

County Contract No. _____



AGREEMENT FOR RECOVERY & RESILIENCE GRANT

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 CONTRACTOR NAME]**, a **[to be completed by the County Attorney’s Office]** with principal offices at **[Enter Contractor’s business address]** (the “Contractor”), (each, a “Party;” together, the “Parties”).

RECITALS

WHEREAS, the American Rescue Plan Act (“ARPA”) of 2021 was signed into law on March 11, 2021 and established the Coronavirus-19 Local Fiscal Recovery Fund (the “CLFRF”), with the goal of providing vital federal support to local governments as they address the negative health and economic impacts of COVID-19 in their communities; and

WHEREAS, Ulster County, as a CLFRF recipient, desires to utilize a portion of these funds, to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) or its negative economic impacts, including assistance to; and

WHEREAS, the County; and

WHEREAS, the Contractor; and

WHEREAS, the County has agreed to engage the Contractor, and the Contractor has agreed to contract with the County, to **[state brief description of services to be provided]** 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 – WORK PLAN

The Contractor agrees to utilize the funds provided through this Agreement to meet the needs identified in Schedule A, the Work Plan (the “Work”), which is attached hereto and is hereby made a part of this Agreement. The Contractor agrees to perform the Work in accordance with the terms and conditions of this Agreement. It is specifically agreed to by the Contractor that the County will not compensate the Contractor for any work 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 Term of this Agreement shall begin **[Enter Start Date]**, 20__ and end **[Enter Completion Date]**, 20__.

ARTICLE 3 - COMPENSATION

A not-to-exceed amount of **[WRITE OUT DOLLAR AMOUNT IN CAPS]** AND __/100 (\$.) DOLLARS has been

established for the Work to be undertaken by the Contractor. 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 Contractor 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 work giving rise to such excess or additional costs. The County shall be invoiced and make payments as described in Schedule B, "Fees, Expenses, and Submissions for Payment."

In the event that the Contractor receives payments, from any source whatsoever, in consideration for the same Work 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 work provided and no duplicative payments are received.

If this is an Agreement for which the Contractor will, in whole or in part, be compensated with New York State funds, the Contractor 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 Contractor 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 Contractor 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 Contractor 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 Contractor, 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 Contractor 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 - CONFLICT OF INTEREST

The Contractor 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 Work to be performed pursuant to this Agreement. The Contractor 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>.

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 Contractor 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 6 – REPRESENTATIONS BY THE CONTRACTOR

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

The Contractor 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 the Work. The Contractor is aware that there are significant penalties for submitting false information to governmental agencies, including the possibility of fines and imprisonment. The Contractor shall be responsible for such penalties resulting from false information submitted to the County by the Contractor.

By signing this Agreement, the Contractor is attesting to that fact that neither it nor any of its employees, agents, representatives, officers, subcontractors, or any other entity or individual performing the Work 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 Contractor 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 Contractor agrees to provide immediate and detailed notice to the County Attorney regarding such status. Any misrepresentation or false statement related to the Contractor's status in this regard, or any failure by the Contractor 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 7 – CORPORATE COMPLIANCE

The Contractor agrees to comply with all federal, state, and local laws, rules, and regulations governing the provision of goods and/or Work under this Agreement. In particular, the Contractor 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 Contractor's request. The Plan relates to the County's compliance with relevant federal and state fraud and abuse laws. The Contractor represents and warrants that it has read and understands the Plan and agrees to abide by its terms when performing the Work under this Agreement. The Contractor shall ensure that each individual who perform such Work 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 the Work have not been the subject of adverse governmental actions and/or excluded from the federal healthcare programs.

The Vendor 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 Contractor 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 8 - INDEPENDENT CONTRACTOR

In performing the Work and incurring expenses under this Agreement, the Contractor 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 Contractor represent the County, or bind the County in any manner. As an independent contractor, the Contractor shall be solely responsible for determining the means and methods of performing the Work, and shall have complete charge and responsibility for the

Contractor's personnel engaged in the performance of the same.

In accordance with such status as independent contractor, the Contractor 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 Contractor'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 9 - ASSIGNMENT

The Contractor shall not assign any of its rights, interests, or obligations under this Agreement, or assign any of the Work 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 Work 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 Contractor 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 Contractor, 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 Contractor's employees for past Work.

The provisions of this clause shall not hinder, prevent, or affect any assignment by the Contractor 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 10 – SUBCONTRACTING

The Contractor shall not subcontract any of its obligations under this Agreement.

