edits

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before finalizing the website. The website will be a living resource, updated over the duration of the project.

- c. The project webpage will be hosted through the new UCTC Wordpress website at <https://ulstercountyny.gov/transportation-council> (new site in development at the time of RFP issuance).
- d. The project website shall meet the most current accessibility guidelines per Web Content Accessibility Guidelines (WCAG): <https://www.w3.org/WAI/standards-guidelines/wcag/>
- e. The project website shall be designed in a way that allows it to serve as the LRTP itself, thus making it a ‘digital’ plan.
 - i. The UCTC will supply the Proposer with most of the written content for the LRTP. However, the UCTC encourages the Proposer to provide editorial and format guidance for proposed web content.
 - ii. Formatting, displaying and embedding map content will be the responsibility of the Proposer. Data development, geoprocessing, map extent, etc. will be the responsibility of the UCTC. The Proposer is encouraged to recommend various mapping themes, subjects, views, extents, and layers.
 - iii. Though the UCTC’s intent is to create a digital plan, the website should allow the ability for visitors to download all content as unformatted PDF files.
- f. The project website shall provide interactive tools to positively engage the public utilizing Ulster County’s ArcGIS Online and Hub frameworks and Participate Ulster platform. An interactive mapping platform with opportunity for discussion regarding transportation related issues germane to the LRTP process will be required. Participate Ulster is powered by Granicus EngagementHQ software, formerly known as “Bang the Table”.¹
- g. The project website shall include comment tools for the public to submit feedback, including consideration of a mapping tool to provide input and discussion by location. All comments submitted will be reviewed by the Proposer Project Manager. The Proposer will monitor and recommend concise response language for UCTC’s timely review and approval. All comments, responses, and their submission dates will be included in the monthly report.
- h. The project website shall also use visual tools such as infographics. The Proposer will create up to twelve (12) separate graphics. This may include ten (10) simple infographics measuring 2” x 2” and two (2) more complex infographics measuring up to 8” x 8”, or it may include nine (9) simple graphics and three (3) complex graphics of the same dimensions. These infographics are intended to convey data and information to the public, consistent with the LRTP brand. These visuals must be done in a format appropriate for promotional materials for the LRTP and by the UCTC for the LRTP. Infographics will be scaled for the responsive website, and appropriate for social media and print collateral.
 - i. The UCTC has a limited collection of high-quality photos for the project; assume any photos that are currently published as available for use; the Proposer is encouraged to provide photos of public engagement activities during the project, which can then be used on the LRTP website and related materials.
 - ii. The UCTC may provide other graphic content such as maps, tables, and charts for use on the project website and materials.
 - iii. Proposer-sourced photos and graphics may also be used on the LRTP website if deemed appropriate by the UCTC.
 - iv. The website shall have the capability to host videos through UCTC’s YouTube page.

¹ <https://www.bangthetable.com/wp-content/uploads/2020/02/The-Bang-the-Table-Ecosystem.pdf>

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- i. The project website shall include links to relevant sites and tools; this may include links to existing social media platforms used by Ulster County. The UCTC will provide resource links for the website.
- j. The project website shall have the capability to present essential LRTP material in Spanish. The Proposer will provide the survey, the print collateral (i.e. flyer or postcard), and the request for comment on the project website in Spanish.
- k. The Proposer shall institute adequate safeguards and security measures to prevent the submission of obscene or profane comments on the project website and any related online platforms. These safeguards must include the routine monitoring of comments and posts by the Proposer to quickly identify and remove offensive material. The Proposer shall block the posting of comments by routine offenders of this policy.
- l. The Proposer shall institute industry accepted firewalls on the LRTP project website and related online platforms to prevent hacking attacks or malicious acts.

DELIVERABLES

- a. Project Website URL
- b. Project Website
- c. Project Infographics

ASSUMPTIONS

- a. UCTC has limited access to high quality photos of transportation systems, people, and communities reflecting the diversity of Ulster County. Firm should provide approach for obtaining unique photos for exclusive UCTC use. UCTC and the Proposer will have appropriate rights to use all imagery. If the County is not the photographer or owner, UCTC shall provide author credentials to be published with the photo.
- b. The Proposer will provide high quality photos taken at public events. The Proposer is not responsible for providing a library of LRTP photos.
- c. UCTC will collect comments from reviewers and, where appropriate, provide direction to the Proposer on website development.

TASK 4: SOCIAL MEDIA

- a. As instructed by the UCTC, the Proposer shall create social media content for use by UCTC on a new, unique social media account and/or through available/preferred social media accounts (currently the UCTC only uses Ulster County Government/Ulster County Executive Facebook accounts on special occasions). This social media content shall be used to provide the public with information on such items as event notices, product announcements, solicitations for digital engagement, and project updates. Proposer will provide Spanish-translated content to advertise key project events or products, as agreed upon with the UCTC. Appropriate infographics outlined in Task 3g will be published on appropriate social media.
- b. Although the UCTC does not expect the Proposer to respond to comments posted on Ulster County owned or managed social media accounts, the Proposer shall be required to regularly monitor these accounts to identify any issues or trends relevant to the development of the LRTP.

DELIVERABLES

- a. Social media content for the County’s existing accounts.

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- b. Summary of social media comments as part of monthly reports (see Task 10).

ASSUMPTION

- a. Spanish-translated content will be agreed upon between the Proposer and UCTC.

TASK 5: OPEN HOUSES & POP-UP EVENTS

- a. The Proposer shall organize, market, and conduct up to five (5) public events during the development of the LRTP. These may include a combination of open houses (up to two (2)), pop-up events, and/or virtual public meetings as agreed upon by the UCTC and Proposer and as the budget allows.
- b. The Proposer shall hold these events on staggered dates throughout various stages of the project and at varying locations throughout Ulster County. All event locations must meet ADA accessibility requirements, must aim to engage Environmental Justice populations, and the majority must be accessible by transit.
- c. As appropriate, and within national, State, and County public health guidance related to the COVID-19 virus, the pop-up events should be held in conjunction with cultural events that attract large numbers of people such farmers markets, games, and community/street fairs and events.

DELIVERABLE

- a. Organization, marketing, and facilitation of open houses and pop-up events (in person or virtual), including event summaries.

TASK 6: STAKEHOLDER MEETING

- a. The Proposer shall organize and conduct up to two (2) stakeholder meetings during the development of the LRTP. These stakeholder meetings may be held in conjunction with an already scheduled UCTC Board or Planning Committee meeting, or as standalone meetings with invited participants.
- b. The UCTC shall assist the Proposer with identifying the most appropriate venue for the stakeholder meeting and identifying invitees. The UCTC shall transmit the invitations.

DELIVERABLE

- a. Stakeholder meetings (up to two).

ASSUMPTION

- a. Proposer is not scoped to participate in more than two (2) Proposer-facilitated stakeholder meetings or events.

TASK 7: SURVEY

- a. The Proposer, in coordination with the UCTC, shall develop and publish a public survey during the development of the new LRTP. An online and printed version of the survey shall be available to the public.
 - i. The Proposer shall hold a ‘discovery session’ with UCTC staff to develop the draft survey via webinar. The UCTC shall provide the Proposer with copies of previous surveys to guide the process.

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- ii. The draft survey will undergo up two three (3) rounds of edits between the UCTC and Proposer before publication.
- b. The Proposer shall post the survey on the project website and other online platforms used for this project. As instructed by the UCTC, the Proposer shall make printed survey marketing material available at high traffic sites such as shopping centers, transportation hubs, employment centers, and special events.
- c. The Proposer shall explore opportunities to piggyback off other organizations or member agencies to conduct the survey. At a minimum, this shall include making paper survey marketing material available on Ulster County Area Transit buses and at other optional county facilities that experience high foot traffic (DSS, DMV, Clerk, etc).
 - i. If needed, UCTC staff or its member agencies shall collect completed paper surveys and provide them to the Proposer for processing.
- d. The Proposer shall process and analyze all survey responses and provide a written summary of findings.

DELIVERABLES

- a. Survey (online).
- b. Survey marketing materials (flyers, postcards, media card, etc)
- c. Summary of findings (Word Document) coupled with tabular data.

ASSUMPTION

- a. UCTC will collect comments from reviewers during each review cycle of the survey. Where appropriate, UCTC will provide guidance to the Proposer on recommended changes.

TASK 8: OTHER PUBLIC ENGAGEMENT ACTIVITIES

As agreed upon by the UCTC, the Proposer may offer and carry out other public engagement activities in addition to those described in this scope of services. These may include the use of incentives to promote public participation. With prior authorization the Proposer may also adjust or consolidate meeting and event frequency and schedules based on response, turnout and feedback.

DELIVERABLE

- a. To be determined.

ASSUMPTION

- a. UCTC and the Proposer will mutually agree upon the work and/or product to be performed based upon hours in approved fee estimate.

TASK 9: PROJECT MATERIALS & SUPPLIES

Unless otherwise agreed upon, the UCTC expects the Proposer to supply all project-related materials and supplies necessary to carry out the public engagement activities included in the agreed-upon strategy. This includes the production of printed material (e.g. one (1) flyer or postcard template to be used to advertise all events, surveys, etc.) and portable street furniture (e.g. tables, chairs, pop-up tents, etc.).

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DELIVERABLE

- a. One (1) branded print template (flyer and/or postcard) to be revised and repurposed for all events.

TASK 10: REPORTS & DELIVERABLES

- a. Kick-off meeting to discuss project schedule, milestones, goals, initial tasks, and deliverables. Proposer to organize, to be held within one month of project start to be conducted in person or via teleconference, as deemed appropriate.
- b. The Proposer will schedule and conduct regular conference calls to discuss project status, needs, next steps, and responsible parties. These calls will be held bi-weekly for the initial 12 weeks. The calls will then transition to monthly once the project is underway, or as otherwise agreed upon.
- c. The Proposer will conduct up to two (2) strategic team meetings, in person or via teleconference, at the project mid-point and close. At the mid-point, the purpose is to discuss the project strategy and trajectory, and to recalibrate as needed. Around the close of the project, the purpose is to discuss lessons learned and best practices.
- d. The Proposer shall provide routine and timely interim reports of their findings from comments received as a result of the engagement tasks completed through this scope.
 - i. The Proposer shall provide summary reports no more than two weeks after public events, stakeholder meetings, and the survey closing period.
 - ii. Additionally, the Proposer shall provide monthly summary reports of comments made on the project website via its virtual engagement tools (e.g. comment forms, maps); these reports shall also include statistics on website traffic and use, as well as comments related to the LRTP on the UCTC’s social media platforms. The Proposer will compile cumulative data in an Excel workbook. The Proposer will share the Excel Workbook with UCTC monthly to convey trends and key data.
- e. The Proposer shall organize their interim reports and summaries into major themes that emerge from the engagement tasks; these should also be analyzed in the context of the LRTP’s goals.
- f. The Proposer shall complete a draft final report that summarizes its findings from the LRTP public engagement process no later June 30, 2024. The UCTC will conduct one (1) cycle of draft report review and edits. PROPOSER will incorporate one (1) final cycle of review and minor edits before finalizing the summary report.
- g. The Proposer shall complete a final summary report of the LRTP public engagement process no later than July 19, 2024.

DELIVERABLES

- a. Project kick-off meeting.
- b. Bi-weekly team status conference calls (initial 12 weeks) followed by monthly calls for remainder of project.
- c. Up to two (2) strategic team meetings.
- d. Monthly reports.
- e. Draft summary report.
- f. Final summary report in PDF with tabular data.

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ASSUMPTION

- a. UCTC will collect comments from summary report reviewers and provide guidance to the Proposer on any recommended changes.

5.0 PROPOSAL/SUBMITTAL RETURN DATE

5.1 RETURN CONFIRMATION FORM

Receipt Confirmation Form which follows the cover page of this RFP should be completed and faxed (845-340-3434) to the Ulster County Purchasing Department **immediately** if planning on submitting a proposal. Failure to file this form with Ulster County Purchasing may result in no further communications regarding this RFP. In order to better evaluate the County’s procedures, those deciding not to respond to the RFP are asked to return the sheet with a short explanation of the reason(s) they will not be submitting.

5.2 RETURN DATE

One unbound original, two (2) photocopies, and one electronic copy (CD or thumb drive) of the proposal in **MS Word and PDF format** and other required documents comprising the entire proposal must be submitted, sealed in an opaque envelope/package clearly marked on the outside with the name and number of the RFP, and the name and address of the responder. **All copies and the original document must be clearly identified as such.** **The Original Document is required to contain original ink-signed signature pages. The electronic copy should include all signed pages scanned.**

Proposals must be received no later than **4:00 P.M. on Friday, September 22nd, 2023** at the following address:

**Ulster County Purchasing
Edward Jordan, Director of Purchasing
100 Development Court
Kingston, NY 12401**

5.3 SUBMISSION CONDITIONS

The Proposal submitted by the individual Responder(s) is the document upon which Ulster County will make its initial judgment regarding the Responders qualifications, understanding of the County’s scope and objectives, methodology, and ability to perform services under the contract.

Those submitting Proposals do so entirely at their expense. There is no express or implied obligation by County of Ulster to reimburse any firm or individual for any costs incurred in preparing or submitting Proposals, preparing or submitting additional information requested by the County, or for participating in any selection interviews.

Submission of a proposal indicates acceptance of the conditions contained in this RFP, unless clearly and specifically noted otherwise in the proposal.

Proposals will remain valid until the execution of a contract by Ulster County, unless otherwise rejected consistent with this RFP.

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Oral, faxed, or telephoned submittals, or modification thereof, will not be accepted. The County of Ulster reserves the right to waive any and all informalities and to disregard all nonconforming, non-responsive or conditional Proposals. Ulster County reserves the right to reject any or all proposals.

The County of Ulster may, at any time by written notification to all Responders, change any portion of the RFP described and detailed herein.

5.4 GENERAL GUIDELINES

This section of the RFP provides general guidance for preparing proposals. Specific instructions on the format and content of the proposal are contained in Section **6.0 SUBMITTAL CONTENT AND FORMAT**. The responder's proposal must include all data and information requested by the RFP and must be submitted in accordance with these instructions. The proposal shall be compliant with the requirements as stated in the General Specifications specified in this RFP. Nonconformance with the instructions provided in the RFP may result in an unfavorable proposal evaluation.

The proposal shall be clear, concise and shall include sufficient detail for effective evaluation and for substantiating the validity of stated claims. The proposal should not simply rephrase or restate the RFP requirements, but rather shall provide convincing rationale to address how the responder intends to meet these requirements. Responders shall assume that the County (1) has no prior knowledge of their facilities and experience, and (2) will base its evaluation on the information presented in the responder's proposal.

Elaborate brochures or documentation, binding, detailed artwork, or other embellishments are unnecessary and are not desired. Similarly, for oral presentations, elaborate productions are unnecessary and not desired.

All submitted proposals become the property of Ulster County. The County Purchasing Department will retain one copy of all unsuccessful proposals and will destroy extra copies of such unsuccessful proposals.

5.5 QUESTIONS/CLARIFICATIONS

No oral interpretations as to the meaning of the RFP or revisions to the RFP will be made for any responder.

Requests for clarification or interpretation shall be made in writing and directed to

Erin Lynch; Principal Buyer
Ulster County Purchasing,
100 Development Court
Kingston, NY 12401

Email: erly@co.ulster.ny.us or Fax 845-340-3434

At least ten (10) calendar days before the date established for submitting proposals. Inquiries will not be considered after that date. Transmittal of questions via facsimile is acceptable.

Any interpretation deemed necessary by Ulster County will be in the form of an addendum to the RFP and, when issued, will be delivered as promptly as is practicable to all responders. All addenda shall become part of the RFP. Responders shall not rely upon any oral statements or conversations they may have with Ulster County employees or third parties regarding the RFP whether at any pre-proposal conference or otherwise.

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6.0 SUBMITTAL CONTENT AND FORMAT

In order for the County to conduct a uniform review process of all proposals, proposals must be submitted in the format set forth below. Failure to follow this format may be cause for rejection of the proposal because adherence to this format is critical for the County’s evaluation process:

SECTION I

Title Page: Showing RFP number, closing date and time, responder’s name, address, telephone and fax number of the company. Responder must also clearly identify the name(s) of the contact person responsible for inquiries regarding the RFP submission and the person responsible to bind the company contractually. Along with the names of these individuals, responder must provide their phone and fax numbers and email address for each.

Table of Contents- The Table of Contents must indicate the material included in the proposal by section and page number.

SECTION II: QUALIFICATIONS AND EXPERIENCE

Proposer shall highlight their experience with Metropolitan Transportation Planning processes as set forth in 23 U.S.C. 134 and 49 U.S.C. 5303 as well as dynamic public engagement and outreach processes on similar or comparable projects as detailed in the Scope of Work. Proposers shall highlight their experience and expertise in conducting public outreach plans, digital materials, including websites, marketing materials, and transportation planning documents. Proposers should emphasize a track record of designing and implementing meaningful and effective public engagement processes.

Each responder will provide the history of their company, describe their professional qualifications, prior experience in similar projects, demonstrated capabilities, including demonstrated ability to work effectively with Metropolitan Planning Organizations and the public at large; contract compliance; accuracy and timeliness of reporting; management structure and ability to support projects of this scope; ability to recruit and retain staff; and commitment to staff development.

Provide examples of successful metropolitan transportation plan completion or other similar planning documents and public engagement processes managed by the company.

Identify all personnel assigned to the project. (Attach resumes)

Provide a minimum of three (3) references, excluding Ulster County, for similar projects completed. Include contact name, telephone number, date of contract, dollar value of contract and brief description of the program. Specific emphasis should be placed on similar work performed in the previous five years.

SECTION III: PROPOSED PLAN

Proposers shall provide a clear indication in their response that specifically addresses how their proposal meets the project objective.

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In a narrative format, describe in detail how the program will be structured explaining how each of the requirements of the Scope of Work and other tasks will be accomplished. Include any other additional services, enhancements and/or options that will be provided to the County.

Explain what steps will be necessary to implement services. Proposer may wish to combine, substitute or add/remove tasks as listed if they feel this will result in a superior or more efficient plan that meets that stated goals and objectives. It is anticipated that the Proposer’s Project Manager and secondary will be present at all meetings and remain as such through project completion.

Describe what information will be provided to the County. Attach samples of all reports to be used.

Provide details regarding the proposer’s approach to communication and public engagement.

Include any additional services or information seen beneficial to this program that the evaluation committee should consider.

Proposers are encouraged to develop an innovative approach consistent with the objectives of the outreach effort. Proposers should present a clear understanding of the fundamental issues present in the study area and how best to arrive at solutions. It is the expectation of UCTC that this effort will provide a LRTP that stands as a regional, state and national model for small MPOs for years to come.

Proposers shall provide a schedule that allows for the completion of the effort within the stipulated deadline, with main deliverables completed prior to June 30, 2023 followed by a 2-3 month timeframe for necessary public and UCTC committee review (UCTC Operating Procedures do not stipulate mandatory public review periods for the LRTP; however, UCTC strives to allow for a minimum of 15 days for public review prior to Technical (advisory) Committee and final Policy (executive) Committee review and approval).

SECTION IV: FEE/COST PROPOSAL

Cost Proposal – Two (2) total Fee/Cost Proposals will be submitted. One (1) original Cost/Fee proposal shall be submitted in a **separate envelope marked “COST PROPOSAL” with the RFP name and number and shall be included with the original version of the proposal submitted (do not include this information with any of the copies). One (1) copy of the fee/cost proposal will be submitted in a separate envelope marked “Fee/Cost Proposal Copy”** as well as one electronic copy. The fee schedule supplied will include all items of labor, materials, travel, equipment and other costs necessary to fully provide the service.

The responder’s name must appear on all cost proposal sheets.

In addition, a by task budget must be included to support and justify the fee. Proposers shall include hours worked by title by task as part of their cost proposal.

SECTION V: RETURN DOCUMENTS

Complete and sign all Return Sheets as indicated at the end of this RFP document.

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7.0 EVALUATION CRITERIA

Only those proposals that contain complete information and required certifications will be considered. All proposals will be evaluated and examined by a committee of Ulster County representatives using multiple criteria. The project may be awarded to a qualified responder that, based on the committee's evaluation, submits the proposal that best meets the County's needs.

The submitted proposals will be evaluated based on the following criteria:

- **OVERALL PLAN TO PROVIDE REQUIRED SERVICES (45 points)**
 - Completeness of responder's proposal that demonstrates how all of the elements of the required plan will be accomplished.
 - Concise description of all program elements and their relationship to each other and to the required outcome(s).
 - Demonstrated capability of the responder to communicate the required program elements both technically and visually in a manner easily understood by decision-maker, and, where necessary, the public.
 - Schedule to accomplish all required tasks within required timeframe.

- **QUALIFICATIONS AND EXPERIENCE (45 points)**
 - Responder's experience with projects of similar size and scope in the public sector.
 - Personnel qualifications and experience including specific experience related to the required tasks.
 - Evidence that the team as proposed has worked together as individuals or collectively and are reasonably associated with projects used as references.
 - Responder's business history and viability.
 - Reasonableness of time on project estimated for the project manager as compared to other members of the team.

- **FEE/PRICING PROPOSAL (10 points)**
 - Cost of proposal
 - Reasonableness of fees and budget
 - Reasonableness of optional fees, if any

8.0 QUALIFICATION OF RESPONDENT

Each responder shall provide a statement of qualifications as required by these specifications.

The County of Ulster may make such investigations it deems necessary to determine the ability of the responder to perform the work. The responder shall furnish to the County, within five (5) days of a request, all such information and data for this purpose as may be requested. The County reserves the right to reject any proposal if the information submitted by, or investigation of, such responder fails to satisfy the County that such responder is properly qualified to carry out the obligations set forth in this RFP and/or the resulting contract and to complete the work contemplated therein. Conditional proposals will not be accepted.

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9.0 PRE-PROPOSAL MEETING (VENDOR’S CONFERENCE)

A pre-proposal meeting is not scheduled at this time.

10.0 METHOD OF AWARD

It is the intention of the County that the award of this project shall be made to the responder whose total proposal, in the opinion of Ulster County, best meets the established criteria listed herein. All aspects of evaluation will be taken into consideration in awarding the project.

It is understood by the parties that the contract resulting from this RFP shall be executed only to the extent of the monies available to the County of Ulster.

A notice of award shall not be binding upon the County until the contract has been fully executed by both parties.

11.0 CONTRACT PERIOD

The term of the contract will be for A PERIOD OF TEN (10) MONTHS.

The successful responder shall execute a contract with the County of Ulster in substantial conformance with this RFP and the attached sample County of Ulster **AGREEMENT FOR PROFESSIONAL SERVICES, (ATTACHMENT A)**.

Federal law and regulations governing the privacy of certain health information requires a “Business Associate Agreement” between the COUNTY and the awarded Vendor [45 C.F.R. Section 164.504(e)]. The COUNTY and the awarded Vendor agree to enter into a separate Business Associate Agreement, to be executed simultaneously with the Agreement For Professional Services.

12.0 INTERVIEWS

If the Evaluation Committee determines necessary, interviews may be scheduled with selected responders as soon as possible after the initial evaluation. This will permit further evaluation and to allow the Evaluation Committee to inquire further into the experience the responder has had on similar projects, willingness and ability to work closely with Ulster County staff and others, thorough understanding of the various aspects of the requirements, and ability to maintain a schedule and complete the services on time and other matters deemed pertinent.

13.0 ALTERNATE PROPOSALS

Ulster County reserves the right to consider alternatives submitted by Responders that provide enhancements beyond the RFP requirements. Proposal alternatives may be considered if deemed to be in the best interest of Ulster County's. Responders shall clearly identify and explain in detail where such alternatives deviate from or qualify the terms of the proposal and specifications as issued.

14.0 COMPLIANCE WITH LAWS, LICENSES AND PERMITS

The responder(s) agree that they will fully comply with all applicable Federal, State and County policies, procedures, standards and laws, rules and regulations.

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Vendor must submit construction documents, stamped plans, and/or specifications where required and in accordance with Title 19 NYCRR Part 1203 to the Authority Having Jurisdiction (Ulster County Safety Office).

Vendor must provide proof of compliance with the NYS Energy Code through a code approved Prescriptive or Performance based compliance path to the Authority Having Jurisdiction (Ulster County Safety Office).

15.0 PERSONNEL IDENTIFICATION

All personnel must carry on their person photo identification (e.g. employee identification badge, valid driver's license, etc). While on Ulster County property and must promptly show such identification when requested to do so by any Ulster County employee. Representatives of the County reserve the right to reject and bar from the facility, for good and sufficient reason, in the sole discretion of the County, any employee hired by the Contractor.

16.0 INSURANCE

The successful responder shall, at their own expense, maintain in effect at all times during the performance of the work under this contract, if any, resulting from this RFP, at least the insurance coverage specified in Schedule C "Insurance Requirements" that is part of the sample Contract Agreement for PROFESSIONAL SERVICES which is included in this RFP. The successful responder shall file with Ulster County Purchasing, within ten (10) days of notice of award, evidence of insurance certifying the required coverage.

17.0 DISQUALIFICATION

The County reserves the right to refuse to issue an award to a responder that fails to comply with any pre-qualification regulations of the County, if any such regulations or requirements are cited, or otherwise included in the Request for Proposal.

Proposals received from responder who have previously failed to complete contracts within the time required, or who have previously performed similar work in an unsatisfactory manner, may be rejected. A proposal may be rejected if the responder cannot show that it has the necessary ability, resources and qualified employees to commence the work at the time prescribed and thereafter to perform and complete the work at the rate or within the time specified. A proposal may be rejected if the responder is already obligated for the performance of other work that would delay the commencement, performance or completion of the work described in this RFP.

18.0 PAYMENT

PAYMENT PROCESSING: Responder will invoice the County monthly. Each invoice shall be prepared in such form and supported by such documentation as the County may reasonably require. Payments cannot be processed by the County until an invoice referring to the Contract Number and are mailed to the proper departmental address. The County will pay the proper amounts due the vendor within sixty (60) days of receipt by the County of the vendor's invoice with the requested supporting documentation and approval of the vendor's invoice by the Department Head and the Ulster County Comptroller.

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19.0 FREEDOM OF INFORMATION

The responder agrees to comply with the Freedom of Information Law (FOIL) and such rules and regulations as the County and the State may from time to time make, including, but not limited to, such rules as may be devised governing access to public documents pursuant to Article 6 of the Public Officers Law, popularly known as the Freedom of Information Law.

Proposals submitted in response to this RFP shall be considered public documents and, with limited exceptions, all proposals, including proposals that are recommended for award, will be available for inspection and copying by the public.