ARTICLE 11 - 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 Contractor from or through the County or any other person connected with the County, or developed, produced, or obtained by the Contractor in connection with its performance of the Work 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 "Contractor" as used herein includes all officers, directors, employees, agents, subcontractors, assignees, or representatives of the Contractor.

The Contractor shall keep all Confidential Information in a secure location within the Contractor's offices. The County will have the right, but not the obligation, to enter the Contractor's offices in order to inspect the arrangements of the Contractor for keeping Confidential Information secure. The County's inspection, or its failure to inspect, will not relieve the Contractor of its responsibilities pursuant to this Article 15.

The Contractor 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 Work under this Agreement.

The Contractor 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 Contractor 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 Contractor, 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 Contractor 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 Contractor shall disclose only such portions of Confidential Information that, in the opinion of the County, the Contractor is legally required to disclose, and the Contractor 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 Work in connection with this Agreement, the Contractor 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 Contractor shall obtain such an agreement from the officers, directors, agents, representatives, or employees of the Contractor and/or any of its subcontractors.

ARTICLE 12 – 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 Contractor 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 Contractor, such information shall be retained in a secure location in the Contractor's office for a period of six (6) years after completion of the Work, or termination of this Agreement, whichever occurs later, and thereafter disposed of at the County's direction.

ARTICLE 13 – PUBLICITY

The prior written approval of the County is required before the Contractor 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 Work performed or data collected in connection with this Agreement.

If the Contractor, 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 14 - RETENTION OF RECORDS

The Contractor agrees to maintain separate and accurate books, records, documents, and other evidence, and to employ accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement.

The Contractor 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 15 – 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 Contractor 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 Contractor 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 Contractor 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 16 – 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 Contractor 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 Contractor 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 Contractor 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 Work, or (ii) discriminate against or intimidate any employee hired for the performance of the Work 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 Contractor 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 Work, or (ii) discriminate against or intimidate any employee hired for the performance of the Work under this Agreement. The Contractor 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 Contractor 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 17 - 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 Contractor has not received an exemption from the Ulster County Living Wage Act specific to this Agreement, the Contractor 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 18 - INSURANCE

For provision of the Work set forth herein and as may be hereinafter amended, the Contractor 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 Work to be performed by the Contractor 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 Contractor and not those of the County. Notwithstanding anything to the contrary in this Agreement, the Contractor 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 Contractor will not in any way limit the Contractor’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 Contractor.

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 Contractor’s start of the performance of the Work (including subsequent policies purchased as renewals or replacements); and
- B. If the insurance is terminated for any reason, the Contractor agrees to purchase for the County an unlimited, extended reporting provision to report claims arising from the Work performed under this Agreement; and
- C. The Contractor 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 Work performed under this Agreement.

ARTICLE 19 - INDEMNIFICATION

The Contractor 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 Work performed by the Contractor, 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 Contractor, its employees, representatives, subcontractors, assignees, or agents. The Contractor

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.

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 Contractor or an employee, representative, subcontractor, assignee, or agent of the Contractor, either within or without the scope of the respective employment, representation, subcontract, assignment, or agency, or arising out of the Contractor'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 20 - TERMINATION

The County may, by written notice to the Contractor, 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 Contractor to comply with any of the terms or conditions of this Agreement, or (iii) upon the Contractor becoming insolvent or bankrupt.

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

Upon termination of this Agreement, the Contractor 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 Contractor 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 Contractor through, or provided under this Agreement, and carrying out any County directive concerning the disposition thereof.

Notwithstanding any other provisions of this Agreement, the Contractor will not be relieved of liability to the County for damages sustained by the County by virtue of the Contractor's breach of this Agreement, or failure to perform in accordance with applicable standards. The County may withhold payments due to the Contractor for the purposes of set-off until such time as the exact amount of damages due to the County from the Contractor 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 21 - 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 22 – DISPUTES

In the event of a dispute arising from this Agreement, the Contractor 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 Contractor 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 Contractor 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 Contractor, 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 Contractor 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 Work and/or the expiration or termination of this Agreement.

ARTICLE 23 - GOVERNING LAW

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

ARTICLE 24 - 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 25 - GENERAL RELEASE

Acceptance by the Contractor 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 Contractor arising out of the performance of this Agreement.