If a Responder considers any portion of its proposal to be protected under the law, the Responder shall clearly and distinctly identify each such portion with words such as "CONFIDENTIAL," or "PROPRIETARY". If a request is made for disclosure of such portion, Ulster County will determine whether the material should be made available under the law. If the material is not exempt from public disclosure law, Ulster County will notify the Responder of the request and allow the Responder five days to take whatever action it deems necessary to protect its interests. If the Responder fails or neglects to take such action within said period, Ulster County will release portions of the proposal deemed subject to disclosure. By submitting a proposal, the Responder assents to the procedure outlined in this paragraph and shall have no claim against Ulster County on account of actions taken under such procedure.

20.0 AFFIDAVIT OF NON-COLLUSION

The completion AND submission of the Affidavit of Non-Collusion, which is included with this RFP and is required with the submittal, certifies that the prices in the submitted proposal have been arrived at independently without collusion, consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other responder with or any competitor.

21.0 SUSPENSION AND DEBARMENT

By submitting a proposal in response to this RFP, each responder warrants that neither it nor any of its officers, employees, subcontractors, or agents is excluded or in any other manner barred from doing business with any federal, state, or local agency, municipality, or department. Any misrepresentation or false statement related to a responder's status in this regard will result in rejection of such responder's submission.

In addition, if the successful responder or any of its officers, employees, subcontractors, or agents become excluded or barred in any manner from doing business with any federal state, or local agency, municipality, or department, during the period in which goods and/or services are provided pursuant to this RFP, the successful responder agrees to immediately notify the County Attorney of such status. Any misrepresentation or false statement related to the successful responder's status in this regard, or any failure by the successful responder to immediately notify the County Attorney of any change in such status, shall result in immediate termination of County's business relationship with the successful responder in addition to such other remedies as may be provided by law, in equity, pursuant to the terms and conditions of this RFP document, or the conditions of the contract, if any, resulting from this RFP.

22.0 PREVAILING WAGE RATES

The successful Responder is required to pay the Prevailing Wage Rates and the Prevailing Hourly

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Supplements pursuant to Section 220-A of the NYS Labor Law if applicable.

23.0 ULSTER COUNTY LIVING WAGE ACT

In accordance with Local Law 6 of 2021 also known as the Ulster County Living Wage Act, if this Agreement is for an amount of FIFTY THOUSAND and 00/100 (\$50,000.00) DOLLARS or more in a County fiscal year (January 1 – December 31) and the Vendor has not received an exemption from the Ulster County Living Wage Act specific to this Agreement, the Vendor shall pay their employees the Living Wage then in effect for the period during which services are being covered by this Agreement. The current Living Wage can be found on the Ulster County Purchasing Department's website <https://ulstercountyny.gov/purchasing>. The Ulster County Living Wage Act can be accessed electronically at any time by going to https://legislature.ulstercountyny.gov/sites/default/files/Local%20Law%20No.%206%20of%202021%20-%20Living%20Wage_0.pdf

24.0 EXTENSION OF PRICES

Political sub-divisions, including the City of Kingston and others authorized by law, including certain non-profit independent post-secondary, secondary, and elementary educational institutions may participate in contracts resulting from this bid opening.

25.0 IMPLIED REQUIREMENTS

Products and services which are not specifically requested in this RFP, but which are necessary to provide a complete program/project as described herein, shall be included in the submitted proposal.

26.0 TIME TABLE FOR REQUEST FOR PROPOSAL

Listed below are specific and estimated dates and times of actions related to this request for proposal (RFP). In the event it is necessary to change the return date for the RFP a supplemental addendum to this RFP shall be issued by the County.

Tuesday, September 12, 2023	Last day to submit written inquiries
Friday, September 22, 2023	Due Date for Proposals
Monday, September 25, 2023	Selection Committee evaluates Proposals
Week of October 2, 2023	Oral Interviews By Invited Companies (If Necessary)
November 1, 2023	Notice of Intent to Award
December 1, 2023	Contract Start Date

27.0 BID/RFP PROTEST PROCEDURES

Protest Procedures for handling bid and/or RFP protests and appeals are set forth under Section VI, Bid/RFP Protest Procedures, in the Ulster County Procurement Manual. (<https://ulstercountyny.gov/sites/default/files/ProcurementManual2023.pdf>)

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(Rev. 10/27/21)

County Contract No. _____



**AGREEMENT FOR
PROFESSIONAL SERVICES**

THIS AGREEMENT is entered into by and between the **COUNTY OF ULSTER**, a municipal corporation and a county of the State of New York with principal offices at 244 Fair Street, Kingston, New York 12401 (the “County”), and **[ENTER FIRM NAME]**, a **[to be completed by the County Attorney’s Office]** with principal offices at **[Enter Firm’s business address]** (the “Firm”), (each, a “Party;” together, the “Parties”).

RECITALS

WHEREAS, the County, by and through its Department of **[Enter County’s Dept. Name]**, desires to enter into an agreement for **[state basic description of services to be performed]**; and

WHEREAS, the County solicited, through its RFP No. _____, proposals for **[state brief description of RFP services]**; and

WHEREAS, the Firm was a successful proposer; and

WHEREAS, the County has agreed to engage the Firm, and the Firm has agreed to contract with the County, to **[state brief description of services to be provided]** **[pursuant to RFP No. _____ and the Firm’s Response to RFP No. _____]** in accordance with the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the promises and covenants set forth below, the Parties hereby agree as follows:

ARTICLE 1 - SCOPE OF SERVICES

The Firm agrees to perform the services identified in Schedule A, the Scope of Services (the “Services”), which is attached hereto and is hereby made a part of this Agreement. The Firm agrees to perform the Services in accordance with the terms and conditions of this Agreement. It is specifically agreed to by the Firm that the County will not compensate the Firm for any services not included in Schedule A without prior authorization, evidenced only by a written Change Order, Amendment, or Addendum to this Agreement, which is executed by the Ulster County Executive (the “Executive”) or the Ulster County Director of Purchasing (the “Purchasing Director”), after consultation with the head of the County Department responsible for the oversight of this Agreement (the “Department Head”), and upon review by the County Attorney’s Office.

ARTICLE 2 - TERM OF AGREEMENT

The Firm agrees to perform the Services **beginning [Enter Start Date], 20__ and ending [Enter Completion Date], 20__**. In accordance with the RFP and with written notice to the Firm, the County may extend the Term of this Agreement at its sole discretion for up to **[_____]** additional **[one (1) year]** periods.

ARTICLE 3 - COMPENSATION

A **[CHOOSE ONE- fixed fee OR not-to-exceed]** amount of **[WRITE OUT DOLLAR AMOUNT IN CAPS] AND __/100 (\$.) DOLLARS** has been established for the Services to be rendered by the Firm. Costs in excess of the above amount may not be incurred without the prior written authorization of the Executive or the Purchasing Director, after consultation with the Department Head, and evidenced only by a written Change Order, Amendment, or Addendum to this Agreement. It is specifically agreed to by the Firm that the County will not be responsible for any additional costs, or costs in excess of the above cost, if authorization by the Executive or the Purchasing Director is not given in writing prior to the performance of any services giving rise to such excess or additional costs. The

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County shall be invoiced and make payments as described in Schedule B, “Fees, Expenses, and Submissions for Payment.”

In the event that the Firm receives payments, from any source whatsoever, in consideration for the same Services provided to the County under this Agreement, the monetary obligation of the County hereunder will be reduced by an equivalent amount, provided, however, that nothing contained herein will require such reimbursement where additional similar services are provided and no duplicative payments are received.

If this is an Agreement for which the Firm will, in whole or in part, be compensated with New York State funds, the Firm agrees to comply with Executive Order Number 38, which sets limits on state-funded administrative costs and executive compensation contracts. Executive Order Number 38 can be found at the following website address: <https://opwdd.ny.gov/regulations-guidance/executive-order-38>.

ARTICLE 4 - EXECUTORY CLAUSE

The County will have no liability under this Agreement to the Firm or to anyone else beyond funds appropriated and available for this Agreement. The County may terminate this Agreement if funds are not appropriated, available, or are reduced for this Agreement.

The Firm understands and agrees that the dollar amounts identified in this Agreement are based upon funding allocations from the State of New York and/or the Federal Government, which are the basis for any payments made by the County hereunder. In the event that the anticipated amount of funding changes, or is reduced or denied, in part or in full, the County, where appropriate, will not be liable to the Firm for the difference. If the full state and/or federal funding to the County for any payment to be made or which has been made under this Agreement, by the County to the Firm, is reduced for any reason whatsoever, then the County may (i) deduct and withhold from any future payment(s) an amount equal to the reduction in funding, or (ii) otherwise recover from the Firm the amount of the reduction. It is understood that based upon changes in the state and/or federal funding process, the actual amounts in this Agreement may change throughout the Term. The amounts in this Agreement will be amended to reflect the actual amounts to be paid upon notification to the County by the state and/or Federal Government, as necessary.

ARTICLE 5 – PROCUREMENT OF AGREEMENT

The Firm represents and warrants that no person or selling agent has been employed or retained by the Firm to solicit or secure this Agreement upon a separate agreement, or upon an understanding for a commission, percentage, brokerage fee, contingent fee, or any other compensation. The Firm further represents and warrants that no payment, gift, or thing of value has been made, given, or promised to obtain this or any other agreement between the Parties. The Firm makes such representations and warranties to induce the County to enter into this Agreement and the County relies upon such representations and warranties in the execution hereof.

For a breach or violation of such representations or warranties, the County will have the right to annul this Agreement without liability, entitling the County to recover all monies paid hereunder, and the Firm shall neither make claim for, nor be entitled to recover any sum or sums otherwise due under this Agreement. This remedy, if effected, will not constitute the sole remedy afforded to the County for such breach or violation, nor will it constitute a waiver of the County’s right to claim damages or otherwise refuse payment, or to take any other action provided for by law, in equity, or pursuant to this Agreement.

ARTICLE 6 - CONFLICT OF INTEREST

The Firm represents and warrants that neither it, nor any of its directors, officers, members, partners, or employees, have any interest, nor will they acquire any interest, directly or indirectly, which would or may conflict in any manner or degree with the performance or rendering of the Services to be provided pursuant to this Agreement. The Firm further represents and warrants that in the performance of this Agreement, no person having such interest or possible interest will be employed by it, and that no elected official or other officer or employee of the County, nor any person whose salary is payable, in whole or in part, by the County, or any corporation, partnership, or association in which such official, officer, or employee is directly or indirectly interested, will have any such interest, direct or indirect, in this Agreement, or in the proceeds thereof, unless such person (i) is required by the Ulster County Ethics and Disclosure Law, as amended from time to time, to submit a disclosure form to the County’s Board of Ethics, and amends such disclosure form to include their interest in this Agreement, or (ii) if not required to complete and submit such a disclosure form, either voluntarily completes and submits said disclosure form, disclosing their interest in this Agreement, or seeks a formal opinion from the County’s Board of Ethics, as to whether or not a conflict of interest exists. The law and disclosure form may be accessed electronically at <https://ulstercountyny.gov/board-of-ethics>.

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For a breach or violation of such representations or warranties, the County will have the right to annul this Agreement without liability, entitling the County to recover all monies paid hereunder, and the Firm must not make claim for, nor be entitled to recover any sum or sums otherwise due under this Agreement. This remedy, if effected, will not constitute the sole remedy afforded to the County for such breach or violation, nor will it constitute a waiver of the County’s right to claim damages or otherwise refuse payment, or to take any other action provided for by law, in equity, or pursuant to this Agreement.

ARTICLE 7 – REPRESENTATIONS BY THE FIRM

The Firm represents that it is fully licensed (to the extent required by law), experienced, and properly qualified to perform the Services to be provided under this Agreement, and that it is properly permitted, equipped, organized, and financed to perform such Services.

The Firm understands that it may become necessary for the County to submit to governmental agencies and/or authorities, or to a court of law, part or all of the data, analyses, and/or conclusions developed as a result of its performance of these Services. The Firm is aware that there are significant penalties for submitting false information to governmental agencies, including the possibility of fines and imprisonment. The Firm shall be responsible for such penalties resulting from false information submitted to the County by the Firm.

By signing this Agreement, the Firm is attesting to that fact that neither it nor any of its employees, agents, representatives, officers, subcontractors, or any other entity or individual providing Services pursuant to this Agreement has been sanctioned, excluded, or in any other manner barred from doing business with any federal, state, or local agency, municipality, or department. If the Firm or any of its officers, employees, subcontractors, or agents become excluded or barred in any manner from doing business with any federal, state, or local agency, municipality, or department during the Term of this Agreement, the Firm agrees to provide immediate and detailed notice to the County Attorney regarding such status. Any misrepresentation or false statement related to the Firm’s status in this regard, or any failure by the Firm to immediately notify the County Attorney of any change in such status will result in immediate termination of this Agreement, in addition to such other remedies as may be provided by law, in equity, or pursuant to this Agreement.

ARTICLE 8 – CORPORATE COMPLIANCE

The Firm agrees to comply with all federal, state, and local laws, rules, and regulations governing the provision of goods and/or Services under this Agreement. In particular, the Firm agrees to comply with the laws, rules and regulations of Ulster County, as well as with its Compliance Plan (the “Plan”). The Plan can be viewed at <https://ulstercountyny.gov/ulster-county-compliance-plan>. Alternatively, a hard copy of the Plan will be provided upon the Firm’s request. The Plan relates to the County’s compliance with relevant federal and state fraud and abuse laws. The Firm represents and warrants that it has read and understands the Plan and agrees to abide by its terms when delivering Services under this Agreement. The Firm shall ensure that each individual who provides such Services under this Agreement is provided with a copy of the Plan or given access to the Plan. The County strongly encourages all healthcare providers contracting with the County to implement their own compliance programs that address each of the elements of compliance recommended by the Office of the Inspector General, as well as the elements as recommended and/or mandated by the New York State Office of the Medicaid Inspector General.

The County will conduct appropriate screening of providers, independent contractors, vendors, and agents to ensure and verify that they have not been sanctioned and/or excluded by any federal or state law enforcement, regulatory, or licensing authority. The County will also verify that entities and businesses that provide and/or perform Services for the County have not been the subject of adverse governmental actions and/or excluded from the federal healthcare programs.

The Firm understands that the County has established and implemented a Corporate Compliance Program and has developed “Standards of Conduct for Ulster County Vendors and Contractors” (the “Standards”). The Standards can be accessed electronically at any time by going to <https://ulstercountyny.gov/ulster-county-compliance-plan>. The Firm represents that it has read, understands and agrees to comply with the Standards with respect to its performance pursuant to this Agreement. The hotline for reporting violations of the Standards is (877) 569-8777.

ARTICLE 9 - FAIR PRACTICES

The Firm, and each person signing on behalf of the Firm, represents, warrants and certifies under penalty of perjury, that to the best of their knowledge and belief:

- A. The prices in this Agreement have been arrived at independently by the Firm without collusion, consultation, communication, or

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agreement with any other bidder, proposer, or with any competitor, as to any matter relating to such prices which has the effect of, or has as its purpose, restricting competition; and

- B. Unless otherwise required by law, the prices that have been quoted in this Agreement and on the proposal or quote submitted by the Firm have not been knowingly disclosed by the Firm prior to the communication of such quote to the County, or prior to the proposal opening, directly or indirectly, to any other bidder, proposer, or to any competitor; and
- C. No attempt has been made or will be made by the Firm to induce any other person, partnership, corporation, or other entity to submit or not to submit a proposal or quote for the purpose of restricting competition.

The fact that the Firm (i) published price lists, rates, or tariffs covering the Services and/or items being procured, (ii) informed prospective customers of proposed or pending publication of new or revised price lists for such Services and/or items, or (iii) provided the same Services and/or items to other customers at the same prices being bid or quoted, does not constitute, without more, a disclosure within the meaning of this Article 9.

ARTICLE 10 - INDEPENDENT CONTRACTOR

In performing the Services and incurring expenses under this Agreement, the Firm shall operate as and have the status of an independent contractor, and shall not act as agent for or on behalf of the County, nor will the Firm represent the County, or bind the County in any manner. As an independent contractor, the Firm shall be solely responsible for determining the means and methods of performing the Services, and shall have complete charge and responsibility for the Firm’s personnel engaged in the performance of the same.

In accordance with such status as independent contractor, the Firm covenants and agrees that neither it, nor its employees or agents, will proclaim themselves to be officers or employees of the County, or of any department, agency, or unit thereof, by reason hereof, and that the Firm’s employees or agents will not, by reason hereof, make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the County including, but not limited to, Workers’ Compensation coverage, health insurance coverage, Unemployment Insurance benefits, Social Security benefits, or employee retirement membership or credit.

Nothing contained in this Agreement will be construed to create the relationship of employer and employee, principal and agent, partnership, or joint venture, or any other fiduciary relationship.

ARTICLE 11 - ASSIGNMENT

The Firm shall not assign any of its rights, interests, or obligations under this Agreement, or assign any of the Services to be performed by it under this Agreement, without the prior express written consent of the Executive or the Purchasing Director, upon review by the Ulster County Attorney’s Office. Any such assignment, transfer, conveyance, or other disposition without such prior consent will be void, and any Services provided thereunder will not be compensated. Any assignment properly consented to by the Executive or the Purchasing Director will be subject to all of the terms and conditions of this Agreement.

Failure of the Firm to obtain any required consent to any assignment will be grounds for termination for cause at the option of the County, and if this Agreement be so terminated, the County will thereupon be relieved and discharged from any further liability and obligation to the Firm, its assignees, or transferees; and all monies that may become due under this Agreement shall be forfeited to the County, except so much thereof as may be necessary to pay the Firm’s employees for past Services.

The provisions of this clause shall not hinder, prevent, or affect any assignment by the Firm for the benefit of its creditors made pursuant to Article 2 of Chapter 12 of the New York Debtor and Creditor Law, except where the Federal Supremacy Clause requires otherwise.

This Agreement may be assigned by the County to any corporation, agency, municipality, or instrumentality having authority to accept such assignment.

ARTICLE 12 – SUBCONTRACTING

The Firm agrees to include the following provisions in any and all subcontract agreements for Services to be performed pursuant to this Agreement:

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- A. That the work performed by the subcontractor must be in accordance with the terms and conditions of this Agreement between the County and the Firm, including, but not limited to, the insurance requirements set forth in Schedule C; and
- B. That nothing contained in the subcontractor agreement will impair the rights of the County; and
- C. That nothing contained in the subcontractor agreement, or under this Agreement between the County and the Firm, will create any contractual relation in law or equity, between the subcontractor and the County; and
- D. That the subcontractor specifically agrees to be bound by the confidentiality provision as set forth in Article 15 of this Agreement between the County and the Firm.

Upon signing this Agreement, the Firm shall provide the Department Head with the names and scope of work of any and all subcontractors to be used in the performance of the Firm’s obligations pursuant to this Agreement. Furthermore, upon the County’s request, the Firm shall provide copies of any and all subcontract agreements for Services to be performed pursuant to this Agreement.

The Firm agrees that it is fully responsible to the County for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by them to the same extent as it is for the acts and omissions of persons employed by the Firm. The Firm will not in any way be relieved of any responsibility under this Agreement by any subcontract.

[The Firm shall not subcontract any of its obligations under this Agreement.]

ARTICLE 13 - PERFORMANCE

The Firm shall perform the Services using its own equipment and facilities wherever and whenever possible. In performing the Services, the Firm shall assign qualified personnel and perform such Services in accordance with the professional standards and with the skill, diligence and quality control/quality assurance measures expected of a reputable company performing Services of a similar nature. The Firm is hereby given notice that the County will be relying upon the accuracy, competence, and completeness of the Firm’s performance in using the results achieved by the Firm’s performance of these Services. The Firm shall at all times comply with all applicable federal, New York State, and local laws, ordinances, statutes, rules, and regulations.

ARTICLE 14 – PRIVACY AND SECURITY

Health Insurance Portability & Accountability Act of 1996 (“HIPAA”). Under certain circumstances, federal law and regulations governing the privacy of certain health information requires a “Business Associate Agreement” (a “BAA”) between the County and the Firm [45 C.F.R. Section 164.504(e)]. If HIPAA is applicable to this Agreement, the County and the Firm agree to enter into a separate BAA that complies with HIPAA, as that law may be amended from time to time. Unless the Firm has previously executed a compliant BAA that is in effect and on file with the County, the BAA referenced in this provision must be executed simultaneously with this Agreement.

ARTICLE 15 - CONFIDENTIALITY

For purposes of this Article:

- A. The term “Confidential Information” as used herein, means all material and information, whether written or oral, received by the Firm from or through the County or any other person connected with the County, or developed, produced, or obtained by the Firm in connection with its performance of Services under this Agreement. Confidential Information will include, but not be limited to: samples, substances and other materials, conversations, correspondence, records, notes, reports, plans, drawings, specifications and other documents in draft or final form, including any documentation or data relating to the results of any investigation, testing, sampling in laboratory or other analysis, and all conclusions, interpretations, recommendations, and/or comments relating thereto.
- B. The term “Firm” as used herein includes all officers, directors, employees, agents, subcontractors, assignees, or representatives of the Firm.

The Firm shall keep all Confidential Information in a secure location within the Firm’s offices. The County will have the right, but not the

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obligation, to enter the Firm’s offices in order to inspect the arrangements of the Firm for keeping Confidential Information secure. The County’s inspection, or its failure to inspect, will not relieve the Firm of its responsibilities pursuant to this Article 15.

The Firm shall hold Confidential Information in trust and confidence, and must not disclose Confidential Information, or any portion thereof, to anyone other than the County without the prior written consent of the Executive or the Purchasing Director, and must not use Confidential Information, or any portion thereof, for any purpose whatsoever except in connection with its performance of the Services under this Agreement.

The Firm shall notify the County immediately upon its receipt of any request by anyone other than the County for, or any inquiry related to, Confidential Information. The Firm is not prohibited from disclosing portions of Confidential Information if and to the extent that: (i) such portions have become generally available to the public other than by an act or omission of the Firm, or (ii) disclosure of such portions is required by subpoena, warrant, or court order; provided, however, that in the event anyone other than the County requests all or a portion of Confidential Information, the Firm shall oppose such request and cooperate with the County in obtaining a protective order or other appropriate remedy, unless and until the Executive or the Purchasing Director, upon consultation with the Ulster County Attorney, in writing, waives compliance with the provisions of this Article 15, or determines that disclosure is legally required. In the event that such protective order or other remedy is not obtained, or the County waives compliance with this Article 15, or determines that such disclosure is legally required, the Firm shall disclose only such portions of Confidential Information that, in the opinion of the County, the Firm is legally required to disclose, and the Firm shall use its best efforts to obtain from the party to whom Confidential Information is disclosed, written assurance that confidential treatment will be given to any such Confidential Information disclosed, to the extent permitted by law.

Prior to the performance of any of the Services in connection with this Agreement, the Firm shall obtain from each of its subcontractors, a confidentiality agreement running to the benefit of the County that is substantively identical to this Article 15. Further, at any time, if requested by the County, the Firm shall obtain such an agreement from the officers, directors, agents, representatives, or employees of the Firm and/or any of its subcontractors.

ARTICLE 16 – OWNERSHIP OF CONFIDENTIAL INFORMATION

Notwithstanding any other provision herein to the contrary:

- A. All Confidential Information, as defined in Article 15, including all copies thereof, is the exclusive property of the County regardless of whether or not it is delivered to the County. The Firm shall deliver Confidential Information and all copies thereof to the County upon request.
- B. To the extent that copies of Confidential Information are authorized by the County to be retained by the Firm, such information shall be retained in a secure location in the Firm’s office for a period of six (6) years after completion of the Services, or termination of this Agreement, whichever occurs later, and thereafter disposed of at the County’s direction.

ARTICLE 17 – INTENTIONALLY LEFT BLANK

ARTICLE 18 – PUBLICITY

The prior written approval of the County is required before the Firm or any of its employees, representatives, servants, agents, assignees, or subcontractors may, at any time either during or after completion or termination of this Agreement, make any statement to the media or issue any material for publication bearing on the Services performed or data collected in connection with this Agreement.

If the Firm, or any of its employees, representatives, servants, agents, assignees, or subcontractors desires to publish a work dealing with any aspect of this Agreement, or of the results or accomplishments attained by its performance, they must first obtain the prior written permission of the Executive or the Purchasing Director which, unless otherwise agreed to in said written permission, will entitle the County to a royalty fee and a non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, such publication.

ARTICLE 19 – RETENTION OF RECORDS

The Firm agrees to maintain separate and accurate books, records, documents, and other evidence, and to employ accounting procedures

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and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement.

The Firm agrees to retain all books, records, and other documents relevant to this Agreement for six (6) years after the final payment or termination of this Agreement, whichever occurs later. The County, any New York State and/or federal auditors, and any other persons duly authorized by the County, will have full access and the right to examine any of said materials during said period.

ARTICLE 20 – AUDITING AND REPORTS

All forms or invoices presented for payment to be made hereunder, and the books, records, and accounts upon which said forms or invoices are based, are subject to audit by the County. The Firm shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the County so that it may evaluate the reasonableness of the charges, and the Firm shall make its records available to the County upon request. All books, forms, records, reports, cancelled checks, and any and all similar material may be subject to periodic inspection, review, and audit by the County, the State of New York, the Federal Government and/or other persons duly authorized by the County. Such audits may include examination and review of the source and application of all funds, whether from the County, the State of New York, the Federal Government, private sources, or otherwise. The Firm will not be entitled to any interim or final payment under this Agreement if any audit requirements and/or requests have not been satisfactorily met.

ARTICLE 21 – NO DISCRIMINATION

As required by Article 15 of the New York State Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, including the Civil Rights Act, the Firm must not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition, carrier status, military status, domestic violence victim status, or marital status.

If this Agreement provides for a total expenditure in excess of \$25,000.00, the Firm shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on County contracts, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action will mean recruitment, employment, job assignment, promotion, upgrade, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation.

Furthermore, in accordance with New York State Labor Law Section 220-e, if this is an Agreement for the construction or alteration of any public building or public work, or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Agreement will be performed within the State of New York, the Firm agrees that neither it, nor its subcontractors, will, by reason of race, creed, color, disability, sex, or national origin: (i) discriminate in hiring against any New York State citizen who is qualified and available to perform the Services, or (ii) discriminate against or intimidate any employee hired for the performance of Services under this Agreement. If this is a building service agreement as defined in the New York State Labor Law Section 230, then in accordance with New York State Labor Law Section 239, the Firm agrees that neither it, nor its subcontractors, will by reason of race, creed, color, national origin, age, sex or disability: (i) discriminate in hiring against any New York State citizen who is qualified and available to perform the Services, or (ii) discriminate against or intimidate any employee hired for the performance of Services under this Agreement. The Firm is subject to (i) a fine of Fifty and 00/100 (\$50.00) Dollars per person, per day, for any violation of the New York State Labor Law Sections 220-e or 239, and/or (ii) possible termination of this Agreement and forfeiture of all moneys due hereunder for a second or subsequent violation.