ARTICLE 26 - NO CLAIM AGAINST OFFICERS, AGENTS OR EMPLOYEES

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

ARTICLE 27 - 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 28 - SURVIVING OBLIGATIONS

The Contractor's obligations and those of the Contractor's employees, representatives, agents, subcontractors, successors, and assignees, assumed pursuant to Article 7 (Representations by the Contractor), Article 8 (Corporate Compliance), Article 13 (Performance), Article 15 (Confidentiality), Article 16 (Ownership of Confidential Information), 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 Work and/or the expiration or termination of this Agreement.

ARTICLE 29 - NOTICES

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:

Contractor:
[Insert Contractor Name]
Attention: [Insert Appropriate Information]
[Insert Contractor Address]
[Insert Contractor 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 30 - 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 Work, 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 31 – 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 Contractor'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 Contractor is so delayed in the timely performance of the Work, the Contractor'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 Work 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 Work 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 Contractor or to its subcontractors, agents, assignees, or any other person or entity for damages arising out of, or resulting from, any such delays.

ARTICLE 32 - 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 33 – 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

[INSERT CONTRACTOR NAME]

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

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

SCHEDULE A
WORK PLAN

1. The nonprofit organization shall utilize funds received from this Contract for the following purpose: *(TO BE COMPLETED AFTER AWARD TO EACH NONPROFIT)*
2. Provide a detailed description of *WHAT* Services the Contractor shall perform for the County.
3. State *WHERE* the Services shall be performed by the Contractor.
4. State *HOW* the Services are to be performed by the Contractor.
5. State *WHEN* the Services shall be performed by the Contractor.
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.

DRAFT

SCHEDULE B
FEES, EXPENSES, AND SUBMISSIONS FOR PAYMENT

[The County reserves the right to amend this draft funding schedule based on individual risk assessments of each applicant and award.]

1. The Contractor’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 Contractor shall submit to the County an original invoice for each release of funds.
3. The Contractor shall provide quarterly written progress reports to update the County on the use and expenditure of funds by the following dates:

Q 1	April 5th
Q 2	July 5th
Q 3	October 5th
Q 4	January 5th

4. Release of Funds shall be based on the total grant award amount to the Contractor as follows.
 - A. Awards of \$10,000 or less:
 - shall be released upon contract execution and receipt of a Contractor invoice as an advanced lump sum.
 - Shall require an interim expenditure report with back up documentation made to the County by the date of _____.
 - Shall require a final expenditure report with back up documentation.
 - B. Awards of \$10,001 to \$49,999:
 - Shall be released in two tranches.
 - The first tranche of 50% of award shall be released upon contract execution and receipt of a Contractor invoice as an advance of funds.
 - The second and final tranche of funds shall be released upon receipt of an expenditure report and back up documentation for the first tranche of funds.
 - Shall require a final expenditure report with back up documentation.
5. The Contractor’s expenditure reports shall contain, or have attached, sufficient back up documentation, as reasonably required by the County, to verify the amount expended. Acceptable back up documentation includes, but is not limited to: canceled checks, paid receipts, and/or paid credit card statements.
6. The Contractor’s final expenditure report under this Agreement shall be submitted by the fifteenth (15th) day of the month following the ending date contained in Article 2 (Term of Agreement).
7. The County will remit payment to the Contractor 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.
8. Notwithstanding any other term or provision of this Agreement, including this Schedule B, the Contractor’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.
9. The Contractor agrees to meet any additional invoicing requirements that the County may from time to time require, with reasonable notice to the Contractor.

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

II. CERTIFICATES OF INSURANCE

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

III. WORKERS' COMPENSATION AND DISABILITY INSURANCE

The Contractor 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 Contractor is not required to carry such insurance, the Contractor 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 Contractor)

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 Contractor should contact their insurance agent to obtain acceptable proof of WC coverage:

- Form C-105.2 – “Certificate of NYS Workers’ Compensation Insurance” **or**
- 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 Contractor 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 Contractor is self-insured.

If the Contractor 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 Contractor) 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 Contractor 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 Contractor is self-insured.

If the Contractor 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 Contractor 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 Contractor, by any subcontractor, or by anyone directly or indirectly employed by either of them.

It shall be the responsibility of the Contractor 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 **ONE MILLION AND 00/100 (\$1,000,000.00) DOLLARS** for each occurrence, and in an amount not less than **TWO MILLION AND 00/100 (\$2,000,000.00) 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.