The Firm understands that the County has established a Sexual Harassment Prevention Policy and Discriminatory Harassment Prevention Policy which applies to all contractors and non-employees conducting business with the County. These policies may be accessed electronically at <https://ulstercountyny.gov/ulster-county-compliance-plan>.

ARTICLE 22 – PREVAILING WAGE

In accordance with New York State Labor Law Section 220-d, if this is an Agreement for the construction, reconstruction, maintenance and/or repair of any public work, the Firm agrees that all laborers, workers, or mechanics employed by the Firm and/or its subcontractors in contemplation of the performance of this Agreement shall be paid not less than such hourly minimum rate of wage and shall be provided supplements not less than the prevailing supplements as designated by the New York State Commissioner of Labor.

ARTICLE 23 - ULSTER COUNTY LIVING WAGE ACT

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In accordance with Local Law 6 of 2021 also known as the Ulster County Living Wage Act, if this Agreement is for an amount of FIFTY THOUSAND and 00/100 (\$50,000.00) DOLLARS or more in a County fiscal year (January 1 – December 31) and the Firm has not received an exemption from the Ulster County Living Wage Act specific to this Agreement, the Firm shall pay its employees that are working or providing services under this Agreement no less than the Living Wage in effect during the term of this Agreement. The current Living Wage can be found on the Ulster County Purchasing Department’s website at <https://ulstercountyny.gov/living-wage-act>. The Ulster County Living Wage Act can be accessed electronically at any time by going to <https://ulstercountyny.gov/living-wage-act>.

The County may suspend or terminate this Agreement and impose other penalties for violation of the Ulster County Living Wage Act.

ARTICLE 24 - INSURANCE

For provision of the Services set forth herein and as may be hereinafter amended, the Firm shall maintain or cause to be maintained in full force and effect during the term of this Agreement, at its expense, insurance with stated minimum coverage as set forth in Schedule C, which is attached hereto and is hereby made a part of this Agreement. Such policies are to be in the broadest form available on usual commercial terms and must be written by insurers who have been fully informed as to the nature of Services to be performed by the Firm pursuant to this Agreement. Such insurers shall be of recognized financial standing, satisfactory to the County. The County shall be named as an additional insured on all commercial general liability policies with the understanding that any obligations imposed upon the insured (including, without limitation, the obligation to pay premiums) will be the sole obligation of the Firm and not those of the County. Notwithstanding anything to the contrary in this Agreement, the Firm irrevocably waives all claims against the County for all losses, damages, claims, or expenses resulting from risks commercially insurable under the insurance described in Schedule C and this Article 24. The provision of insurance by the Firm will not in any way limit the Firm’s liability under this Agreement.

Each policy of insurance shall contain clauses to the effect that (i) such insurance shall be primary, without right of contribution of any other insurance carried by or on behalf of the County, with respect to its interests, (ii) it shall not be cancelled or materially amended without thirty (30) days prior written notice to the County, except in the case of cancellation for non-payment of premium which requires ten (10) days prior written notice, directed to the County’s Insurance Department and the Department Head, and (iii) the County will have the option to pay any necessary premiums to keep such insurance in effect, and charge the cost back to the Firm.

To the extent it is commercially available, each policy of insurance must be provided on an “occurrence” basis. If any insurance is not so commercially available on an “occurrence” basis it must be provided on a “claims made” basis, and all such “claims made” policies must provide that:

- A. Policy retroactive dates coincide with or precede the Firm’s start of the performance of Services (including subsequent policies purchased as renewals or replacements); and
- B. If the insurance is terminated for any reason, the Firm agrees to purchase for the County an unlimited, extended reporting provision to report claims arising from the Services performed under this Agreement; and
- C. The Firm must give immediate notice to the County, through the Department Head, the Ulster County Attorney’s Office, and the County’s Insurance Department, of circumstances or incidents that might give rise to future claims with respect to the Services performed under this Agreement.

ARTICLE 25 - INDEMNIFICATION

The Firm agrees to defend, indemnify, and hold harmless the County, including its officials, employees, and agents, against all claims, losses, damages, liabilities, costs, or expenses (including without limitation, reasonable attorney fees and costs of litigation and/or settlement), whether incurred as a result of a claim by a third party or any other person or entity, arising out of the Services performed by the Firm, its employees, representatives, subcontractors, assignees, or agents pursuant to this Agreement, which the County, or its officials, employees, or agents may suffer by reason of any negligence, fault, act, or omission of the Firm, its employees, representatives, subcontractors, assignees, or agents. The Firm agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demands, or suits at its sole expense, and agrees to bear all other costs and expenses related thereto, even if such claims, demands, or suits are groundless, false, or fraudulent.

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In the event that any claim is made or any action is brought against the County arising out of the negligence, fault, act, or omission of the Firm or an employee, representative, subcontractor, assignee, or agent of the Firm, either within or without the scope of the respective employment, representation, subcontract, assignment, or agency, or arising out of the Firm’s negligence, fault, act, or omission, then the County will have the right to withhold further payments hereunder for the purpose of set-off in sufficient sums to cover said claim or action. The rights and remedies of the County provided for in this clause will not be exclusive and are in addition to any other rights and remedies provided by law, in equity, or pursuant to this Agreement.

ARTICLE 26 - RESPONSIBILITY TO CORRECT DEFICIENCIES

The Firm shall be responsible to correct, in a timely fashion and at the Firm’s sole expense, any deficiencies in its Services resulting from the Firm’s failure to act in accordance with the standards set forth in Article 13 (Performance) and Schedule A, provided such deficiencies are reported to the Firm within one hundred-twenty (120) days after completion and final acceptance of the Services. If the Firm fails to correct such deficiencies in a timely and proper manner, the County may elect to have others perform such corrections, and the County may charge any related cost of such corrections to the Firm and/or set-off such amount against any sums otherwise due to the Firm. These remedies, if effected, will not constitute the sole or exclusive remedies afforded to the County for such deficiencies, nor will they constitute a waiver of the County’s right to claim damages or otherwise refuse payment, or to take any other action provided for by law, in equity, or pursuant to this Agreement.

ARTICLE 27 - CURRENT OR FORMER COUNTY EMPLOYEES

The Firm represents and warrants that during the Term of this Agreement and for a period of one (1) year after its expiration or termination, it shall not retain the services of any County employee or former County employee in connection with this Agreement, or any other agreement that said Firm has or may have with the County, without the express written permission of the Executive or the Purchasing Director.

For a breach or violation of such representations or warranties, the County will have the right to annul this Agreement without liability, entitling the County to recover all monies paid hereunder, and the Firm must neither make claim for, nor be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if effected, will not constitute the sole remedy afforded to the County for such breach or violation, nor will it constitute a waiver of the County’s right to claim damages or otherwise refuse payment, or to take any other action provided for by law, in equity or pursuant to this Agreement.

ARTICLE 28 - PROTECTION OF COUNTY PROPERTY

The Firm assumes the risk of and shall be responsible for any loss or damage to the County’s property and equipment, whether owned, leased, or otherwise possessed by the County, used in the performance of this Agreement. Any such loss or damage caused, either directly or indirectly, by the acts, conduct, omissions, or lack of good faith of the Firm, its officers, directors, members, partners, employees, representatives, or assignees, or any person, firm, company, agent, or others engaged by the Firm as an expert, consultant, specialist, or subcontractor hereunder, will be the responsibility of the Firm.

In the event that any such County property is lost or damaged, except for normal wear and tear, then the County will have the right to withhold further payments hereunder for the purposes of set-off in sufficient sums to cover such loss or damage.

The Firm agrees to defend, indemnify, and hold the County harmless from any and all liability or claim for loss, cost, damage, or expense (including without limitation, reasonable attorney fees and costs of litigation and/or settlement) due to any such loss or damage to any such County property described in this Article 28.

The rights and remedies of the County provided herein will not be exclusive and are in addition to any other rights and remedies provided by law, in equity, or pursuant to this Agreement.

ARTICLE 29 – EXTENSIONS AND DELAYS

If, owing to the actions or neglect of the County, the Firm is prevented from completing the Services within the Term of this Agreement, then the Firm’s sole and exclusive remedy will be to request that a Change Order, Amendment, or an Addendum to this Agreement be issued by the Executive or the Purchasing Director, permitting an extension of time to perform the Services, equal to the time lost due to

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such delay. Such request shall be based upon written notice only, delivered to the Department Head promptly, but not later than thirty (30) days after the initial occurrence of the event giving rise to such claim, and stating the specific nature of the claim. An extension of time to perform the Services may only be granted by a written Change Order, Amendment, or Addendum to this Agreement, signed by the Executive or the Purchasing Director. In no event will the County be liable to the Firm, its subcontractors, agents, assignees, or any other person or entity, for damages arising out of or resulting from any such delays.

ARTICLE 30 - TERMINATION

The County may, by written notice to the Firm, effective upon mailing, terminate this Agreement in whole or in part at any time (i) for the County’s convenience, (ii) upon the failure of the Firm to comply with any of the terms or conditions of this Agreement, or (iii) upon the Firm becoming insolvent or bankrupt.

In the event that this Agreement is terminated for the convenience of the County, the Firm will be paid for all Services rendered through the date of termination in accordance with Schedule B.

Upon termination of this Agreement, the Firm shall comply with any and all County closeout procedures, including but not limited to:

- A. Accounting for and refunding to the County within ten (10) days, any unearned and/or unexpended funds that have been paid to the Firm pursuant to this Agreement; and
- B. Furnishing to the County within ten (10) days, an inventory of all equipment, appurtenances, and property purchased by the Firm through, or provided under this Agreement, and carrying out any County directive concerning the disposition thereof.

In the event the County terminates this Agreement, in whole or in part, as provided in this Article 30, the County may procure upon such terms and in such manner as deemed appropriate, Services similar to those so terminated, and the Firm shall continue the performance of this Agreement to the extent not terminated hereby. If this Agreement is terminated in whole or in part for reasons other than the convenience of the County, the cost and expense of any Services procured by the County to complete the Services herein will be charged to the Firm and/or set off against any sums due to the Firm.

Notwithstanding any other provisions of this Agreement, the Firm will not be relieved of liability to the County for damages sustained by the County by virtue of the Firm’s breach of this Agreement, or failure to perform in accordance with applicable standards. The County may withhold payments due to the Firm for the purposes of set-off until such time as the exact amount of damages due to the County from the Firm is determined.

The rights and remedies of the County provided herein will not be exclusive and are in addition to any other rights and remedies provided by law, in equity, or pursuant to this Agreement.

ARTICLE 31 - SET-OFF RIGHTS

The County will have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but are not limited to, the County’s right to withhold for the purposes of set-off any monies otherwise due to the Firm (i) under this Agreement, (ii) under any other agreement or contract with the County, including any agreement or contract for a term commencing prior to or after the Term of this Agreement, or (iii) from the County by operation of law. The County will also have the right to withhold any monies otherwise due under this Agreement for the purposes of set-off against any amounts due and owing to the County for any reason whatsoever, including without limitation, tax delinquencies, fee delinquencies and/or monetary penalties or interest relative thereto.

ARTICLE 32 - NO ARBITRATION

Any and all disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to arbitration unless specifically agreed to in writing by the Executive or the Purchasing Director, after consultation with the Ulster County Attorney, but must instead only be heard in the Supreme Court of the State of New York, with venue in Ulster County, or if appropriate, in the Federal District Court, with venue in the Northern District of New York, Albany Division.

ARTICLE 33 - DISPUTES

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In the event of a dispute arising from this Agreement, the Firm shall be liable to the County for reasonable attorney’s fees, costs, expenses and disbursements incurred by the County in enforcing its legal and/or equitable rights pursuant to this Agreement by reason of the failure of the Firm to comply with any of the terms, conditions or warranties of this Agreement, express or implied, and/or the exercise of County’s remedies with respect thereto, and/or any error, omission and/or professional negligence of the Firm or its subcontractors, including but not limited to all attorney’s fees, costs, expenses and disbursements incurred by the County in prosecuting a lawsuit against the Firm, seeking Indemnification pursuant to Article 25, obtaining Correction of Deficiencies pursuant to Article 26, Termination pursuant to Article 30, and/or Set-Off Rights pursuant to Article 31. The Firm shall further be liable to the County for all prejudgment interest on any award of attorney’s fees, costs, expenses and disbursements so awarded. This provision shall survive completion of the Services and/or the expiration or termination of this Agreement.

ARTICLE 34 - GOVERNING LAW

This Agreement is governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

ARTICLE 35 - WAIVER AND SEVERABILITY

The failure of either Party to enforce at any time, any provision of this Agreement, does not constitute a waiver of such provision in any way or waive the right of either Party at any time to avail itself of such remedies as it may have for any breach or breaches of such provision. None of the conditions of this Agreement will be considered waived by the County unless such waiver is explicitly given in writing by the Executive or the Purchasing Director. No such waiver shall be a waiver of any past or future default, breach, or modification of any of the terms or conditions of this Agreement, unless expressly stipulated in such waiver as executed by the Executive or the Purchasing Director.

The invalidity or invalid application of any provision of this Agreement will not affect the validity of any other provision, or the application of any other provision of this Agreement.

ARTICLE 36 - GENERAL RELEASE

Acceptance by the Firm or its assignees of the final payment under this Agreement, whether by voucher, judgment of any court of competent jurisdiction, administrative, or other means, will constitute and operate as a general release to the County from any and all claims of the Firm arising out of the performance of this Agreement.

ARTICLE 37 - NO CLAIM AGAINST OFFICERS, AGENTS OR EMPLOYEES

No claim whatsoever shall be made by the Firm against any officer, agent, or employee of the County, for or on account of any act or omission in connection with this Agreement.

ARTICLE 38 - ENTIRE AGREEMENT

The rights and obligations of the Parties and their respective agents, successors and assignees will be subject to and governed by this Agreement, including Schedules A, B, and C, which supersedes any other understandings or writings between or among the Parties to this Agreement.

ARTICLE 39 - SURVIVING OBLIGATIONS

The Firm’s obligations and those of the Firm’s employees, representatives, agents, subcontractors, successors, and assignees, assumed pursuant to Article 7 (Representations by the Firm), Article 8 (Corporate Compliance), Article 13 (Performance), Article 15 (Confidentiality), Article 16 (Ownership of Confidential Information), [Article 17 \(Intellectual Property\)](#), Article 18 (Publicity), Article 19 (Retention of Records), Article 25 (Indemnification), Article 26 (Responsibility to Correct Deficiencies), Article 28 (Protection of County Property), and Article 31 (Set-Off Rights) will survive completion of the Services and/or the expiration or termination of this Agreement.

ARTICLE 40 - NOTICES

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Except as expressly provided otherwise in this Agreement, all notices given to any of the Parties pursuant to or in connection with this Agreement will be in writing, will be delivered by hand, by certified or registered mail, return receipt requested, or by Federal Express, Express Mail, or other nationally recognized overnight carrier. Except where otherwise specifically defined within this Agreement, notices will be effective when received. Notice addresses are as follows:

Firm:

[Insert Firm Name]
Attention: [Insert Appropriate Information]
[Insert Firm Address]
[Insert Firm City, State & Zip Code]

County:

Ulster County [Insert Department Name]
Attention: [Insert Department Head Title]
[Insert Department's Physical Address]
Kingston, New York 12401

Any communication or notice regarding indemnification, termination, litigation, or proposed changes to the terms and conditions of this Agreement will be deemed to have been duly made upon receipt by both the County's Department of [Insert your Department] and the Ulster County Attorney's Office at the addresses set forth herein, or such other addresses as may have been specified in writing by the County:

Mailing Address:

County of Ulster
Attention: County Attorney
Post Office Box 1800
Kingston, New York 12402

Physical Address:

County of Ulster
Attention: County Attorney
244 Fair Street, 5th Floor
Kingston, New York 12401

Either Party may, by written notice to the other Party given in accordance with the foregoing, change its address for notices.

ARTICLE 41 - MODIFICATION

No changes, amendments, or modifications of any of the terms and/or conditions of this Agreement shall be valid unless reduced to writing and signed by the Parties to this Agreement, and no payment will be due in connection therewith, unless prior to the performance of any such Services, the Executive or the Purchasing Director, after consultation with the Department Head, executes an Addendum, Amendment, or Change Order to this Agreement. The aforesaid Addendum, Amendment, or Change Order must specifically set forth the scope of such extra or additional services, the amount of compensation, and the extension of time for performance, if any, for any such extra or additional services. Unless otherwise specifically provided for therein, the provisions of this Agreement will apply with full force and effect to the terms and conditions contained in such Addendum, Amendment, or Change Order.

ARTICLE 42 – FORCE MAJEURE

Neither Party hereto will be considered in default in the performance of its obligations hereunder, to the extent that performance of any such obligation is prevented and/or delayed by any cause, existing or future, beyond the control of such Party, and which by that Party's exercise of due diligence and foresight could not reasonably have been avoided ("Impacted Party") including, without limitation, the following force majeure events ("Force Majeure Events"): (a) acts of God; (b) flood, fire, earthquake, other potential disaster(s) or catastrophe(s), such as epidemics or pandemics, or explosion; (c) war, invasion, hostilities (whether war is declared or not); (d) national or regional emergencies; and (c) other similar events beyond the reasonable control of the Impacted Party.

The Impacted Party shall give written notice within thirty (30) days of the Force Majeure Event to the other Party and the Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized.

Upon removal of such cause, the Impacted Party affected shall resume its performance as soon as reasonably possible. The Firm's financial inability to perform will not be deemed to be a Force Majeure Event regardless of the source causing such financial inability. If the Firm is so delayed in the timely performance of the Services, the Firm's sole and exclusive remedy is to request that a Change Order, Amendment, or Addendum to this Agreement be issued by the County and signed by the Executive or the Purchasing Director, permitting an extension of time to perform the Services in an amount equal to the time lost due to such delay. Such request shall be based upon written notice only, stating the specific nature of the claim, delivered to the Department Head promptly, but not later than thirty (30) days after the initial occurrence of the event giving rise to such claim. An extension of time to perform the Services may only be granted by a written Change

COUNTY OF ULSTER – PURCHASING DEPARTMENT 100 DEVELOPMENT COURT, KINGSTON, NY 12401 PHONE: 845-340-3400 / FAX: 845-340-3434 / WEB: www.ulstercountyny.gov/purchasing		
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Order, Amendment, or Addendum to this Agreement, signed by the Executive or the Purchasing Director. In no event will the County be liable to the Firm or to its subcontractors, agents, assignees, or any other person or entity for damages arising out of, or resulting from, any such delays.

ARTICLE 43 - HEADINGS AND DEFINED TERMS

The Article headings used in this Agreement are for reference and convenience only, and will not in any way limit or amplify the terms, conditions, and/or provisions hereof. All capitalized terms, acronyms, and/or abbreviations will have the meanings ascribed to them by this Agreement.

ARTICLE 44 – COUNTERPARTS

The Parties may execute this Agreement in counterparts, each of which shall be deemed an original, and all of which taken together constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile, email in portable document format (.pdf), or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document has the same effect as delivery of an executed original of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to enter into this Agreement as of the dates set forth below, effective as of the beginning date set forth in Article 2 above.

[INSERT DEPARTMENT NAME]
(Approved as to content)

By: _____
NAME: [Department Head]
TITLE: [Department Head]
DATE: _____

COUNTY OF ULSTER

By: _____
NAME: Edward M. Jordan
TITLE: Director of Purchasing
DATE: _____

[INSERT FIRM NAME]

By: _____
NAME: [If known]
TITLE: [If known]
DATE: _____

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SCHEDULE A
SCOPE OF SERVICES

1. State that the Firm will be performing the Services for the County. (Example: *The Firm shall perform engineering design Services for the County's Department of Public Works.*)
2. Provide a detailed description of **WHAT** Services the Firm shall perform for the County.
3. State **WHERE** the Services shall be performed by the Firm.
4. State **HOW** the Services are to be performed by the Firm.
5. State **WHEN** the Services shall be performed by the Firm.
6. Provide a detailed description of **WHAT** outcomes/products/deliverables are expected upon completion of the Services.
7. State **WHEN** the work products/reports/deliverables are due.
8. State **WHERE and to WHOM** the work product/reports/deliverables are to be delivered.

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SCHEDULE B
FEES, EXPENSES, AND SUBMISSIONS FOR PAYMENT

1. The Firm's fee for Services shall not exceed the amount of **[ENTER WRITTEN DOLLAR AMOUNT]** AND ___/100 (\$.00) **DOLLARS** for the Term of this Agreement.
2. The Firm shall invoice the County's **[Enter Department Name here]** on a **[weekly/monthly/quarterly]** basis for the Services provided, at a rate of **[ENTER WRITTEN DOLLAR AMOUNT]** AND ___/100 (\$.00) **DOLLARS** per **[hour/day/week/month]**, which shall not exceed the amount of **[ENTER WRITTEN DOLLAR AMOUNT]** AND ___/100 (\$.00) **DOLLARS** per **[week/month/quarter]**.
3. The Firm shall submit to the County original invoices for payment.
4. The Firm shall submit its invoices by the **[write out: first, tenth, etc.]** (___th) day of each **[month/quarter]**, for the Services provided during the previous **[month/quarter]**.
5. The Firm's invoices shall contain, or have attached, sufficient supporting detail, as reasonably required by the County, to verify the claim including where necessary certification of wages under the Ulster County Living Wage Act.
6. In no event shall claims be submitted in advance or accrued prior to expenditure.
7. The Firm's final invoice under this Agreement shall be submitted by the **[write out: tenth, thirtieth, etc.]** (___th) day of the month following the ending date contained in Article 2 (Term of Agreement).
8. The County will remit payment to the Firm within sixty (60) days of approval of the invoice by the **[Department Head Title]** of the County's Department of **[Department Name]** and the Ulster County Comptroller.
9. Notwithstanding any other term or provision of this Agreement, including this Schedule B, the Firm's invoices, together with all documentation required, must be promptly and timely submitted. The County reserves the right to reject payment of invoices that are submitted more than one hundred twenty (120) days after the required submission date set forth above, regardless of whether the service, work, or delivery was rendered.
10. The Firm agrees to meet any additional invoicing requirements that the County may from time to time require, with reasonable notice to the Firm.

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PLEASE BRING THESE INSURANCE REQUIREMENTS TO YOUR INSURANCE AGENT TO ENSURE PROPER COVERAGE AND LIMITS ARE IN PLACE. FAILURE TO PROVIDE CERTIFICATE(S) OF INSURANCE EVIDENCING REQUIREMENTS BELOW, SHALL DELAY CONTRACT EXECUTION.

SCHEDULE C
COUNTY OF ULSTER CONTRACT INSURANCE REQUIREMENTS

I. CONDITIONS OF INSURANCE

Unless otherwise authorized by the Ulster County Insurance Officer, strict adherence to this schedule is required. Any deviation without prior authorization from the County’s Insurance Department will result in a delay in the finalization of this Agreement.

The Vendor shall submit copies of any or all required insurance documents as and when requested by the County. Upon policy renewal, the Vendor shall submit updated insurance policy information.

II. CERTIFICATES OF INSURANCE

The Vendor shall file with the County’s Insurance Department, prior to commencing work under this Agreement, all proper Certificates of Insurance.

The Certificates of Insurance shall include:

- a. Name and address of Insured
- b. Issue date of certificate
- c. Insurance company name
- d. Type of coverage in effect
- e. Policy number
- f. Inception and expiration dates of policies included on the certificate
- g. Limits of liability for all policies included on the certificate
- h. **“Certificate Holder” for all certificates shall be the County of Ulster, P.O. Box 1800, Kingston, New York 12402-1800.**

If the Vendor’s insurance policies should be non-renewed or canceled, or should expire during the life of this Agreement, the County shall be provided with a new certificate indicating the replacement policy information as requested above. The County requires thirty (30) days prior written notice of cancellation [ten (10) days for non-payment of premium] from the Insurer, its agents or representatives.

The Vendor agrees to indemnify the County of Ulster for any applicable deductibles and self-insured retentions.

III. WORKERS’ COMPENSATION AND DISABILITY INSURANCE

The Vendor shall take out and maintain during the life of this Agreement, Workers’ Compensation (WC) Insurance and Disability Benefits (DB) Insurance, for all of its employees employed at the site of the project, and shall provide Certificates of Insurance evidencing this coverage to the County’s Insurance Department.

If the Vendor is not required to carry such insurance, the Vendor must submit form CE-200 attesting to the fact that it is exempt from providing WC and/or DB Insurance coverage for all of its employees.

The manner of proof related to WC and DB Insurance is controlled by New York State Laws, Rules and Regulations. “ACORD” forms are not acceptable proof of WC and/or DB Insurance.

IV. WORKERS’ COMPENSATION REQUIREMENTS

To assist the State of New York and municipal entities in enforcing WCL Section 57, a business entity (the Vendor) seeking to enter into a contract with a municipality (the County) must provide one of the following forms to the municipal entity with which it is entering into a contract. The Vendor should contact their insurance agent to obtain acceptable proof of WC coverage:

- Form C-105.2 – “Certificate of NYS Workers’ Compensation Insurance” **or**

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- Form U-26.3 – “Certificate of Workers’ Compensation Insurance” issued by the New York State Insurance Fund **or**
- Form SI-12 – “Affidavit Certifying that Compensation has Been Secured” issued by the Self-Insurance Office of the Workers’ Compensation Board if the Vendor is self-insured **or**
- Form GSI-105.2 – “Certificate of Participation in Workers’ Compensation Group Self-Insurance” issued by the Self-Insurance administrator of the group **or**
- Form GSI-12 – “Certificate of Group Workers’ Compensation Group Self-Insurance” issued by the Self-Insurance Office of the Workers’ Compensation Board if the Vendor is self-insured.

If the Vendor is not required to carry WC coverage, it must submit Form CE-200, “Certificate of Attestation of Exemption” from New York State Workers’ Compensation and/or Disability Benefits Insurance Coverage. This form and the instructions for completing it are available at <http://www.wcb.ny.gov>

V. DISABILITY BENEFITS REQUIREMENTS

To assist the State of New York and municipal entities in enforcing WCL Section 220(8), a business entity (the Vendor) seeking to enter into a contract with a municipality (the County) must provide one of the following forms to the municipal entity it is entering into a contract with. The Vendor should contact their insurance agent to obtain acceptable proof of DB Insurance Coverage:

- Form DB-120.1 – “Certificate of Insurance Coverage Under the NYS Disability Benefits Law” **or**
- Form DB-155 – “Compliance with Disability Benefits Law” issued by the Self-Insurance Office of the Workers’ Compensation Board if the Vendor is self-insured.

If the Vendor is not required to carry DB Insurance coverage, it must submit Form CE-200, “Certificate of Attestation of Exemption” from New York State Workers’ Compensation and/or Disability Benefits Insurance Coverage. This form and the instructions for completing it are available at <http://www.wcb.ny.gov>

VI. COMMERCIAL GENERAL LIABILITY INSURANCE

The Vendor shall take out and maintain during the life of this Agreement, such bodily injury liability and property damage liability insurance as shall protect it and the County from claims for damages for bodily injury including accidental death, as well as from claims for property damage that may arise from operations under this Agreement, whether such operations be by the Vendor, by any subcontractor, or by anyone directly or indirectly employed by either of them.

It shall be the responsibility of the Vendor to maintain such insurance in amounts sufficient to fully protect itself and the County, but in no instance shall amounts be less than the minimum acceptable levels of coverage set forth below:

- Bodily Injury Liability and Property Damage Liability Insurance in an amount not less than **TWO MILLION AND 00/100 (\$2,000,000.00) DOLLARS** for each occurrence, and in an amount not less than **FOUR MILLION AND 00/100 (\$4,000,000.00) DOLLARS** general aggregate.

Other Conditions of Commercial General Liability Insurance:

- a. Coverage shall be written on Commercial General Liability form.
- b. Coverage shall include:
 1. Contractual Liability
 2. Independent Contractors
 3. Products and Completed Operations
- c. “Additional Insured” status shall be granted to “County of Ulster, P.O. Box 1800, Kingston, New York, 12402-1800”, shown on the Commercial General Liability policy, further stating that this insurance shall be primary and non-contributory with any other valid and collectable insurance.

VII. UMBRELLA LIABILITY OR EXCESS LIABILITY INSURANCE

Umbrella Liability or Excess Liability Insurance shall be provided by the Vendor in an amount not less than **ONE MILLION AND 00/100 (\$1,000,000.00) DOLLARS**.

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NOTE: As long as all minimum underlying limits have been met, insurance limits may be a total combined limit of the Umbrella/Excess Liability limits and the underlying liability insurance limits.

The Umbrella/Excess Liability coverage MUST be written on a follow-form (drop down) basis to the underlying insurance coverage with no additional exclusions.

“Additional Insured” status shall be granted to “County of Ulster, P.O. Box 1800, Kingston, New York, 12402-1800”, shown on the Umbrella policy, further stating that this insurance shall be primary and non-contributory with any other valid and collectable insurance.

VIII. AUTOMOBILE LIABILITY INSURANCE

Automobile Bodily Injury Liability and Property Damage Liability Insurance shall be provided by the Vendor, with a minimum Combined Single Limit (CSL) of **ONE MILLION AND 00/100 (\$1,000,000.00) DOLLARS**.

Coverage shall include:

- a. All owned vehicles
- b. Any hired automobile
- c. Any non-owned automobile
- d. “Additional Insured” status shall be granted to “County of Ulster, P.O. Box 1800, Kingston, New York, 12402-1800”, shown on the Auto Liability policy, further stating that this insurance shall be primary and non-contributory with any other valid and collectable insurance.

IX. PROFESSIONAL LIABILITY INSURANCE (e.g. MALPRACTICE, MEDIA LIABILITY, ERRORS & OMISSIONS INSURANCE)

[] If this box is checked, Professional Liability Insurance shall be provided by the Vendor in an amount not less than **ONE MILLION AND 00/100 (\$1,000,000.00) DOLLARS** for each occurrence and in an amount of not less than **ONE MILLION AND 00/100 (\$1,000,000.00) DOLLARS** general aggregate.

X. CYBER LIABILITY INSURANCE:

[] If this box is checked, Cyber Liability Insurance shall be provided by the Vendor in an amount not less than **FIVE MILLION AND 00/100 (\$5,000,000.00) DOLLARS** for each occurrence and in an amount of not less than **FIVE MILLION AND 00/100 (\$5,000,000.00) DOLLARS** general aggregate. **Copies of policy must be submitted with certificate of insurance.**

XI. SEXUAL ABUSE & MOLESTATION COVERAGE:

[] If this box is checked, Sexual Abuse & Molestation Coverage shall be provided by the Vendor in an amount not less than **ONE MILLION AND 00/100 (\$1,000,000.00) DOLLARS** for each occurrence and in an amount of not less than **TWO MILLION AND 00/100 (\$2,000,000.00) DOLLARS** general aggregate.

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EXHIBIT 1

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE.

In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE.

In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL.

In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law § 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

4. WORKERS' COMPENSATION BENEFITS.

In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

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6. WAGE AND HOURS PROVISIONS.

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, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the 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 the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION.

In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR § 105.4).

9. SET-OFF RIGHTS.

The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State 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 State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

(a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

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(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

- (a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;
- (b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and
- (c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a," "b," and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS.

In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW.

This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

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15. LATE PAYMENT.

Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION.

Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS.

In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.

In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992.

It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development Division for Small Business
Albany, New York 12245 Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

A directory of certified minority- and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development 633 Third Avenue
New York, NY 10017 212-803-2414
email: mwbecertification@esd.ny.gov <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

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(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS.

Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS.

Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.

If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING.

To the extent this agreement is a "procurement contract" as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT.

By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <https://ogs.ny.gov/list-entities-determined-be-non-responsive-biddersofferers-pursuant-nys-iran-divestment-act-2012>

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The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT.

Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

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EXHIBIT 2

SUPPLEMENTAL TITLE VI PROVISIONS (CIVIL RIGHTS ACT)

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- (1) **Compliance with Regulations:** The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation of the United States, Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.
- (4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by NYSDOT or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to NYSDOT's Office of Civil Rights or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, NYSDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - (a.) withholding of payments to the contractor under the contract until the contractor complies, and/or
 - (b.) cancellation, termination or suspension of the contract, in whole or in part.
- (6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontract or procurement as NYSDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request NYSDOT to enter into such litigation to protect the interests of NYSDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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THE FOLLOWING SHEETS MUST BE
COMPLETED AND RETURNED
WITH YOUR PROPOSAL

RESPONSE RETURN FORM

VENDOR NAME: _____

TITLE: _____

PHONE NUMBER: _____

E-MAIL: _____

ADDRESS: _____

AUTHORIZED SIGNATURE: _____

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EXHIBIT 3

REQUIREMENTS FOR FEDERALLY-AIDED TRANSPORTATION PROJECTS

There is a substantial body of requirements attached to the use of Federal highway or transportation aid. These requirements create or overlay processes, procedures, documentation requirements, authorizations, approvals and certifications that may be substantially greater or different from those that are not funded with Federal-aid and proceed under applicable State and local laws, customs and practices. Under Title 23 of the United States Code, the New York State Department of Transportation (NYSDOT) is responsible for the administration of transportation projects in New York State to which NYSDOT provides Federal highway or transportation-related aid. Through this Agreement, which provides or is associated with such funding, NYSDOT delegates various elements of project and funding administration as described elsewhere in this Agreement. In undertaking a Federally aided project, the Municipality/Sponsor, Authority or Project Manager designated under this Agreement with Federal-aid funding or project administration agrees to proceed in compliance with all the applicable Federal-aid requirements.

NYSDOT, in cooperation with FHWA, has assembled the body of Federal-aid requirements, procedures and practices in its Procedures for Locally Administered Federal-Aid Projects Manual (available through NYSDOT's web site at: <http://www.dot.ny.gov/plafap>). In addition, the Municipality/Sponsor, Authority or Project Manager designated under this Agreement for Federal-aid funding or project administration that enters into Federally aided project construction contracts is required to physically incorporate into all its Federally aided construction contracts and subcontracts there under the provisions that are contained in Form FHWA-1273 (available from NYSDOT or electronically at: <http://www.fhwa.dot.gov/programadmin/contracts/1273.htm>).

In addition to the referenced requirements, the attention of Municipality/Sponsor hereunder is directed to the following requirements and information:

Updated December 2012

Federal Clauses

ACCESS TO RECORDS AND REPORTS

- a. Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records.
- b. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.334. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- c. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract in accordance with 2 CFR § 200.337.
- d. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract in accordance with 2 CFR § 200.337.

RESTRICTIONS ON LOBBYING

Conditions on use of funds.

- (a) No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.

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- (c) Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a disclosure form if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.
- (d) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, whether that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.
- (e) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a disclosure form if that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

Certification and disclosure.

- (a) Each person shall file a certification, and a disclosure form, if required, with each submission that initiates agency consideration of such person for:
 - (1) Award of a Federal contract, grant, or cooperative agreement exceeding \$100,000; or
 - (2) An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000.
- (b) Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:
 - (1) A Federal contract, grant, or cooperative agreement exceeding \$100,000; or
 - (2) A Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000, Unless such person previously filed a certification, and a disclosure form, if required, under paragraph (a) of this section.
- (c) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs (a) or (b) of this section. An event that materially affects the accuracy of the information reported includes:
 - (1) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
 - (2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,
 - (3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.
- (d) Any person who requests or receives from a person referred to in paragraphs (a) or (b) of this section:
 - (1) A subcontract exceeding \$100,000 at any tier under a Federal contract;
 - (2) A subgrant, contract, or subcontract exceeding \$100,000 at any tier under a Federal grant;
 - (3) A contract or subcontract exceeding \$100,000 at any tier under a Federal loan exceeding \$150,000; or
 - (4) A contract or subcontract exceeding \$100,000 at any tier under a Federal cooperative agreement, Shall file a certification, and a disclosure form, if required, to the next tier above.
- (e) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraphs (a) or (b) of this section. That person shall forward all disclosure forms to the agency.
- (f) Any certification or disclosure form filed under paragraph (e) of this section shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared by any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification or disclosure, the United States may pursue all available remedies, including those authorized by section 1352, title 31, U.S. Code.
- (g) For awards and commitments in process prior to December 23, 1989, but not made before that date, certifications shall be required at award or commitment, covering activities occurring between December 23, 1989, and the date of award or commitment. However, for awards and commitments in process prior to the December 23, 1989 effective date of these provisions, but not made before December 23, 1989, disclosure forms shall not be required at time of award or commitment but shall be filed within 30 days.
- (h) No reporting is required for an activity paid for with appropriated funds if that activity is allowable under either subpart B or C.

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CIVIL RIGHTS LAWS AND REGULATIONS

The following Federal Civil Rights laws and regulations apply to all contracts.

1 Federal Equal Employment Opportunity (EEO) Requirements. These include, but are not limited to:

- a) **Nondiscrimination in Federal Public Transportation Programs.** 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.
- b) **Prohibition against Employment Discrimination.** Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.
- 2 Nondiscrimination on the Basis of Sex.** Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.
- 3 Nondiscrimination on the Basis of Age.** The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.
- 4 Federal Protections for Individuals with Disabilities.** The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

Civil Rights and Equal Opportunity

The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C.

§ 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

- 1. Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- 2. Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- 3. Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- 4. Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- 5. Promoting Free Speech and Religious Liberty.** The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

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CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards pursuant to 23 CFR § 940. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).

DEBARMENT AND SUSPENSION

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)

It is the policy of the Agency and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts.

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Agency deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the Agency makes to the prime contractor. 49 C.F.R. § 26.29(a).

Finally, for contracts with defined DBE contract goals, each FTA Recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the Agency's written consent; and that, unless the Agency's consent is provided, the contractor shall not be entitled

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to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

ENERGY CONSERVATION

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6201).

EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

NOTICE TO THIRD PARTY PARTICIPANTS

Federal requirements that apply to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto may change due to changes in federal law, regulation, other requirements, or guidance, or changes in the Recipient's Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement; and

Applicable changes to those federal requirements will apply to each Third Party Agreement and parties thereto at any tier.

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FLY AMERICA

a) Definitions. As used in this clause-

1) "International air transportation" means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States. 2) "United States" means the 50 States, the District of Columbia, and outlying areas. 3) "U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, Agencies, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S.-Flag Air Carriers

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign- flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

e) Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The provisions within include, in part, certain Standard Terms and Conditions required under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR § 200), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, detailed in 2 CFR § 200 or as amended by 2 CFR § 1201, or the most recent version of FTA Circular 4220.1 are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS

(1) The contractor certifies that it:

(a) Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(b) Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

If the contractor cannot so certify, the Recipient will refer the matter to FTA and not enter into any Third Party Agreement with the Third Party Participant without FTA's written approval.

(2) Flow-Down. The Recipient agrees to require the contractor to flow this requirement down to participants at all lower tiers, without regard to the value of any subagreement.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The Recipient and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Recipient, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

PATENT RIGHTS AND RIGHTS IN DATA

Intellectual Property Rights

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This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. The Contractor shall grant the Agency intellectual property access and licenses deemed necessary for the work performed under this Contract and in accordance with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA or U.S. DOT.

The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Contract and shall, at a minimum, include the following restrictions:

Except for its own internal use, the Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution.

For purposes of this Contract, the term "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

1. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Federal Government Purposes," any subject data or copyright described below. For "Federal Government Purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.
 - a. Any subject data developed under the Contract, whether or not a copyright has been obtained; and
 - b. Any rights of copyright purchased by the Contractor using Federal assistance in whole or in part by the FTA.
2. Unless FTA determines otherwise, the Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.
3. Unless prohibited by state law, upon request by the Federal Government, the Contractor agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. The Contractor shall not be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.
4. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
5. Data developed by the Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying Contract is exempt from the requirements herein, provided that the Contractor identifies those data in writing at the time of delivery of the Contract work.
6. The Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

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PROMPT PAYMENT

(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

The contractor must promptly notify the Agency, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Agency.

SAFE OPERATION OF MOTOR VEHICLES

Seat Belt Use

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Contractor or Agency.

Distracted Driving

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

SPECIAL NOTIFICATION REQUIREMENTS FOR STATES

Applies to States -

a. To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:

- (1) The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
- (2) The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
- (3) The amount of federal assistance FTA has provided for a State Program or Project.

b. Documents - The State agrees to provide the information required under this provision in the following documents: (1) applications for federal assistance, (2) requests for proposals or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

TERMINATION

Termination for Convenience (General Provision)

The Agency may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Agency's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to Agency, the Contractor will account for the same, and dispose of it in the manner Agency directs.

Termination for Default [Breach or Cause] (General Provision)

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Agency may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the Agency that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the Agency, after setting up a new delivery or performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

Opportunity to Cure (General Provision)

The Agency, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions

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If Contractor fails to remedy to Agency's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from Agency setting forth the nature of said breach or default, Agency shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Agency from also pursuing all available remedies against Contractor and its sureties for said breach or default.

Waiver of Remedies for any Breach

In the event that Agency elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by Agency shall not limit Agency's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

Termination for Convenience (Professional or Transit Service Contracts)

The Agency, by written notice, may terminate this contract, in whole or in part, when it is in the Agency's interest. If this contract is terminated, the Agency shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

Termination for Default (Supplies and Service)

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

Termination for Default (Transportation Services)

If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Agency goods, the Contractor shall, upon direction of the Agency, protect and preserve the goods until surrendered to the Agency or its agent. The Contractor and Agency shall agree on payment for the preservation and protection of goods.

Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

Termination for Default (Construction)

If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provision of this contract, Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Agency may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Agency resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Agency in completing the work.

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if: 1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of Agency, acts of another contractor in the performance of a contract with Agency, epidemics, quarantine restrictions, strikes, freight embargoes; and 2. The Contractor, within [10] days from the beginning of any delay, notifies Agency in writing of the causes of delay. If, in the judgment of Agency, the delay is excusable, the time for completing the work shall be extended. The judgment of Agency shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract. 3. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Agency.

Termination for Convenience or Default (Architect and Engineering)

The Agency may terminate this contract in whole or in part, for the Agency's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Agency's Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. Agency has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.

If the termination is for the convenience of the Agency, the Agency's Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If the termination is for failure of the Contractor to fulfill the contract obligations, the Agency may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Agency. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Agency.

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Termination for Convenience or Default (Cost-Type Contracts)

The Agency may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of Agency or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the Contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the Agency, or property supplied to the Contractor by the Agency. If the termination is for default, the Agency may fix the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Agency and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of Agency, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a Notice of Termination for Default, the Agency determines that the Contractor has an excusable reason for not performing, the Agency, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

NOTIFICATION TO FTA

If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its sub agreements at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

- (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
- (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.
- (3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

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PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.

- a. Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:
 - 1. Procure or obtain;
 - 2. Extend or renew a contract to procure or obtain;or
 - 3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company(or any subsidiary or affiliate of such entities).
 - ii. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - iii. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- b. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.
- c. See Public Law 115-232,section 889 for additional in formation.
- d. See also § 200.471.

SEVERABILITY

The Contractor agrees that if any provision of this agreement or any amendment thereto is determined to be invalid, then the remaining provisions thereof that conform to federal laws, regulations, requirements, and guidance will continue in effect.

TRAFFICKING IN PERSONS

The contractor agrees that it and its employees that participate in the Recipient's Award, may not:

- (a) Engage in severe forms of trafficking in persons during the period of time that the Recipient's Award is in effect;
- (b) Procure a commercial sex act during the period of time that the Recipient's Award is in effect; or
- (c) Use forced labor in the performance of the Recipient's Award or subagreements thereunder.

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GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Recipients, contractors, and subcontractors that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) with which they propose to contract or subcontract is not excluded or disqualified. This is done by: (a) checking the SAM exclusions; (b) collecting a certification from that person (found below); or (c) adding a clause or condition to the contract or subcontract.

Instructions for Certification: By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

- (1) It will comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR part 180,
- (2) To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:
 - a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:
 1. Debarred,
 2. Suspended,
 3. Proposed for debarment,
 4. Declared ineligible,
 5. Voluntarily excluded, or
 6. Disqualified,
 - b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:
 1. Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
 2. Violation of any Federal or State antitrust statute, or,
 3. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,
 - c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification,
 - d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,
 - e. If, at a later time, it receives any information that contradicts the statements of subsections 2.a - 2.d above, it will promptly provide that information to FTA,
 - f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:
 1. Equals or exceeds \$25,000,,
 2. Is for audit services, or,
 3. Requires the consent of a Federal official, and
 - g. It will require that each covered lower tier contractor and subcontractor:
 1. Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
 2. Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:
 - a. Debarred from participation in its federally funded Project,
 - b. Suspended from participation in its federally funded Project,
 - c. Proposed for debarment from participation in its federally funded Project,
 - d. Declared ineligible to participate in its federally funded Project,
 - e. Voluntarily excluded from participation in its federally funded Project, or
 - f. Disqualified from participation in its federally funded Project, and
- (3) It will provide a written explanation as indicated on a page attached in FTA's TrAMS platform or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third-Party Participants at a lower tier, is unable to certify compliance with the preceding statements in

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this Certification Group.

Certification

Contractor: _____

Signature of Authorized Official: _____

Date-----/-----/-----

Name and Title of Contractor's Authorized Official

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Federal Certifications

CERTIFICATION AND RESTRICTIONS ON LOBBYING

I, _____ hereby certify
(Name and title of official)

On behalf of _____ that:
(Name of Bidder/Company Name)

- No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Name of Bidder/Compa _____

Type or print name: _____

Signature of authorized representative: _____ Date: ____/____/____

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RESPONDER’S NAME: _____

ASSUMED NAME CERTIFICATION

***If the responder’s business is conducted under an assumed name, a copy of the certificate required to be filed under the New York general business law must be attached.**

ASSUMED NAME: _____

If the responder is an individual, the proposal must be signed by that individual; if the responder is a corporation, by an officer of the corporation, or other person authorized by resolution of the board of directors, and in such case a copy of the resolution must be attached; if a partnership, by one of the partners or other person authorized by a writing signed by at least one general partner and submitted with the proposal or previously filed with the Director of Purchasing.

The submission of this proposal constitutes a certification that no County Officer has any interest therein. (Note: In the event that any County Officer has any such interest, the full nature thereof should be disclosed below.)

INSURANCE STATEMENT

Responder agrees as follows - please mark appropriate box(es):

Insurance Certificate as requested is attached

OR

I certify that I can supply insurance as specified if awarded the contract

Insurance Certificate filed on _____
DATE

FAILURE TO PROVIDE SPECIFIED INSURANCE SHALL DISQUALIFY RESPONDER

AUTHORIZED SIGNATURE

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ORGANIZATION INFORMATION FORM

RESPONDER NAME: _____

TYPE OF ENTITY: CORP. _____ PARTNERSHIP _____ INDIVIDUAL _____ OTHER _____

FEDERAL EMPLOYER ID #: _____ OR SOCIAL SECURITY #: _____

NYS DOS ID #: _____ DUNS # (FTA Projects): _____

DATE OF ORGANIZATION: _____

IF APPLICABLE: DATE FILED: _____ STATE FILED: _____

If a non-publicly owned corporation:

CORPORATION NAME: _____

LIST PRINCIPAL STOCKHOLDERS: (owning 5% or more of outstanding shares)

LIST OFFICERS AND DIRECTORS:

NAME

TITLE

If a partnership:

PARTNERSHIP NAME: _____

LIST PARTNERS NAME(S):

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ACKNOWLEDGMENT AND ACCEPTANCE DECLARATION

Living Wage Act - Local Law Number 6 of 2021

(To be completed by each respondent to a bid/proposal solicitation when that solicitation has included Living Wage Advertisement/Solicitation Language.)

CONTRACTING AGENCY: _____

AGENCY CONTRACT NUMBER: _____

VENDOR NAME: _____

DATE PREPARED: _____ **PREPARED BY:** _____

VENDOR TELEPHONE NUMBER: _____

VENDOR EMAIL ADDRESS: _____

VENDOR MAILING ADDRESS: _____

As the authorized representative of the above-referenced bidder or proponent, I hereby acknowledge that the bidder/proponent understands that the contract or agreement that will be executed with a successful bidder/proponent pursuant to this solicitation is subject to the Living Wage Act and the regulations associated therewith. The bidder/proponent hereby agrees to comply with the Living Wage Act and the associated regulations if awarded a contract pursuant to this solicitation. I am authorized to make the above representations on behalf of the bidder or proponent.

AUTHORIZED REPRESENTATIVE CERTIFICATION:

X _____

NAME: _____

TITLE: _____

DATE: _____

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CERTIFICATION AND SIGNATURE FORM

AFFIDAVIT OF NON-COLLUSION

NAME OF RESPONDER: _____ PHONE NO.: _____ EXT: _____

BUSINESS ADDRESS: _____ FAX NO.: _____

I hereby attest that I am the person responsible within my firm for the final decision as to the prices(s) and amount of this proposal or, if not, that I have written authorization, enclosed herewith, from that person to make the statements set out below on his or her behalf and on behalf of my firm.

I further attest that:

1. The price(s) and amount of this proposal have been arrived at independently, without consultation, communication or agreement for the purpose of restricting competition with any other contractor, responder or potential responder.
2. Neither the price(s), nor the amount of this proposal, have been disclosed to any other firm or person who is a responder or potential responder on this project, and will not be so disclosed prior to proposal opening.
3. No attempt has been made or will be made to solicit, cause or induce any firm or person to refrain from responding to this RFP, or to submit a proposal higher than the proposal of this firm, or any intentionally high or non-competitive proposal or other form of complementary proposal.
4. The proposal of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from any firm or person to submit a complementary proposal.
5. My firm has not offered or entered into a subcontract or agreement regarding the purchase of materials or services from any other firm or person, or offered, promised or paid cash or anything of value to any firm or person, whether in connection with this or any other project, in consideration for an agreement or promise by an firm or person to refrain from responding to this RFP or to submit a complementary proposal on this project.
6. My firm has not accepted or been promised any subcontract or agreement regarding the sale of materials or services to any firm or person, and has not been promised or paid cash or anything of value by any firm or person, whether in connection with this or any project, in consideration for my firm's submitting a complementary proposal, or agreeing to do so, on this project.
7. I have made a diligent inquiry of all members, officers, employees, and agents of my firm with responsibilities relating to the preparation, approval or submission of my firm's proposal on this project and have been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in this affidavit.

8. By submission of this proposal, I certify that I have read, am familiar with, and will comply with any and all segments of these specifications.

The person signing this proposal, under the penalties of perjury, affirms the truth thereof.

Signature & Company Position

Print Name & Company Position

Company Name

Date Signed

Federal I.D. Number

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RESPONDER’S NAME: _____

CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT

Pursuant to State Finance Law §165-a, on August 10, 2012 the Commissioner of the Office of General Services (OGS) posted a prohibited entities list of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law) on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each Bidder/Contractor, any person signing on behalf of any Bidder/Contractor and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the OGS website, that to the best of its knowledge and belief, that each Bidder/Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to SFL § 165-a(3)(b).

Additionally, Bidder/Contractor is advised that once the Prohibited Entities List is posted on the OGS Website, any Bidder/Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a Bidder/Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the County shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor in default.

The County reserves the right to reject any bid or request for assignment for a Bidder/Contractor that appears on the Prohibited Entities List prior to the award of a contract and to pursue a responsibility review with respect to any Bidder/Contractor that is awarded a contract and subsequently appears on the Prohibited Entities List.

I, _____, being duly sworn, deposes and says that he/she is the
_____ of the _____

Corporation and that neither the Bidder/Contractor nor any proposed subcontractor is identified on the Prohibited Entities List.

SIGNED

SWORN to before me this

_____ day of _____
202 ____

Notary Public: _____

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RESPONDER’S NAME: _____

MACBRIDE FAIR EMPLOYMENT PRINCIPLES

Ulster County Resolution 108 of March 8, 2001, in an attempt to prevent discrimination in all forms, provides the requirement that vendors who do business with Ulster County read, initial and return the attached statement as part of their official document.

Please read and initial **either** Statement #1 or Statement #2.

DO NOT INITIAL BOTH STATEMENTS.

- ___ 1. The Bidder, and any individual or legal entity in which the Bidder holds a 10% or greater ownership interest and any individual or legal entity that holds a 10% or greater ownership interest in the Bidder, has no business operations in Northern Ireland.

- ___ 2. The Bidder, and any individual or legal entity in which the Bidder holds a 10% or greater ownership interest and any individual or legal entity that holds a 10% or greater ownership interest in the Bidder shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Fair Employment Principles and shall permit the independent monitoring of their compliance with such principles.

AUTHORIZED SIGNATURE

PRINT NAME:

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INSURANCE REQUIREMENTS:

The following insurance acknowledgement must be completed and signed and submitted with this bid even if the bidder is unable to provide their certificate of insurance with their bid.

BIDDER NAME: _____, if a successful bidder, agrees to provide an insurance certificate with endorsement, in compliance with the insurance requirements set forth in this bid. Insurance certificates, with County of Ulster listed as additional insured, must be supplied within ten (10) business days or as specified in the notice of award or the award may be rescinded.

BID TITLE: _____

Authorized Signature: _____

Name & Title of
Authorized Signer: _____

Dated: _____

Insurance Agency: _____

Address of Agency: _____

Contact Person
At Agency: _____

Phone Number
of Agency: _____

Current Policy Limits: _____ G/L Occurrence
_____ G/L Aggregate
_____ Umbrella or Excess
_____ Automobile
_____ Professional or Other Required

